

*Amanda Forrister
Mayor*

*Rolf Hechler
Mayor Pro-Tem*

*Merry Jo Fahl
Commissioner*



*Destiny Mitchell
Commissioner*

*Shelly Harrelson
Commissioner*

*Bruce Swingle
City Manager*

*505 Sims St.
Truth or Consequences, New Mexico 87901
P: 575-894-6673 ♦ F: 575-894-7767
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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, JUNE 22, 2022; TO START IMMEDIATELY FOLLOWING THE CITY COMMISSION WORKSHOP.

A. CALL TO ORDER

B. INTRODUCTION

1. ROLL CALL

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

2. SILENT MEDITATION

3. PLEDGE OF ALLEGIANCE

4. APPROVAL OF AGENDA

C. PRESENTATIONS

1. Presentation of possible advertising and marketing projects for the city. Joanie Griffin, Sunny 505
2. Concerns related to the Municipal Court. Judge Beatrice Sanders

D. PUBLIC COMMENT (3 Minute Rule Applies)

E. REPORTS

1. City Manager
2. City Attorney
3. City Commission

F. CONSENT CALENDAR

1. City Commission Regular Minutes, June 8, 2022
2. Subrecipient FY 21/22 4th Quarter Reports

G. PUBLIC HEARINGS (5 Minute Rule Applies)

1. Public Hearing/Discussion/Action: Final Adoption of Ordinance No. 733 amending the code of ordinances of the City of Truth or Consequences by amending Sections 7-136 calling for an increase in the Municipal Gross Receipts Tax of one-eighth of one percent (0.125%). City Manager Swingle
2. Public Hearing/Public Input: Public input for the City of Truth or Consequences and Senior Center Infrastructure Capital Improvement Plan (ICIP). Traci Alvarez, Assistant City Manager

H. ORDINANCES/RESOLUTIONS/ZONING

1. Discussion/Action: Resolution No. 61 21/22 to submit a bond and question for Street, Water, and Wastewater Infrastructure. City Manager Swingle
2. Discussion/Action: Resolution No. 67 21/22 Budget Adjustment Resolution. Carol Kirkpatrick, Finance Director
3. Discussion/Action: Resolution No. 68 21/22 Approval of City Park Rental Fees. OJ Hechler, Community Services Director and Angela A. Torres, City Clerk
4. Discussion/Action: Resolution No. 69 21/22 Expressing the Commission's intent to designate the Sierra County Magistrate Court to have jurisdiction over the City's Code of Ordinances. City Manager Swingle
5. Discussion/Action: Publication of Ordinance No. 734 to amend Ordinance No. 723 that was adopted on January 12, 2022 for the authorization of the execution and delivery of loan No. PPRF-5652, between the City of Truth or Consequences and the New Mexico Finance Authority for the purpose of purchasing a new electrical transformer. City Manager Swingle

I. NEW BUSINESS

1. Discussion/Action: Interview and Selection of board members to fill the 4 vacancies on the Planning & Zoning Commission. Angela A. Torres, City Clerk
 - Rick Dumiak (3 minute presentation)
 - Eduardo Alicea (3 minute presentation)
 - Esther Luchini (3 minute presentation)
 - Susan Buhler (3 minute presentation)
 - Robert Carey (3 minute presentation)
2. Discussion/Action: Approval of the Employee Salary Plan and Schedule. City Manager Swingle
3. Discussion/Action: Approval of Purchase Requisitions over \$20,000. Carol Kirkpatrick, Finance Director
4. Discussion/Action: Approval of Award and Contract with Energy 1, LLC for Ken James Senior Center HVAC Units. Carol Kirkpatrick, Finance Director
5. Discussion/Action: Approval of Manana Contract Extension #1. City Manager Swingle
6. Discussion/Action: Approval of extension on Contract with Tech 45 Enterprises. Carol Kirkpatrick, Finance Director
7. Discussion/Action: Approval of Contract Amendment #6 Extension with Integrated Technologies Group. Carol Kirkpatrick, Finance Director
8. Discussion/Action: USDA Water System Improvements-Phase 1 Project-Legal Service Agreement. Traci Alvarez, Assistant City Manager
9. Discussion/Action: Approval of MOU Agreement with the Truth or Consequences School District for a School Resource Officer. Victor Rodriguez, Chief of Police

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 JULY 13, 2022



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: June 22, 2022

Agenda Item #: C.1

SUBJECT: Presentation of possible advertising and marketing projects for the city.
DEPARTMENT: Clerk's Office
DATE SUBMITTED: June 16, 2022
SUBMITTED BY: City Clerk Torres
WHO WILL PRESENT THE ITEM: Joanie Griffin, Sunny 505

Summary/Background:

Joanie Griffin wants to give a presentation of possible advertising and marketing projects for the city.

Recommendation:

None. Presentation Only.

Attachments:

- PowerPoint.
- .

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 6-22-2022



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: June 22, 2022

Agenda Item #: C.2

SUBJECT: Concerns related to the Municipal Court.

DEPARTMENT: Clerk's Office

DATE SUBMITTED: June 16, 2022

SUBMITTED BY: City Clerk Torres

WHO WILL PRESENT THE ITEM: Judge Beatrice Sanders

Summary/Background:

Judge Sanders wants to address some of her concerns related to the Municipal Court

Recommendation:

None. Presentation Only.

Attachments:

- None.
- .

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 6-22-2022



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: June 22, 2022

Agenda Item #: F.1

SUBJECT: City Commission Regular Minutes, June 8, 2022
DEPARTMENT: City Clerk's Office
DATE SUBMITTED: June 16, 2022
SUBMITTED BY: Angela A. Torres, Clerk-Treasurer
WHO WILL PRESENT THE ITEM: Consent Calendar

Summary/Background:

Minutes approval.

Recommendation:

Approve the minutes.

Attachments:

- CC Minutes

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 6-22-2022

CITY COMMISSION MEETING MINUTES
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
CITY COMMISSION CHAMBERS, 405 W. 3RD St.
WEDNESDAY, JUNE 8, 2022

A. CALL TO ORDER:

The meeting was called to order by Mayor Amanda Forrister 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. Amanda Forrister, Mayor
Hon. Rolf Hechler, Mayor Pro-Tem
Hon. Destiny Mitchell, Commissioner
Hon. Merry Jo Fahl, Commissioner
Hon. Shelly Harrelson, Commissioner

Also Present: Bruce Swingle, City Manager
Angela A. Torres, City Clerk-Treasurer
Jay Rubin, City Attorney
Traci Alvarez, Assistant City Manager
Victor Rodriguez, Chief of Police

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

2. SILENT MEDITATION:

Mayor Forrister called for fifteen seconds of silent meditation.

3. PLEDGE OF ALLEGIANCE:

Mayor Forrister called for Commissioner Fahl to lead the Pledge of Allegiance.

4. APPROVAL OF AGENDA:

Mayor Pro-Tem Hechler made a motion to approve the agenda with the removal of item G11. Commissioner Mitchell 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:

City Manager Swingle and Sonya Renfro, Utility Office Manager presented an Employee Service Anniversary Award to Jessica Halsey for 1 year of service with the City of Truth or Consequences.

City Manager Swingle noted that Officer Zachary Zavala has an Employee Service Anniversary Award for 2 years of service with the City of Truth or Consequences. Officer Zavala could not attend the meeting.

City Manager Swingle and Victor Rodriguez, Chief of Police presented an Employee Service Anniversary Award to Ted Ontiveros for 17 years of service with the City of Truth or Consequences.

D. PUBLIC COMMENT (3 Minute Rule Applies):

Ron Pacourek addressed the Commission with various comments. Complete copy attached hereto and made a part hereof.

Nate Stevens addressed the Commission with comments related to:

- (1) He urged the Commission to do their due diligence when selecting members to sit on the Planning & Zoning Commission because Truth or Consequences has the opportunity right now for development and growth in a positive direction, and we need members on that board who will make decisions that will benefit the city.

E. REPORTS:

City Manager Swingle reported the following:

- It looks like we will have the employee pay plan on the agenda for the next meeting. We will discuss it with senior staff on Monday to make sure that it looks appropriate before we have it on the agenda, but it looks good at this point.
- Animal Shelter will have a reduced adoption rate today, June 8, 2022 through Saturday, June 11, 2022. It will be 505 off for the adoption of both cats and dogs. They are pretty much at capacity so they want to try and move some of those animals out.
- We continue to have vacancies on the Airport Advisory Board, Golf Course Advisory Board, Lodgers Tax Advisory Board, and Impact Fee Advisory Board. Anyone interested in serving on those advisory boards, please contact the City Clerk's Office.
- The Forest Service sent us a card thanking us for assisting them thus far through the black fire. We have extended a lot of resources to them. It's a really big fire. Something that we haven't seen before in this area.

#2 OVER CHARGING OF EVERY T or C WATER CUSTOMER

Ron Pacourek N Riverside Dr

Last commissioner meeting I brought up ordinance 712 where every water customer is being over charged . I hope that there was discussion and question about this ordinance.

Manger Morris Madrid a member of the PUAB at the time suggested that the *Base Customer Fee* was set for low and fixed income customers and not to be increased.

He also brought the CPI (Consumer price index) to keep in step with the country and only applied to the rates in this ordinance and that was his contribution to 712 this ordinance.

I will be requesting that this 712 ordinance be on the PUAB agenda again for the fourth time at our next meeting to clarity and amend the verbiage and maybe add a sunset clause.

This ordinance is set to be implemented again in July I hope to have this cleared up so it doesn't get implemented again incorrectly.

FYI in your minutes today it shows the applicants for the Planning & Zoning Board which should be in your next commissioners meeting minutes.

The Re appointment of the PUAB members is not in june 8th meeting minutes and was on the May 25 commissioners agenda? .

CITY COMMISSION JUNE 8, 2022 REGULAR MEETING MINUTES

- Commissioner Fahl is interested in having a Workshop at the next meeting. As he understands it, it will be from 9:00 a.m. to 10:00 a.m. before the next board meeting if she intends to pursue that.

City Attorney Rubin reported the following:

- We have another lien foreclosure sale coming up for the property of 1515-1517 Corzine. It is scheduled for June 14, 2022 at 9:30 a.m. at the courthouse. A lien was placed on the property by the city for the demolition of a building and the removal of the debris.

City Commission Reports:

Commissioner Mitchell had no reports.

Commissioner Fahl reported the following:

- The Sierra County Historical Society asked her to represent the city on their board, and she is very honored and excited to do that.
- Jornada is still gathering input on their trail, and she has a survey form that she would like people to fill out, including the Commissioners.
- She has been talking to the County Emergency Management Director to see what we can partner up with on learning about helping our citizens and us as Commissioners be more prepared on wildfire concerns in our community, and to also learn more about wildfire and Firefighter safety. We want to do a little workshop to bring some info to the Commissioners if you want to proceed forward. The workshop would start at 9:00 a.m. on June 22nd, and the regular meeting would immediately follow the workshop.

Mayor Pro-Tem Hechler had no reports.

Mayor Forrister had no reports.

F. CONSENT CALENDAR:

1. **City Commission Budget Workshop Minutes, May 17, 2022**
2. **City Commission Regular Minutes, May 25, 2022**
3. **Acknowledge Regular Lodgers Tax Advisory Board Minutes, March 7, 2022**
4. **May 2022 Accounts Payable**

Mayor Pro-Tem Hechler moved to approve the Consent Calendar with an amendment made to the Consent Calendar on item F2. Mayor Pro-Tem Forrister needs to be changed to Mayor Forrister. Commission Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

G. NEW BUSINESS:

1. Discussion/Update: Film Liaison Report:

Cary “Jagger” Gustin gave a brief presentation regarding the Film Liaison Report. (Complete copy attached hereto and made a part hereof).

2. Discussion/Action: Consider the appointment of Cary “Jagger” Gustin to serve another 2 year term as the Film Liaison:

Commissioner Fahl made a motion to re-appoint Cary “Jagger” Gustin to serve another 2 year term as the Film Liaison. Commission Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer.

**Hon. Destiny Mitchell, Commissioner voted aye
Hon. Merry Jo Fahl, Commissioner voted aye
Hon. Rolf Hechler, Mayor Pro-Tem voted aye
Hon. Amanda Forrister, Mayor recused herself from the vote**

Motion carried with a 3-0 vote with 1 recusal.

3. Discussion/Action: Approval of Contract with Coppler Law Firm for the 2022-2023 fiscal year:

City Manager Swingle explained that John Appel from Coppler Law Firm is our second attorney for the city. He handles things that are within his expertise, and it is really nice to have two attorneys on contract. It gives attorney Rubin the opportunity to consult with other legal counsel on certain matters, and it also helps share some of the work load with another person. John Appel’s contract is expiring at the end of the month so we are asking for a renewal of his contract from July 1, 2022 through June 30, 2023. The only difference between this contract and the old one is that his firm has increased their cost from \$190 an hour to \$200 an hour. That is their corporate rate. Staff recommends to approve the contract.

Commissioner Mitchell moved to approve the Contract with Coppler Law Firm for the fiscal year 2022-2023. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

4. Discussion/Action: Approval of Award and Agreement for Sub-Recipient allocations from General Funds:

City Manager Swingle reviewed the following subrecipient allocations from General Funds:

- Companion Action Team in the amount of a \$1,000 contract.
- Domestic Abuse Intervention Center in the amount of a \$2,000 contract.

- Sierra Joint Office on Aging in the amount of a \$35,000 contract.
- The Club of Sierra County in the amount of a \$5,000 contract.

Commissioner Mitchell moved to approve the awards and agreements for Sub-Recipient allocations from General Funds for Companion Action Team; Domestic Abuse Intervention Center; Sierra Joint Office on Aging; and the Club of Sierra County. Mayor Pro-Tem Hechler seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

5. Discussion/Action: Approval of Award and Agreement for Sub-Recipient allocations from the City's Portion of Lodger's Tax:

City Manager Swingle reviewed the following subrecipient allocations from the City's Portion of Lodger's Tax:

- Geronimo Trail Scenic Byway in the amount of a \$5,000 contract.
- MainStreet Truth or Consequences in the amount of a \$45,000 contract.
- Sierra County Recreation Tourism and Advisory Board in the amount of a \$17,000 contract.
- Sunny 505 in the amount of a \$25,000 contract.

Commissioner Mitchell moved to approve the award and agreements for Sub-Recipient allocations from the City's Portion of Lodger's Tax for Geronimo Trail Scenic Byway; MainStreet Truth or Consequences; Sierra County Recreation Tourism and Advisory Board; and Sunny 505. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

6. Discussion/Action: Review, Approve, and/or Allocate Funds for Geronimo Trail Scenic Byway; Sierra County Arts Council; Chamber of Commerce, and Sierra Health Council:

City Manager Swingle reviewed the following allocations approved by the Lodgers Tax Advisory Board:

- Geronimo Trail Scenic Byway for \$1,267.28.
- Sierra County Arts Council for \$1,562.40.
- Chamber of Commerce for \$3,059.92.
- Sierra County Health Council for \$3,000.00

Commissioner Fahl made a motion to allocate funds to Geronimo Trail Scenic Byway; Sierra County Arts Council; Chamber of Commerce and Sierra Health Council for the amounts noted. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

7. Discussion/Action: Amendment No. 1 and Amended Promissory Note for the City of Truth or Consequences Clean Water State Revolving Fund (CWSRF) 098 to lower the interest rate to 0.01%:

City Manager Swingle explained that this is an amendment to reduce our interest rate to 0.01%. It will result in significant savings to the city. The total value on the loan portion was \$373,000.

Commissioner Mitchell moved to approve the amendment No. 1 and amended Promissory Note for the City of Truth or Consequences Clean Water State Revolving Fund (CWSRF) 098 to lower the interest rate to 0.01%. Mayor Pro-Tem Hechler seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

8. Discussion/Action: Approval of Fiscal Year 2023 State of New Mexico Tourism Department Cooperative Agreement:

City Manager Swingle explained that this is the New Mexico Tourism Department Cooperative Agreement. We worked with Sunny 505 on this project. This is something that you funded in the preliminary budget. This is executing the agreement that the state requires. We have a deadline to submit this by the 15th.

Commissioner Mitchell moved to approve the Fiscal Year 2023 State of New Mexico Tourism Department Cooperative Agreement. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

9. Discussion/Action: Review and Approval of the Memorandum of Understanding between the Truth or Consequences Police Department and the Bureau of Alcohol, Tobacco, and Firearms:

Victor Rodriguez, Chief of Police explained that this is a Memorandum of Understanding between the Truth or Consequences Police Department and the Bureau of Alcohol, Tobacco, and Firearms to assign an Officer if we have the staffing to their task force to assist them in their mission which ultimately assists us in our mission to try to serve our community and increase public safety.

Commissioner Fahl moved to approve the Memorandum of Understanding between the Truth or Consequences Police Department and the Bureau of Alcohol, Tobacco, and Firearms. Mayor Pro-Tem Hechler seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

10. Discussion/Action: Approval of the Field Service Request and Agreement between the New Mexico Mounted Patrol and the Truth or Consequences Police Department:

Victor Rodriguez, Chief of Police explained that this is a Field Service Request and Agreement between the New Mexico Mounted Patrol and the Truth or Consequences Police Department to assign an Officer if we have the staffing to their task force to assist them in their mission which ultimately assists us in our mission to try to serve our community and increase public safety.

Mayor Pro-Tem Hechler moved to approve the Field Service Request and Agreement between the New Mexico Mounted Patrol and the Truth or Consequences Police Department. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

11. Discussion/Action: Interview and Selection of board members to fill the 3 vacancies on the Planning & Zoning Commission:

Item tabled until the next meeting.

H. EXECUTIVE SESSION:

1. Limited Personnel Matters (City Manager) Pursuant to 10-15-1(H.2).

Mayor Pro-Tem Hechler made a motion to go into executive session at 9:44 a.m. to discuss Limited Personnel Matters (City Manager) Pursuant to 10-15-1(H.2). Commissioner Mitchell seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

Mayor Forrister reconvened the meeting in open session at 11:30 a.m.

Mayor Pro-Tem Hechler certified that only matters pertaining to Limited Personnel Matters (City Manager) Pursuant to 10-15-1(H.2) was discussed in Executive Session.

No action was taken.

I. ADJOURNMENT:

Mayor Forrister adjourned the meeting at 11:32 a.m.

Passed and Approved this 22nd day of June, 2022.

CITY COMMISSION JUNE 8, 2022 REGULAR MEETING MINUTES

Amanda Forrister, Mayor

ATTEST:

Angela A. Torres, CMC, City Clerk



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: June 22, 2022

Agenda Item #: F.2

SUBJECT: Subrecipient FY 21/22 4th Quarter Reports
DEPARTMENT: City Manager's Office
DATE SUBMITTED: June 14, 2022
SUBMITTED BY: Tammy Gardner, Executive Assistant
WHO WILL PRESENT THE ITEM: Consent Calendar

Summary/Background:

Contract requires that recipients of Subrecipient funding submit a quarterly report to the City by the 15th of the month following the quarter and by June 3rd for the 4th quarter.

Recommendation:

Accept the 4th Quarter Reports

Attachments:

- Checklist
- Reports

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. [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 6-22-22

SUBRECIPIENT QUARTERLY REPORTS

FISCAL YEAR: 2021-22

Updated: 04/20/22

Reports are due by the 15th of the month following the quarter.

Exception: 4Q report due 06/03/2022

NAME OF ORGANIZATION	ALLOTMENT	1ST QTR. REPORT		2ND QTR. REPORT		3RD QTR. REPORT		4TH QTR. REPORT	
		YES	NO	YES	NO	YES	NO	YES	NO
<i>(SUBRECIPIENT FUNDS)</i>									
Companion Animal Action Team/CAAT Majie Powey 740-0421	\$1,500.00	X	10/13	X	1/12	X	4/8	X	6/7
Domestic Abuse Intervention Center Blanca Chavez 894-3557	\$2,500.00	X	10/07	X	1/10	X	4/5	X	6/6
Matthew 25 Food Pantry Dawn Jensen 847-785-9498	\$5,000.00	X	10/15	X	1/18				
SJOA / Sierra Joint Office on Aging Lisa Mattingly 894-6641	\$47,000.00	X	10/14	X	1/13	X	4/6	X	6/10
The Club of Sierra County Rebecca Dow 575-571-1056	\$10,000.00	X	10/14	X	1/5	X	4/5	X	6/6

(OTHER FUNDS)

Geronimo Springs Museum Marilyn Pope 894-6600	\$7,500.00	X	9/17	X	1/4	X	4/1	X	5/26
Geronimo Trail Scenic Byway LaRena Miller 894-2255	\$5,000.00	X	10/08	X	1/7	X	4/5		
MainStreet Truth or Consequences Linda DeMarino 740-6180	\$45,000.00	X	10/15	X	1/14	X	4/11	X	6/2

1st Quarter:	JUL, AUG, SEP
2nd Quarter:	OCT, NOV, DEC
3rd Quarter:	JAN, FEB, MAR
4th Quarter:	APR, MAY, JUN

Copies to City Mgr. & Commission
 Copies to City Mgr. & Commission
 Copies to City Mgr. & Commission
 Copies to City Mgr. & Commission

COMPANION ANIMAL ACTION TEAM
PO BOX 512
WILLIAMSBURG, NM 87942



SUBRECIPIENT GRANT
FY 2021/2022
(4th) QUARTER INVOICE

Date of Invoice: *June 7, 2022*

Invoice Amount: \$ 375.00

Submit To: *City of Truth or Consequences*
ATTN: City Clerk's Office
505 Sims Street
Truth or Consequences, NM 87901

Allocation Amount: \$1500.00

Quarter Draw: \$375.00

Please send payment to: *Companion Animal Action Team*
PO Box 512
Williamsburg, NM 87942

Thank you,

Majorie E Powey
Signature of Authorized Representative

Majorie E Powey
575-740-0421

70

SUB-RECIPIENT QUARTERLY REPORT

FY: 2021-2022

ORGANIZATION: COMPANION ANIMAL ACTION TEAM - CAAT

ALLOCATION: \$1,500.00
(FY Allotment, Not Qtr. Draw)

QUARTER: 4th
(1st/2nd/3rd/4th)

(Please confine your report to a one-page "narrative" for each quarter.)

CAAT sponsored four clinics in the 4th quarter. In April clinics were on 4/19 and 4/25. On April 19, 7 male cats were neutered, 6 female cats spayed, 6 female dogs were spayed and 4 male dogs neutered. On April 25, 3 female cats were spayed, 4 male cats neutered, 7 female dogs spayed including several over 80 pounds, and 9 male dogs neutered. Amy Starr, DVM continues to be our faithful provider from El Paso. Martin is her amazing tech who assists her.

There were two more clinics, May 31 and June 5. On May 31, 10 female cats were spayed and 4 male cats neutered, 10 female dogs were spayed and 1 male dog neutered. On June 5, 10 female cats were spayed, 4 male cats neutered, 5 female dogs spayed and 5 male dogs neutered. At this clinic we provided vaccinations for all animals free of charge. We did this knowing that rabies is now been found in several foxes in the area of Kingston.

For the 4th quarter the totals were 29 female cats spayed, 19 male cats neutered, 28 female dogs spayed and 19 male dogs neutered. We are limited to 25 animals per clinic and usually we have one or two no shows and when this happens we work with the shelter to do their dogs.

We appreciate all the help we get from the City. The building and the insurance are provided at no cost to the organization. Thank you again for your assistance

An invoice is attached for your information. Clinics cost between \$2800 and \$3000 but this includes testing, vaccinations and treatment if infections are found. All dogs go home on Pain meds and female cats receive an injection for pain that lasts about 48 hours.

Charges to clients cover about 1/3 the cost and some we do free. The rest of the money comes from Grants, donations and fund raising.

SUBMITTED BY: Majorie E Powey
TYPED NAME

Majorie E Powey
SIGNATURE

DATED: 6/7 2022

INVOICE

PNH Mobile 2

3233 N. Mesa St Suite 210
 El Paso, TX 79902
 915-584-4491

"Helping El Paso Help Their Pets"

FOR: T or C CAAT
 PO BOX 204
 Williamsburg, NM

Printed: 05-31-22 at 4:00p
Date: 05-31-22
Account: 15892
Invoice: 253033

Date	For	Qty	Description	Price	Discount	Net Price
Services by Amy Starr, DVM PS						
05-31-22	2022/05/31	224	PNH-M Milleage (S/N Clinic) per mil	896.00	181.00	715.00 **
05-31-22		1	S/N Clinic Day			1500.00
05-31-22		25	PNH-M Presurgery Intake Exam	450.00	450.00	0.00 **
05-31-22		25	Scan for Microchip			0.00
05-31-22		25	Client Information Verified			0.00
05-31-22		25	Recommend Our Online Pharmacy			0.00
<p>Our inner-clinic on-line pharmacy is located on our website. Please check us out! You can get all of your regular prescriptions, often at a less expense! Plus, it is safe and reliable! Go to our website: www.paws-n-hoovesvetclinic.com and look at the top of the screen for PHARMACY, then register. Once registered (may take a day), you will be able to see all of the medications available to you. These medications and prescription foods will be delivered directly to your home address. By choosing this method, instead of other less reliable online pharmacies, you are ensuring accurate and legal medications are given to your pet.</p> <p>Please be aware that there is a prescription fee of \$13 in the event that a prescription for medication is requested through any/all pharmacies other than our own. Our prices are price matched with the most common online pharmacies and are typically cheaper. For safety reasons, purchasing medications through unauthorized distributors is strongly discouraged because it is unknown how and where these companies get them and they could potentially be counterfeit, tampered with, or expired.</p>						
05-31-22		25	Recommend Brushing Teeth/Tooth			0.00
05-31-22		4	Feline Castration	220.00	220.00	0.00 **
05-31-22		10	Feline Ovariohysterectomy	750.00	750.00	0.00 **
05-31-22		10	Canine Ovariohysterectomy	1200.00	1200.00	0.00 **
05-31-22		1	Canine Castration	100.00	100.00	0.00 **
05-31-22		90	PNH-M2 Tramadol Tablet 50mg (1	42.30	42.30	0.00 **
05-31-22		19.70	PNH2 Ketamine-Xylazine Comb Inj			0.00
05-31-22		24	PNH2 Rabies 3yr Vaccine (10ml)			336.00
05-31-22		14	PNH2 Feline FVRCP Vaccine (1ml)			126.00
05-31-22		11	PNH2 K9 DAPP Inventory (1ml)			99.00
05-31-22		3	PNH-M2 Metacam/Loxi Inj 5mg/m (45.00
05-31-22		3	PNH-M In-House FELV/FIV Test	117.00	12.00	105.00 **

Services by

05-31-22 #1506 Check payment -2926.00

Old balance	Charges	Payments	Discount	New balance
0.00	2926.00	2926.00	2955.30 **	0.00

Your invoice total reflects our **Client Class 1** discount.

Reminders for: 2022/05/31	Last done
05-31-23 MVC Exam W/Vaccines	05-31-22

Thank you for letting us care for your pet(s)! Refer a new client and get \$20 off your next visit.

We will not process any type of credit card transaction without proper form of card holder's I.D. present.

We do not give refunds or reimbursements for professional services rendered, deposits on surgeries/major procedures or inventory items that have left the facility. Further charges such as lab tests, radiology, hospitalization, anesthesia and pharmacy items not posted at the time of discharge may be billed later. We do require a 24 hour advanced notice on all/any cancellations. \$25 cancellation fee will be charged on all No show less than 24 hours notice and surgery deposits will be forfeited.

We appreciate your understanding.

Also, check out our website (www.paws-n-hoovesvetclinic.com), online pharmacy, Facebook, YouTube, Pinterest, SnapChat and LinkedIn!

Do you have additional questions? Call us at Paws N' Hooves Mobile Veterinary Services (915) 490-4849 or Mesa Veterinary Clinic (915) 584-4491.

RECEIVED JUN 06 2022

19

ORGANIZATION/RECIPIENT'S NAME
ADDRESS
CITY, STATE and ZIP

SUBRECIPIENT GRANT
FY 2021/2022
(4th) QUARTER INVOICE

Date of Invoice: *June 2, 2022*

Invoice Amount: *\$625.00*

Submit To: *City of Truth or Consequences*
ATTN: City Clerk's Office
505 Sims Street
Truth or Consequences, NM 87901

Allocation Amount: *\$2500.00*

Quarter Draw: *\$625.00*

Please send payment to: *Domestic Abuse Intervention Center*
P.O. Box
Truth or Consequences, NM 87901

Thank you,

Blanca Chavez

Blanca Chavez
575-894-3557

RECEIVED JUN 08 2022

17

SUB-RECIPIENT QUARTERLY REPORT

FY: 2021/22

ORGANIZATION: Domestic Abuse Intervention Center

ALLOCATION: \$2,500.00
(FY Allotment, Not Qtr. Draw)

QUARTER: 4rd
(1st/2nd/3rd/4th)

(Please confine your report to a one-page "narrative" for each quarter.)

Statistical Information:		Years	Victimization	Referral	
Female- 19	Anglo- 17	18-21- 9	Emotional -29	Police- 4	Sherriff-
Male-11	Hispanic- 8	22-40- 13	Physical -12	Hospital-	Self-Referral-4
	Other- 5	41-59- 4	Sexual- 1	Courts- 9	Friends- 1
		60-74- 3	Stalking-	Family-1	Other- 11
		Unknown - 0		CYFD-	

Type of Contact:	Volunteer Hours: Total- 1138
Orders of Protection- 9	Cell Phone- 1132
Individual Support Sessions- 36.25	Adminstrate-
Group - 160	Crisis -
Victim Advocacy - 124.5	Office-
Crisis Intervention -4	Direct Client Contact (crisis)-6
Shelter - 1	Transportation-
Food -	
Legal Advocacy -4.5	
Case Management - 43.4	
DVOTI Individual Sessions - 1	

April -	May -
Windstream \$200.00	Dues-211.50 windstream -\$213.50
	Total \$625.00

SUBMITTED BY: Blanca Chavez
TYPED NAME

Blanca Chavez
SIGNATURE

DATED: 06/02/22

Sierra Joint Office on Aging
406 W. 4th Ave
Truth or Consequences, NM 87901

RECEIVED JUN 10 2022
TJ
RECEIVED JUN 10 2022

SUBRECIPIENT GRANT
FY 2021/2022
4th QUARTER INVOICE

Date of Invoice: 6/10/2022

Invoice Amount: \$11,750.00

Submit To: *City of Truth or Consequences*
ATTN: City Clerk's Office
505 Sims Street
Truth or Consequences, NM 87901

Allocation Amount: \$47,000.00

Quarter Draw: \$11,750.00

Please send payment to: *Sierra Joint Office on Aging*
406 W. 4th Ave
Truth or Consequences, NM 87901

Thank you,



Lisa L. Mattingly
Finance Director
575-894-6641
575-740-2066

RECEIVED JUN 10 2022

TB

SUB-RECIPIENT QUARTERLY REPORT

FY: 2021/22

ORGANIZATION: Sierra Joint Office on Aging

ALLOCATION: \$47,000.00
(FY Allotment, Not Qtr. Draw)

QUARTER: 4th
(1st/2nd/3rd/4th)

(Please confine your report to a one-page "narrative" for each quarter.)

4,567 Meals served in the drive-thru for the months of April thru May 2022

2,253 Congregate meals to in the dining room.

6,059 Meals delivered to Homebound seniors

1,469 Transportation (Rides)/local. Las Cruces rides have resumed as of September

11 rides for Assisted Transportation

1902.5 hrs. Homemaking services provided

204.75 hours provided for Respite.

We are now serving meals in the dining room but still offer meals to go as we have the last two years due to lingering COVID concerns.

Transportation services have been opened up to other destinations besides doctors and grocery shopping. We have also resumed the Las Cruces run.

Homemakers have resumed in home services with additional precautions put in place.

We are also assisting seniors who might be having trouble signing up for the COVID-19 vaccinations on the NMDOH website.

SUBMITTED BY: Lisa L. Mattingly

TYPED NAME

Lisa L. Mattingly
SIGNATURE

DATED: 06/10/22

RECEIVED JUN 06 2022

TQ

The Club
122 N. Broadway St.
T or C, NM 87901

SUBRECIPIENT GRANT
FY 2021/2022
4th QUARTER INVOICE

Date of Invoice: 6/3/2022

Invoice Amount: \$2,500

Submit To: *City of Truth or Consequences*
ATTN: *City Clerk's Office*
505 Sims Street
Truth or Consequences, NM 87901

Allocation Amount: \$10,000

Quarter Draw: \$2,500

Please send payment to: *The Club*
1300 S. Broadway
T or C, NM 87901

Thank you,



Charis Baxter
505-888-0174

GEROMIMO SPRINGS MUSEUM
211 MAIN
TRUTH OR CONSEQUENCES, NM 87901

RECEIVED JUN 01 2022

SUBRECIPIENT GRANT FY/21/22

4TH QUARTER INVOICE DUE JUNE 3, 2022

INVOICE AMOUNT \$1,875.00

SUBMIT TO: CITY OF TRUTH OR CONSEQUENCES

~~205~~⁵⁰⁵ SIMS STREET

TRUTH OR CONSEQUENCES NM 87901

ALLOCATION AMOUNT: \$7,500.00

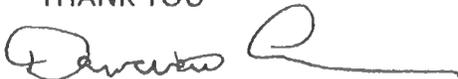
4TH QUARTER DRAW: \$1,875.00

PLEASE SEND PAYMENT TO: GERONIMO SPRINGS MUSEUM

211 MAIN

TRUTH OR CONSEQUENCES NM 87901

THANK YOU



DONACIANO ARMIJO

PHONE NUMBER 575-894-6600 [GSM] 575-740-1060 [C]

SUB-RECEIPT REPORT
ORGANIZATION: GERONIMO SPRINGS MUSEUM

2021 2022
FY: ~~2022/2023~~ 79

ALLOCATION: \$7,500.00

RECEIVED MAY 26 2022
QUARTER: \$1,875.00 4-7-22

FOLLOWING IS A LIST OF EXPENDITURES PARTIALLY PAID BY THESE MONIES:

VENDOR	DATE OF CHECK	CHECK #	AMOUNT	
TURTLEBACK PEST CONTROL				
	25 APR 2022	#1184	\$52.63	
	25 MAY 2022	#1204	\$52.63	
WINDSTREAM				
	25 APR 2022	#1190	\$226.51	
	25 MAY 2022	#1205	\$179.01	
CITY OF TRUTH OR CONSEQUENCES (UTILITIES)				
	25 APR 2022	#1185	\$269.37	
	26 MAY 2022	#1209	\$317.03	
NEW MEXICO GAS				
	21 APR 2022	#1181	\$56.12	
	25 MAY 2022	#1206	\$50.49	
LIBERTY MUTUAL				
	21 APR 2022	#1180	\$501.30	
	17 MAY 2022	#1202	\$501.30	
ALARM SERVICES				
	25 MAY 2022	#1207	\$211.21	
				\$2,838.37

The past few months have been spent lining up history programs for the summer months and planning the 50th Anniversary Celebration for the museum.

SC Rock and Gem Society (The Rockhounds), together with the NM Bureau of Mines and Mineral Resources and NM Tech have graciously donated a large and colorful mineral collection, which is housed in a beautiful display case built by Jeff Dornbusch. The collection will also be featured during the 50th Anniversary Celebration.

Visitation has been steadily rising during the previous two months, and we are once again open seven days a week. We have had many visitors from across the country, but the largest percentage has been from NM residents; with several buying museum memberships!

We are greatly saddened to announce the passing of Marilyn Pope, the Museum's Curator and Director, on Sunday, 22 May 2022. We are continuing the mission of the museum with the help of the current board members and volunteers, and are extremely grateful to Deanna Knull's help during this time.

If you have questions suggestions, or concerns, please do not hesitate to contact Deanna Knull at the Museum during operating hours, 575-894-6600, or Don Armijo by cell, 575-740-1060.

Donaciano Armijo, Board President



Geronimo Trail Scenic Byway, Inc.

P O Box 1072 • 301 S Foch • Phone (575) 894-1968
Truth or Consequences, New Mexico 87901

RECEIVED MAY 05 2022

th

INVOICE *subrecipient grant*

Date 5-4-2022

To City of Truth or Consequences

For Operating expenses April 2022

Telephone \$ 125.25

Renters Insurance \$ 62.83

Postage \$

Supplies & printing \$ 671.22

Actual total \$ 859.30

Amount due \$ 416.66 per contract

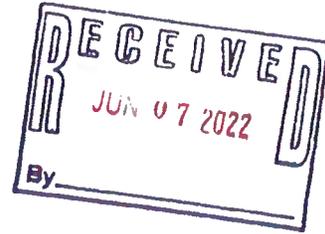
Thank you

L Miller

Geronimo Trail Scenic Byway, Inc.

P O Box 1072 • 301 S Foch • Phone (575) 894-1968
Truth or Consequences, New Mexico 87901

INVOICE subrecipient grant



Date 6-7-2022

To City of Truth or Consequences

For Operating expenses May 2022 Anticipated June 2022

Telephone	\$	125.67	125.67
Renters Insurance	\$	62.83	62.83
Postage	\$		95.31
Supplies & printing	\$	9.60	9.60
Actual total	\$	198.10	293.41

Amount due \$ 833.40 per contract

Thank you

L Miller

RECEIVED JUN 15 2022

76

SUBRECIPIENT QUARTERLY REPORT

(Report is due by the 15th of the month following the quarter.)

FY: 2021-2022

ORGANIZATION: Geronimo Trail Scenic Byway

ALLOCATION: \$5,000.00

QTR DRAW: \$1,250.00

QUARTER: 4th

(FY Allotment, Not Qtr. Draw)

(1st/2nd/3rd/4th)

(Please detail the progress made in providing the services each quarter.)

April, May and June we were open 7 days a week, Monday - Thursday 10 - 3; Friday and Saturday 9 - 4:30 and Sunday 9 - 2:30. Through June 14, we had 1,918 visitors sign in, responded to 121 telephone calls for information, responded to 424 emails, and mailed out 1 packet of visitor information and 2 relocation packets. We anticipate an additional 250 visitors the remainder of June, another 10+ telephone calls for information and some additional email requests.

Total expenses for the period:

Telephone \$ 376.59

Insurance \$ 188.49

Postage \$ 95.31

Supplies \$ 690.42

Total expenses for the qtr \$ 1350.81

Overage in expenses is paid by donations, Cash for Clubs receipts from Bullocks, sale of souvenir items for both Truth or Consequences and Spaceport America on which we pay GRT. Any other expenses and supplies are covered by the Director and Board donations. Our 5 volunteers rotate days of work. We continue to open and close the Spaceport America visitors center, which they are now calling their Spaceport America tour depot. They have continued tours out of the facility and are talking of adding to the displays. On Saturdays of Spaceport tours we open at 8am for the convenience of people on the 9am tour, and stay until after 5pm until the afternoon tour returns. This extra time is not calculated into our hours below, as it varies with the tours. Our supply line is higher because many of the flyers and handouts we re-print ourselves on one of two laser printers, and ink has increased in cost. We changed over to fiber-optics for our telephone and internet service, which has decreased our telephone bill for the next 3 years. We contribute a minimum of 48 volunteer hours per week in the visitors center. The volunteer director spends approximately 12 hours per month on administrative duties above and beyond her volunteer hours. We are closed Thanksgiving, Christmas Day and New Year's Day and Easter. We contribute over \$40,000.00 to the City with our volunteer duties promoting the City.

SUBMITTED BY: _____

LaRena Miller

TYPED NAME

LaRena Miller

SIGNATURE

DATED: 06/14/22

**MainStreet Truth or Consequences
PO Box 1602
Truth or Consequences, NM 87901**

RECEIVED JUN 02 2022

**SUBRECIPIENT GRANT
FY 2021/2022
(4th) QUARTER INVOICE**

Date of Invoice: 06/02/2022

Invoice Amount: \$ 11,250.00

Submit To: *City of Truth or Consequences*
ATTN: City Clerk's Office
505 Sims Street
Truth or Consequences, NM 87901

Allocation Amount: \$ 45,000

Quarter Draw: \$ 11,250.00

Please send payment to: **MainStreetTorC** attn.: *Treasurer*
PO Box 1602
Truth or Consequences, NM 87901

Thank you,

Blanch Almquist, Treasurer
(575) 543-8182

SUBRECIPIENT QUARTERLY REPORT
FY: 2021/2022

RECEIVED JUN 02 2022

(Report is due by the
15th of the month
following the QTR.)

ORGANIZATION: MainStreet Truth or Consequences

ALLOCATION: **\$45,000** **\$11,250.00**
 (FY Allotment) (Quarterly Draw)

QUARTER: 4th
 (1st Q^{tr} / 1st)

SUBMITTED BY: Blanch Almquist
 Print Name

Signature

(Please see attachments)

RECEIVED JUN 02 2022

**SUBRECIPIENT QUARTERLY REPORT
2021-2022**

FY 22

ORGANIZATION: MainStreet Truth or Consequences

ALLOCATION: \$45,000 **QUARTERLY DRAW:** \$11,250 **QTR:** 4rd (April 1 - June 30)

(Please detail the progress made in providing the services each quarter.)

MainStreet Truth or Consequences continues to provide community economic growth revitalization services to the property and business owners and residents of the district through the MainStreet Four-Point Approach®, and in alignment with the guidelines of the NMSC. Our work with the local government partners ensures that appropriate financial revitalization tools, created through state statute for economic development (inclusive of any statutory changes), are adopted by the local government partner for the MainStreet District. These tools may include the Local Economic Development Act (LEDA), a Metropolitan Redevelopment Area (MRA), District Master Plan, and/or Cultural Economic Development Plan, and related finance mechanisms, such as Tax Increment Finance District (TIF), a Tax Increment Development District (TIDD) and/or a Business Improvement District (BID).

Economic Transformation Strategy Progress - Enhance economic opportunities in the district and increase foot traffic by area residents and visitors.

- Planned, developed and implemented of a new business survey supporting the LEADS grant to surveying new business owners on the process of starting a new business in our district, evaluated the results, and made a report to the City for improvements to the process. MainStreetTorC hired contractors for outreach/promotion, to administer the survey, and for data entry; the survey is complete and closed, a report has been delivered to the City for review and consideration
- Launching a Business Navigator program, including tutorials/videos, toolkits, and other applicable content as a single point of contact for businesses to receive information about starting and growing their businesses inside the district.
- Applying for grant funding to advise, train, and help implement a Google presence for district businesses that have none, or need to improve upon their existing sites.
- Participated on the planning committee for Fiesta 2022, promoted the event, provided volunteer on parade route and at the stage throughout the weekend, worked the sign up table for the beard and mustache competition, sponsored the Fiesta Music Stage
- Collaborated with district businesses on façade renovation projects applied for and was awarded a \$5000 grant, as fiscal agent, from NM Resiliency Alliance to be used for façade improvements to El Cortez Theatre with a \$5000 cash match from the Theatre, approved up to \$500 for façade renovation to Mile Marker 7 waiting on scheduling from the business
- Implemented an ongoing monthly Shop Small raffle encouraging downtown district shoppers and businesses participation
- On-going
 - Providing information to help businesses stay up-to-date on Covid-related restrictions and requirements, as needed
 - Relaying information to help businesses access funding and assistance opportunities

-
- Updating/maintaining a "minimally viable" vacancy list of downtown buildings
 - Providing information and assistance with startups, including support with licensing/permitting
 - Assisting partners in marketing of Small Business Saturday
 - Second Saturday Art Hop brochure and promotions
 - Promote Healing Waters Plaza as a place for events.

SUBMITTED BY:

Blanch Almquist, Treasurer DATED: 6/02/2022

MainStreetTorC Budget 2021-2022 attached

MAINSTREET TRUTH OR CONSEQUENCES BUDGET 2021-2022

Income	
City of T or C Subrecipient Grant	\$45,000.00
Lodger's Tax	\$11,000.00
Board Contributions	\$3,500.00
Donations/Fundraising Goal-Gross	\$10,000.00
Sponsorships	\$5,000.00
USDA RBDG	\$10,150.00
NMMS LEADS Grant	\$7,400.00
Total Income	\$92,050.00
Personnel (list each position)	
Executive Director	\$40,000.00
Benefits & Taxes 7.65% of salaries	\$3,060.00
Total Personnel and Benefits/Taxes	\$43,060.00
Administration Expense	
Rent	\$3,600.00
Utilities	\$1,300.00
Telecommunications	\$1,260.00
Office Supplies & Materials	\$1,000.00
Postage and Mailing	\$150.00
Printing/Copying	\$500.00
Travel (mileage, transportation, per diem)	\$3,450.00
Memberships & Subscriptions	\$819.00
Liability Insurance	\$1,712.00
Contractors: Bookkeeping/CPA	\$2,350.00
Training/Professional Development Registration Fees	\$300.00
Total Administration Expenses	\$16,441.00
Program Expense	
Marketing/Outreach/Promotion	\$11,750.00
Awards & Recognitions	\$200.00
Dog Park	\$2,889.34
Other Projects	\$500.00
Total Program Expense	\$15,339.34
Total Operating Expenses	\$74,002.16
Total Income	\$92,050.00
Misc / Carryover 2022-23	\$18,047.84



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: June 22, 2022

Agenda Item #: G.1

SUBJECT: Final Adoption of Ordinance No. 733 amending the code of ordinances of the City of Truth or Consequences by amending Sections 7-136 calling for an increase in the Municipal Gross Receipts Tax of one-eighth of one percent (0.125%)

DEPARTMENT: City Manager's Office

DATE SUBMITTED: June 16, 2022

SUBMITTED BY: Tammy Gardner

WHO WILL PRESENT THE ITEM: Bruce Swingle, City Manager

Summary/Background:

Final Adoption of Ordinance No. 733 to amend Ordinance No. 606 Sections 7-136 calling for an increase in the Municipal Gross Receipts Tax of one-eighth of one percent (0.125%)

Recommendation:

Final Adoption of Ordinance No. 733

Attachments:

- Proposed Ord No. 733
- .

Fiscal Impact (Finance): Yes

Will generate \$180,000.00 per year.

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. 733

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 6-22-22

ORDINANCE NO. 733

AN ORDINANCE AMENDING THE CITY CODE OF ORDINANCES OF THE CITY OF TRUTH OR CONSEQUENCES BY AMENDING SECTIONS 7-136 CALLING FOR AN INCREASE IN THE MUNICIPAL GROSS RECEIPTS TAX OF ONE-EIGHTH OF ONE PERCENT (0.125%)

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF TRUTH OR CONSEQUENCES, NM:

Section 1. Imposition of Tax.

There is imposed on any person engaging in business in this municipality for the privilege of engaging in business in this municipality an additional excise tax equal to one eighth of one percent (0.125%) of the gross receipts reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act as it now exists or as it may be amended. The additional tax imposed under this ordinance is pursuant to the Municipal Local Option Receipts Tax Act as it now exists and shall have the effect of increasing the total municipal gross receipts tax rate to 1.8125%.

Section 2. Dedication.

Revenue from this additional one-eighth of one percent (0.125%) of municipal gross receipts tax will be used for the purpose (s) listed below:

A. General Purposes

Section 3. Effective Date.

The effective date of the one-eighth of one percent (0.125%) of municipal gross receipts tax increase shall be either January 1, of July 1, whichever date occurs first after the expiration of three months from the date this ordinance is adopted and the adopted ordinance is delivered or mailed to the Taxation and Revenue Department.

PASSED, APPROVED AND ADOPTED this 22nd day of July, 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: June 22, 2022

Agenda Item #: G.2

SUBJECT: Discussion/Input: Review and Discuss Infrastructure Capital Improvement Projects for the City and Ken James Senior Center

DEPARTMENT: Community Development

DATE SUBMITTED: June 16, 2022

SUBMITTED BY: Traci Alvarez

WHO WILL PRESENT THE ITEM: Traci Alvarez

Summary/Background:

Public Hearing is to receive suggestions from the public and commission on projects they would like to see listed on the ICIP's. City Staff have submitted priority projects for their respective departments. ICIP list shows projects as submitted for the 2023 – 2027 ICIP year with preliminary total costs. ICIP list will be updated and brought back to the Commission for ranking and final approval and Resolution to adopt at the next meeting.

Recommendation:

Discuss and recommend projects

Attachments:

- Draft Infrastructure Capital Improvement Project Summary as submitted for 2023-2027 for City
- Draft Infrastructure Capital Improvement Project Summary as submitted for 2023-2027 for SJOA
- Department Capital Project Lists

Fiscal Impact (Finance): Unknown

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. [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 6-22-22

Infrastructure Capital Improvement Plan F2024-2028

Truth or Consequences Project Summary

ID	Year	Rank	Project Title	Category	Funded to date	2024	2025	2026	2027	2028	Total	Amount	Phases?
											Project Cost	Not Yet Funded	
38540	2023	001	Marie Street Improvements	Transportation - Highways/Roads/Bridges	0	282,000	0	0	0	0	282,000	282,000	No
36714	2023	002	Substation Primary Underground Feeder Replacement	Other - Utilities (publicly owned)	0	1,000,000	0	0	0	0	1,000,000	1,000,000	Yes
38532	2023	003	Solid Waste Roll Off Truck and Dumpsters	Other - Solid Waste	0	210,000	0	0	0	0	210,000	210,000	No
38589	2023	004	Street Department 4000 Gal. Water Truck	Equipment - Other	0	186,000	0	0	0	0	186,000	186,000	No
38579	2023	005	Animal Shelter Kennel Building	Facilities - Other	0	300,000	0	0	0	0	300,000	300,000	Yes
36684	2023	006	Ralph Edwards Parks Improvements Phase 2	Facilities - Other	350,000	300,000	0	0	0	0	650,000	300,000	No
38581	2023	007	Soccer Field Improvements	Other - Other	0	245,000	0	0	0	0	245,000	245,000	No
38582	2023	008	Fleet Department Service Truck	Equipment - Other	0	160,000	0	0	0	0	160,000	160,000	No
36716	2023	009	I-25 Business Landscape Project	Transportation - Medians	21,000	300,000	0	0	0	0	321,000	300,000	No
38536	2023	010	Police Department Flood Control	Facilities - Administrative Facilities	0	15,000	0	0	0	0	15,000	15,000	No
36448	2023	011	City-wide Drainage Improvements	Water - Storm/Surface Water Control	100,000	800,000	1,000,000	1,700,000	1,700,000	0	5,300,000	5,200,000	Yes
38590	2023	012	Substation South Transformer Replacement	Equipment - Other	0	1,500,000	0	0	0	0	1,500,000	1,500,000	No
38591	2023	013	Electrical Substation Breaker Replacement	Equipment - Other	0	1,000,000	0	0	0	0	1,000,000	1,000,000	No

Infrastructure Capital Improvement Plan F2024-2028

38592	2023	014	Electrical Substation Transformer Switches	Equipment - Other	0	250,000	250,000	0	0	0	500,000	500,000	Yes
39246	2023	015	Cantrell Dam Improvements	Water - Storm/Surface Water Control	825,000	1,045,000	1,130,000	1,000,000	1,000,000	0	5,000,000	4,175,000	Yes
38534	2023	016	Recycling Center Lighting Improvements	Facilities - Other	0	25,000	0	0	0	0	25,000	25,000	No
38535	2023	017	Solid Waste Facility Pavement Improvements	Facilities - Other	0	180,000	0	0	0	0	180,000	180,000	No
38537	2023	018	Police Department Security Surveillance System	Facilities - Administrative Facilities	0	25,000	0	0	0	0	25,000	25,000	No
38538	2023	019	Police Department Renovation	Facilities - Administrative Facilities	0	85,000	0	0	0	0	85,000	85,000	No
36618	2023	020	Multi-generational Campus	Facilities - Other	0	160,000	3,500,000	3,745,000	4,000,000	900,000	12,305,000	12,305,000	Yes
26605	2024	001	MSD Streets Reconstruction	Transportation - Highways/Roads/Bridges	1,215,000	0	2,200,000	0	0	0	3,415,000	2,200,000	Yes
32976	2024	002	Water Distribution Line Replacement & Repavement	Transportation - Highways/Roads/Bridges	0	0	1,200,000	1,600,000	0	0	2,800,000	2,800,000	Yes
36449	2024	003	Foch Street & Drainage Improvements	Transportation - Highways/Roads/Bridges	1,292,000	0	300,000	0	0	0	1,592,000	300,000	Yes
38572	2024	004	W 9th Street Improvements	Transportation - Highways/Roads/Bridges	0	0	240,000	0	0	0	240,000	240,000	No
38574	2024	005	Veater Street Improvements	Transportation - Highways/Roads/Bridges	0	0	270,000	0	0	0	270,000	270,000	No
38577	2024	006	Golf Course Grounds Improvements	Other - Other	0	0	25,000	0	0	0	25,000	25,000	No
38533	2024	007	Solid Waste Tipping Floor Improvements	Other - Solid Waste	0	0	135,000	0	0	0	135,000	135,000	No
38539	2024	008	Pine Street Improvements	Transportation - Highways/Roads/Bridges	0	0	110,000	0	0	0	110,000	110,000	No
38578	2024	009	Golf Course Maintenance Equipment	Equipment - Other	0	0	35,000	0	0	0	35,000	35,000	No

Infrastructure Capital Improvement Plan F2024-2028

38571	2025	001	Smith, Silver and E 9th Street Improvements	Transportation - Highways/Roads/Bridges	0	0	0	662,000	500,000	0	1,162,000	1,162,000	Yes
33030	2025	002	Louis Armijo Sports Complex	Facilities - Other	0	0	0	400,000	0	0	400,000	400,000	Yes
38619	2025	003	Wastewater Manhole Replacement/Improvements	Water - Wastewater	0	0	0	25,000	225,000	2,000,000	2,250,000	2,250,000	Yes
38576	2025	004	Golf Course Clubhouse Improvements	Facilities - Other	0	0	0	45,000	0	0	45,000	45,000	Yes
36685	2025	005	Swimming Pool Phase I	Facilities - Other	0	0	0	250,000	1,250,000	1,250,000	2,750,000	2,750,000	Yes
33002	2026	001	Water Infrastructure and Fire Hydrant Replacement	Water - Water Supply	19,930,232	0	0	0	19,402,616	19,402,616	58,735,464	38,805,232	Yes
38618	2026	002	Golf Course Effluent Water System Improvements	Water - Wastewater	0	0	0	0	17,026	0	17,026	17,026	No
34164	2026	003	Electric Pole and Conductor Replacement	Transportation - Lighting	0	0	0	0	1,000,000	0	1,000,000	1,000,000	Yes
36768	2027	001	Vista Memorial Gardens Cemetery	Facilities - Administrative Facilities	0	0	0	0	0	140,000	140,000	140,000	Yes
38573	2027	002	Sierra Vista Street Improvements	Transportation - Highways/Roads/Bridges	0	0	0	0	0	95,000	95,000	95,000	No

Number of projects:	39												
Grand Totals	Funded to date:	Year 1:	Year 2:	Year 3:	Year 4:	Year 5:	Total Project Cost:						Total Not Yet Funded:
	23,733,232	8,068,000	10,395,000	9,427,000	29,094,642	23,787,616	104,505,488						80,772,256

Infrastructure Capital Improvement Plan FY 2023-2027

Sierra Joint Office on Aging (Ken James Sr Ctr) Project Summary

ID	Year	Rank	Project Title	Category	Funded to date	2023	2024	2025	2026	2027	Total Project Cost	Amount Not Yet Funded	Phases?
											Cost	Funded	
33313	2023	001	Replace Senior Center Front Entrance	Facilities - Senior Facilities	0	16,500	0	0	0	0	16,500	16,500	No
33329	2023	002	Remodel Senior Center Restrooms	Facilities - Senior Facilities	0	53,000	0	0	0	0	53,000	53,000	No
33325	2023	003	Transport PSGR Van 02	Vehicles - Senior Facility Vehicle	0	42,000	0	0	0	0	42,000	42,000	No
33317	2023	004	Resurface parking areas of Senior Center	Facilities - Senior Facilities	0	100,000	0	0	0	0	100,000	100,000	No
33326	2023	005	Transport PSGR Van 04	Vehicles - Senior Facility Vehicle	0	42,000	0	0	0	0	42,000	42,000	No
33319	2023	006	Replace Senior Transport PSGR Van 01	Vehicles - Senior Facility Vehicle	0	39,000	0	0	0	0	39,000	39,000	No
33330	2023	007	Replace Senior Center windows	Facilities - Senior Facilities	0	42,000	0	0	0	0	42,000	42,000	No

Number of projects: 7

	Funded to date:	Year 1:	Year 2:	Year 3:	Year 4:	Year 5:	Total Project Cost:	Total Not Yet Funded:
Grand Totals	0	334,500	0	0	0	0	334,500	334,500

* Projects 2023 003, 2023 004 & 2023 005 have already been funded. The highlighted projects is what we have remaining from last years ICIP.



City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901
City (575) 894-6673 ▪ Fax (575) 894-7767

Wastewater Project for \$16,000,000 Earmark Funds

1. Joint building with Wastewater to accommodate equipment, parts, washrooms, pipe supply, etc. \$1,500,500 total, split with water. \$750,000 for wastewater portion.
2. Wastewater plant upgrades- Replace plastic weirs on clarifiers with stainless steel ones. Relevel and reattach to clarifiers properly. Install a pump on the scum-box with float controls to properly pump down and when full. Replace oxidation ditch with a newer technology that has proper removal of nutrients and sized appropriately, an SBR or extended aeration plant would be a good option, possibly even an MBR to achieve high quality water. Replace all water lines around wastewater plant. Replace all drain and sewer lines around plant. Upgrade the lift station at plant and upsize the pumps and control panel. Demolition of old vacuum beds or modify them for use. Install a new building at the parshall flume for the outfall of effluent. Modify the existing parshall flume with a new ultra-sonic flow meter, sampler for testing, flow meters to the re-use pond. Install a properly sized sulfur burner to improve the quality of the reuse water from the wastewater plant. Replace the odor control unit with an activated carbon filter instead of a bio filter that is very complicated and costly to run. Install a larger stilling well for the reuse water. Estimated cost \$10,000,000
3. Armijo Park Reuse water upgrades- Surface aerators on the Armijo pond. This will reduce algae growth and keep the water from having a rising pH due to algae. Replace the skid that pumps water to the golf course and also the truck fill station. Completely replace pumps and motors, and electrical components at the skid at Armijo pond. New well and pumps and panels for the baseball fields irrigation system. Estimated cost \$1,750,000 – combine with Parks ICIP request
4. Golf Course Reuse water upgrades- Surface aerator on the golf course pond. Replace skid that waters the golf course with new pumps, motors, piping, fresh water supply lines, pony pumps, nutrient tanks, and injection. Incorporate the secondary pond into the existing pond for reuse water to have a properly flowing and moving water system to prevent algae and growth. This will also act as a water hazard for golf play. New level transducers and pH monitoring of the water. CO2 injection for water pH adjustments to prevent pH from rising due to possible algae growth. New electrical components for pumps and all other various components. Estimated cost \$2,000,000 - combine with Parks ICIP request
5. Coating of manholes- Various manholes coated to prevent further corrosion and ensure they are not leaking sewage into groundwater. 25 manholes coated around town, locations are currently not known and we are working on the AMP to identify these areas. More if necessary. Estimated cost \$2,250,000 – 2025 003



City of Truth or Consequences

505 Sims Street

Truth or Consequences, New Mexico 87901

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6. Clancy Force Main Improvements –Replace approximately 1000 feet of Sewer line that is used to transport wastewater from north side of town to the wastewater plant.
Estimated Cost \$1,500,000



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Water Project for \$10,000,000 Earmark Funds

1. Well #8- Replace well #8. This would include a brand-new casing, new well downpipe, new shaft and bearings, foot valve, new oil deliver system, well head, new piping in the building, new SCADA and communications. The building needs new air conditioning and heating. New electrical to include new panels and updated hardware with VFD's to better regulate the pump. Flush clean and acidize the well casing. The estimated cost for this is \$750,000.
2. Water meter replacement- Replace all of the meters city wide to go to a smart meter that would utilize the electrical collectors and send signal directly to the utility office. This will decrease manpower and also provide leak protection as well as reduce water loss due to unmetered low flows and aged meters that are reporting under value. This item also has a potential return on investment which is always a good thing. This would also have signal-controlled water valve that would turn off and on via a signal from the utility office which would give them the ability to do water connects with just a push of a button. Also new water meter housings and lids to allow for a signal acquisition. Estimated cost \$5,000,000.
3. Joint building with Wastewater to accommodate equipment, parts, washrooms, pipe supply, etc. \$1,500,500 total, split with wastewater. \$750,000 for water portion.
4. Well #2- Replace well #2. This would include a new casing, new downpipe, submersible pump, foot valve, new piping in the building, new SCADA, and communications. This one also needs a new well head and a new building entirely. This building is not safe from the elements currently. New air conditioning and heating of the building. New electrical components to include panel, VFD and all other electrical components associated. Flush clean and acidize the well. Estimated cost \$750,000.
5. Well #4- Redrill well #4 to upsize from a 4" well to an 8" well. New submersible pump, new piping, new building, new electrical components, new SCADA and communications, new piping in the building. New well head for sized up casing and pump. New VFD. New heating and air conditioning. Drill well to at least have 150' of well depth beyond the pump, new foot valve. Flush clean and acidize. Estimated cost \$1,000,000.
6. Williamsburg Line Extensions- We need to increase the flow of water to Williamsburg by adding at least one additional line that feeds Williamsburg. The current setup utilizes only a six-inch supply source that comes down Veater Street. This is a weak point in the system. If we must shut off the line for repairs, then we are shutting down the entire water system in Williamsburg. Best option would be to tie in a new line going down South Broadway and tying in an 8" line so that the system has a complete loop and multiple feed points. Valves and PRV's to be installed as needed. Estimated cost \$250,000.

All Water projects listed are included in the project 2026 002 – these are separated into smaller projects for funding purposes



City of Truth or Consequences

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The following are the proposed projects for the Electric Department:

\$2 Million- Replace Substation Primary Underground wire for the feeders. – 2023 002

\$3 Million- Replace 1 10MVA Substation power transformers.

\$3 Million- Replace Substation Feeder Breakers and Main Breakers. – 2023 013

\$500,000- Replace 6 Voltage Capacitors out in the field.

\$1 Million- Pole and conductor replacement. – 2026 003

\$500,000- Substation Transformer High Side Switches and Structure Replacement (2) – 2023 014

From: [Toutcheque, Melissa](#)
To: [Traci Burnette](#)
Cc: [Alvarez, Andy](#)
Subject: Fleet Service ICIP list
Date: Monday, May 24, 2022

Good afternoon Traci,

This is the ICIP list for the Fleet Service Department:

1. Clark Forklift necessary tool for lifting extremely heavy items such as large tires, 55 gallon drums of fluids and engine blocks. Approximate total cost \$20,000.00
2. Car hauling trailer. Necessary for transporting vehicles that can not make it to the Service Center of their own accord. If having to be outsourced to somewhere else for repair, this will help to alleviate transport cost. Approximate total cost \$15,000.00
3. Heavy duty outdoor 4-post lift for large equipment. Necessary for lifting large vehicles for the mechanics to get under and fix problems. Approximate total cost \$35,000.00.
4. Concrete work and awning for outside. Necessary cover and work area for large vehicles while outside. Approximate total cost \$65,000.00
5. New Diagnostic machine for the Fleet Service Center. Necessary tool for troubleshooting diagnostic problems to save cost of outsourcing. Approximate total cost \$15,000.00
6. Service Truck for the Fleet Department. Approximate cost is \$165,000.00 2023 008

Thank You,

Melissa Toutcheque
Administrative Asst. Fleet
Service/Maintenance
575-894-9225

ICIP
GOLF COURSE
2023-2027

GET A WELL DRILLED AT GOLF COURSE SO WE HAVE BETTER WATER \$50,000.00

GET CLUBHOUSE INSALATED AND FANS, LIGHTS, HEATER \$30,000.00 – 2025 004

FIX ALL BAD WIRING FOR IRRIGATION \$15,000.00 - 2026 002 (combined with below)

EXAMPLES ON FIXING IRRIGATION – 2026 002

SYSTEM SHOULD BE IN AUTO ALL THE TIME, AT CURRENT TIME IT IS NOT, SYSTEM HAS TO BE TURNED ON AND OFF DAILY,WHICH IS VERY HARD ON PUMPS AND PIPEING IN THE GROUND, TO FIX THIS PROBLEM WHICH HAS BEEN THAT WAY FOR YEARS, SYSTEM NEEDS TO BE PUT BACK TO ORIGNAL DESIGN, TO DO THIS PUMP STATION NEEDS PRESSURE MANAGEMENT PUMP REPLACED \$ 3,000.00 PARTS AND LABOR, AT LEAST 50 HEADS AT MINIMUM NEED REPLACED ON COURSE \$15,000.00 THESE HEADS ARE AT LEAST 30 YEARS OLD IF NOT LONGER, REPLACE BAD WIRING TO CONTROLLERS AND HEADS \$2,000.00. THIS IS AT THE TOP OF MY LIST AND SHOULD BE PRIORITY.

RESEED NUMBER 7 NUMBER 8 GREENS \$1000.00 – 2024 006

CLEAN POND ON NUMBER 3 REPLACE INTAKE SCREEN \$8,000.00

FILL IN POND ON NUMBER 4 LANDSCAPE AREA \$10,000.00

MAKE PUTTING GREEN BIGGER \$2,000.00

FIX DRIVING RANGE, IRRIGATION, WIRING, SPRINKLER HEADS, RESEED \$10,000.00 – included in 2024 006 & 2026 002

GET NEW EQUIPMENT FOR COURSE, GREENS MOWER, FAIRWAY MOWER, ROUGH MOWER, TEE BOX MOWER \$170,000.00 – 2024 009 (need to adjust cost)

Golf Course House Repairs

CENTRAL AC, WATER HEATER, FRONT DOOR, BATHROOM REPAIRS \$50,000

ROOF REPAIRS \$5,000

ICIP
COMMUNITY SERVICES DEPARTMENT
2023-2027

Main Library - 325 Library Lane

- New carpeting for 1/2 existing building: 3,500 sq. ft. @ 7.00/sq. ft : \$24,500.00

ICIP
J.A. Hodges Municipal pool
2023 – 2027

J.A. Hodges Municipal Pool

- #1 New thermal cover - \$30,000
- #2 Automatic pool vacuum/lap swim lane lines - \$12,000
- #3 Shade Structures - \$20,000 - \$ 30,000
- #4 New water heater for pool - \$60,000
- #5 Shower/changing stalls - \$15,000
- #6 Bulkhead - \$100,000
- #7 Phase one planning and engineering of new pool facility \$130,000 – 2025 005

ICIP
ANIMAL SHELTER DEPARTMENT
2023-2027

Expanding Animal Shelter:

- Construct new kennel building (with 10 kennels, bathing room, and euthanazition room)- \$300,000 – 2023 005
- Construct new room (used for a breakroom and training room)- \$80,000
- Construct new storage room (able to house extra dog/cat food and supplies that are closer to the shelter)- \$80,000

Inside Animal Shelter:

- New Washer and Dryer \$3,000 and redesign current employee bathroom (to hold a shower in case of chemical exposure, maybe turn into two bathrooms) - \$80,000



City of Truth or Consequences

Street Department | 505 Sims Street

Truth or Consequences, New Mexico 87901

Phone (575) 894-6673 x380

DATE	06-13-2022
TO	Bruce Swingle, City Manager, Traci Alvarez, Community Dev. Director
FROM	Benny Fuentes, Street Department Manager
SUBJECT	ICIP List

Street Improvement:

- Smith Road, Silver Street, and E. 9th Avenue. - 2" HMA overlay from existing lip of curb to lip of curb to reconstruct the full street width following DWSRLF waterline replacement. Estimated cost- \$500,000 – combined 2025 001
- Smith Road, Silver Street, and E. 9th Avenue. Roadway and drainage improvements- Estimated cost- \$662,000 – combined 2025 001
- Marie & Date to Palo Verde- 2" HMA overlay from existing lip of curb to lip of curb to reconstruct the full street width (Pending waterline replacement), Estimated Cost- \$281,181.01 – 2023 001
- W. 9th & Foch to Sierra Vista- 2" HMA overlay from existing lip of curb to lip of curb to reconstruct the full street width (Pending waterline replacement), Estimated Cost- \$240,087.72 – 2024 004
- W. 9th & Sierra Vista to 6th Street- 2" HMA overlay from existing lip of curb to lip of curb to reconstruct the full street width (Pending waterline replacement), Estimated Cost- \$94,592.47 – 2027 002
- Tin & Veater to Iron Street- 2" HMA overlay from existing lip of curb to lip of curb to reconstruct the full street width (Pending waterline replacement), Estimated Cost- \$269,242.75 – 2024 005

Thank you,

Benny Fuentes, Street Department Manager

From: [Johnson, David](#)
To: [Traci Alvarez](#)
Subject: ICIP LIST
Date: Tuesday, June 14, 2022 5:13:52 AM

Good morning Traci...

Here is a short list that I put together.

1). Lee Belle Johnson (spaceport visitor center)..... Re-Stucco entire building and restore entrance doors and windows to "Historic" specifications, repair or replace damaged areas of the sidewalk around building, replace plants and/or place trees in front of building.....Estimated cost \$80k to \$100k

2). Geronimo Springs.....Have a proper Hydrological survey on the natural springs and repair the water flow. Repair or replace damaged to the art work around the springs and improve the watering system.Estimated cost \$40k to \$60K

3). City Hall..... Replace awning roof,...repair damaged stucco and repaint the entire building..... Estimated cost \$35k

David S. Johnson
The City Of Truth Or Consequences
Facility Management Manager
(575) 740-8035

CITY OF TRUTH OR CONSEQUENCES
RECYCLING & WASTE COLLECTION CENTER
ICIP LIST FY 2021-2022

1. Western Star 4700 Roll-off Dumpster Body Truck with 30- & 40-yard Roll-off dumpsters. Approx. Total \$250,000.00 (will generate revenue)– **2023 003**
2. Repaving of Facility. Approximate Total \$180,000.00. – **2023 017**
3. Scale House upgrades to include a lavatory. Working on obtaining quotes.
4. Tipping Floor Tunnel Scale. Approximate Total \$135,000.00 (avoid over/under loading of transport trailer). – **2024 007**

ICIP
PARKS AND RECREATION DEPARTMENT
2021-2026

Louis Armijo Sports Complex: 2025 002

- Filtration system W/Sulfer burner for effluent pond - \$65,000
- Automated variable pump system and wiring to all three ballfields for automatic watering (effluent pond) - \$50,000
- Soil reconditioning and sod/hydroseed all ballfields \$85,000
- Bleachers with concrete pads and shade - \$30,000
- Construct new bathroom/concession facilities - \$170,000

Soccer Field 2023 007

- Regrade and Redesign Soccer Field to include topsoil, sprinkler system, and turf after effluent pond and pump issues are addressed- \$200,000
- Lighting - \$150,000
- Trash receptacle, bleachers, shade - \$80,000

Ralph Edward's Park

- ~~Phase II of Ralph Edwards Park Project to include: Gazebo Structure, Remodel West side bathrooms, New Playground Equipment - \$230,000~~
- New Skate Park - \$170,000

Family Park

- Develop a master plan - \$7,500

Vista Memory Gardens Cemetery 2027 001

- Develop an engineering plan to address erosion issues - \$10,000
- Construct shade pavilion for internments - \$55,000
- Professionally map out plots and provide informational kiosk - \$20,000
- Contract the installation of new fencing - \$35,000
(after erosion issues addressed)

Rodeo Arena

- Repair fencing, new announcing booth, new shoots, replace sand, put in irrigation system, shade structures, and painting. \$100,000
- Upgrade lighting system. \$170,000



Truth or Consequences Police Department

Victor J. Rodriguez, Chief

507 McAdoo Street
T or C, NM 87901

Phone: 575-894-1204
Fax: 575-894-6287



Professionalism, Respect, and Integrity

CAPITAL PROJECTS LIST

This capital projects list would address the following needs for the police department. Additionally, this capital projects list would enhance the efficiency and effectiveness of the police department and its personnel to improve the community's public safety.

1. A flood control plan to address the flooding issues on the property when rainfall occurs to include environmental work, paving, and installation of new drainage. The police department has sustained flooding damage to the building in the past and faces the same risk each time there is heavy rainfall. This plan is critical to maintaining the integrity of the building, its personnel, and its assets. **Estimated Cost: \$25,000 – 2023 010**
2. Install a building swipe card access system. Currently, employees use keys to access building and doorways. Keys can get lost and require a consistent inventory log. Building swipe card access system provides easier access for employees and enhances building security. Access permissions can occur instantaneously since the system is online oppose to having to reassign or remove individual keys. **Estimated Cost: \$25,000**
3. Install fire monitoring system with alarm for police department to connect to Central Dispatch. **Estimated Cost: \$25,000**
4. Police department building remodel and renovation: - 2023 019
 - a. Finish renovation of prisoner holding cell. Add existing plumbing for a toilet/sink combo station to be installed so, that prisoner would have access to it without the need of requiring officer to remove prisoner from holding cell. **Estimated Cost: \$5,000**
 - b. Renovate the existing staff breakroom to serve as breakroom and new training room. There is no training/conference room within the building besides the conference table and monitor located in the chief's office. This table and electronics would be moved into this new training room. Add a sink and counter area to existing area for staff usage. **Estimated Cost: \$5,000**
 - c. Connect air conditioning and heater duct to existing evidence room to improve ventilation especially if and when an evidence technician is hired as their office space would be located there. Install a ventilation system for police department evidence room. **Estimated Cost: \$10,000**



Truth or Consequences Police Department

Victor J. Rodriguez, Chief

507 McAdoo Street
T or C, NM 87901

Phone: 575-894-1204
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Professionalism, Respect, and Integrity

5. Install security fencing for outer perimeter around the police department (north, south and east sides). The security fencing will allow police vehicles to be parked in a secure area. If a towed vehicle is impounded for evidence processing it can be held in this secure parking area. The security fencing will also provide enhance safety when officers arrive at the police department with a prisoner. The security fencing will also enhance building safety and keep individuals from being located in restricted areas. **Estimated Cost: \$10,000**



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: June 22, 2022

Agenda Item #: H.1

SUBJECT: Resolution No. 61 21/22 to submit a bond and question for Street, Water, and Wastewater Infrastructure.

DEPARTMENT: City Manager's Office

DATE SUBMITTED: May 16, 2022

SUBMITTED BY: Tammy Gardner

WHO WILL PRESENT THE ITEM: Bruce Swingle, City Manager

Summary/Background:

Discussion/Action for approval of Resolution 61 21/22 to submit to an election the question of the issuance of its general obligation bonds in the maximum amounts and for the purposes hereinafter specified at the Regular Local Election on Tuesday, November 8, 2022.

Recommendation:

Approval of Resolution.

Attachments:

- Resolution No. 61 21/22
- -

Fiscal Impact (Finance): Yes

It will provide \$1,000,000.00 of revenue for Street improvements and \$2,000,000.00 of revenue for Water and Wastewater infrastructure improvements. Financial impact to residents equates to a \$100.00 per year on a \$100,00.00 property.

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 6-22-22



CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
RESOLUTION NO. 61 21/22

WHEREAS, the City Commission (the "Commission") of the City of Truth or Consequences, New Mexico (the "City"), has determined upon its own initiative to submit to an election the question of the issuance of its general obligation bonds in the maximum amounts and for the purposes hereinafter specified at the Regular Local Election on Tuesday, November 8, 2022, in accordance with Section 1-16-3(B), NMSA 1978, Sections 1-22-1 et seq., NMSA 1978, and Sections 3-30-1 et seq., NMSA 1978, as amended; and

WHEREAS, it is the opinion of the Commission that it is necessary and in the best interests of the residents of the City that there be submitted to a vote of the registered qualified electors of the City, the questions of whether the City should issue its general obligation bonds for the purposes hereinafter specified; and

WHEREAS, it is the opinion of the Commission that it is necessary and in the best interests of the residents of the City to provide (i) suitable and sufficient improvements to roads within the City, and (ii) improved water and wastewater systems within the City; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO AS FOLLOWS:

Section 1. The Commission does hereby propose that the following question be included on the ballot and submitted to the registered qualified electors of the City of Truth or Consequences, New Mexico, at the general election on Tuesday, November 8, 2022:

<p>General Obligation Bond Questions:</p>	<p>“Shall the City of Truth or Consequences, New Mexico be authorized to issue up to \$1,000,000 of general obligation bonds for the purpose of laying off, opening, constructing, repairing, and otherwise improving municipal alleys, streets, public roads and bridges, or any combination thereof?”</p> <table border="1" data-bbox="526 1413 1281 1528"><tr><td>FOR the general obligation bonds</td><td><input type="checkbox"/></td></tr><tr><td>AGAINST the general obligation bonds</td><td><input type="checkbox"/></td></tr></table> <p>“Shall the City of Truth or Consequences, New Mexico be authorized to issue up to \$2,000,000 of general obligation bonds for the purpose of enlarging, improving or extending the City’s water and wastewater system?”</p> <table border="1" data-bbox="526 1728 1281 1843"><tr><td>FOR the general obligation bonds</td><td><input type="checkbox"/></td></tr><tr><td>AGAINST the general obligation bonds</td><td><input type="checkbox"/></td></tr></table>	FOR the general obligation bonds	<input type="checkbox"/>	AGAINST the general obligation bonds	<input type="checkbox"/>	FOR the general obligation bonds	<input type="checkbox"/>	AGAINST the general obligation bonds	<input type="checkbox"/>
FOR the general obligation bonds	<input type="checkbox"/>								
AGAINST the general obligation bonds	<input type="checkbox"/>								
FOR the general obligation bonds	<input type="checkbox"/>								
AGAINST the general obligation bonds	<input type="checkbox"/>								

Section 2. The City Manager, Deputy City Manager and City Clerk (each an “Authorized Officer”) are hereby authorized and directed to deliver a copy of this Resolution to the Sierra County Clerk. Pursuant to Section 1-16-3(B) NMSA 1978, the Sierra County Clerk is hereby requested to certify each of the foregoing ballot questions to the Secretary of State not less than sixty-seven (67) days prior to November 8, 2022 (i.e. no later than September 2, 2022).

Section 3. The County Clerk of Sierra County is requested to conduct the Election in accordance with this resolution and the Local Election Act, Sections 1-22-1 through -20, NMSA 1978, as amended.

Section 4. The Authorized Officers are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution.

Section 5. If any section, paragraph, clause or provision of this resolution 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 resolution.

Section 6. All 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 resolution or ordinance, or parts thereof, heretofore repealed.

Section 7. All action heretofore taken by the Commission and officers of the City not inconsistent with the provisions of this Resolution and directed toward the calling and conducting of the Election be, and the same hereby is ratified, approved and confirmed.

PASSED, APPROVED AND ADOPTED THIS 22nd DAY OF JUNE, 2022.

CITY OF TRUTH OR CONSEQUENCES
NEW MEXICO

Amanda Forrister, Mayor

ATTEST:

Angela Torres, City Clerk



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: June 22, 2022

Agenda Item #: H.2

SUBJECT: Resolution No. 67 21/22 Budget Adjustment Request

DEPARTMENT: Finance Department

DATE SUBMITTED: June 17, 2022

SUBMITTED BY: Carol Kirkpatrick, Finance Director

WHO WILL PRESENT THE ITEM: Carol Kirkpatrick, Finance Director

Summary/Background: Reconciling Budget Adjustments Requests (based on Chapter 6, Article 6 NM Statute) needed for budget adjustments, increases, and decreases per attached.

Recommendation:

Approval Resolution No. 67 21/22 Budget Adjustment Requests for Fiscal Year 2021-2022

Attachments:

Resolution No 67 21/22

- Schedule of Budget Adjustments, Supporting Documentation

Fiscal Impact (Finance): Yes

Changes in funding as presented on the Department of Finance and Administration Schedule of Budget Adjustments

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 6-22-22



RESOLUTION NO. 67 21/22

A RESOLUTION REQUESTING FINAL BUDGET ADJUSTMENTS IN THE REVENUE AND EXPENDITURE BUDGET FOR FISCAL YEAR 2021-2022.

WHEREAS, the final budget for was approved by the City Commission of the City of Truth or Consequences, New Mexico, pursuant to Chapter 6, Article 76 NMSA 1978; and

WHEREAS, the City Commission in and for the City of Truth or Consequences, State of New Mexico needs to adjust the current approved budget for Fiscal Year 2021-2022; and

WHEREAS, said budget was adjusted on the basis of need and through cooperation with all user departments, elected officials and other department supervisors; and

WHEREAS, the official meeting for the review of said documents was duly advertised in compliance with the State Open Meetings act; and

WHEREAS, it is the majority opinion of this Board that the adjusted budget meets the requirements as currently determined.

NOW THEREFORE, BE IT RESOLVED that the City Commission of the City of Truth or Consequences, State of New Mexico hereby adopts the budget adjustment hereinabove described and attached and respectfully requests approval from the Local Government Division of the Department of Finance and Administration.

PASSED, ADOPTED and APPROVED this 22nd day of June, 2022.

Amanda Forrister, Mayor

ATTEST:

Angela A. Torres, City Clerk-Treasurer

Department of Finance and Administration
Local Government Division
Financial Management Bureau
SCHEDULE OF BUDGET ADJUSTMENTS

For Local Government Division use only:

ENTITY NAME: City of Truth or Consequences
 FISCAL YEAR: 2021-2022 6/22/2022
 DFA Resolution Number: 67 21/22
 BAR NUMBER 16

DOCUMENT NUMBER	FUND	ACCOUNT STRING	ACCOUNT NAME	REVENUE, EXPENDITURE, or TRANSFER (TO or FROM)	APPROVED BUDGET	ADJUSTMENT / INCREASE	ADJUSTMENT / DECREASE	ADJUSTED BUDGET	PURPOSE
1	NMFA Projects	360-7000-39935	Transfer In	Revenue	\$ 10,474	\$ 766.40		\$ 11,240.40	To cover final expenditures on NMFA Project Water PER (7000)
1	Capital Improvements	315-9003-49930	Transfer Out	Expense	\$ 81,474	\$ 766.40		\$ 82,240.40	To cover final expenditures on NMFA Project Wate PER
2	Municipal Airport	509-4403-34416	Jet Fuel Sales	Revenue	\$ 85,000	\$ 142,284		\$ 227,284	Budget jet fuel revenue sales to cover cost of buying jet fuel
2	Municipal Airport	509-4403-34318	Jet Fuel	Expense	\$ 73,000	\$ 122,284		\$ 195,284	Budget jet fuel revenue sales to cover cost of buying jet fuel
2	Municipal Airport	509-4403-34319	AV Gas	Expense	\$ 50,000	\$ 10,000		\$ 60,000	Increase expense line item
2	Municipal Airport	509-4403-37320	Credit Card Fees	Expense	\$ 5,000	\$ 10,000		\$ 15,000	Increase expense line item
3	General Fund	101-1099-37374	Surplus Auction Proceeds	Revenue		\$ 2,276		\$ 2,276.00	Proceeds from Auction 5/17/22 Resolution 54 21/22
3	Water Department	504-3803-37374	Surplus Auction Proceeds	Revenue		\$ 9,717		\$ 9,717.00	Proceeds from Auction 5/17/22 Resolution 54 21/22
3	Waste Water Department	506-4005-37374	Surplus Auction Proceeds	Revenue		\$ 34,224		\$ 34,224.00	Proceeds from Auction 5/17/22 Resolution 54 21/22
4	General Fund	101-1099-38372	Insurance Recoveries	Revenue		\$ 1,483		\$ 1,483	Insurance recovery on Parks Department Vehicle
5	General Fund	101-1099-37390	Property Sales	Revenue		\$ 64,600		\$ 64,600	Sale of property to Alamo Two LLC. Payment received 3/31/22

Department of Finance and Administration
 Local Government Division
 Financial Management Bureau
 SCHEDULE OF BUDGET ADJUSTMENTS

5	General Fund	101-1099-37390	Property Sales	Revenue	\$ 17,250	\$ 17,250	Sale of property 724 Van Patten. Payment Received 5/24/22
5	General Fund	101-1099-37390	Property Sales	Revenue	\$ 16,000	\$ 16,000	Sale of property 1308 Tin. Payment Received 3/31/22

ATTEST:

 Angela Torres, Clerk-Treasur (Date)

 Amanda Forrister, Mayor (Date)

DOCUMENT #1

Cash Report

Date Range: 07/01/2021 - 06/17/2022

Account	Name	Beginning Balance	Total Activity	Ending Balance
<u>301-3503-10128</u>	Cash- IMPACT WW AGNS CONST 601 WYONA	0.00	1,200.00	1200.00
<u>302-4603-10118</u>	ELECTRICAL CONSTRUCTION FUND	3.93	-3.93	0.00
<u>303-4703-10119</u>	VETERANS WALL FUND	17,364.29	-12,529.51	4834.78
<u>304-4903-10121</u>	SENIOR FUND	60,079.95	-53,145.63	6934.32
<u>305-6003-10124</u>	CAPITAL IMP. FUND (GENERAL)	85,258.71	77.12	85335.83
<u>306-6103-10125</u>	CAPITAL IMP. FUND (JT. UTILITY)	270,614.06	-75,075.94	195538.12
<u>307-6203-10126</u>	GOLF COURSE IMP FUND	16,454.20	-764.00	15690.20
<u>308-6303-10127</u>	CAPITAL IMP. FUND (USDA Sweeper)	100.00	-100.00	0.00
<u>309-6403-10128</u>	CAPITAL IMP. FUND (USDA WWTP)	40,042.42	-40,042.42	0.00
<u>310-8003-10130</u>	EMERGENCY REPAIR FUND	0.00	0.00	0.00
<u>312-7006-10133</u>	NMDOT ELECTRICAL VAULT DESIGN	-427.00	695.57	268.57
<u>312-7013-10133</u>	RUNWAY PAVEMENT REHAB	0.00	242.95	242.95
<u>312-7014-10133</u>	NM DOT Aviation Grant Cons.	0.00	-3,658.80	-3658.80
<u>312-8403-10133</u>	FAA AIRPORT FUND	20,889.02	0.00	20889.02
<u>313-8503-10134</u>	R&R WATER FUND	0.03	-0.03	0.00
<u>314-8603-10135</u>	CDBG FUND	0.00	0.00	0.00
<u>315-8001-10136</u>	PPRF-4968 TECHNOLOGY EQUIPMENT	-68,510.44	57,756.30	-10754.14
<u>315-8004-10136</u>	PPRF-4968 BUILDING RENOVATION ROOFING	-54,306.28	25,539.97	-28766.31
<u>315-8005-10136</u>	PPRF-4968 BUILDING RENOVATION HVAC SYSTEMS	0.00	-11,120.62	-11120.62
<u>315-8006-10136</u>	PPRF-4968 VEHICLES	-35,000.00	-8,202.00	-43202.00
<u>315-8007-10136</u>	PPRF-4968 RECREATIONAL PARKS	-401,274.74	102,032.88	-299241.86
<u>315-8008-10136</u>	PPRF-4968 SWIMMING POOL IMPROVEMENTS	-8,334.66	8,334.66	0.00
<u>315-9003-10136</u>	CAPITAL IMPROVEMENTS RESERVES	850,470.39	367,603.01	1218073.40
<u>316-9103-10137</u>	EMERGENCY REPAIR RESERVES	117,064.31	-17,361.55	99702.76
<u>317-9203-10138</u>	WASTE WATER REPAIR RESERVES	109,918.80	59,113.35	169032.15
<u>318-9303-10139</u>	ELECTRICAL CONST RESERVES	8,126.19	10,010.48	18136.67
<u>319-6503-10142</u>	LEDA	0.00	0.00	0.00
<u>320-6603-10143</u>	USDA WATER SYSTEM IMPROVEMENTS	0.00	0.00	0.00
<u>321-6603-10143</u>	Cash- WATER SYSTEM IMPROVEMENTS	0.00	0.00	0.00
<u>321-7017-10143</u>	Cash- WATER SYSTEMS IMPROVEMENTS	0.00	0.00	0.00
<u>340-7004-10136</u>	ROAD/STREET PROJECTS	0.00	0.00	0.00
<u>360-7000-10136</u>	NMFA PROJECTS WATER PER	0.00	-766.40	-766.40
<u>360-7009-10136</u>	NMFA PROJECTS MSD ROADWAY REPLACEMENT	0.00	-129,431.70	-129431.70
<u>360-7011-10136</u>	NMFA PROJECTS RIVER WALK FEASIBILITY	0.00	0.00	0.00
<u>360-7012-10136</u>	NMFA PROJECTS SEWER ASSET MGT PLAN	0.00	-50,000.00	-50000.00
<u>360-7021-10136</u>	NMFA COLONIAS 2021 CIF-5550	0.00	0.00	0.00
<u>370-7008-10136</u>	WATER TRUST BOARD PROJECTS BOOSTER STATION	0.00	-26,605.73	-26605.73
<u>370-7019-10136</u>	WATER TRUST BOARD CANTRELL DAM	0.00	61,926.24	61926.24
<u>380-7001-10136</u>	OTHER STATE FUNDED VAC SEWER REHAB	0.00	-24,148.81	-24148.81
<u>380-7002-10136</u>	OTHER STATE FUNDED WATERLINE REPL	0.00	0.00	0.00
<u>380-7005-10136</u>	OTHER STATE FUNDED AIRFIELD MAINT	0.00	0.00	0.00
<u>380-7020-10136</u>	MAINSTREET IMPROVEMENTS PROJECT	0.00	0.00	0.00
<u>403-1203-10102</u>	PLEDGE STATE/DEBT SERVICE FUND	112,934.23	-4,810.60	108123.63

Cash Balance

DOCUMENT #2



Truth or Consequences

My Budget Report Account Summary

For Fiscal: 2021-2022 Period Ending: 06/30/2022

		Original Total Budget	Current Total Budget	Period Activity	Fiscal Activity	Encumbrances	Variance Favorable (Unfavorable)	Percent Remaining
Fund: 509 - Muni Airport								
Revenue								
<u>509-4403-30420</u>	GOVERNMENTAL TAX - 5%-AIRPORT	5,500.00	5,500.00	0.00	9,730.45	0.00	4,230.45	176.92 %
<u>509-4403-31375</u>	Federal Grants/Loans	0.00	22,000.00	0.00	22,000.00	0.00	0.00	0.00 %
<u>509-4403-34348</u>	HANGER RENTALS-AIRPORT	35,000.00	35,000.00	1,280.00	29,010.00	0.00	-5,990.00	17.11 %
<u>509-4403-34375</u>	RENTS/ROYALTIES-AIRPORT	1,500.00	1,500.00	250.00	1,750.00	0.00	250.00	116.67 %
<u>509-4403-34411</u>	T HANGAR RENT	9,000.00	9,000.00	0.00	12,095.00	0.00	3,095.00	134.39 %
<u>509-4403-34414</u>	AVIATION FUEL SALES-AIRPORT	65,000.00	65,000.00	0.00	51,179.85	0.00	-13,820.15	21.26 %
<u>509-4403-34415</u>	OIL SALES-AIRPORT	200.00	200.00	0.00	180.00	0.00	-20.00	10.00 %
<u>509-4403-34416</u>	JET FUEL SALES-AIRPORT	85,000.00	85,000.00	0.00	227,284.35	0.00	142,284.35	267.39 %
<u>509-4403-36373</u>	INTEREST INCOME	25.00	25.00	0.00	39.60	0.00	14.60	158.40 %
<u>509-4403-38372</u>	OTHER / INSURANCE REIMBURSEMENTS	0.00	4,870.00	0.00	4,869.73	0.00	-0.27	0.01 %
	Revenue Total:	201,225.00	228,095.00	1,530.00	358,138.98	0.00	130,043.98	57.01 %
	Fund: 509 - Muni Airport Total:	201,225.00	228,095.00	1,530.00	358,138.98	0.00	130,043.98	57.01 %
	Report Total:	201,225.00	228,095.00	1,530.00	358,138.98	0.00	130,043.98	57.01 %

DOCUMENT #3

Kerin Salcedo

From: LeClair, Chelsea
Sent: Thursday, June 09, 2022 2:22 PM
To: Ramos, Christina; Kirkpatrick, Carol; Sonya Renfro; Torres, Angela
Cc: Kerin Salcedo; Cole, Jesse
Subject: RE: JJ Kane Auction Proceeds

CITY OF TRUTH OR CONSEQUENCES
505 Sims St
Truth or Consequences, NM 87901

DATE : 6/9/2022 3:06 PM
OPER : CL
TKBY : CL
TERM : 9
REC# : R00265917
PROPSALE PROPERTY SALE
PARKS AUCTION- RES# 54 1997 CHEVY & JOHN DEERE 850 TRACTOR J.J KANE 2180.52
101-1099-37390 -2180.52 ✓

WAAU WATER DEPT AUCTION ITEMS
WATER AUCTION RES#54- 1982,1997,1996,2005 TRUCKS- J.J. KANE 9717.53
504-3803-37390 -9717.53 ✓

WAWWAU WATERWASTE AUCTION ITEM
WASTEWATER- AUCTION RES # 54-1982,1986,1996, BACKHOETRUCK J.J. KANE 34224.65
506-4005-37390 -34224.65 ✓

PROPSALE PROPERTY SALE
SERVICE CENTER AUCTION RES 54- 2001, 1989 TRUCK JJKANE 94.80
101-1099-37390 -94.80 ✓

Paid By: JJ KANE
Check 46217.50 REF:1032061

From: Ramos, Christina <cramos@torcnm.org>
Sent: Thursday, June 9, 2022 9:35 AM
To: Kirkpatrick, Carol <ckirkpatrick@torcnm.org>; LeClair, Chelsea <CLeClair@torcnm.org>; Sonya Renfro <srenfro@torcnm.org>; Torres, Angela <aatorres@torcnm.org>
Cc: Kerin Salcedo <ksalcedo@torcnm.org>; Cole, Jesse <jcole@torcnm.org>
Subject: RE: JJ Kane Auction Proceeds

Thank you Carol.

Thank you!
Sincerely,
Christina Ramos

Resolution #54 21/22 5/17/22

								Fee	Deposit Amount	
								\$ 2,532.50		
PARKS	VIN	PLATE	Approved	Resolution #	Date Sold	Amount Sold For	Deposit to			
1 1997 CHEVY S-10	1GCCS14X3VK167694	G-23414	4/13/2022	54 21/22	5/17/2022	\$ 600.00	101-1099-37390			
1 JOHN DEERE 850 TRACTOR			4/13/2022	54 21/22	5/17/2022	\$ 1,700.00				
								\$ 2,300.00	4.72% \$ (119.48) \$	2,180.52
WATER DEPARTMENT	VIN	PLATE	Approved	Resolution #	Date Sold	Amount Sold For	Deposit to			
1 1982 MARMON TRUCK	1M9CCV187C1004207	G-31061	4/13/2022	54 21/22	5/17/2022	\$ 4,750.00	504-3803-37390			
1 1997 FORD F-250	3FTHF25G7MA46058	G-31858	4/13/2022	54 21/22	5/17/2022	\$ 1,300.00				
1 1996 FORD F-150	2FTEF15NOTCA49176	G-30761	4/13/2022	54 21/22	5/17/2022	\$ 1,300.00				
1 2005 FORD F-350 XL	1FDWF36Y6EC07988	G-61008	4/13/2022	54 21/22	5/17/2022	\$ 2,900.00				
								\$ 10,250.00	21.03% \$ (532.47) \$	9,717.53
WASTE WATER DEPARTMENT	VIN	PLATE	Approved	Resolution #	Date Sold	Amount Sold For	Deposit to			
1 1982 CHEVY C-70	1GBJ7D189CV133598	G-26515	4/13/2022	54 21/22	5/17/2022	\$ 2,300.00	506-4005-37390			
1 1986 CHEVY 3/4 4X4 PICKUP	1GCEK24L4GS155231	G-25629	4/13/2022	54 21/22	5/17/2022	\$ 2,800.00				
1 1996 BOBCAT 773	509641325		4/13/2022	54 21/22	5/17/2022	\$ 10,500.00				
1 JC 310D 4X4 BACKHOE	T0310DG783759		4/13/2022	54 21/22	5/17/2022	\$ 20,500.00				
								\$ 36,100.00	74.05% \$ (1,875.35) \$	34,224.65
SERVICE CENTER	VIN	PLATE	Approved	Resolution #	Date Sold	Amount Sold For	Deposit to			
1 2001 GMC JIMMY 4 X 4	1GKDT132O12149971	G-49495	4/13/2022	54 21/22	5/17/2022	\$ 100.00	101-1099-37390			
1 1989 CHEVY 3500 PICK UP 4X4	1GBGK34N2KE191351	G-26543	4/13/2022	54 21/22						
								\$ 100.00	0.21% \$ (5.19) \$	94.81
								\$ 48,750.00	\$ (2,532.50) \$	\$ 46,217.50
Total Sales									Total Fee	Net Check

DATE 03-Jun-22 SUPPLIER NAME CITY OF TRUTH OR CONSEQUENCES NM SUPPLIER NO 60306

INVOICE NO.	INVOICE DATE	DESCRIPTION	GROSS AMOUNT	DISCOUNT	NET AMOUNT
123178	17-May-22	AUCTION PAYOUT	0.00	0.00	46,217.50
PLEASE DETATCH AND RETAIN THIS STATEMENT AS YOUR RECORD OF PAYMENT.			0.00	0.00	46,217.50

THE ORIGINAL DOCUMENT HAS A WHITE REFLECTIVE WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW. DO NOT CASH IF NOT PRESENT.



J. J. Kane Auctioneers
 33 In e nness Center Pky
 Birmingham, AL 35242
 (856) 764-7163

1032061

CHECK DATE	CHECK NUMBER	CHECK AMOUNT
03-Jun-22	1032061	****46,217.50

Wells Fargo Bank 11-24
 San Francisco, CA 1210

PAY: Forty-Six Thousand Two Hundred Seventeen Dollars And Fifty Cents*****

TO THE CITY OF TRUTH OR CONSEQUENCES NM
 ORDER OF: 505 SIMS ST
 TRUTH OR CONSEQUENCES, NM, 87901
 United States

AUTHORIZED SIGNATURE

⑈ 1032061⑈ ⑆ 121000248⑆ 4736790510⑈

Payout ID: 123178
Auction ID: 693



JJ Kane
AUCTIONEERS

33 Inverness Center Pkwy
Birmingham, AL 35242
Phone: (856) 764-7163
Fax: (877) 346-8960

J.J. Kane Exchange, LLC d/b/a J.J. Kane Auctioneers
33 Inverness Center Parkway Birmingham AL 35243

ATTN BO EASLEY
CITY OF TRUTH OR CONSEQUENCES
505 SIMS STREET
TRUTH OR CONSEQUENCES NM 87901

Not Set

Dear Bo Easley,

Enclosed please find a check made payable to City of Truth or Consequences in the amount of \$46,217.50 for the net proceeds of the item(s) sold at the auction we conducted on 5/17/2022.

Gross Sales Total :			\$48,650.00
---Adjustments---	No Sale Lots: 80210		
	Total No Sales	\$0.00	
	Lot Adjustments	\$0.00	
Total Adjustments/No Sales			\$0.00
Adjusted Sales Total			\$48,650.00
Seller Costs			
	Commission Charged 5%	\$2,432.50	
	Advertising	\$0.00	
		\$0.00	
		\$0.00	
		\$0.00	
		\$0.00	
		\$0.00	
Total Seller Costs :			\$2,432.50
Individual Lot Costs :			
	Transportation	\$0.00	
	Washing	\$0.00	
	Decommission	\$0.00	
		\$0.00	
		\$0.00	
Total Seller Costs :			\$0.00
Seller Income:			
		\$0.00	
		\$0.00	
		\$0.00	
		\$0.00	
		\$0.00	
Total Seller Income:			\$0.00
Tax (not included):			\$0.00
Seller Net Proceeds:			\$46,217.50

If you have any questions about this payout, please feel free to contact us at (856) 764-7163 or jjkane@jjkane.com.

Thank you for your business!

Payout ID: 123178
Auction ID: 693



33 Inverness Center Pkwy
Birmingham, AL 35242
Phone: (856) 764-7163
Fax: (877) 346-8960

J.J. Kane Exchange, LLC d/b/a J.J. Kane Auctioneers
33 Inverness Center Parkway Birmingham AL 35243

LOT SUMMARY

CITY OF TRUTH OR CONSEQUENCES
505 Sims Street
Truth Or Consequences, NM 87901
5/17/2022 AL (JJ Kane) - 693 Timed Auction

Lot ID	Description	Amt Bid:	Expenses	Explanation
72861	RO PJ-100, 11,400 Lb Hydraulic Crane s/n 5110982008, with 36 ft. sheave height, 3 section hyd boom, heel winch, dual stand up controls & 2 hyd outriggers, rear mounted on 1982 Chevrolet C70 Flatbed/Utility Truck, 8-cyl 4-spd, 2-spd rear, True Mileage Unknown (Not Running, Missing Battery, no brakes, Condition Unknown, Upper Condition Unknown, No Auger, Digger Motor Or Pole Grabs, Paint/Body & Rust Damage) NOTE: This unit is being sold AS IS/WHERE IS via Timed Auction. For pickup information and terms, please reference the release form. (Missing manuals, See Auction Company for Manufacturers Information to obtain manuals) (Buyer is responsible for removal. Assistance by consignor or JJ Kane Auctioneers is not assured.) VIN: 1G8J7D1B9CV133598	\$2,300.00	---EXPENSE--- Commission: \$115.00 Transportation: \$0.00 Washing: \$0.00 Decomission: \$0.00 Adjustments: 0 Parts/Repairs: \$0.00 Misc Exp 1: \$0.00 Misc Exp 2: \$0.00	---EXPLANATION--- \$2,185.00
80210	2001 GMC Jimmy 4x4 4-Door Sport Utility Vehicle, 6-cyl Auto, A/C, True Mileage Unknown (not running or moving, condition unknown, missing battery, missing parts, paint/body damage, two flat tires) NOTE: This unit is being sold AS IS/WHERE IS via Timed Auction. For pickup information and terms, please reference the release form. (Buyer is responsible for removal. Assistance by consignor or JJ Kane Auctioneers is not assured.) VIN: 1GKDT13W012149971	\$0.00	---EXPENSE--- Commission: \$0.00 Transportation: \$0.00 Washing: \$0.00 Decomission: \$0.00 Adjustments: 0 Parts/Repairs: \$0.00 Misc Exp 1: \$0.00 Misc Exp 2: \$0.00	---EXPLANATION--- \$0.00
89143	1997 Chevrolet S10 Pickup Truck, 6-cyl Auto, A/C, with toolbox, (Exempt from Odometer Disclosure - Reads 151,098 miles) (Runs & Moves, Gear Shifter Not Attached, Driver Door Interior Handle Broken, Dashboard Cracked, Paint & Body Damage) NOTE: This unit is being sold AS IS/WHERE IS via Timed Auction. For pickup information and terms, please reference the release form. (Buyer is responsible for removal. Assistance by consignor or JJ Kane Auctioneers is not assured.) VIN: 1GCCS14X3VK167694	\$600.00	---EXPENSE--- Commission: \$30.00 Transportation: \$0.00 Washing: \$0.00 Decomission: \$0.00 Adjustments: 0 Parts/Repairs: \$0.00 Misc Exp 1: \$0.00 Misc Exp 2: \$0.00	---EXPLANATION--- \$570.00
89145	John Deere 850S Rubber Tired Utility Tractor, s/n 002114, Yanmar diesel, Shuttle, with ROPS post, (Runs & Moves, Jump To Start, Body & Rust Damage) (Reads 3,349 hours) NOTE: This unit is being sold AS IS/WHERE IS via Timed Auction. For pickup information and terms, please reference the release form. (Buyer is responsible for removal. Assistance by consignor or JJ Kane Auctioneers is not assured.) VIN: 002114	\$1,700.00	---EXPENSE--- Commission: \$85.00 Transportation: \$0.00 Washing: \$0.00 Decomission: \$0.00 Adjustments: 0 Parts/Repairs: \$0.00 Misc Exp 1: \$0.00 Misc Exp 2: \$0.00	---EXPLANATION--- \$1,615.00

Payout ID: 123178
Auction ID: 693



JJ Kane
AUCTIONEERS

33 Inverness Center Pkwy
Birmingham, AL 35242
Phone: (856) 764-7163
Fax: (877) 346-8980

J.J. Kane Exchange, LLC d/b/a J.J. Kane Auctioneers
33 Inverness Center Parkway Birmingham AL 35243

LOT SUMMARY

CITY OF TRUTH OR CONSEQUENCES

505 Sims Street

Truth Or Consequences, NM 87901

5/17/2022 AL (JJ Kane) - 693 Timed Auction

Lot ID	Description	Amt Bid	Commission	Transportation	Washing	Decomission	Expense	Explanation
89146 G31061 No Sale <input type="checkbox"/>	1982 Marmon 54-13 6x4 T/A Dump Truck, Cummins NTC-400-BC3 diesel, 8-spd w/ Lo-Lo, with 12 yard dump body, (Exempt from Odometer Disclosure - Reads 248,221 miles) (Runs & Moves, Paint/Rust/Body Damage, Brakes Stick, PTO Not Engaging Upper Condition Unknown) (Reads 1,053 hours) NOTE: This unit is being sold AS IS/WHERE IS via Timed Auction. For pickup information and terms, please reference the release form. (Buyer is responsible for removal. Assistance by consignor or JJ Kane Auctioneers is not assured.) VIN: 1M9CCB187C1004207	\$4,750.00	\$237.50	\$0.00	\$0.00	\$0.00	---EXPENSE--- Adjustments: 0 Parts/Repairs: \$0.00 Misc Exp 1: \$0.00 Misc Exp 2: \$0.00	----EXPLANATION----
\$4,512.50								
89147 G61008 No Sale <input type="checkbox"/>	2005 Ford F350 Service Truck, 10-cyl Auto, A/C, with toolboxes, Liberator L4PXTW s/n 4PG1212043662 crane w/ 4000 lb capacity and 2 manual outriggers, (153,825 miles) (Runs & Moves, Jump to Start, Paint/Body/Rust Damage) NOTE: This unit is being sold AS IS/WHERE IS via Timed Auction. For pickup information and terms, please reference the release form. (Buyer is responsible for removal. Assistance by consignor or JJ Kane Auctioneers is not assured.) VIN: 1FDWF36Y65ECO7988	\$2,900.00	\$145.00	\$0.00	\$0.00	\$0.00	---EXPENSE--- Adjustments: 0 Parts/Repairs: \$0.00 Misc Exp 1: \$0.00 Misc Exp 2: \$0.00	----EXPLANATION----
\$2,755.00								
89148 G31858 No Sale <input type="checkbox"/>	1997 Ford F250 Pickup Truck, 8-cyl Auto, A/C, with toolbox and lift gate, (Exempt from Odometer Disclosure - Reads 112,896 miles) (Runs & Moves, Lift Gate Operates, Needs Battery, Paint/Rust/Body Damage, Dashboard Cracked, Interior Rough) NOTE: This unit is being sold AS IS/WHERE IS via Timed Auction. For pickup information and terms, please reference the release form. (Buyer is responsible for removal. Assistance by consignor or JJ Kane Auctioneers is not assured.) VIN: 3FTHF25G7VMA46058	\$1,300.00	\$65.00	\$0.00	\$0.00	\$0.00	---EXPENSE--- Adjustments: 0 Parts/Repairs: \$0.00 Misc Exp 1: \$0.00 Misc Exp 2: \$0.00	----EXPLANATION----
\$1,235.00								
89149 G30761 No Sale <input type="checkbox"/>	1996 Ford F150 Pickup Truck, 8-cyl Auto, A/C, (Exempt from Odometer Disclosure - Reads 175,753 miles) (Runs & Moves, Needs Jump to Start, Cracked Windshield, Paint/Rust/Body Damage) NOTE: This unit is being sold AS IS/WHERE IS via Timed Auction. For pickup information and terms, please reference the release form. (Buyer is responsible for removal. Assistance by consignor or JJ Kane Auctioneers is not assured.) VIN: 2FTEF15N0TCA49176	\$1,300.00	\$65.00	\$0.00	\$0.00	\$0.00	---EXPENSE--- Adjustments: 0 Parts/Repairs: \$0.00 Misc Exp 1: \$0.00 Misc Exp 2: \$0.00	----EXPLANATION----
\$1,235.00								

Payout ID: 123178
 Auction ID: 693



33 Inverness Center Pkwy
 Birmingham, AL 35242
 Phone: (856) 784-7163
 Fax: (877) 346-8960

J.J. Kane Exchange, LLC d/b/a J.J. Kane Auctioneers
 33 Inverness Center Parkway Birmingham AL 35243

LOT SUMMARY

CITY OF TRUTH OR CONSEQUENCES
 505 Sims Street
 Truth Or Consequences, NM 87901
 5/17/2022 AL (JJ Kane) - 693 Timed Auction

Lot ID	Description	Amt Bid:	Commission:	Transportation:	Washing:	Decomission:	---EXPENSE---	Adjustments:	Parts/Repairs:	Misc Exp 1:	Misc Exp 2:	---EXPLANATION---
89150 G25629 No Sale <input type="checkbox"/>	1986 Chevrolet K2500 4x4 Pickup Truck, 8-cyl 4-spd, (Exempt from Odometer Disclosure - Reads 580 miles) True Mileage Unknown (Runs & Moves, Needs Jump to Start, Dashboard Cracked, Interior Rough, Body Damage) NOTE: This unit is being sold AS IS/WHERE IS via Timed Auction. For pickup information and terms, please reference the release form. (Buyer is responsible for removal. Assistance by consignor or JJ Kane Auctioneers is not assured.) VIN: 1GCEK24L4GS155231	\$2,800.00	\$140.00	\$0.00	\$0.00	\$0.00		0	\$0.00	\$0.00	\$0.00	
												\$2,660.00
89151 No Sale <input type="checkbox"/>	1996 Bobcat 773 Rubber Tired Skid Steer Loader, s/n 509641325, diesel, Hydrostatic, with EROPS, 4 way hydraulic grapple bucket and 2 hydraulic outriggers, (Runs, Moves & Operates, Burns Oil, Paint & Rust Damage) (No Title) (Reads 3,927 hours) NOTE: This unit is being sold AS IS/WHERE IS via Timed Auction. For pickup information and terms, please reference the release form. (Buyer is responsible for removal. Assistance by consignor or JJ Kane Auctioneers is not assured.) VIN: 509641325	\$10,500.00	\$525.00	\$0.00	\$0.00	\$0.00		0	\$0.00	\$0.00	\$0.00	
												\$9,975.00
89152 No Sale <input type="checkbox"/>	1992 John Deere 310D 4x4 Tractor Loader Backhoe, s/n T0310DG783759, J.D. diesel, 4-spd, with EROPS & GP bucket, (Runs, Moves & Operates, Fly Wheel Issue, Parking Break Issue, Needs Battery, Paint & Rust Damage, Missing Backhoe Bucket) (Reads 1,444 hours) NOTE: This unit is being sold AS IS/WHERE IS via Timed Auction. For pickup information and terms, please reference the release form. (Buyer is responsible for removal. Assistance by consignor or JJ Kane Auctioneers is not assured.) VIN: T0310DG783759	\$20,500.00	\$1,025.00	\$0.00	\$0.00	\$0.00		0	\$0.00	\$0.00	\$0.00	
												\$19,475.00

Payout ID: 123178
Auction ID: 693



JJ Kane
AUCTIONEERS

33 Inverness Center Pkwy
Birmingham, AL 35242
Phone: (856) 764-7163
Fax: (877) 346-8960

J.J. Kane Exchange, LLC d/b/a J.J. Kane Auctioneers
33 Inverness Center Parkway Birmingham AL 35243

LOT SPECIFIC AMOUNTS and FEES

TOTAL AMOUNT of ALL LOTS SOLD:	\$48,650.00
TOTAL AMOUNT of Commission:	\$2,432.50
TOTAL AMOUNT of Transportation:	\$0.00
TOTAL AMOUNT of Washing:	\$0.00
TOTAL AMOUNT of Decomission:	\$0.00
TOTAL AMOUNT of Adjustments:	\$0.00
TOTAL AMOUNT of Parts/Repairs:	\$0.00
TOTAL AMOUNT of Misc Exp 1:	\$0.00
TOTAL AMOUNT of Misc Exp 2:	\$0.00
LOTS SUBTOTAL	\$46,217.49

SELLER SPECIFIC EXPENSES and INCOME

Seller Expenses	Advertising:	\$0.00
		\$0.00
		\$0.00
		\$0.00
		\$0.00
Seller Income		\$0.00
		\$0.00
		\$0.00
	Tax (not Included):	\$0.00

SELLER NET: \$46,217.50

DOCUMENT #4

THIS DOCUMENT HAS A COLORED BACKGROUND AND MICROPRINTING. THE REVERSE SIDE INCLUDES AN ARTIFICIAL WATERMARK.



New Mexico Self Insurers Fund
CLAIMS ACCOUNT
PO BOX 846
SANTA FE, NM 87504-0846

New Mexico Bank & Trust
SANTA FE, NM 87501

CHECK NUMBER **806849**

95-054
1076

DATE
06/24/2022

AMOUNT

\$ 1,483.11

Pay Four thousand Eighty Three Dollars And 11/100

VOID AFTER SIX MONTHS FROM DATE OF
TWO SIGNATURES REQUIRED

TO THE
ORDER
OF

Truth or Consequences
505 Sims Street
T or C, NM 87901

[Signature]
Clinton Wells

⑈806849⑈ ⑆107006541⑆ 9996941595⑈

Company: NEW MEXICO SELF INSURER'S FUND
Payee: Truth or Consequences
IRS/SSN: 856000144
Examiner: BHECKLER

Check Number: 806849
Check Total: 1,483.11
Check Date: 05/24/2022

Incident Date	Account Number From Through	Claim Number Invoice #	Claimant Name	Description	Amount
03/31/2022	9996941595	2022029427	City of Truth or	Collision - APD	1,483.11

05/31/2022 1483.11

CF

148

DOCUMENT #5

GENERAL - ****8752 ▾

Search transactions

Activity: All transactions Type: All; Amount: \$64,600.00

Transactions

Pending Posted

Totals are not supported for your search criteria.

Date ▾	Description ↕	Debit ↕	Credit ↕	Balance
● May 25, 2022	Wire Transfer Information 57256628 ALAMO ESTATES LLC		64,600.00	

101-1099-10100
<101-1099-37390>
5/25/22

PURCHASE AGREEMENT

This Agreement is entered into on the 23rd day of March 2022, by and between **THE CITY OF TRUTH OR CONSEQUENCES**, a Municipal corporation (City), and **ALAMO TWO LLC**, (Buyer).

RECITALS

A. The parties desire to enter into an Agreement whereby the City will sell, transfer and convey all of its interest in and to the following described realty to the Buyer:

A 5.616 acre tract of land in the NW1/4 SE1/4 SW1/4 of Section 33, Township 13 South, Range 4 West. N.M.P.M. in the City of Truth or Consequences, Sierra County, New Mexico, described more fully in **EXHIBIT A** attached.

B. For the sale of real property, the City is required to follow the provisions of §3-54-1, N.M.S.A. (1978).

C. The City obtained an appraisal dated January 22, 2022 from Karen Mundy, MAI certified appraiser. The appraised value of the property was \$64,600.00.

NOW THEREFORE, the parties agree as follows:

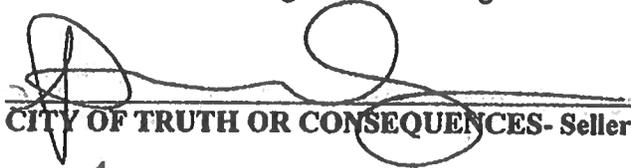
1. The City hereby sells, conveys and transfers all of its interest in the above-referenced realty to the Buyer for the agreed upon consideration.

2. Upon the execution of this Purchase Agreement, the Buyer shall pay to the City the sum of **SIXTY-FOUR THOUSAND, SIX HUNDRED DOLLARS (\$64,600.00)**.

3. Immediately upon receiving the purchase funds, the City shall deliver to buyer an executed quitclaim deed which shall convey the aforesaid property to the buyer.

4. The buyer is purchasing the property on an "as is" basis, and is not relying upon any warrants or representations made by City, either to the condition of the premises, the status of the title, or as to its feasibility of future development. The Buyer has been encouraged to obtain an appropriate title policy.

5. All recording fees and closing costs will be paid by Buyer.

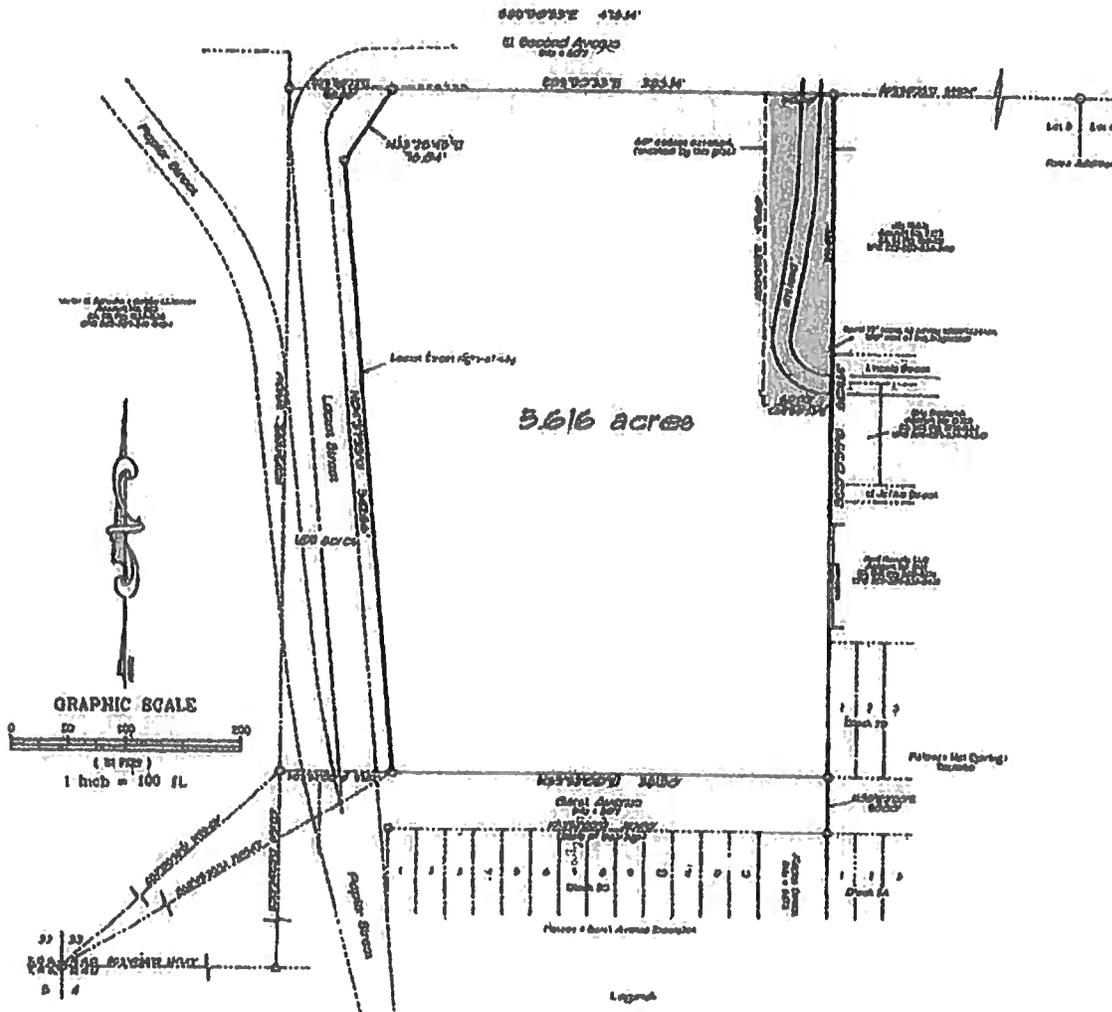


CITY OF TRUTH OR CONSEQUENCES- Seller



ALAMO TWO LLC - Buyer

Boundary Survey Plat
of a 3.616 acre tract of land
in the NW1/4 SE1/4 SW1/4 of Section 33, Township 13 South, Range 4 West, N.M.P.M.,
in the City of Truth or Consequences, Sierra County, New Mexico



NOTES:
The tract is subject to easements, restrictions and encroachments of record.
The plat shows fences as located within the boundaries of Record Zone M and is intended to be outside 500-year flood plain.
An concrete flood control survey identification, an station M4 stamped WPLS 0175 0175.
Use drawing scale to determine measurements that are not labeled.
The plat was prepared to create an easement.

References:
Appon Number 0004
Code 2.1 Page 204, February 2001
CFO 602-301-031-3473
Petition of Gerni Antonio Espinosa Superintendente Plaz filed on October 2, 1941, (Plat Number 24 State Number 253)
Surveyed and Annotated Plat of the Address San Springs Tracts filed on May 6, 1928, (Plat Number 28 State Number 257)
Class Address Subdivision Plat filed on March 20, 1946, (Plat Number 34 State Number 257)
Mutual Flood Insurance Program, Flood Insurance Rate Map Community-Plan Number 152070 dated 2, filed revised July 13, 1995)

The City of Truth or Consequences hereby acknowledges the plat is a true and correct copy of the original plat.

Date

EXHIBIT "B"

- Legend**
- found 60-in-dia" concrete in concrete stamped "SLS 0125" ⊙
 - found 3" dia pipe ⊕
 - found 12-in pipe within 100' stamped "WPLS 0175" ⊖
 - found 12" pipe, one survey identification ⊙
 - 12" dia pipe stamped "WPLS 005" ⊖
 - edge of pavement - - - - -

February 11, 2020
Revised March 23, 2023

Chaparral Surveying, LLC
Professional Land Surveying
P.O. Box 675 - Highway 63, New Mexico 87233

CERTIFICATE

The plat is correct and is a true and correct copy of the original plat as shown on the original plat. The plat is a true and correct copy of the original plat as shown on the original plat. The plat is a true and correct copy of the original plat as shown on the original plat.

David P. Evans
New Mexico Professional Surveyor
License Number 1234

INDEXING INFORMATION FOR COUNTY CLERK
City of Truth or Consequences (1084)

Chaparral Surveying, LLC

P.O. Box 629
Elephant Butte, New Mexico 87835
(575) 740-0334

February 12, 2020

LEGAL DESCRIPTION

(5.616 ACRES)

(Less the SAVE and EXCEPTED portion below)

A tract of land situate in the NW1/4 SE1/4 SW1/4 of Section 33, Township 13 South, Range 4 West, N.M.P.M., bounded on the north by W. Second Avenue, on the west by Locust Street and on the South by Garst Avenue, located in the City of Truth or Consequences, Sierra County, New Mexico, and more particularly described as follows, to-wit:

Beginning at the SW corner of this tract, a 1/2" rebar w/survcap stamped "NMPLS 12129", a point on Locust Street, whence the SW corner of Section 33, Township 13 South, Range 4 West, a "brass-cap" monument in concrete, bears S63°45'33"W, a distance of 1385.47 feet;

Thence, continuing along Locust Street, N04°37'35"W, a distance of 342.66 feet to an angle point in this tract, a 1/2" rebar w/survcap stamped "NMPLS 12129";

Thence, continuing along Locust Street, N33°28'45"E, a distance of 76.04 feet to the NW corner of this tract, a 1/2" rebar w/survcap stamped "NMPLS 12129", a point on W. Second Avenue;

Thence, continuing along W. Second Avenue, S89°30'33"E, a distance of 386.14 feet to the NE corner of this tract, a 1/2" rebar w/aluminum tag stamped "NMPLS 12129";

Thence, S00°13'59"W, a distance of 604.14 feet to the SE corner of this tract, a 1/2" rebar w/aluminum tag stamped "NMPLS 12129", a point on Garst Avenue;

Thence, continuing along Garst Avenue, N89°52'00"W, a distance of 381.50 feet to the point of beginning of the tract hereon described, containing 5.616 acres of land, more or less.

SAVE AND EXCEPT that certain 60' x 270' parcel located in the Northeast corner of the aforesaid tract as described in the Boundary Survey Plat dated February 11, 2020 and revised on March 29, 2022 from David Senn, NMPLS 12129, (re. Chaparral Surveying, LLC). Said revised Boundary Survey Plat is attached as Exhibit B and made a part hereto by reference. Said 60' x 270' parcel is retained by the City grantor for public vehicular traffic and other municipal purposes.

This legal description was prepared from a field survey by David Senn, NMPLS 12129, (re: Chaparral Surveying, LLC), Boundary Survey Plat dated February 11, 2020 and revised in accordance with the March 29, 2022 revised Boundary Survey Plat as shown on Exhibit B attached.

EXHIBIT "A"

Kirkpatrick, Carol

From: noreply@tylerhost.net
Sent: Friday, June 17, 2022 8:02 AM
To: Kirkpatrick, Carol
Subject: Receipt #R00263976

CITY OF TRUTH OR CONSEQUENCES
505 Sims St
Truth or Consequences, NM 87901

DATE : 5/24/2022 10:34 AM

OPER : CL

TKBY : CL

TERM : 9

REC# : R00263976

PROPSALE PROPERTY SALE

724 VAN PATTEN- DEPALMA PROPERTY SALE MAY 18 2022 -17250.00

101-1099-37390 -17250.00

Paid By:MARK FILOSA LAW FIRM

Check 17250.00 REF:021966

17,250

724 Van Patten

pro sale

SPECIAL MASTER'S DEED

THIS INDENTURE, made this 18th day of May 2022, between **MARK A. FILOSA, Esq.**, as Special Master duly appointed by the Court, party of the first part, and **CLAUDEA DEPALMA and KEVIN M. DEPALMA, as Joint Tenants**, party of the second part,

WITNESSETH:

That said party of the first part, for and in consideration of the sum of \$17,250.00, lawful money of the United States of America, to him in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, and the said party of the first part forever released and discharged therefrom, has granted, bargained, sold, remised, released, conveyed, alienated and confirmed, and, by these presents, does grant, bargain, sell, remise, release, convey, alienate and confirm unto the party of the second part, its successors or assigns, forever, all of the following described land and real estate, situate, lying and being in the County of Sierra, State of New Mexico, to wit:

Subdivision PALOMAS, HOT SPRINGS TOWNSITE BLOCK 22 LOT, LOTS 3 and 4 of City of Truth or Consequences, Sierra County, New Mexico, also known as 724 Van Patten.

together with all and singular the hereditaments, lands, tenements and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of said party of the first part, either in law or equity in and to the above described premises with the hereditaments and appurtenances.

PAID
MAY 24 2022
By 

And the said party of the first part, for his heirs, executors, administrators and assigns, doth covenant, grant, bargain and agree to and with the said party of the second part, its successors and assigns, that at the time of the ensealing and delivery of these presents, he is well seized of the premises above conveyed as of a good, sure, perfect and indefeasible estate of inheritance in law and in fee simple and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form aforesaid.

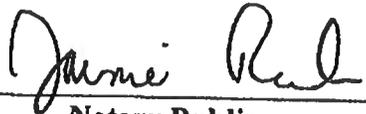
That this conveyance is made by authority of that certain Judgment entered in **Civil Cause No. D-721-CV-2022-00004** of the District Court of the Seventh Judicial District, in and for the County of Sierra, New Mexico, wherein **CITY OF TRUTH OR CONSEQUENCES** is Plaintiff and **EVELYN GERTRUDE HILL, LEONA CALLAWAY a/k/a LEONA ALLEN, RUSTY CALLAWAY, ALL UNKNOWN CLAIMANTS OF INTERESTS ADVERSE TO PLAINTIFF, AND ALL UNKNOWN OCCUPANTS OF 724 VAN PATTEN, TRUTH OR CONSEQUENCES, NM 87901** are Defendants.

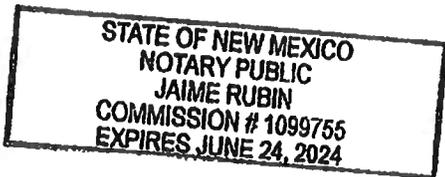
IN WITNESS WHEREOF, the said party of the first part has hereunto set his hand and seal the day and year first above written.


MARK A. FILOSA, Esq. - Special Master

STATE OF NEW MEXICO |
 :ss.
COUNTY OF SIERRA |

The foregoing instrument was acknowledged before me this 18th day of May 2022, by MARK A. FILOSA, Esq., acting in the capacity of Special Master.


Notary Public



THE FILOSA LAW FIRM
MARK A. FILOSA
ATTORNEY AT LAW
TRUST ACCOUNT
P.O. DRAWER 391
T OR C, NM 87901

BBVA COMPASS
Compass Bank
Truth or Consequences, NM
95-78/1070
7333

CHECK NO. **021966**

seventeen Thousand Two Hundred Fifty ***** 00/100

PAY TO THE ORDER OF

DATE

AMOUNT

City of Truth or Consequences

May/23/2022

\$17,250.00

City of T or C v Gertrude Hill



MP

⑈021966⑈ ⑆107000783⑆ 4600004006⑈

Transaction View



Close Form Print Screen Help Detail Description Maintenance

GL Transaction: 101-1099-37390

Process 3.31.22 AR CL
Packet GLPKT14353 - End of Day Process
Source Packet CLPKT06406

Details

Account 101-1099-37390
Name PROPERTY SALES
Description 1308 TIN- SANDERS- SALE OF PROPERTY PROPERTY SALE
Amount (\$16,000.00)
Post Date 3/31/2022 12:00:00 AM
Module Cashiering
Distribution Type CLEndOfDay
Source Transaction R00257893
Adjusting Entry
Interfund Transfer

Cash Transaction

Transaction Type None
Transaction Number

PURCHASE AGREEMENT

This Agreement is entered into on the 8th day of February 2022, by and between **THE CITY OF TRUTH OR CONSEQUENCES**, a Municipal corporation (City), and **PHILLIP AND BEATRICE SANDERS, (Buyers)**.

RECITALS

A. The parties desire to enter into an Agreement whereby the City will sell, transfer and convey all of its interest in and to the following described realty to the Buyer:

Lot Eight (8) in Block Twelve (12) Currey-Laiminger Addition to the Town Hot Springs, now Truth or Consequences, Sierra County, New Mexico according to the plat of said Addition filed in the Office of the Clerk of Sierra County, New Mexico, otherwise known as 1308 Tin Street, Truth or Consequences, New Mexico, 87901.

B. For the sale of real property, the City is required to follow the provisions of §3-54-1, N.M.S.A. (1978).

C. The City obtained an appraisal dated January 6, 2022 from Mundy Appraisal Services, certified appraiser. The appraised value of the property was \$16,000.00.

NOW THEREFORE, the parties agree as follows:

1. The City hereby sells, conveys and transfers all of its interest in the above-referenced realty to the Buyer for the agreed upon consideration.

2. Upon the execution of this Purchase Agreement, the Buyer shall pay to the City the sum of **SIXTEEN THOUSAND DOLLARS (\$16,000.00)**.

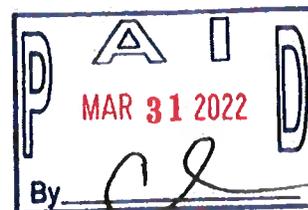
3. Immediately upon receiving the purchase funds, the City shall deliver to buyer an executed quitclaim deed which shall convey the aforesaid property to the buyer.

4. The buyer is purchasing the property on an "as is" basis, and is not relying upon any warrants or representations made by City, either to the condition of the premises, the status of the title, or as to its feasibility of future development. The Buyer has been encouraged to obtain an appropriate title policy.

5. All recording fees and closing costs will be paid by Buyer.



CITY OF TRUTH OR CONSEQUENCES- Seller



Phillip J Sanders SR

PHILLIP SANDERS – Buyer

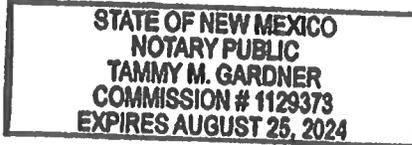
Beatrice Sanders

BEATRICE SANDERS – Buyer

ACKNOWLEDGMENTS

STATE OF NEW MEXICO |
COUNTY OF SIERRA |

:ss.



Bruce Swinart The foregoing instrument was acknowledged before me by *Bruce Swinart*, for the CITY OF TRUTH OR CONSEQUENCES, on the 8 day of February 2022.

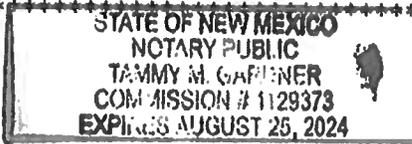
Tammy M. Gardner
Notary Public

My Commission Expires:

(Seal) Aug 25, 2024

STATE OF NEW MEXICO |
COUNTY OF SIERRA |

:ss.



The foregoing instrument was acknowledged before me by **PHILLIP SANDERS** on the 8 day of February 2022.

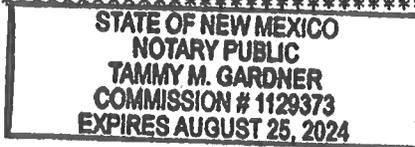
Tammy M. Gardner
Notary Public

My Commission Expires:

(Seal) Aug 25, 2024

STATE OF NEW MEXICO |
COUNTY OF SIERRA |

:ss.



The foregoing instrument was acknowledged before me by **BEATRICE SANDERS** on the 8 day of February 2022.

Tammy M. Gardner
Notary Public

My Commission Expires:

(Seal) Aug 25, 2024

1308 Tin Street

Bobby Sanders

@CITY OF TRUTH OR CONSEQUENCES
505 Sims St
Truth or Consequences, NM 87901

DATE : 3/31/2022 2:32 PM
OPER : CL
TKBY : CL
TERM : 9
REC# : R00257893

PROPSALE PROPERTY SALE 16000.00
1308 TIN- SANDERS- SALE OF PROPERTY
160
101-1099-37390 -16000.00
Check 16000.00 REF:228771

APPLIED 16000.00
TENDERED 16000.00
CHANGE 0.00



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: June 22, 2022

Agenda Item #: H.3

SUBJECT: Resolution No. 68 21/22 Approval of City Park Rental Fees.
DEPARTMENT: City Clerk's Office
DATE SUBMITTED: June 16, 2022
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:

The purpose of this resolution is to establish individual fees for the rental of City Parks; which includes the City Tennis Courts, Sports Complex, and the City Rodeo Arena.

Recommendation:

Approval of Resolution No. 68 21/22

Attachments:

- Resolution No. 68 21/22

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 6-22-2022

RESOLUTION NO. 68 21/22

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)

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
\$40 Local Youth Group
Refundable Deposit \$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

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 ADOPTED this 22nd day of June, 2022.

CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO

By: _____
Amanda Forrister, Mayor

ATTEST:

Angela A. Torres, City Clerk-Treasurer



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: June 22, 2022

Agenda Item #: H.4

SUBJECT: Magistrate Court
DEPARTMENT: City Manager's Office
DATE SUBMITTED: June 14, 2022
SUBMITTED BY: City Manager's Office
WHO WILL PRESENT THE ITEM: City Manager Swingle

Summary/Background:

This is a resolution expressing the City of Truth or Consequences' intent to designate the Sierra County Magistrate Court as the court having jurisdiction over the City of Truth or Consequences Code of Municipal Ordinances

Recommendation:

Approve

Attachments:

- Resolution

Fiscal Impact (Finance): Yes

Savings of approximately \$260,000.00

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 6-22-22



RESOLUTION NO. 69 21/22

A RESOLUTION WHEREBY THE CITY COMMISSION OF THE CITY OF TRUTH OR CONSEQUENCES HEREBY EXPRESSES ITS INTENT TO DESIGNATE THE SIERRA COUNTY MAGISTRATE COURT AS THE COURT HAVING JURISDICTION OVER THE CITY OF TRUTH OR CONSEQUENCES CODE OF MUNICIPAL ORDINANCES

WHEREAS, the Governing Body of the City Truth or Consequences, met in a regular meeting on June 22, 2022, at 9:00 am, in the Commission Chambers at 405 West 3rd Street in Truth or Consequences, New Mexico 87901; and

WHEREAS, the purpose of this Resolution is to comply with the provisions of New Mexico State Statute §35-14-1, N.M.S.A. (1978); and

WHEREAS, the City of Truth or Consequences has enacted and maintained a body of ordinances known as the Code of Ordinances, City of Truth or Consequences, New Mexico (See Ordinance Section 1-1); and

WHEREAS, New Mexico State Statute §35-14-1(B) N.M.S.A. (1978) permits the governing body of a municipality to pass a Resolution whereby the governing body expresses its intent “to designate the Magistrate Court in which the municipality is located as the court having jurisdiction over municipal ordinances”, and

WHEREAS, upon adoption of this Resolution, the City Commission intends to follow the procedures described in §35-14-1, N.M.S.A. (1978), which may ultimately allow the City Commission to adopt an Ordinance to designate the Sierra County Magistrate Court as the court having jurisdiction over municipal ordinances.

NOW THEREFORE, be it resolved that the City Commission of the City of Truth or Consequences hereby expresses its intent to designate the Sierra County Magistrate Court as the court having jurisdiction over the City of Truth or Consequences Code of Municipal Ordinances.

PASSED, APPROVED AND ADOPTED this 22nd day of June, 2022.

ATTEST:

AMANDA FORRISTER - Mayor

ANGELA A. TORRES, City Clerk



City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901
City (575) 894-6673 • Fax (575) 894-7767

June 16, 2022

City of Truth or Consequences
Attention: **Angela**
505 Sims Street
Truth or Consequences, New Mexico 87901

Re: Municipal Court

Dear Angela,

I am enclosing a copy of the correct, updated version of §35-14-1. I suggest that the statute be included in the packet with the agenda H (4) material.

I like Rolf's suggestion that we could call for a future adoption date, perhaps July 1, 2022. If the Commission approves the Resolution, we could still timely put this matter on the July 13, 2022 agenda to consider the creation of the "Municipal Ordinance Jurisdiction Advisory Committee".

Very Sincerely,

A handwritten signature in black ink, appearing to be "JFR", written over a white background.

Jaime F. Rubin, City Attorney
JFR: sjh
Enclosure
Cc: Bruce Swingle
Traci Alvarez

appearance bonds, summons, service and appeal, effective January 1, 1969.

ANNOTATIONS

Meaning of "trial de novo". Appeals from a magistrate court to the district court shall be determined by trial de novo which means "anew." *Southern Union Gas Co. v. Taylor*, 1971-NMSC-067, 82 N.M. 670, 486 P.2d 606.

Amendment to show jurisdiction allowed. Former statute called for an affirmative showing on the face of the papers as to jurisdictional matters, and where it did not so appear upon any appeal, and yet the jurisdiction actually existed, it was the duty of district court to allow the necessary amendment to show such fact. *Tietjen v. McCoy*, 1918-NMSC-074, 24 N.M. 164, 172 P. 1144 (decided under former law).

Amendment not sufficient. Amendment to complaint to show jurisdiction by means of a paper clipped to the complaint was not sufficient. *Bell v. Beck*, 1939-NMSC-035, 43 N.M. 316, 92 P.2d 992 (decided under former law).

Error in refusal to permit amendment. In action of replevin begun in justice of peace court (now magistrate court) and appealed to district court, district court erred in refusing to permit plaintiff to amend affidavit of

replevin in controversy. *Romero v. Luna*, 1892-NMSC-011, 6 N.M. 440, 30 P. 855 (decided under former law).

Leave to amend not to be withheld. Power of district court to exercise its discretion in giving leave to amend was not to be withheld in cases of appeal, when it appeared that justice of the peace (now magistrate) had jurisdiction of subject matter in controversy and of parties in the case. *Sanchez v. Luna*, 1857-NMSC-012, 1 N.M. 238 (decided under former law).

Grant of summary judgment not error. Where there was nothing to show the trial court failed to consider the matters he was required to consider by Rule 56(c) (now Rule 1-056C), N.M.R. Civ. R., grant of summary judgment regardless of magistrate's findings was not error. *Southern Union Gas Co. v. Taylor*, 1971-NMSC-067, 82 N.M. 670, 486 P.2d 606.

Scope of appeal. Where defendant did not challenge his convictions on appeal and did not claim to be aggrieved, but only challenged constitutionality of a federal statute and its effect on him, defendant lacked the right to appeal his conviction. *State v. Garcia*, 2008-NMCA-045, 133 N.M. 444, 69 P.3d 1164.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 47 Am. Jur. 2d Justices of the Peace § 96.

51 C.J.S. Justices of the Peace §§ 151, 153(8), 154(3), 174, 190, 226.

ARTICLE 14

Municipal Courts

Sec.

35-14-1. Municipal court; creation.

35-14-2. Jurisdiction.

35-14-3. Judges; qualifications; bond; salary.

35-14-4. Election; term; vacancy.

35-14-5. Temporary incapacity or absence of a municipal judge.

35-14-6. Duties of temporary municipal judge.

Sec.

35-14-7. Monthly reports and remittances.

35-14-8. Itemized statement.

35-14-9. Penalty.

35-14-10. Municipal judges; training required.

35-14-11. Municipal ordinance; court costs; collection; purpose.

35-14-12. Municipal courts; automation required.

35-14-1. Municipal court; creation.

A. Except for municipalities with a population of fewer than two thousand five hundred or more than five thousand persons in the most recent federal decennial census lying within the boundaries of a class A county with a population of more than two hundred thousand persons in the most recent federal decennial census and municipalities that have adopted an effective ordinance pursuant to Subsection D of this section, there is established a municipal court in each incorporated municipality. The municipal courts shall be presided over by municipal judges. As used in Chapter 35, Articles 14 and 15 NMSA 1978, "municipality" includes H class counties.

B. The governing body of a municipality that is not governed by home rule, territorial or special charter and having a population fewer than ten thousand persons in the most recent federal decennial census, where the municipal court is located twenty-five or fewer miles from the nearest magistrate court, may by resolution express its intent to designate the magistrate court of the county in which the municipality is located as the court having jurisdiction over municipal ordinances. Within fifteen days from the adoption of a resolution pursuant to this section, the governing body of the municipality shall create a "municipal ordinance jurisdiction advisory committee". The municipal ordinance jurisdiction advisory committee shall be composed of the following members, who shall be residents of the municipality:

- (1) the mayor;
- (2) a member of the governing body;
- (3) a municipal judge;
- (4) the chief of police; and

(5) three members of the public, each selected by the mayor, the governing body and the municipal judge.

C. A municipal ordinance jurisdiction advisory committee shall:

- (1) hold at least one public hearing on the question of designating the magistrate court of the county in which the municipality is located as the court having jurisdiction over municipal ordinances;

- (2) hear testimony from all interested persons, including the mayor, the governing body and the municipal judge; and

- (3) submit a report, including recommendations, directly to the governing body of the municipality, with copies to the mayor and municipal judge.

D. Following receipt of a report from the municipal ordinance jurisdiction advisory committee, the governing body of a municipality may, subject to approval by the supreme court, adopt an ordinance upon a three-fourths majority vote to designate the magistrate court of the county in which the municipality is located as the court having jurisdiction over municipal ordinances. An ordinance adopted shall become effective only upon supreme court approval and the expiration of the term of the municipal judge in office on the date of the supreme court's approval of the ordinance.

E. Within five days after the effective date of an ordinance adopted pursuant to Subsection D of this section, the governing body of the municipality shall:

- (1) forward a copy of the ordinance to the magistrate court and to the administrative offices of the courts; and

- (2) provide to the magistrate court copies of all municipal ordinances over which the magistrate court will have jurisdiction.

F. A magistrate court designated pursuant to Subsection D of this section shall, with respect to ordinances of the municipality:

- (1) follow the rules of procedure for the municipal courts and the procedures provided by Chapter 35, Article 15 NMSA 1978;

- (2) impose no fine or sentence greater than that permitted for municipalities;

- (3) remit monthly to the state the court automation and judicial education fees collected pursuant to Subsection B of Section 35-14-11 NMSA 1978 as a result of enforcement of municipal ordinances; and

- (4) remit monthly to the municipality the corrections fee collected pursuant to Subsection B of Section 35-14-11 NMSA 1978 as a result of the enforcement of municipal ordinances.

G. Any municipality that has passed an ordinance designating the magistrate court of the county in which the municipality is located as the court having jurisdiction over municipal ordinances may re-establish the municipal court as the court having jurisdiction over municipal ordinances through the following procedures:

- (1) the governing body of the municipality may pass an ordinance rescinding the ordinance that was made pursuant to Subsection B of this section; or

- (2) following receipt of a petition signed by at least twenty percent of the registered voters who voted in the last municipal election for the office of mayor:

- (a) convene a municipal ordinance jurisdiction advisory committee pursuant to Subsection B of this section that shall make a report and recommendation, if any, to the governing body of the municipality; and

- (b) the governing body shall indicate its assent to re-establishment of the municipal court by ordinance.

History: 1953 Comp., § 37-1-1, enacted by Laws 1951, ch. 208, § 1; 1957, ch. 215, § 1; 1958, ch. 62, § 152; 1979, ch. 348, § 12; 1984, ch. 30, § 3; 1985, ch. 128, § 2; 1993, ch. 149, § 1; 2019, ch. 246, § 1.

Cross references. — For classification of counties, see 4-44-1 and 4-44-3 NMSA 1978.

For Rules of Procedure for the Municipal Courts, see Rule 8-101 NMRA et seq.

The 2019 amendment, effective June 14, 2019, revised procedures regarding the designation by a municipality of the magistrate court of the county in which the

municipality is located as the court having jurisdiction over municipal ordinances; provided that the municipality may re-establish the municipal court as the court having jurisdiction over municipal ordinances, and the court-imposed fees to be remitted to the state pursuant to Subsection A, after "pursuant to Subsection B" added "D"; added new Subsections B through F designated former Subsections B and C as Subsections E and F, respectively; in Subsection E, in the first paragraph, after the subsection designation, added "the governing body of a municipality with a population



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: June 22, 2022

Agenda Item #: H.5

SUBJECT: Publication of Ordinance 734 to Amend Ordinance 723 Adopted 1-12-22 for NMFA Loan PPRF 5652 \$1,320,907 for the North Transformer

DEPARTMENT: Finance Department

DATE SUBMITTED: June 13, 2022

SUBMITTED BY: Carol Kirkpatrick, Finance Director

WHO WILL PRESENT THE ITEM: Carol Kirkpatrick, Finance Director

Summary/Background: This is an ordinance to amend Ordinance No. 723 that was adopted on January 12, 2022 defining Senior Obligations specifying the date of the first interest payment on the loan agreement clarifying that the lien on the pledged revenues is an irrevocable lien, but not necessarily an exclusive lien on the pledged revenues, the priority of which is set forth on the term sheet. This is for \$1,320,907 for the purchase of the North Transformer.

Recommendation:

Approval of publication of Ordinance.

Attachments:

- Ordinance 734
- Time Table for Loan Closing

Fiscal Impact (Finance): No

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. .

Continued To: . Referred To: .

Approved Denied Other: .

File Name: CC agendas 6-22-22

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

The City Commission (the “Governing Body”) of the City of Truth or Consequences, New Mexico, met in regular session in full conformity with the law and the rules and regulations of the Governing Body at the City Commission Chambers at 405 W. 3rd Street, Truth or Consequences, New Mexico 87901, being the meeting place of the Governing Body for the regular meeting held on July 13, 2022, at the hour of 9:00 a.m. Upon roll call, the following members were found to be present:

Present:

Absent:

Also Present:

Thereupon, there was officially filed with the City Clerk a copy of a proposed Ordinance in final form.

CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
ORDINANCE NO. 734

AN ORDINANCE AMENDING ORDINANCE NO. 723 ADOPTED JANUARY 12, 2022; DEFINING SENIOR OBLIGATIONS; SPECIFYING THE DATE OF THE FIRST INTEREST PAYMENT ON THE LOAN AGREEMENT; CLARIFYING THAT THE LIEN ON PLEDGED REVENUES IS AN IRREVOCABLE LIEN BUT NOT NECESSARILY AN EXCLUSIVE LIEN ON THE PLEDGED REVENUES THE PRIORITY OF WHICH IS SET FORTH IN THE TERM SHEET; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS NOT INCONSISTENT WITH THIS ORDINANCE.

Capitalized terms used in the following recitals have the same meaning as defined in Article 1 of the Loan Agreement unless otherwise defined in the preambles or Section 1 of this Ordinance, or unless the context requires a different meaning.

WHEREAS, the City of Truth or Consequences, New Mexico (the “Governmental Unit”) is a legally and regularly created, established, organized and existing municipality under the general laws of the State; and

WHEREAS, on January 12, 2022, Governmental Unit adopted Ordinance No. 723 (the “Original Ordinance”) authorizing the execution and delivery of a loan agreement by and between the Governmental Unit and the New Mexico Finance Authority (the “Finance Authority”) evidencing a special limited obligation to the Governmental Unit to pay a principal amount of up to \$1,320,907, plus interest thereon; and

WHEREAS, Section 12 of the Original Ordinance provides that “[p]rior to the date of the initial delivery of the Loan Agreement to the Finance Authority, the provisions of this [Original] Ordinance may be supplemented or amended by Ordinance of the Governing Body with respect to any changes which are not inconsistent with the substantive provisions of this [Original] Ordinance. This [Original] Ordinance may be amended without receipt by the Governmental Unit of any additional consideration, but only with the prior written consent of the Finance Authority[;]” and

WHEREAS, the Loan Agreement has not yet been delivered to the Finance Authority; and

WHEREAS, the Governmental Unit desires to amend the Original Ordinance to include a definition of Senior Obligations, to specify the date of the first interest payment on the Loan Agreement, and to clarify that the lien on Pledged Revenues is an irrevocable lien but not necessarily an exclusive lien on the Pledged Revenues the priority of which is set forth in the Term Sheet attached as Exhibit A to the Loan Agreement; and

WHEREAS, the amendment of the Original Ordinance as described in this Ordinance is not inconsistent with the substantive provisions of the Original Ordinance and the Finance Authority has consented to such amendment.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO:

Section 1. Ordinance Amendment. Pursuant to Section 12 of the Original Ordinance, the Original Ordinance shall be amended as follows.

A. Amendment of Recitals. The seventh recital of the Original Ordinance shall be amended to read as follows:

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 except as described in the Term Sheet; and.

B. Amendment of Section 1, Definitions. Section 1 of the Original Ordinance shall be amended to add the following definition:

“Senior Obligations” means the obligations described on the Term Sheet with a superior lien on a portion of the Pledged Revenues but only to the extent described in the Term Sheet.

C. Amendment of Section 5.B., Loan Agreement – Detail. Section 5.B., Detail, shall be amended to read as follows:

Detail. The Loan Agreement shall be in substantially the form of the Loan Agreement presented at the meeting of the Governing Body at which this Ordinance was adopted. The Loan shall be in an original aggregate principal amount of up to \$1,320,907, shall be payable in installments of principal due on May 1 of the years designated in Exhibit “B” to the Loan Agreement and bear interest payable on May 1 and November 1 of each year, beginning on November 1, 2022, at the rates designated in Exhibit “B” to the Loan Agreement.

D. Amendment of Section 10, Lien on Pledged Revenues. Section 10, Lien on Pledged Revenues, shall be amended to read as follows:

Lien on Pledged Revenues. Pursuant to the Loan Agreement, the Pledged Revenues are hereby authorized to be pledged to, and are hereby pledged to, 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 hereof permitted by and the priorities set forth in this Ordinance. The Loan Agreement constitutes an irrevocable lien, but not necessarily an exclusive lien, on the Pledged Revenues the priority of which is consistent with that shown on the Term Sheet. The Governmental Unit shall not create a lien on the Pledged Revenues superior to that of the Loan Agreement.

Section 2. Ratification. All actions not inconsistent with the provisions of the Original Ordinance and this Ordinance previously taken by the Governmental Unit for the purpose of entering into the Loan Agreement with the Finance Authority hereby are ratified, approved and confirmed.

Section 3. Repeal. All 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 order, resolution or ordinance, or part thereof, heretofore repealed.

Section 4. 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 City Clerk of the Governmental Unit, and the title and general summary of the subject matter contained in this Ordinance (set out in Section 5 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 said Ordinance shall be in full force and effect thereafter, in accordance with law.

Section 5. 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. 734, duly adopted and approved by the Governing Body of the City of Truth or Consequences, New Mexico, on July 13, 2022. A complete copy of the Ordinance is available for public inspection during the normal and regular business hours of the City Clerk, 401 McAdoo Street, Truth or Consequences, New Mexico 87901.

The title of the Ordinance is:

CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
ORDINANCE NO. 734

AN ORDINANCE AMENDING ORDINANCE NO. 723 ADOPTED JANUARY 12, 2022; DEFINING SENIOR OBLIGATIONS; SPECIFYING THE DATE OF THE FIRST INTEREST PAYMENT ON THE LOAN AGREEMENT; CLARIFYING THAT THE LIEN ON PLEDGED REVENUES IS AN IRREVOCABLE LIEN BUT NOT NECESSARILY AN EXCLUSIVE LIEN ON THE PLEDGED REVENUES THE PRIORITY OF WHICH IS SET FORTH IN THE TERM SHEET; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS NOT INCONSISTENT WITH THIS ORDINANCE.

The title sets forth a general summary of the subject matter contained in the Ordinance.
This notice constitutes compliance with NMSA 1978, § 6-14-6.

[End of Form of Summary for Publication.]

Section 6. Execution of Agreements. The Governmental Unit through its Governing Body agrees to authorize and execute all such agreements with the Finance Authority as are necessary to consummate the Loan contemplated herein and consistent with the terms and conditions of the Loan Agreement, the Original Ordinance and this Ordinance.

PASSED, APPROVED AND ADOPTED THIS 13TH DAY OF JULY, 2022.

CITY OF TRUTH OR CONSEQUENCES,
NEW MEXICO

By _____
Amanda Forrister, Mayor

ATTEST:

By _____
Angela Torres, City Clerk

Commissioner _____ then moved adoption of the foregoing Ordinance, duly seconded by Commissioner _____.

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

Those Voting Aye: _____

Those Voting Nay: _____

Those Absent: _____

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

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

CITY OF TRUTH OR CONSEQUENCES,
NEW MEXICO

By _____
Amanda Forrister, Mayor

ATTEST:

By _____
Angela Torres, City Clerk

6323761.docx

EXHIBIT "A"

Meeting Agenda
of the _____, 2022
City Commission Meeting

(See attached)

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

I, Angela Torres, the duly acting and qualified City Clerk of the City of Truth or Consequences, New Mexico (the “Governmental Unit”), do hereby certify:

1. The foregoing pages are a true, perfect, and complete copy of the record of the proceedings of the City Commission of the Governmental Unit (the “Governing Body”), constituting the governing body of the Governmental Unit, had and taken at a duly called regular meeting held at the City Commission Chambers, at 405 W. 3rd Street, Truth or Consequences, New Mexico 87901, on _____, 2022, at the hour of 9:00 a.m., insofar as the same relate to the adoption of the Ordinance amending Ordinance No. 723, copies of which are set forth in the official records of the proceedings of the Governing Body kept in my office. None of the action taken has been rescinded, repealed, or modified.

2. Said proceedings were duly had and taken as therein shown, the meeting therein was duly held, and the persons therein named were present at said meeting, as therein shown.

3. Notice of said meeting was given in compliance with the permitted methods of giving notice of regular meetings of the Governing Body as required by the Governmental Unit’s open meetings standards presently in effect.

IN WITNESS WHEREOF, I have hereunto set my hand as of the ____ day of _____, 2022.

CITY OF TRUTH OR CONSEQUENCES,
NEW MEXICO

(SEAL)

By _____
Angela Torres, City Clerk



City of Truth or Consequences

AGENDA REQUEST FORM

MEETING DATE: June 22, 2022

Agenda Item #: I.1

SUBJECT: Interview and appointment of 4 Planning & Zoning Board Members.

DEPARTMENT: Clerk's Office

DATE SUBMITTED: June 16, 2022

SUBMITTED BY: Angela A. Torres, City Clerk

WHO WILL PRESENT THE ITEM: City Clerk Torres

Summary/Background:

The Planning & Zoning Commission has 4 vacancies on their board. The City Commission will hold interviews for the following applicants and will select 4 members to serve on the board. Applicants are Rick Dumiak, Eduardo Alicea, Robert Carey, Esther Luchini, and Susan Buhler.

Recommendation:

Appointment of 3 members to the Planning & Zoning Commission.

Attachments:

- Board Member applications.
- -

Fiscal Impact (Finance): No

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. -

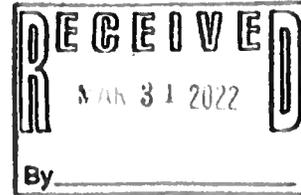
Continued To: - Referred To: -

Approved Denied Other: -

File Name: CC Agendas 6-22-2022



City of Truth or Consequences
City Boards Application



Name: RICK DUMIAK Address: 705 CHARLES TOWN
Phone: 505 603 6400 Email: RDUMIAK@GMAIL.COM

I am interested in serving as a member of one the following Boards:

- Airport Advisory Board
- Public Arts Advisory Board
- Golf Course Advisory Board
- Public Utility Advisory Board
- Library Advisory Board
- Recreation Advisory Board
- Lodger's Tax Advisory Board
- Planning & Zoning Commission
- Impact Fee Board
- Other: _____

My qualifications are:

HAVE SAT + CHAIRED NUMEROUS PLANNING, DEVELOPMENT,
ZONING AND TOURIST RELATED BOARDS. I AM A RETIRED
FACILITIES DIRECTOR AND PROJECT MANAGER.
I WOULD NOT BE ABLE TO SIT ON THE BOARD
UNTIL AFTER APRIL 21, 2022. THANKS

I hereby certify that my appointment to this board neither creates, nor should create, any conflict of interest for myself or the Board. I further confirm that any possible conflict of interest that may arise will be reported to the Board and the City Clerk.

Signature: [Handwritten Signature] Date: ~~3-31-2022~~
3-31-2022 70



City of Truth or Consequences City Boards Application

Name: Eduardo Alicea Address: 110 Broadway Street
Phone: 575-894-0572 Email: riobravofa@gmail.com

I am interested in serving as a member of one the following Boards:

- Airport Advisory Board Public Arts Advisory Board Golf Course Advisory Board
 Public Utility Advisory Board Library Advisory Board Recreation Advisory Board
 Lodger's Tax Advisory Board Planning & Zoning Commission Impact Fee Board
 Other: _____

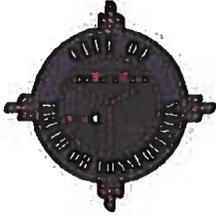
My qualifications are:

I am a resident and business owner in the Historic Hot Springs District of Truth or Consequences, NM. My business, of which I am Owner and Director, is RioBravoFineArt, Inc., which operates RioBravoFineArt Gallery.

RioBravoFineArt Gallery is a nationally and internationally known gallery that represents contemporary and historic fine art. The gallery supports and enhances the local arts community, an important part of the economic life of Truth or Consequences, and it also promotes Truth or Consequences as a destination tourist location with its online and print advertising. As a longtime business owner in the Historic Hot Springs District, I would bring experience to the Planning and Zoning Commission important to the ongoing vitality and redevelopment of the business district. I currently serve on the Public Arts Advisory Committee.

I hereby certify that my appointment to this board neither creates, nor should create, any conflict of interest for myself or the Board. I further confirm that any possible conflict of interest that may arise will be reported to the Board and the City Clerk.

Signature: Eduardo Alicea Date: 2 May 2022



**City of Truth or Consequences
City Boards Application**

Name: ROBERT CAREY Address: 820 W 4th AVE
Phone: 917.699.9493 Email: ROBTCAREY@GMAIL.COM

I am interested in serving as a member of one the following Boards:

- Airport Advisory Board
- Public Arts Advisory Board
- Golf Course Advisory Board
- Public Utility Advisory Board
- Library Advisory Board
- Recreation Advisory Board
- Lodger's Tax Advisory Board
- Planning & Zoning Commission
- Impact Fee Board
- Other: _____

My qualifications are:

I AM A GOOD LISTENER

I HAVE BEEN A MEMBER OF THE COMMUNITY AND A PROPERLY OWNED HOME IN TORC FOR 8 YEARS NOW AND AM FAMILIAR WITH SOME ISSUES AND CONCERNS

I CAN COMMUNICATE WELL AND AM A FAIR AND OPEN MINDED INDIVIDUAL.

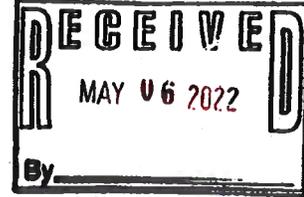
THANK YOU FOR YOUR CONSIDERATION.

I hereby certify that my appointment to this board neither creates, nor should create, any conflict of interest for myself or the Board. I further confirm that any possible conflict of interest that may arise will be reported to the Board and the City Clerk.

Signature: [Handwritten Signature] Date: 4.6.22



City of Truth or Consequences
City Boards Application



Name: Esther Luchini Address: _____
Phone: 575.740.7372 Email: esluchini@yahoo.com

I am interested in serving as a member of one the following Boards:

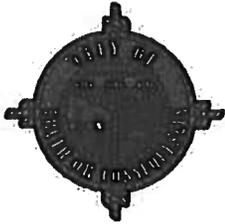
- Airport Advisory Board
- Public Arts Advisory Board
- Golf Course Advisory Board
- Public Utility Advisory Board
- Library Advisory Board
- Recreation Advisory Board
- Lodger's Tax Advisory Board
- Planning & Zoning Commission
- Impact Fee Board
- Other: _____

My qualifications are:

- City of Torc property owner
 - lifelong Sierra County resident

I hereby certify that my appointment to this board neither creates, nor should create, any conflict of interest for myself or the Board. I further confirm that any possible conflict of interest that may arise will be reported to the Board and the City Clerk.

Signature: Esther Luchini Date: 3 May 2022



City of Truth or Consequences

City Boards Application

Name: SUSAN E. BUHLER Address: 303 MAIN ST. AND 29 PISTACHIO RD.
 Phone: 281-615-9654 Email: SUZET@OUTLOOK.COM

I am interested in serving as a member of one the following Boards:

- Airport Advisory Board Public Arts Advisory Board Golf Course Advisory Board
 Public Utility Advisory Board Library Advisory Board Recreation Advisory Board
 Lodger's Tax Advisory Board Planning & Zoning Commission Impact Fee Board
 Other: _____

My qualifications are:

WORKED FOR THREE MAJOR AIRLINES FOR 37 YEARS,
SERVED ON WIMBLEDON PINES CONDOMINIUM
BOARD FOR 4 YEARS DURING THAT TIME. WORKED ON
A 300,000.00 REMODEL JOB OF THE UNITS. COMPLETING
THE PROJECT IN TWO YEARS - FIRST YEAR MONEY/SECOND WORK.
RETIRED FROM THE AIRLINES SEVEN YEARS AGO - 2016.
REMODELED LOCAL BUILDING AT 303 MAIN STREET.
RECEIVING A VARIANCE FOR A LIVING/BUSINESS ARRANGEMENT.
CURRENTLY WORKING ON 307 MAIN, THE BUCKHORN PARK.
RES. SERVING ON THE SIERRA COUNTY ARTS COUNCIL AS VICE PRESIDENT.
I STRIVE TO SHARE IDEAS AND WORK TO SOLVE PROBLEMS.

I hereby certify that my appointment to this board neither creates, nor should create, any conflict of interest for myself or the Board. I further confirm that any possible conflict of interest that may arise will be reported to the Board and the City Clerk.

Signature: Susan E. Buhler Date: 4-13-20



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: June 22, 2022

Agenda Item #: I.2

SUBJECT: Approval and adoption of the salary plan in the FY 22-23 Budget
DEPARTMENT: Finance Department
DATE SUBMITTED: June 16, 2022
SUBMITTED BY: Carol Kirkpatrick, Finance Director
WHO WILL PRESENT THE ITEM: Bruce Swingle, City Manger

Summary/Background: Due to recruiting and retention issues, the city hired Compensation Consulting to perform a salary study to determine current market value of all positions in the organization. This salary plan is the result of the contract, which took approximately 5 months to complete. 89 or 80.9% of the employees will receive pay increases, while 21 or 19.1% will not, as they are either at current market value or above.

Recommendation:

Recommend approval of and adoption of the salary plan in the FY 22-23 budget.

Attachments:

[Click here to enter text.](#)

- Recap of Salary Plan Cost
- Job Class Group by Department, Draft Salary Schedules, Draft Salary Schedule for the Police Department, Employee Listing with New Salary Plan

Fiscal Impact (Finance): Yes

The raises will cost the city approximately \$562,028 which was incorporated in the BY22-23 preliminary budget.

Legal Review (City Attorney): No

[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. .

Continued To: . Referred To: .

Approved Denied Other: .

File Name: CC Agendas 6-17-2022

ESTIMATED COST FOR SALARY INCREASES
 REVISED 6-14-22

	Cost With Benefits	
TOTAL GENERAL FUND COST	\$ 351,427	
TOTAL ELECTRIC FUND COST	\$ 63,433	
TOTAL SOLID WASTE COST	\$ 71,918	
TOTAL UTILITY OFFICE COST	\$ 19,154	
TOTAL WASTEWATER COST	\$ 31,137	
TOTAL WATER COST	<u>\$ 24,959</u>	
TOTAL ALL FUNDS	<u><u>\$ 562,028</u></u>	
ALREADY AT APPROPRIATE RANGE	21	19.09%
BELOW APPROPRIATE RANGE	<u>89</u>	<u>80.91%</u>
	<u><u>110</u></u>	

**City of Truth or Consequences
FY 2023 Salary Plan
Salary Ranges By Department**

Current Title	Proposed Titles	"At Market"				Hourly Rates		
		Classification	Minimum	Midpoint	Maximum	Minimum	Midpoint	Maximum
Administrative Assistant	Administrative Assistant	4	\$30,098	\$35,961	\$42,731	\$14.47	\$17.29	\$20.54
Airport Supervisor	Airport Supervisor	14	\$49,026	\$58,577	\$69,604	\$23.57	\$28.16	\$33.46
Airport Attendant	Airport Attendant	4	\$30,098	\$35,961	\$42,731	\$14.47	\$17.29	\$20.54
Animal Shelter Supervisor	Animal Shelter Supervisor	11	\$42,351	\$50,601	\$60,127	\$20.36	\$24.33	\$28.91
Animal Shelter Operations	Animal Shelter Attendant	2	\$27,300	\$32,618	\$38,758	\$13.12	\$15.68	\$18.63
Assistant City Manager	Assistant City Manager	25	\$83,852	\$100,186	\$119,047	\$40.31	\$48.17	\$57.23
Director of Community Services	Director of Community Services	19	\$62,571	\$74,761	\$88,835	\$30.08	\$35.94	\$42.71
Executive Assistant	Executive Asst to CM	11	\$42,351	\$50,601	\$60,127	\$20.36	\$24.33	\$28.91
Clerk-Treasurer	City Clerk/Treasurer	19	\$62,571	\$74,761	\$88,835	\$30.08	\$35.94	\$42.71
Deputy Clerk	Deputy City Clerk	9	\$38,413	\$45,897	\$54,537	\$18.47	\$22.07	\$26.22
Assistant Clerk	Assistant City Clerk	2	\$27,300	\$32,618	\$38,758	\$13.12	\$15.68	\$18.63
Clerk Administrator	Court Administrator	4	\$30,098	\$35,961	\$42,731	\$14.47	\$17.29	\$20.54
Administrative Assistant Aide	Administrative Assistant Aide	2	\$27,300	\$32,618	\$38,758	\$13.12	\$15.68	\$18.63
Municipal Judge	Municipal Judge	11	\$42,351	\$50,601	\$60,127	\$20.36	\$24.33	\$28.91
Director (Electric)	Director of Electric Services	23	\$76,056	\$90,872	\$107,979	\$36.57	\$43.69	\$51.91
Lineman/Crew Chief	Lineman Crew Chief	17	\$56,754	\$67,810	\$80,576	\$27.29	\$32.60	\$38.74
Journeyman (New)	Journeyman (New)	16	\$54,052	\$64,581	\$76,739	\$25.99	\$31.05	\$36.89
Journeyman/Electrician	Electrician	15	\$51,478	\$61,506	\$73,085	\$24.75	\$29.57	\$35.14
Lineman 1st-Class	Lineman 1st Class	15	\$51,478	\$61,506	\$73,085	\$24.75	\$29.57	\$35.14
Lineman 2nd-Class	Lineman 2nd Class	12	\$44,468	\$53,131	\$63,133	\$21.38	\$25.54	\$30.35
Lineman 3rd-Class	Lineman 3rd Class	10	\$40,334	\$48,191	\$57,264	\$19.39	\$23.17	\$27.53
Lineman/Apprentice	Lineman Apprentice	8	\$36,584	\$43,711	\$51,940	\$17.59	\$21.01	\$24.97
Facilities Maintenance Manager	Facilities Maintenance Manager	16	\$54,052	\$64,581	\$76,739	\$25.99	\$31.05	\$36.89
Technician II	Facilities Technician II	5	\$31,603	\$37,759	\$44,868	\$15.19	\$18.15	\$21.57
Technician I	Facilities Technician I	3	\$28,665	\$34,249	\$40,696	\$13.78	\$16.47	\$19.57
Maintenance/Custodian	Maintenance/Custodian	2	\$27,300	\$32,618	\$38,758	\$13.12	\$15.68	\$18.63

**City of Truth or Consequences
FY 2023 Salary Plan
Salary Ranges By Department**

Current Title	Proposed Titles	"At Market"				Hourly Rates		
		Classification	Minimum	Midpoint	Maximum	Minimum	Midpoint	Maximum
Director (Finance)	Director of Finance	23	\$76,056	\$90,872	\$107,979	\$36.57	\$43.69	\$51.91
Accounting Officer	Accounting Officer	14	\$49,026	\$58,577	\$69,604	\$23.57	\$28.16	\$33.46
Human Resources Analyst	Human Resources Specialist	11	\$42,351	\$50,601	\$60,127	\$20.36	\$24.33	\$28.91
Chief Procurement Officer/Adm.	Chief Procurement Officer	11	\$42,351	\$50,601	\$60,127	\$20.36	\$24.33	\$28.91
Accounts Payable Specialist	Accounts Payable Specialist	9	\$38,413	\$45,897	\$54,537	\$18.47	\$22.07	\$26.22
Payroll	Payroll Specialist	9	\$38,413	\$45,897	\$54,537	\$18.47	\$22.07	\$26.22
GC Superintendent	GC Superintendent	16	\$54,052	\$64,581	\$76,739	\$25.99	\$31.05	\$36.89
Golf Course Maintenance I	GC Maintenance Technician	3	\$28,665	\$34,249	\$40,696	\$13.78	\$16.47	\$19.57
Pro Shop Clerk	GC Pro Shop Clerk	1	\$26,000	\$31,065	\$36,913	\$12.50	\$14.93	\$17.75
Director (Library)	Director of Library Services	19	\$62,571	\$74,761	\$88,835	\$30.08	\$35.94	\$42.71
Tech I	Library Technician	4	\$30,098	\$35,961	\$42,731	\$14.47	\$17.29	\$20.54
Clerk PT	Library Clerk	1	\$26,000	\$31,065	\$36,913	\$12.50	\$14.93	\$17.75
Supervisor (Pool)	Pool Supervisor	6	\$33,183	\$39,647	\$47,111	\$15.95	\$19.06	\$22.65
Head Lifeguard	Senior Lifeguard	3	\$28,665	\$34,249	\$40,696	\$13.78	\$16.47	\$19.57
Certified Lifeguard	Lifeguard	1	\$26,000	\$31,065	\$36,913	\$12.50	\$14.93	\$17.75
Parks & Recreation Manager	Parks & Recreation Manager	14	\$49,026	\$58,577	\$69,604	\$23.57	\$28.16	\$33.46
Maintenance Worker II	Parks Maintenance Worker II	5	\$31,603	\$37,759	\$44,868	\$15.19	\$18.15	\$21.57
Maintenance Worker I	Parks Maintenance Worker I	2	\$27,300	\$32,618	\$38,758	\$13.12	\$15.68	\$18.63
Police Chief	Police Chief	P5	\$83,852	\$100,187	\$119,047	\$40.31	\$48.17	\$57.23
Lieutenant, Commander	Police Lieutenant	P4	\$68,985	\$82,423	\$97,940	\$31.59	\$37.74	\$44.84
Sergeant	Police Sergeant	P3	\$56,755	\$67,811	\$80,576	\$25.99	\$31.05	\$36.89
Certified Officer	Police Officer	P2	\$49,027	\$58,577	\$69,605	\$22.45	\$26.82	\$31.87
Un-Certified Officer	Police Officer (Uncertified)	P1	\$38,413	\$45,896	\$54,536	\$17.59	\$21.01	\$24.97
Administrative Assistant	Administrative Assistant	4	\$30,098	\$35,961	\$42,731	\$14.47	\$17.29	\$20.54
Administrative Aide	Administrative Aide	2	\$27,300	\$32,618	\$38,758	\$13.12	\$15.68	\$18.63

**City of Truth or Consequences
FY 2023 Salary Plan
Salary Ranges By Department**

Current Title	Proposed Titles	"At Market"				Hourly Rates		
		Classification	Minimum	Midpoint	Maximum	Minimum	Midpoint	Maximum
Water/WW Director	Director of Water/Waste Water	23	\$76,056	\$90,872	\$107,979	\$36.57	\$43.69	\$51.91
Water - Crew Foreman	Water Production Foreman	14	\$49,026	\$58,577	\$69,604	\$23.57	\$28.16	\$33.46
Water Production IV	Water Production Operator IV	11	\$42,351	\$50,601	\$60,127	\$20.36	\$24.33	\$28.91
Water Production III	Water Production Operator III	9	\$38,413	\$45,897	\$54,537	\$18.47	\$22.07	\$26.22
Water Production II	Water Production Operator II	7	\$34,842	\$41,629	\$49,466	\$16.75	\$20.01	\$23.78
Water Production I	Water Production Operator I	5	\$31,603	\$37,759	\$44,868	\$15.19	\$18.15	\$21.57
Line Repairman	Water Maintenance Worker	4	\$30,098	\$35,961	\$42,731	\$14.47	\$17.29	\$20.54
Interim Foreman Field Crew	WW Foreman	14	\$49,026	\$58,577	\$69,604	\$23.57	\$28.16	\$33.46
Plant Operator IV	WW Plant Operator IV	11	\$42,351	\$50,601	\$60,127	\$20.36	\$24.33	\$28.91
Plant Operator III	WW Plant Operator III	9	\$38,413	\$45,897	\$54,537	\$18.47	\$22.07	\$26.22
Plant Operator II	WW Plant Operator II	7	\$34,842	\$41,629	\$49,466	\$16.75	\$20.01	\$23.78
Plant Operator I	WW Plant Operator I	5	\$31,603	\$37,759	\$44,868	\$15.19	\$18.15	\$21.57
WW General Laborer	WW Plant Operator/Lab Tech	7	\$34,842	\$41,629	\$49,466	\$16.75	\$20.01	\$23.78
General Laborer	WW General Laborer	3	\$28,665	\$34,249	\$40,696	\$13.78	\$16.47	\$19.57

**City of Truth or Consequences
Draft Salary Schedule Hourly Rate**

6/14/2022

Minimum					Midpoint					Maximum										
Classification	2.00% Increase Each Step					2.50% Increase Each Step					3.00% Increase Each Step									
	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11	Step 12	Step 13	Step 14	Step 15	Step 16	Step 17	Step 18	Step 19	Step 20
1	\$12.50	\$12.75	\$13.00	\$13.26	\$13.53	\$13.87	\$14.22	\$14.57	\$14.93	\$15.31	\$15.77	\$16.24	\$16.73	\$17.23	\$17.75	\$18.28	\$18.83	\$19.39	\$19.97	\$ 20.57
2	\$13.12	\$13.39	\$13.66	\$13.93	\$14.21	\$14.56	\$14.93	\$15.30	\$15.68	\$16.07	\$16.56	\$17.05	\$17.56	\$18.09	\$18.63	\$19.19	\$19.77	\$20.36	\$20.97	\$ 21.60
3	\$13.78	\$14.06	\$14.34	\$14.62	\$14.92	\$15.29	\$15.67	\$16.06	\$16.47	\$16.88	\$17.38	\$17.91	\$18.44	\$19.00	\$19.57	\$20.15	\$20.76	\$21.38	\$22.02	\$ 22.68
4	\$14.47	\$14.76	\$15.05	\$15.36	\$15.66	\$16.05	\$16.46	\$16.87	\$17.29	\$17.72	\$18.25	\$18.80	\$19.36	\$19.95	\$20.54	\$21.16	\$21.79	\$22.45	\$23.12	\$ 23.82
5	\$15.19	\$15.50	\$15.81	\$16.12	\$16.45	\$16.86	\$17.28	\$17.71	\$18.15	\$18.61	\$19.17	\$19.74	\$20.33	\$20.94	\$21.57	\$22.22	\$22.88	\$23.57	\$24.28	\$ 25.01
6	\$15.95	\$16.27	\$16.60	\$16.93	\$17.27	\$17.70	\$18.14	\$18.60	\$19.06	\$19.54	\$20.12	\$20.73	\$21.35	\$21.99	\$22.65	\$23.33	\$24.03	\$24.75	\$25.49	\$ 26.26
7	\$16.75	\$17.09	\$17.43	\$17.78	\$18.13	\$18.59	\$19.05	\$19.53	\$20.01	\$20.51	\$21.13	\$21.76	\$22.42	\$23.09	\$23.78	\$24.50	\$25.23	\$25.99	\$26.77	\$ 27.57
8	\$17.59	\$17.94	\$18.30	\$18.67	\$19.04	\$19.51	\$20.00	\$20.50	\$21.01	\$21.54	\$22.19	\$22.85	\$23.54	\$24.24	\$24.97	\$25.72	\$26.49	\$27.29	\$28.11	\$ 28.95
9	\$18.47	\$18.84	\$19.21	\$19.60	\$19.99	\$20.49	\$21.00	\$21.53	\$22.07	\$22.62	\$23.30	\$23.99	\$24.71	\$25.46	\$26.22	\$27.01	\$27.82	\$28.65	\$29.51	\$ 30.40
10	\$19.39	\$19.78	\$20.17	\$20.58	\$20.99	\$21.51	\$22.05	\$22.60	\$23.17	\$23.75	\$24.46	\$25.19	\$25.95	\$26.73	\$27.53	\$28.36	\$29.21	\$30.08	\$30.99	\$ 31.92
11	\$20.36	\$20.77	\$21.18	\$21.61	\$22.04	\$22.59	\$23.16	\$23.73	\$24.33	\$24.94	\$25.68	\$26.45	\$27.25	\$28.07	\$28.91	\$29.77	\$30.67	\$31.59	\$32.54	\$ 33.51
12	\$21.38	\$21.81	\$22.24	\$22.69	\$23.14	\$23.72	\$24.31	\$24.92	\$25.54	\$26.18	\$26.97	\$27.78	\$28.61	\$29.47	\$30.35	\$31.26	\$32.20	\$33.17	\$34.16	\$ 35.19
13	\$22.45	\$22.90	\$23.35	\$23.82	\$24.30	\$24.91	\$25.53	\$26.17	\$26.82	\$27.49	\$28.32	\$29.17	\$30.04	\$30.94	\$31.87	\$32.83	\$33.81	\$34.83	\$35.87	\$ 36.95
14	\$23.57	\$24.04	\$24.52	\$25.01	\$25.51	\$26.15	\$26.80	\$27.48	\$28.16	\$28.87	\$29.73	\$30.62	\$31.54	\$32.49	\$33.46	\$34.47	\$35.50	\$36.57	\$37.66	\$ 38.79
15	\$24.75	\$25.24	\$25.75	\$26.26	\$26.79	\$27.46	\$28.15	\$28.85	\$29.57	\$30.31	\$31.22	\$32.16	\$33.12	\$34.11	\$35.14	\$36.19	\$37.28	\$38.39	\$39.55	\$ 40.73
16	\$25.99	\$26.51	\$27.04	\$27.58	\$28.13	\$28.83	\$29.55	\$30.29	\$31.05	\$31.82	\$32.78	\$33.76	\$34.78	\$35.82	\$36.89	\$38.00	\$39.14	\$40.31	\$41.52	\$ 42.77
17	\$27.29	\$27.83	\$28.39	\$28.96	\$29.53	\$30.27	\$31.03	\$31.81	\$32.60	\$33.42	\$34.42	\$35.45	\$36.51	\$37.61	\$38.74	\$39.90	\$41.10	\$42.33	\$43.60	\$ 44.91
18	\$28.65	\$29.22	\$29.81	\$30.40	\$31.01	\$31.79	\$32.58	\$33.40	\$34.23	\$35.09	\$36.14	\$37.22	\$38.34	\$39.49	\$40.68	\$41.90	\$43.15	\$44.45	\$45.78	\$ 47.15
19	\$30.08	\$30.68	\$31.30	\$31.92	\$32.56	\$33.38	\$34.21	\$35.07	\$35.94	\$36.84	\$37.95	\$39.08	\$40.26	\$41.47	\$42.71	\$43.99	\$45.31	\$46.67	\$48.07	\$ 49.51
20	\$31.59	\$32.22	\$32.86	\$33.52	\$34.19	\$35.05	\$35.92	\$36.82	\$37.74	\$38.68	\$39.84	\$41.04	\$42.27	\$43.54	\$44.84	\$46.19	\$47.58	\$49.00	\$50.47	\$ 51.99
21	\$33.17	\$33.83	\$34.51	\$35.20	\$35.90	\$36.80	\$37.72	\$38.66	\$39.63	\$40.62	\$41.84	\$43.09	\$44.38	\$45.72	\$47.09	\$48.50	\$49.95	\$51.45	\$53.00	\$ 54.59
22	\$34.82	\$35.52	\$36.23	\$36.96	\$37.69	\$38.64	\$39.60	\$40.59	\$41.61	\$42.65	\$43.93	\$45.25	\$46.60	\$48.00	\$49.44	\$50.92	\$52.45	\$54.03	\$55.65	\$ 57.32
23	\$36.57	\$37.30	\$38.04	\$38.80	\$39.58	\$40.57	\$41.58	\$42.62	\$43.69	\$44.78	\$46.12	\$47.51	\$48.93	\$50.40	\$51.91	\$53.47	\$55.07	\$56.73	\$58.43	\$ 60.18
24	\$38.39	\$39.16	\$39.94	\$40.74	\$41.56	\$42.60	\$43.66	\$44.75	\$45.87	\$47.02	\$48.43	\$49.88	\$51.38	\$52.92	\$54.51	\$56.14	\$57.83	\$59.56	\$61.35	\$ 63.19
25	\$40.31	\$41.12	\$41.94	\$42.78	\$43.64	\$44.73	\$45.85	\$46.99	\$48.17	\$49.37	\$50.85	\$52.38	\$53.95	\$55.57	\$57.23	\$58.95	\$60.72	\$62.54	\$64.42	\$ 66.35

**City of Truth or Consequences
Draft Salary Schedule**

6/14/2022

Minimum					Midpoint					Maximum										
Classification	2.00% Increase Each Step					2.50% Increase Each Step					3.00% Increase Each Step									
	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11	Step 12	Step 13	Step 14	Step 15	Step 16	Step 17	Step 18	Step 19	Step 20
1	\$26,000	\$ 26,520	\$ 27,050	\$ 27,591	\$28,143	\$28,847	\$29,568	\$30,307	\$31,065	\$31,841	\$32,796	\$33,780	\$34,794	\$35,838	\$36,913	\$38,020	\$39,161	\$40,335	\$41,546	\$42,792
2	\$27,300	\$ 27,846	\$ 28,403	\$ 28,971	\$29,550	\$30,289	\$31,046	\$31,822	\$32,618	\$33,433	\$34,436	\$35,469	\$36,533	\$37,629	\$38,758	\$39,921	\$41,119	\$42,352	\$43,623	\$44,931
3	\$28,665	\$ 29,238	\$ 29,823	\$ 30,419	\$31,028	\$31,803	\$32,598	\$33,413	\$34,249	\$35,105	\$36,158	\$37,243	\$38,360	\$39,511	\$40,696	\$41,917	\$43,175	\$44,470	\$45,804	\$47,178
4	\$30,098	\$ 30,700	\$ 31,314	\$ 31,940	\$32,579	\$33,393	\$34,228	\$35,084	\$35,961	\$36,860	\$37,966	\$39,105	\$40,278	\$41,486	\$42,731	\$44,013	\$45,333	\$46,693	\$48,094	\$49,537
5	\$31,603	\$ 32,235	\$ 32,880	\$ 33,537	\$34,208	\$35,063	\$35,940	\$36,838	\$37,759	\$38,703	\$39,864	\$41,060	\$42,292	\$43,561	\$44,868	\$46,214	\$47,600	\$49,028	\$50,499	\$52,014
6	\$33,183	\$ 33,847	\$ 34,524	\$ 35,214	\$35,918	\$36,816	\$37,737	\$38,680	\$39,647	\$40,638	\$41,857	\$43,113	\$44,407	\$45,739	\$47,111	\$48,524	\$49,980	\$51,479	\$53,024	\$54,614
7	\$34,842	\$ 35,539	\$ 36,250	\$ 36,975	\$37,714	\$38,657	\$39,624	\$40,614	\$41,629	\$42,670	\$43,950	\$45,269	\$46,627	\$48,026	\$49,466	\$50,950	\$52,479	\$54,053	\$55,675	\$57,345
8	\$36,584	\$ 37,316	\$ 38,062	\$ 38,824	\$39,600	\$40,590	\$41,605	\$42,645	\$43,711	\$44,804	\$46,148	\$47,532	\$48,958	\$50,427	\$51,940	\$53,498	\$55,103	\$56,756	\$58,459	\$60,212
9	\$38,413	\$ 39,182	\$ 39,965	\$ 40,765	\$41,580	\$42,619	\$43,685	\$44,777	\$45,897	\$47,044	\$48,455	\$49,909	\$51,406	\$52,948	\$54,537	\$56,173	\$57,858	\$59,594	\$61,382	\$63,223
10	\$40,334	\$ 41,141	\$ 41,964	\$ 42,803	\$43,659	\$44,750	\$45,869	\$47,016	\$48,191	\$49,396	\$50,878	\$52,404	\$53,976	\$55,596	\$57,264	\$58,982	\$60,751	\$62,574	\$64,451	\$66,384
11	\$42,351	\$ 43,198	\$ 44,062	\$ 44,943	\$45,842	\$46,988	\$48,163	\$49,367	\$50,601	\$51,866	\$53,422	\$55,025	\$56,675	\$58,376	\$60,127	\$61,931	\$63,789	\$65,702	\$67,673	\$69,703
12	\$44,468	\$ 45,358	\$ 46,265	\$ 47,190	\$48,134	\$49,337	\$50,571	\$51,835	\$53,131	\$54,459	\$56,093	\$57,776	\$59,509	\$61,294	\$63,133	\$65,027	\$66,978	\$68,987	\$71,057	\$73,189
13	\$46,692	\$ 47,626	\$ 48,578	\$ 49,550	\$50,541	\$51,804	\$53,099	\$54,427	\$55,788	\$57,182	\$58,898	\$60,665	\$62,485	\$64,359	\$66,290	\$68,279	\$70,327	\$72,437	\$74,610	\$76,848
14	\$49,026	\$ 50,007	\$ 51,007	\$ 52,027	\$53,068	\$54,394	\$55,754	\$57,148	\$58,577	\$60,041	\$61,843	\$63,698	\$65,609	\$67,577	\$69,604	\$71,692	\$73,843	\$76,059	\$78,340	\$80,690
15	\$51,478	\$ 52,507	\$ 53,557	\$ 54,629	\$55,721	\$57,114	\$58,542	\$60,006	\$61,506	\$63,043	\$64,935	\$66,883	\$68,889	\$70,956	\$73,085	\$75,277	\$77,535	\$79,861	\$82,257	\$84,725
16	\$54,052	\$ 55,133	\$ 56,235	\$ 57,360	\$58,507	\$59,970	\$61,469	\$63,006	\$64,581	\$66,196	\$68,181	\$70,227	\$72,334	\$74,504	\$76,739	\$79,041	\$81,412	\$83,855	\$86,370	\$88,961
17	\$56,754	\$ 57,889	\$ 59,047	\$ 60,228	\$61,433	\$62,968	\$64,543	\$66,156	\$67,810	\$69,505	\$71,590	\$73,738	\$75,950	\$78,229	\$80,576	\$82,993	\$85,483	\$88,047	\$90,689	\$93,409
18	\$59,592	\$ 60,784	\$ 61,999	\$ 63,239	\$64,504	\$66,117	\$67,770	\$69,464	\$71,201	\$72,981	\$75,170	\$77,425	\$79,748	\$82,140	\$84,604	\$87,143	\$89,757	\$92,450	\$95,223	\$98,080
19	\$62,571	\$ 63,823	\$ 65,099	\$ 66,401	\$67,729	\$69,423	\$71,158	\$72,937	\$74,761	\$76,630	\$78,928	\$81,296	\$83,735	\$86,247	\$88,835	\$91,500	\$94,245	\$97,072	\$99,984	\$102,984
20	\$65,700	\$ 67,014	\$ 68,354	\$ 69,721	\$71,116	\$72,894	\$74,716	\$76,584	\$78,499	\$80,461	\$82,875	\$85,361	\$87,922	\$90,560	\$93,276	\$96,075	\$98,957	\$101,926	\$104,983	\$108,133
21	\$68,985	\$ 70,365	\$ 71,772	\$ 73,208	\$74,672	\$76,538	\$78,452	\$80,413	\$82,424	\$84,484	\$87,019	\$89,629	\$92,318	\$95,088	\$97,940	\$100,878	\$103,905	\$107,022	\$110,233	\$113,540
22	\$72,434	\$ 73,883	\$ 75,361	\$ 76,868	\$78,405	\$80,365	\$82,375	\$84,434	\$86,545	\$88,708	\$91,370	\$94,111	\$96,934	\$99,842	\$102,837	\$105,922	\$109,100	\$112,373	\$115,744	\$119,217
23	\$76,056	\$ 77,577	\$ 79,129	\$ 80,711	\$82,326	\$84,384	\$86,493	\$88,656	\$90,872	\$93,144	\$95,938	\$98,816	\$101,781	\$104,834	\$107,979	\$111,219	\$114,555	\$117,992	\$121,531	\$125,177
24	\$79,859	\$ 81,456	\$ 83,085	\$ 84,747	\$86,442	\$88,603	\$90,818	\$93,088	\$95,416	\$97,801	\$100,735	\$103,757	\$106,870	\$110,076	\$113,378	\$116,779	\$120,283	\$123,891	\$127,608	\$131,436
25	\$83,852	\$ 85,529	\$ 87,239	\$ 88,984	\$90,764	\$93,033	\$95,359	\$97,743	\$100,186	\$102,691	\$105,772	\$108,945	\$112,213	\$115,580	\$119,047	\$122,618	\$126,297	\$130,086	\$133,988	\$138,008

**City of Truth or Consequences
FY 2023 Salary Planning
Addendum - Resulting Salary Range per Position**

Employee Name	Department	Recommended Job Class	Current Salary	Proposed Classification	Proposed Step	Proposed Salary Schedule	Hourly Rate	Difference Proposed to Current	Actual Difference (No Negatives Except Savings)	Total Cost w benefits
VACANT H	Airport	Airport Supervisor	\$37,440	14	Step 1	\$ 49,026	\$ 23.57	\$ 11,586	\$ 11,586	
HENRY, JOSEPH	Airport	Airport Attendant	\$28,080	4	Step 1	\$ 30,098	\$ 14.47	\$ 2,018	\$ 2,018	
BILYEU, LANDEN	Airport	Airport Attendant	\$14,352	4	Step 1	\$ 15,049	\$ 14.47	\$ 697	\$ 697	
SWEENEY, JAMIE	Animal Control	Code Enforcement Officer	\$34,320	7	Step 1	\$ 34,842	\$ 16.75	\$ 522	\$ 522	
VACANT1	Animal Control	Animal Control Officer	\$27,040	5	Step 1	\$ 31,603	\$ 15.19	\$ 4,563	\$ 4,563	
DIGIACOMA, MARY	Animal Control	Animal Control Officer	\$27,040	5	Step 1	\$ 31,603	\$ 15.19	\$ 4,563	\$ 4,563	
MANNING, TARA	Animal Shelter	Animal Shelter Supervisor	\$42,640	14	Step 2	\$ 50,007	\$ 24.04	\$ 7,367	\$ 7,367	
BOWLES, JESSICA	Animal Shelter	Animal Shelter Attendant	\$24,960	2	Step 1	\$ 27,300	\$ 13.13	\$ 2,340	\$ 2,340	
HOPKINS, MARK	Animal Shelter	Animal Shelter Attendant	\$24,960	2	Step 1	\$ 27,300	\$ 13.13	\$ 2,340	\$ 2,340	
GARDNER, TAMMY	City Manager	Executive Asst to CM	\$42,120	11	Step 3	\$ 44,062	\$ 21.18	\$ 1,942	\$ 1,942	
TORRES, ANGELA	Clerks	City Clerk/Treasurer	\$58,240	19	Step 2	\$ 63,823	\$ 30.68	\$ 5,583	\$ 5,583	
VACANT E	Clerks	Deputy City Clerk	\$46,800	9	Step 1	\$ 38,413	\$ 18.47	\$ (8,387)	\$ (8,387)	
GABALDON, LISA	Clerks	Assistant City Clerk	\$26,000	2	Step 3	\$ 28,403	\$ 13.66	\$ 2,403	\$ 2,403	
ALVAREZ, TRACI	Community Development	Assistant City Manager	\$56,160	25	Step 1	\$ 83,852	\$ 40.31	\$ 27,692	\$ 27,692	
HECHLER, ORRIN	Community Services	Director of Community Services	\$66,997	19	Step 1	\$ 62,571	\$ 30.08	\$ (4,426)	\$ -	
SANDERS, BEATRICE	Court	Municipal Judge	\$41,995	11	Step 2	\$ 41,995	\$ 20.19	\$ (0)	\$ -	
CLANTON, MARGARET	Court	Administrative Assistant	\$38,022	4	Step 9	\$ 35,961	\$ 17.29	\$ (2,061)	\$ -	
JOHNSON, DAVID	Facilities	Facilities Maintenance Manager	\$59,280	16	Step 4	\$ 57,360	\$ 27.58	\$ (1,920)	\$ -	
COOL, THOMAS	Facilities	Facilities Technician II	\$30,160	5	Step 1	\$ 31,603	\$ 15.19	\$ 1,443	\$ 1,443	

**City of Truth or Consequences
FY 2023 Salary Planning
Addendum - Resulting Salary Range per Position**

Employee Name	Department	Recommended Job Class	Current Salary	Proposed Classification	Proposed Step	Proposed Salary Schedule	Hourly Rate	Difference Proposed to Current	Actual Difference (No Negatives Except Savings)	Total Cost w benefits
DALEY, JOHN	Facilities	Facilities Technician I	\$24,960	3	Step 1	\$ 28,665	\$ 13.78	\$ 3,705	\$ 3,705	
FLORES, HENRY	Facilities	Facilities Technician I	\$24,960	3	Step 2	\$ 29,238	\$ 14.06	\$ 4,278	\$ 4,278	
VIENNA, OTTO	Facilities	Maintenance/Custodian	\$31,200	2	Step 1	\$ 27,300	\$ 13.13	\$ (3,900)	\$ -	
KIRKPATRICK, CAROL	Finance	Director of Finance	\$72,987	23	Step 2	\$ 77,577	\$ 37.30	\$ 4,590	\$ 4,590	
SALCEDO, KERIN	Finance	Accounting Officer	\$55,058	14	Step 9	\$ 58,577	\$ 28.16	\$ 3,519	\$ 3,519	
HOLGUIN, MINDEE	Finance	Purchasing Agent	\$41,600	11	Step 1	\$ 42,351	\$ 20.36	\$ 751	\$ 751	
NIEBERGALL, ALONA	Finance	HR Analyst	\$37,440	11	Step 1	\$ 42,351	\$ 20.36	\$ 4,911	\$ 4,911	
VACANT2	Finance	Payroll Specialist	\$37,440	9	Step 1	\$ 38,413	\$ 18.47	\$ 973	\$ 973	
OTERO, RUBY	Finance	Accounts Payable Specialist	\$37,440	9	Step 1	\$ 38,413	\$ 18.47	\$ 973	\$ 973	
VACANT F	Fleet Maintenance	Fleet Maintenance Foreman	\$37,440	11	Step 1	\$ 42,351	\$ 20.36	\$ 4,911	\$ 4,911	
SMITH, STEVEN	Fleet Maintenance	Mechanic II	\$33,280	6	Step 1	\$ 33,183	\$ 15.95	\$ (97)	\$ -	
TOUTCHEQUE, MELISSA	Fleet Maintenance	Administrative Assistant	\$27,040	4	Step 1	\$ 30,098	\$ 14.47	\$ 3,058	\$ 3,058	
OWENS, WESLEY	Golf Course	GC Superintendent	\$46,800	16	Step 1	\$ 54,052	\$ 25.99	\$ 7,252	\$ 7,252	
REA, GEORGE	Golf Course	GC Maintenance Technician	\$27,040	3	Step 1	\$ 28,665	\$ 13.78	\$ 1,625	\$ 1,625	
TOWNER, MARTIN	Golf Course	GC Maintenance Technician	\$11,960	3	Step 2	\$ 14,619	\$ 14.06	\$ 2,659	\$ 2,659	
STANDLEY, ELIZABETH	Golf Course	GC Pro Shop Clerk	\$23,920	1	Step 1	\$ 26,000	\$ 12.50	\$ 2,080	\$ 2,080	
REED, MARGARET	Golf Course	GC Pro Shop Clerk	\$26,000	1	Step 1	\$ 26,000	\$ 12.50	\$ -	\$ -	
PAUL, HEILI	Golf Course	GC Pro Shop Clerk (Part Time)	\$11,960	1	Step 1	\$ 13,000	\$ 12.50	\$ 1,040	\$ 1,040	
O'HANLON, PATRICIA	Library	Director of Library Services	\$59,488	19	Step 9	\$ 74,761	\$ 35.94	\$ 15,273	\$ 15,273	
KATHLEEN MARTINEZ	Library	Library Technician	\$27,456	4	Step 1	\$ 30,098	\$ 14.47	\$ 2,642	\$ 2,642	

City of Truth or Consequences
FY 2023 Salary Planning
Addendum - Resulting Salary Range per Position

Employee Name	Department	Recommended Job Class	Current Salary	Proposed Classification	Proposed Step	Proposed Salary Schedule	Hourly Rate	Difference Proposed to Current	Actual Difference (No Negatives Except Savings)	Total Cost w benefits
YAW, SHAE	Library	Library Technician	\$26,520	4	Step 4	\$ 31,940	\$ 15.36	\$ 5,420	\$ 5,420	
BALKO, DENISE	Library	Library Clerk	\$13,260	1	Step 3	\$ 13,525	\$ 13.00	\$ 265	\$ 265	
SHEELE, SUSAN	Library	Library Clerk	\$13,260	1	Step 5	\$ 14,072	\$ 13.53	\$ 812	\$ 812	
JERMYN, RETHA	Library	Library Clerk	\$13,759	1	Step 9	\$ 15,533	\$ 14.94	\$ 1,773	\$ 1,773	
BARNES, SEAN	Parks	Parks & Recreation Manager	\$37,440	14	Step 1	\$ 49,026	\$ 23.57	\$ 11,586	\$ 11,586	
VACANT4	Parks	Parks Maintenance Worker II	\$26,000	5	Step 1	\$ 31,603	\$ 15.19	\$ 5,603	\$ 5,603	
VACANT5	Parks	Parks Maintenance Worker	\$26,000	2	Step 1	\$ 27,300	\$ 13.13	\$ 1,300	\$ 1,300	
BACHICHA, JACOB	Parks	Parks Maintenance Worker	\$26,000	2	Step 1	\$ 27,300	\$ 13.13	\$ 1,300	\$ 1,300	
MARTINEZ, MARIBEL	Police	Administrative Assistant	\$39,520	4	Step 2	\$ 30,700	\$ 14.76	\$ (8,820)	\$ -	
NUNEZ, AMERICA	Police	Police Administrative Aide	\$27,040	2	Step 1	\$ 27,300	\$ 13.13	\$ 260	\$ 260	
GALICIA, ASHLEY	Pool	Pool Supervisor	\$34,757	6	Step 1	\$ 33,183	\$ 15.95	\$ (1,574)	\$ -	
RENFRO, AUDRIANNA	Pool	Senior Lifeguard	\$24,960	3	Step 1	\$ 28,665	\$ 13.78	\$ 3,705	\$ 3,705	
SHERRIE SAAVEDRA	Pool	Lifeguard	\$11,960	1	Step 1	\$ 13,000	\$ 12.50	\$ 1,040	\$ 1,040	
GREEN, JAMIEE	Pool	Lifeguard	\$11,960	1	Step 1	\$ 13,000	\$ 12.50	\$ 1,040	\$ 1,040	
FUENTES, BENNY	Street	Street Manager	\$61,651	19	Step 2	\$ 63,823	\$ 30.68	\$ 2,172	\$ 2,172	
AGUIRRE, FRANK	Street	Streets Supervisor/Equipment Operator II	\$38,480	14	Step 1	\$ 49,026	\$ 23.57	\$ 10,546	\$ 10,546	
VACANT B	Street	Street Equipment Operator I	\$30,555	5	Step 1	\$ 31,603	\$ 15.19	\$ 1,048	\$ 1,048	
GARRETT, BRYAN	Street	Street Equipment Operator I	\$28,080	5	Step 1	\$ 31,603	\$ 15.19	\$ 3,523	\$ 3,523	
SORG, JOSEPH	Street	Street Equipment Operator I	\$28,080	5	Step 1	\$ 31,603	\$ 15.19	\$ 3,523	\$ 3,523	
BOBELU, THOMAS	Street	Street Equipment Operator I	\$28,288	5	Step 3	\$ 32,880	\$ 15.81	\$ 4,592	\$ 4,592	

City of Truth or Consequences
FY 2023 Salary Planning
Addendum - Resulting Salary Range per Position

Employee Name	Department	Recommended Job Class	Current Salary	Proposed Classification	Proposed Step	Proposed Salary Schedule	Hourly Rate	Difference Proposed to Current	Actual Difference (No Negatives Except Savings)	Total Cost w benefits
MARTIN, ELIJAH	Street	Street Maintenance Worker	\$22,880	4	Step 1	\$ 30,098	\$ 14.47	\$ 7,218	\$ 7,218	
WALDRON, ROBERT	Street	Street Maintenance Worker	\$27,040	4	Step 9	\$ 35,961	\$ 17.29	\$ 8,921	\$ 8,921	
VACANT (added 6-13-22)	Street	Street Maintenance Worker	\$23,920	4	Step 1	\$ 30,098	\$ 14.47	\$ 6,178	\$ 6,178	
POLICE DEPARTMENT HAS DIFFERENT SALARY SCHEDULE				PD Sal Sch						
RODRIGUEZ, VICTOR	Police	Police Chief	\$77,000	P5	Step 1	\$ 83,852	\$ 40.31	\$ 6,852	\$ 6,852	
VENABLE, DONALD	Police	Police Lieutenant	\$56,391	P4	Step 2	\$ 70,365	\$ 32.22	\$ 13,974	\$ 13,974	
BLOMQUIST, JAFFEE	Police	Police Sergeant	\$52,416	P3	Step 1	\$ 56,755	\$ 25.99	\$ 4,339	\$ 4,339	
MARIN, RAFAEL	Police	Police Sergeant	\$52,416	P3	Step 5	\$ 61,433	\$ 28.13	\$ 9,017	\$ 9,017	
ZAVALA, ZACHARY	Police	Police Officer	\$46,039	P2	Step 2	\$ 50,007	\$ 22.90	\$ 3,968	\$ 3,968	
MEYERS, JUSTIN	Police	Police Officer	\$46,039	P2	Step 1	\$ 49,027	\$ 22.45	\$ 2,988	\$ 2,988	
GONZALEZ, SHANTELL	Police	Police Officer	\$46,039	P2	Step 1	\$ 49,027	\$ 22.45	\$ 2,988	\$ 2,988	
CARREON, ALEJANDRO	Police	Police Officer	\$46,039	P2	Step 1	\$ 49,027	\$ 22.45	\$ 2,988	\$ 2,988	
FRAZIER, KACI	Police	Police Officer	\$46,039	P2	Step 1	\$ 49,027	\$ 22.45	\$ 2,988	\$ 2,988	
VEGA, JUDE	Police	Police Officer	\$50,232	P2	Step 2	\$ 50,007	\$ 22.90	\$ (225)	\$ -	
ONTIVEROS, TED	Police	Police Officer	\$49,795	P2	Step 9	\$ 58,577	\$ 26.82	\$ 8,782	\$ 8,782	
JEFFERS, SHANE	Police	Police Officer	\$46,039	P2	Step 1	\$ 49,027	\$ 22.45	\$ 2,988	\$ 2,988	
NEW POSITION	Police	Police Officer	\$43,846	P2	Step 1	\$ 49,027	22.45	\$ 5,181	\$ 5,181	
NEW POSITION	Police	Police Officer	\$43,846	P2	Step 1	\$ 49,027	22.45	\$ 5,181	\$ 5,181	

City of Truth or Consequences
FY 2023 Salary Planning
Addendum - Resulting Salary Range per Position

Employee Name	Department	Recommended Job Class	Current Salary	Proposed Classification	Proposed Step	Proposed Salary Schedule	Hourly Rate	Difference Proposed to Current	Actual Difference (No Negatives Except Savings)	Total Cost w benefits
TOTAL GENERAL FUND COST										\$ 351,427
VACANCY-BUDGETED	Electric	Lineman Apprentice	\$27,040	8	Step 1	\$ 36,584	\$ 17.59	\$ 9,544	\$ 9,544	
VACANCY-BUDGETED	Electric	Lineman Apprentice	\$27,040	8	Step 1	\$ 36,584	\$ 17.59	\$ 9,544	\$ 9,544	
BREUER, JOSH	Electric	Lineman Apprentice	\$27,040	8	Step 1	\$ 36,584	\$ 17.59	\$ 9,544	\$ 9,544	
REES, CHRISTOPHER	Electric	Lineman Crew Chief	\$58,240	17	Step 1	\$ 56,754	\$ 27.29	\$ (1,486)	\$ -	
BUSH, CRISPIN	Electric	Electrician	\$37,960	15	Step 2	\$ 52,507	\$ 25.24	\$ 14,547	\$ 14,547	
MONTOYA, WILLIAM	Electric	Journeyman	\$50,461	16	Step 3	\$ 56,235	\$ 27.04	\$ 5,774	\$ 5,774	
FUENTES, PRISCILLA	Electric	Administrative Assistant	\$33,634	4	Step 4	\$ 31,940	\$ 15.36	\$ (1,694)	\$ -	
EASLEY, BOAZ	Electric	Director of Electric Services	\$80,891	23	Step 6	\$ 84,384	\$ 40.57	\$ 3,493	\$ 3,493	
TOTAL ELECTRIC FUND COST										\$ 63,433
VACANT G	Solid Waste	SW Recycling Technician	\$25,126	7	Step 1	\$ 34,842	\$ 16.75	\$ 9,716	\$ 9,716	
VACANT A	Solid Waste	SW Recycling Technician	\$37,980	7	Step 1	\$ 34,842	\$ 16.75	\$ (3,138)	\$ (3,138)	

City of Truth or Consequences
FY 2023 Salary Planning
Addendum - Resulting Salary Range per Position

Employee Name	Department	Recommended Job Class	Current Salary	Proposed Classification	Proposed Step	Proposed Salary Schedule	Hourly Rate	Difference Proposed to Current	Actual Difference (No Negatives Except Savings)	Total Cost w benefits
VACANT6	Solid Waste	SW Recycling Technician	\$38,792	7	Step 1	\$ 34,842	\$ 16.75	\$ (3,950)	\$ (3,950)	
MYERS, WESLEY	Solid Waste	SW Recycling Engineer	\$37,440	9	Step 1	\$ 38,413	\$ 18.47	\$ 973	\$ 973	
HILL, MATHEW	Solid Waste	SW Recycling Technician	\$23,920	7	Step 1	\$ 34,842	\$ 16.75	\$ 10,922	\$ 10,922	
EASLEY, JEREMIAH	Solid Waste	SW Scale Attendant	\$24,960	2	Step 1	\$ 27,300	\$ 13.13	\$ 2,340	\$ 2,340	
HOWELL, CARMEN	Solid Waste	Administrative Assistant	\$28,808	4	Step 1	\$ 30,098	\$ 14.47	\$ 1,290	\$ 1,290	
JOHNSON, WILLIAM	Solid Waste	SW Foreman	\$39,520	11	Step 2	\$ 43,198	\$ 20.77	\$ 3,678	\$ 3,678	
DALEY, JOSEPH	Solid Waste	SW Supervisor	\$49,650	14	Step 3	\$ 51,007	\$ 24.52	\$ 1,357	\$ 1,357	
GRANSBURY, MATTHEW	Solid Waste	SW Recycling Technician	\$26,728	7	Step 5	\$ 37,714	\$ 18.13	\$ 10,986	\$ 10,986	
ALVAREZ, ANDRES	Solid Waste	Director of Solid Waste/Fleet	\$71,760	23	Step 7	\$ 86,493	\$ 41.58	\$ 14,733	\$ 14,733	
HURON, SCOTT	Solid Waste	SW Recycling Technician	\$31,075	7	Step 9	\$ 41,629	\$ 20.01	\$ 10,554	\$ 10,554	
TOTAL SOLID WASTE COST										\$ 71,918
VACANT C	Utility Office	Utility Meter Reader	\$24,960	2	Step 1	\$ 27,300	\$ 13.13	\$ 2,340	\$ 2,340	
MARTINEZ, KATY	Utility Office	Utility Billing Clerk	\$24,960	2	Step 1	\$ 27,300	\$ 13.13	\$ 2,340	\$ 2,340	
HALSEY, JESSICA	Utility Office	Utility Billing Clerk	\$24,960	2	Step 1	\$ 27,300	\$ 13.13	\$ 2,340	\$ 2,340	
LOERA, RENE	Utility Office	Utility Meter Reader	\$29,640	2	Step 2	\$ 27,846	\$ 13.39	\$ (1,794)	\$ -	
LECLAIR, CHELSEA	Utility Office	Utility Billing Supervisor	\$42,390	11	Step 4	\$ 44,943	\$ 21.61	\$ 2,553	\$ 2,553	

**City of Truth or Consequences
FY 2023 Salary Planning
Addendum - Resulting Salary Range per Position**

Employee Name	Department	Recommended Job Class	Current Salary	Proposed Classification	Proposed Step	Proposed Salary Schedule	Hourly Rate	Difference Proposed to Current	Actual Difference (No Negatives Except Savings)	Total Cost w benefits
WILLIAMS, SONYA	Utility Office	Utility Billing Manager	\$58,240	18	Step 5	\$ 64,504	\$ 31.01	\$ 6,264	\$ 6,264	
KAPELA, SILKE	Utility Office	Utility Billing Clerk	\$34,050	2	Step 9	\$ 32,618	\$ 15.68	\$ (1,432)	\$ -	
TOTAL UTILITY OFFICE COST										\$ 19,154
WHITLEY, JAMISON	Wastewater	WWW General Laborer	\$29,120	3	Step 1	\$ 28,665	\$ 13.78	\$ (455)	\$ -	
HANNA, TIMOTHY	Wastewater	Water Production Operator I	\$35,547	5	Step 2	\$ 32,235	\$ 15.50	\$ (3,312)	\$ -	
COLE, JESSE	Wastewater	Director of WWW	\$72,800	23	Step 3	\$ 79,129	\$ 38.04	\$ 6,329	\$ 6,329	
NAVARRO, JESUS	Wastewater	WW Foreman	\$44,242	14	Step 3	\$ 51,007	\$ 24.52	\$ 6,765	\$ 6,765	
LOVEALL, PATRICK	Wastewater	WWW Plant Operator/Lab Tech	\$30,160	7	Step 3	\$ 36,250	\$ 17.43	\$ 6,090	\$ 6,090	
MARTINEZ, LEONIDES	Wastewater	WW Plant Operator I	\$31,200	5	Step 9	\$ 37,759	\$ 18.15	\$ 6,559	\$ 6,559	
TOTAL WASTEWATER COST										\$ 31,137
THOMAS, CHRISTOPHER	Water	Water Maintenance Worker	\$29,120	4	Step 1	\$ 30,098	\$ 14.47	\$ 978	\$ 978	
BROWNING, ZACHARY	Water	Water Maintenance Worker	\$29,120	4	Step 1	\$ 30,098	\$ 14.47	\$ 978	\$ 978	
OTIS, HEATHER	Water	Water Maintenance Worker	\$29,120	4	Step 1	\$ 30,098	\$ 14.47	\$ 978	\$ 978	

**City of Truth or Consequences
FY 2023 Salary Planning
Addendum - Resulting Salary Range per Position**

Employee Name	Department	Recommended Job Class	Current Salary	Proposed Classification	Proposed Step	Proposed Salary Schedule	Hourly Rate	Difference Proposed to Current	Actual Difference (No Negatives Except Savings)	Total Cost w benefits
ALVAREZ, EZEKIEL	Water	Water Production Foreman	\$35,360	14	Step 1	\$ 49,026	\$ 23.57	\$ 13,666	\$ 13,666	
STARR, ROCKY	Water	Water Maintenance Worker	\$29,120	4	Step 1	\$ 30,098	\$ 14.47	\$ 978	\$ 978	
RAMOS, CHRISTINA	Water	Administrative Assistant	\$27,040	4	Step 1	\$ 30,098	\$ 14.47	\$ 3,058	\$ 3,058	
TOTAL WATER COST										\$ 24,959
TOTAL ALL FUNDS										\$ 562,028



City of Truth or Consequences

AGENDA REQUEST FORM

MEETING DATE: June 22, 2022

Agenda Item #: I.3

SUBJECT: Approval of Purchase Requisitions Over \$20,000
DEPARTMENT: Finance
DATE SUBMITTED: June 14, 2022
SUBMITTED BY: Carol Kirkpatrick, Finance Director
WHO WILL PRESENT THE ITEM: Carol Kirkpatrick, Finance Director

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). Beginning of the year purchase orders for 7/1/2022 of \$20,000 or more.

Recommendation:

Approval Recommended by Finance Director

Attachments:

- Listing of Purchase Requisitions \$20,000 or More
- Purchase Requisitions, Procurement Documentation

Fiscal Impact (Finance): Yes

As Per Total on Listing of Purchase Requisitions \$7,460,358.02

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. [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 6-22-22

PURCHASE REQUISITION APPROVAL

2022-23 Fiscal Year

Issue Date 7-1-22

COMMISSION MEETING 06-22-22

Number	Vendor Name	Description	Requested By	Department	Total Amount	Procurement Type
87648	CAPITAL ONE PUBLIC FUNDING	CAPITAL ONE LOAN PMT FY 22/23 OPEN PO	Kerin Salcedo	Finance	\$ 116,788.00	NA
87649	BANK OF THE SOUTHWEST	INTEREST PAYMENTS MSD WATER SYSTEM IMP	Kerin Salcedo	Finance	\$ 55,200.00	NA
87650	NEW MEXICO FINANCE AUTHORITY	NMFA LOAN PAYMENTS FY22/23 OPEN PO	Kerin Salcedo	Finance	\$ 328,750.00	NA
87653	T OR C FIRE DEPARTMENT	FIRE DEPARTMENT ALLOTMENT FY 22/23	Kerin Salcedo	Fire Dept	\$ 21,500.00	NA
87655	SIERRA VISTA HOSPITAL / SIERRA VISTA COMMUNITY HEALTH CENTER	GRT DISTRIBUTION FY 22/23 OPEN PO	Kerin Salcedo	Finance	\$ 277,000.00	NA
87658	GENERAL FUND	STATE FIRE ADMIN FEE DUE TO GENERAL FUND	Kerin Salcedo	Fire Dept	\$ 21,500.00	NA
87659	GENERAL FUND	LODGER'S TAX ADMIN FEE FY 22/23 OPEN PO	Kerin Salcedo	Finance	\$ 26,683.00	NA
87661	VILLAGE OF WILLIAMSBURG	FRANCHISE TAX FY 22/23 OPEN PO	Kerin Salcedo	Finance	\$ 30,300.00	NA
87662	VILLAGE OF WILLIAMSBURG	SEWER RECEIPTS FY 22/23 OPEN PO	Kerin Salcedo	Finance	\$ 50,000.00	NA
87720	TDS	TDS FIBER INTERNET OPEN PO FY 2022/23	MINDEE HOLGUIN	Finance	\$ 99,372.00	NA
87721	CITY UTILITIES	CITY LANDFILL BILLS/OPEN PO FY 22/23	MINDEE HOLGUIN	Finance	\$ 301,000.00	NA
87722	CITY UTILITIES	CITY UTILITIES CYCLE C&D/OPEN PO FY 22/23	MINDEE HOLGUIN	Finance	\$ 319,200.00	NA
87724	NEW MEXICO GAS COMPANY, INC.	GAS BILLS OPEN PO FY 22/23	MINDEE HOLGUIN	Finance	\$ 58,600.00	NA
87725	CITY UTILITIES	CITY UTILITIES CYCLE A&B/OPEN PO FY 22/23	MINDEE HOLGUIN	Finance	\$ 94,629.00	NA
87726	VERIZON WIRELESS	PHONE BILLS/OPEN PO FY 22/23	MINDEE HOLGUIN	Finance	\$ 62,010.00	NA
87728	COPPLER LAW FIRM, P.C.	OPEN PO FOR LEGAL SERVICES 2022-2023	TAMMY GARDNER	City Manager	\$ 59,675.00	Contract
87730	HALL ENVIRONMENTAL ANALYSIS LAB, INC	WEEKLY TESTING	CHRISTINA RAMOS	Waste Water	\$ 30,900.00	Quotes
87732	NM SELF INSURERS FUND	WORKER'S COMPENSATION PREMIUM 2022-23	CAROL KIRKPATRICK	Finance	\$ 89,371.00	NA
87735	NM SELF INSURERS FUND	ANNUAL GENERAL LIAB INSURANCE PREM 22-23	CAROL KIRKPATRICK	Finance	\$ 125,238.00	NA
87736	SIERRA ELECTRIC CO-OP, INC.	POWER SERVICES- OPEN PO FY-22/23	Priscilla Fuentes	Electric Dept	\$ 2,652,000.00	Contract
87737	NM SELF INSURERS FUND	ANNUAL VEHICLE LIAB INSURANCE PREM 22-23	CAROL KIRKPATRICK	Finance	\$ 62,979.00	NA
87739	WESTERN AREA POWER ADMIN	BASE DEMAND & BASE ENERGY CHARGES OPEN PO FY-22/23	Priscilla Fuentes	Electric Dept	\$ 580,000.00	Contract
87741	PATTILLO BROWN & HILL, LLP	ANNUAL AUDIT FY 2021-22	CAROL KIRKPATRICK	Finance	\$ 52,860.00	Contract
87743	SSA SOLAR OF NM 4, LLC	POWER SERVICES- OPEN PO FY 22/23	Priscilla Fuentes	Electric Dept	\$ 330,000.00	Contract
87744	TRI-STATE GENERATION & TRANSMISSION ASSN., INC.	POWER SERVICES- OPEN PO FY-22/23	Priscilla Fuentes	Electric Dept	\$ 445,000.00	Contract
87745	POSTMASTER	POSTAGE CITY MAIL FY 2022/2023	Sonya Renfro	Utility Office	\$ 45,000.00	NA
87746	TRIPLE H SOLAR, LLC	CONTRACT-PROFESSIONAL SERVICES OPEN PO FY-22/23	Priscilla Fuentes	Electric Dept	\$ 40,000.00	Contract
87748	B & H OIL CO.	RED DIESEL- OPEN PO FY 22/23	Benny Fuentes	Street Dept	\$ 40,000.00	NA
87752	PITNEY BOWES INC.	PITNEY BOWES UTILITY OFFICE FY 2022/2023	Sonya Renfro	Utility Office	\$ 22,000.00	Contract
87761	WEX BANK	WEX FUEL POLICE DEPT-FY JULY 1, 2022-23 OPEN PO	MARIBEL MARTINEZ	Police Dept	\$ 50,000.00	NA
87764	PARKHILL SMITH & COOPER	MONITORING/REPORTING OF LANDFILLS	Carmen Howell	Solid Waste	\$ 25,000.00	Contract
87768	TYLER TECHNOLOGIES, INC.	ANNUAL TYLER SUBSCRIPTION FEE 2022-23	CAROL KIRKPATRICK	Finance	\$ 62,803.02	Contract
87769	SCRDA	SCRDA DISPATCH SERVICES FOR THE CITY	Maribel MARTINEZ	Police Dept	\$ 196,000.00	Contract

87770	SIERRA COUNTY TREASURER	PRISONER CARE OPEN PO FY JULY 1, 2022-23	MARIBEL MARTINEZ	Police Dept	\$ 34,000.00	NA
87772	CITY OF LAS CRUCES	WASTE DISPOSAL FOR SCSWA	Carmen Howell	Solid Waste	\$ 480,000.00	Contract
87780	SIERRA JOINT OFFICE ON AGING	OPEN PO FOR SUBRECIPIENT GRANT ALLOCATION	Tammy Gardner	City Manager	\$ 35,000.00	Contract
87784	WEX BANK	SUPPLY VEHICLES & EQUIPMENT WITH FUEL	Carmen Howell	Solid Waste	\$ 70,000.00	NA
87796	MAINSTREET T OR C	OPEN PO FOR LODGERS TAX SERVICE CONTRACT	Tammy Gardner	City Manager	\$ 45,000.00	Contract
87805	SUNNY 505	OPEN PO FOR ACCOUNT AND GRANT MANAGEMENT	Tammy Gardner	City Manager	\$ 25,000.00	Contract
					\$ 7,460,358.02	

ATTEST:

Angela Torres, Clerk-Treasurer

Date

Amanda Forrister, Mayor

Date



REQUISITION

Requisition #: 87648

Date: 07/01/2022

Vendor #: 7789

ISSUED TO: CAPITAL ONE PUBLIC FUNDING
1307 WALT WHITMAN RD.
MELVILLE, NY 11747

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 CAPITAL ONE LOAN PMT PRINCIPAL		0.00	403-1203-90905	100,000.00
2	0 CAPITAL ONE LOAN PMT INTEREST		0.00	403-1203-90910	16,788.00

PO Description: CAPITAL ONE LOAN PMT FY 22/23 OPEN PO

Detailed Description:

CAPITAL ONE LOAN PMT FY 22/23 OPEN PO

Authorized By: _____

SUBTOTAL:	116,788.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	116,788.00



REQUISITION

Requisition #: 87649

Date: 07/01/2022

Vendor #: 2172

ISSUED TO: BANK OF THE SOUTHWEST
AT T. OR C.
P.O. BOX 872
T. OR C., NM 87901

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 INTEREST PAYMENTS MSD WATER SYS I		0.00 403-1203-90910	55,200.00

PO Description: INTEREST PAYMENTS MSD WATER SYSTEM IMP
Detailed Description:
INTERIM LOAN FOR MSD WATER SYSTEM IMPROVEMENTS

Authorized By: _____

SUBTOTAL:	55,200.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	55,200.00



REQUISITION

Requisition #: 87650

Date: 07/01/2022

Vendor #: 4840

ISSUED TO: NEW MEXICO FINANCE AUTHORITY
207 SHELBY ST.
SANTA FE, NM 87501

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 NMFA LOAN PYMT TORC 17 PRINCIPAL		0.00 403-1203-90905	12,847.00
2	0 NMFA LOAN PYMT TORC 17 INTEREST		0.00 403-1203-90910	292.00
3	0 NMFA LOAN PYMT TORC 18		0.00 403-1203-12918	8,287.00
4	0 NMFA LOAN PYMT TORC 19		0.00 403-1203-12919	91,185.00
5	0 NMFA LOAN PYMT TORC 24 PRINCIPAL		0.00 403-1203-90905	3,846.00
6	0 NMFA LOAN PYMT TORC 27 PRINCIPAL		0.00 403-1203-90905	3,867.00
7	0 NMFA LOAN PYMT PPRF-4967		0.00 403-1203-12967	85,809.00
8	0 NMFA LOAN PYMT TORC 22 PRINCIPAL		0.00 403-1203-90905	3,289.00
9	0 NMFA LOAN PYMT TORC 22 INTEREST		0.00 403-1203-90910	92.00
10	0 NMFA LOAN PYMT CIF-4927 PRINCIPAL		0.00 403-1203-90905	450.00
11	0 NMFA LOAN PYMT CIF-5192 PRINCIPAL		0.00 403-1203-90905	5,000.00
12	0 NMFA LOAN PYMT WPF-5089 PRINCIPAL		0.00 403-1203-90905	13,123.00
13	0 NMFA LOAN PYMT WPF-5089 INTEREST		0.00 403-1203-90910	85.00
14	0 NMFA LOAN PYMT PPRF-5652 PRINCIPAL		0.00 403-1203-90905	87,877.00
15	0 NMFA LOAN PYMT PPRF-5652 INTEREST		0.00 403-1203-90910	12,701.00

PO Description: NMFA LOAN PAYMENTS FY22/23 OPEN PO

Detailed Description:

NMFA LOAN PAYMENTS FY 22/23 OPEN PO

Authorized By: _____

SUBTOTAL:	328,750.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	328,750.00



REQUISITION

Requisition #: 87653

Date: 07/01/2022

Vendor #: 1896

ISSUED TO: T OR C FIRE DEPARTMENT

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 FIRE DEPARTMENT ALLOTMENT FY 22/23		0.00	101-1005-48599	21,500.00

PO Description: FIRE DEPARTMENT ALLOTMENT FY 22/23

Detailed Description:

Authorized By: _____

SUBTOTAL:	21,500.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	21,500.00



REQUISITION

Requisition #: 87655

Date: 07/01/2022

Vendor #: 0217

ISSUED TO: SIERRA VISTA HOSPITAL / SIERRA \\
800 E. 9TH
TRUTH OR CONSEQUENCES, NM 879

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 GRT DISTRIBUTION FY 22/23 OPEN PO		0.00	101-1017-48599	277,000.00

PO Description: GRT DISTRIBUTION FY 22/23 OPEN PO
Detailed Description:
 GRT DISTRIBUTION FY 22/23 OPEN PO

Authorized By: _____

SUBTOTAL:	277,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	277,000.00



REQUISITION

Requisition #: 87658

Date: 07/01/2022

Vendor #: 1009

ISSUED TO: GENERAL FUND

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 ADMINISTRATIVE FEE PAID TO CITY OF		0.00	209-1603-47595	21,500.00

PO Description: STATE FIRE ADMIN FEE DUE TO GENERAL FUND

Detailed Description:

STATE FIRE ADMIN FEE DUE TO GENERAL FUND FY22/23

Authorized By: _____

SUBTOTAL:	21,500.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	21,500.00



REQUISITION

Requisition #: 87659

Date: 07/01/2022

Vendor #: 1009

ISSUED TO: GENERAL FUND

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 LODGER'S TAX ADMIN FEE FY 22/23 OPE		0.00	214-2503-43999	26,683.00

PO Description: LODGER'S TAX ADMIN FEE FY 22/23 OPEN PO
Detailed Description:

Authorized By: _____

SUBTOTAL:	26,683.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	26,683.00



REQUISITION

Requisition #: 87661

Date: 07/01/2022

Vendor #: 0404

ISSUED TO: VILLAGE OF WILLIAMSBURG
PO BOX 150
WILLIAMSBURG, NM 87942

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 FRANCHISE TAX FY 22/23 OPEN PO		0.00 503-3702-45796	20,000.00
2	0 FRANCHISE TAX FY 22/23 OPEN PO		0.00 504-3803-45796	4,300.00
3	0 FRANCHISE TAX FY 22/23 OPEN PO		0.00 505-3904-45796	6,000.00

PO Description: FRANCHISE TAX FY 22/23 OPEN PO

Detailed Description:

FRANCHISE TAX FY 22/23 OPEN PO

Authorized By: _____

SUBTOTAL:	30,300.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	30,300.00



REQUISITION

Requisition #: 87662

Date: 07/01/2022

Vendor #: 0404

ISSUED TO: VILLAGE OF WILLIAMSBURG
PO BOX 150
WILLIAMSBURG, NM 87942

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 SEWER RECEIPTS FY 22/23 OPEN PO		0.00	506-4005-48798	50,000.00

PO Description: SEWER RECEIPTS FY 22/23 OPEN PO

Detailed Description:
SEWER RECEIPTS FY 22/23 OPEN PO

Authorized By: _____

SUBTOTAL:	50,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	50,000.00



REQUISITION

Requisition #: 87720

Date: 07/01/2022

Vendor #: 8194

ISSUED TO: TDS
DEPT 0012
PALATINE, IL 60055-0012

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 TDS FIBER INTERNET OPEN PO FY 22/23		0.00 101-1018-43780	56,100.00
2	0 TDS FIBER INTERNET OPEN PO FY 22/23		0.00 295-4803-43780	7,212.00
3	0 TDS FIBER INTERNET OPEN PO FY 22/23		0.00 503-3702-43780	7,212.00
4	0 TDS FIBER INTERNET OPEN PO FY 22/23		0.00 504-3803-43780	7,212.00
5	0 TDS FIBER INTERNET OPEN PO FY 22/23		0.00 505-3904-43780	7,212.00
6	0 TDS FIBER INTERNET OPEN PO FY 22/23		0.00 506-4005-43780	7,212.00
7	0 TDS FIBER INTERNET OPEN PO FY 22/23		0.00 508-4303-43775	7,212.00

PO Description: TDS FIBER INTERNET OPEN PO FY 2022/23

Detailed Description:

TDS FIBER INTERNET OPEN PO FY 22/23
NM STATE CONTRACT 70-000-16-00013AH

Authorized By: _____

SUBTOTAL:	99,372.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	99,372.00



REQUISITION

Requisition #: 87721

Date: 07/01/2022

Vendor #: 0053

ISSUED TO: CITY UTILITIES
505 SIMS ST.
T OR C, NM 87901

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 CITY LANDFILL BILLS/OPEN PO FY 22/23		0.00 101-1018-43780	3,500.00
2	0 CITY LANDFILL BILLS/OPEN PO FY 22/23		0.00 502-3601-43780	500.00
3	0 CITY LANDFILL BILLS/OPEN PO FY 22/23		0.00 503-3702-43780	500.00
4	0 CITY LANDFILL BILLS/OPEN PO FY 22/23		0.00 504-3803-43780	500.00
5	0 CITY LANDFILL BILLS/OPEN PO FY 22/23		0.00 505-3904-45601	288,000.00
6	0 CITY LANDFILL BILLS/OPEN PO FY 22/23		0.00 506-4005-43780	7,000.00
7	0 CITY LANDFILL BILLS/OPEN PO FY 22/23		0.00 508-4303-43780	500.00
8	0 CITY LANDFILL BILLS/OPEN PO FY 22/23		0.00 509-4403-43780	500.00

PO Description: CITY LANDFILL BILLS/OPEN PO FY 22/23

Detailed Description:

CITY LANDFILL BILLS/OPEN PO FY 22/23

Authorized By: _____

SUBTOTAL:	301,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	301,000.00



REQUISITION

Requisition #: 87722

Date: 07/01/2022

Vendor #: 0053

ISSUED TO: CITY UTILITIES
505 SIMS ST.
T OR C, NM 87901

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 CITY UTILITIES CYCLE C&D/OPEN PO FY		0.00	101-1018-43780	85,000.00
2	0 CITY UTILITIES CYCLE C&D/OPEN PO FY		0.00	209-1603-43780	2,000.00
3	0 CITY UTILITIES CYCLE C&D/OPEN PO FY		0.00	295-4803-43780	18,000.00
4	0 CITY UTILITIES CYCLE C&D/OPEN PO FY		0.00	502-3601-43780	4,200.00
5	0 CITY UTILITIES CYCLE C&D/OPEN PO FY		0.00	503-3702-43780	59,500.00
6	0 CITY UTILITIES CYCLE C&D/OPEN PO FY		0.00	504-3803-43780	120,000.00
7	0 CITY UTILITIES CYCLE C&D/OPEN PO FY		0.00	505-3904-43780	7,500.00
8	0 CITY UTILITIES CYCLE C&D/OPEN PO FY		0.00	506-4005-43780	23,000.00

PO Description: CITY UTILITIES CYCLE C&D/OPEN PO FY 22/23

Detailed Description:

CITY UTILITIES CYCLE C&D/OPEN PO FY 22/23

Authorized By: _____

SUBTOTAL:	319,200.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	319,200.00



REQUISITION

Requisition #: 87724

Date: 07/01/2022

Vendor #: 6094

ISSUED TO: NEW MEXICO GAS COMPANY, INC.
P.O. BOX 27885
ALBUQUERQUE, NM 87125-7885

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 GAS BILLS/NM WORKFORCE CONNECTIC		0.00 101-1018-43780	1,200.00
2	0 GAS BILLS/ANIMAL SHELTER FY 22-23		0.00 101-1018-43780	2,900.00
3	0 GAS BILLS/FIRE SOUTH STATION FY 22-		0.00 209-1603-43780	3,700.00
4	0 GAS BILLS/FIRE STATION FY 22-23		0.00 209-1603-43780	3,700.00
5	0 GAS BILLS/SWIMMING POOL CY 22-23		0.00 295-4803-43780	24,500.00
6	0 GAS BILLS/GENERAL FY 22-23		0.00 101-1018-43780	18,200.00
7	0 GAS BILLS/ELECTRIC FY 22-23		0.00 503-3702-43780	1,000.00
8	0 GAS BILLS/WATER FY 22-23		0.00 504-3803-43780	1,400.00
9	0 GAS BILLS/RECYCLE CENTER FY 22-23		0.00 505-3904-43780	1,000.00
10	0 GAS BILLS/VACUUM STATION FY 22-23		0.00 505-3904-43780	1,000.00

PO Description: GAS BILLS OPEN PO FY 22/23

Detailed Description:

GAS BILLS OPEN PO FY 22/23

Authorized By: _____

SUBTOTAL:	58,600.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	58,600.00



REQUISITION

Requisition #: 87725

Date: 07/01/2022

Vendor #: 0053

ISSUED TO: CITY UTILITIES
505 SIMS ST.
T OR C, NM 87901

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 CITY UTILITIES CYCLE A&B/OPEN PO FY		0.00	101-1018-43780	40,000.00
2	0 CITY UTILITIES CYCLE A&B/OPEN PO FY		0.00	209-1603-43780	4,000.00
3	0 CITY UTILITIES CYCLE A&B/OPEN PO FY		0.00	501-1803-43780	5,525.00
4	0 CITY UTILITIES CYCLE A&B/OPEN PO FY		0.00	503-3702-43780	12,600.00
5	0 CITY UTILITIES CYCLE A&B/OPEN PO FY		0.00	504-3803-43780	10,200.00
6	0 CITY UTILITIES CYCLE A&B/OPEN PO FY		0.00	506-4005-43780	6,500.00
7	0 CITY UTILITIES CYCLE A&B/OPEN PO FY		0.00	508-4303-43780	15,804.00

PO Description: CITY UTILITIES CYCLE A&B/OPEN PO FY 22/23

Detailed Description:

CITY UTILITIES CYCLE A&B/OPEN PO FY 22/23

Authorized By: _____

SUBTOTAL:	94,629.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	94,629.00



REQUISITION

Requisition #: 87726

Date: 07/01/2022

Vendor #: 3910

ISSUED TO: VERIZON WIRELESS
P.O. BOX 660108
DALLAS, TX 75266-0108

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 PHONE BILLS/OPEN PO FY 22/23		0.00 101-1001-43775	3,700.00
2	0 PHONE BILLS/OPEN PO FY 22/23		0.00 101-1002-43775	2,260.00
3	0 PHONE BILLS/OPEN PO FY 22/23		0.00 101-1003-43775	3,400.00
4	0 PHONE BILLS/OPEN PO FY 22/23		0.00 101-1004-43775	3,600.00
5	0 PHONE BILLS/OPEN PO FY 22/23		0.00 101-1006-43775	1,900.00
6	0 PHONE BILLS/OPEN PO FY 22/23		0.00 101-1007-43775	15,100.00
7	0 PHONE BILLS/OPEN PO FY 22/23		0.00 101-1008-43775	3,650.00
8	0 PHONE BILLS/OPEN PO FY 22/23		0.00 101-1009-43775	1,860.00
9	0 PHONE BILLS/OPEN PO FY 22/23		0.00 101-1010-43775	1,300.00
10	0 PHONE BILLS/OPEN PO FY 22/23		0.00 101-1011-43775	1,300.00
11	0 PHONE BILLS/OPEN PO FY 22/23		0.00 101-1012-43775	1,050.00
12	0 PHONE BILLS/OPEN PO FY 22/23		0.00 101-1014-43775	2,000.00
13	0 PHONE BILLS/OPEN PO FY 22/23		0.00 209-1603-43775	2,300.00
14	0 PHONE BILLS/OPEN PO FY 22/23		0.00 294-5003-43775	2,300.00
15	0 PHONE BILLS/OPEN PO FY 22/23		0.00 295-4803-43775	350.00
16	0 PHONE BILLS/OPEN PO FY 22/23		0.00 502-3601-43775	2,400.00
17	0 PHONE BILLS/OPEN PO FY 22/23		0.00 503-3702-43775	3,500.00
18	0 PHONE BILLS/OPEN PO FY 22/23		0.00 504-3803-43775	950.00
19	0 PHONE BILLS/OPEN PO FY 22/23		0.00 505-3904-43775	2,200.00
20	0 PHONE BILLS/OPEN PO FY 22/23		0.00 506-4005-43775	4,340.00
21	0 PHONE BILLS/OPEN PO FY 22/23		0.00 508-4303-43775	1,100.00
22	0 PHONE BILLS/OPEN PO FY 22/23		0.00 509-4403-43775	1,450.00

PO Description: PHONE BILLS/OPEN PO FY 22/23

Detailed Description:

PHONE BILLS/OPEN PO FY 22/23

Authorized By: _____

SUBTOTAL:	62,010.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	62,010.00



REQUISITION

Requisition #: 87728

Date: 07/01/2022

Vendor #: 7633

ISSUED TO: COPPLER LAW FIRM, P.C.
645 DON GASPAR AVENUE
SANTA FE, NM 87505

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 OPEN PO FOR LEGAL SERVICES 2022-20		0.00	101-1000-43597	59,675.00

PO Description: OPEN PO FOR LEGAL SERVICES 2022-2023

Detailed Description:

PER ATTACHED CONTRACT LEGAS SERVICES AS NEEDED
07/01/2022 THROUGH 06/30/2023

Authorized By: _____

SUBTOTAL:	55,000.00
TOTAL TAX:	4,675.00
SHIPPING:	0.00
TOTAL	59,675.00

**PROFESSIONAL SERVICES
AGREEMENT**

THIS AGREEMENT is made and entered into this 8th day of June, 2022 by and between the City of Truth or Consequences ("City") and COPPLER LAW FIRM, P.C. ("Contractor"), whose address is 645 Don Gaspar Avenue, Santa Fe, New Mexico 87505.

WHEREAS, the City has determined that it is in its best interest to contract for Legal Services; and

WHEREAS, Contractor has been determined qualified and locally available to perform Legal Services as described herein and has previously provided such services to the City; and

WHEREAS, Contractor is willing to provide legal services to the City as provided herein.

NOW, THEREFORE, in consideration of the premises and mutual obligations herein, the parties hereto do mutually agree as follows:

Scope of Services: Contractor will provide Legal Services as needed.

Time of Performance: The term of this Agreement will commence on July 1, 2022 and will continue through June 30, 2023, unless earlier terminated as provided herein and contingent on the availability of funds. The City and the Contractor each reserve the right to terminate this Agreement in writing for no cause by giving thirty (30) days' written notice to the other party.

Compensation and Method of Payment: For performing the services specified in the Scope of Services, the City agrees to pay the Contractor:

\$200.00 for each hour of Legal Services provided to the City of Truth or Consequences. In any event, compensation or reimbursement of any items listed within this paragraph will not exceed a total compensation of \$55,000.00 plus applicable gross receipts tax for the Time of Performance identified within this Agreement.

Contractor is responsible for submitting itemized invoices for work performed under this Agreement and for reimbursable expenses incurred on behalf of the City to the City Manager or to the City's Accounts Payable Department, as directed by the City Manager. Payment shall be net 30 days from receipt of invoice to the City's Accounts Payable Department.

Independent Contractor: Neither the Contractor or its employees are considered to be employees of the City of Truth or Consequences for any purpose whatsoever. The Contractor is considered an independent contractor at all times in the performance of the services described in the Scope of Services. The Contractor further understands that Contractor and its employees are not entitled to any benefits from the City under the provisions of the Worker's Compensation Act of

the State of New Mexico, or to any of the benefits granted to employees of the City as described in its Employee Personnel Manual.

Taxes: Contractor acknowledges that Contractor is responsible for the payment of all income taxes, gross receipts taxes, and other applicable taxes for any compensation received from the City.

Discrimination Prohibited: In performing the services required hereunder, the Contractor shall not discriminate against any person on the basis of race, color, religion, sex, national origin or ancestry, age, physical handicap or disability.

ADA Requirement: In performing the Services required hereunder, the Contractor agrees to meet all the requirements of the regulations, (the "ADA"), which are imposed directly on the Contractor or which would be imposed on the City as a public entity. The Contractor agrees to be responsible for knowing all applicable rules and requirements of the ADA and to defend, indemnify and hold harmless the City, its officials, agents and employees from and against any claims, actions, suits or proceedings of any kind brought against the Contractor as a result of any act or omissions of the Contractor or its agents in violation.

Reports and Information: At such times and in such forms as the City may require, there shall be furnished to the City such statements, records, reports, data and information, as the City may request pertaining to matters covered in this Agreement. (additional requirements may be added)

Establishment and Maintenance of Records: Records shall be maintained by the Contractor in accordance with applicable law and requirements prescribed by the City with respect to all matters covered by this Agreement. Except as otherwise authorized by City, such records shall be maintained for a period of three years after receipt of final payment under this Agreement. Copies and originals of pertinent documents shall be provided the City as directed by the City Manager.

Publication, Reproduction and Use of Materials: No material(s) produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country. The City shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared under this Agreement. The City and the Contractor acknowledge that the above is not meant to affect the attorney/client privilege unless waived by the City Commission.

Construction and Severability: If any part of this Agreement is held to be invalid or unenforceable, such holding will not affect the validity or enforcement of any other part of this Agreement so long as the remainder of the Agreement is reasonably capable of completion.

Enforcement: In case of a dispute, the Contractor and the City agree to divide all cost and expenses including reasonable attorney's fees incurred by the prevailing party in exercising any of its rights or remedies in connection with the enforcement of this Agreement.

Workers' Compensation: The Contractor agrees to comply with state laws and rules applicable to workers' compensation benefits for its employees. If the Contractor fails to comply with the Workers' Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the City.

Other Insurance: Contractor shall maintain the types and amounts of insurance required by the New Mexico State Tort Claims Act for the term of this Agreement.

Safety: Contractor shall abide by the policies, rules and guidelines required by the City of Truth or Consequences employees when on City property for the purposes of this Agreement.

Confidentiality: Contractor shall be bound by the confidentiality requirements of §7-1-8 NMSA, 1978. Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without prior written approval by the City Manager of the Governing Body of the City of Truth or Consequences.

Conflict of Interest: The Contractor warrants that Contractor presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required by this Agreement. The Contractor shall comply with any applicable provisions of the New Mexico Governmental Conduct Act and the New Mexico Financial Disclosures Act. Contractor also agrees that they shall not represent any person, company or otherwise that would create a conflict of interest for the term of this Agreement.

Assignment: Contractor's obligation under this Agreement may not be assigned or transferred to any other person, firm or corporation without the written consent of the City.

Amendment: This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.

Entire Agreement: This Agreement shall be governed and construed and enforced in accordance with the laws of the State of New Mexico and the ordinances of the City of Truth or Consequences.

IN WITNESS WHEREOF, the Parties through their authorized representative have entered into this Agreement as of the date first written above.

CITY OF TRUTH OR CONSEQUENCES

COPPLER LAW FIRM, P.C.

By: 
Bruce Swingle
City Manager

By: 
Frank Coppler
Senior Partner



REQUISITION

Requisition #: 87732

Date: 07/01/2022

Vendor #: 0538

ISSUED TO: NM SELF INSURERS FUND
P.O. BOX 846
SANTA FE, NM 87504

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 WORKER'S COMPENSATON PREMIUM 22-		0.00	101-1001-41785	230.00
2	0 WORKER'S COMPENSATON PREMIUM 22-		0.00	101-1002-41785	270.00
3	0 WORKER'S COMPENSATON PREMIUM 22-		0.00	101-1003-41785	1,801.00
4	0 WORKER'S COMPENSATON PREMIUM 22-		0.00	101-1004-41785	485.00
5	0 WORKER'S COMPENSATON PREMIUM 22-		0.00	101-1008-41785	3,593.00
6	0 WORKER'S COMPENSATON PREMIUM 22-		0.00	101-1007-41785	15,000.00
7	0 WORKER'S COMPENSATON PREMIUM 22-		0.00	101-1006-41785	2,130.00
8	0 WORKER'S COMPENSATON PREMIUM 22-		0.00	101-1009-41785	2,630.00
9	0 WORKER'S COMPENSATON PREMIUM 22-		0.00	101-1010-41785	100.00
10	0 WORKER'S COMPENSATON PREMIUM 22-		0.00	101-1011-41785	11,310.00
11	0 WORKER'S COMPENSATON PREMIUM 22-		0.00	101-1012-41785	1,235.00
12	0 WORKER'S COMPENSATION PREMIUM 22		0.00	101-1013-41785	116.00
13	0 WORKER'S COMPENSATON PREMIUM 22-		0.00	101-1014-41785	6,333.00
14	0 WORKER'S COMPENSATON PREMIUM 22-		0.00	101-1016-41785	400.00
15	0 WORKER'S COMPENSATON PREMIUM 22-		0.00	295-4803-41785	2,636.00
16	0 WORKER'S COMPENSATON PREMIUM 22-		0.00	502-3601-41785	415.00
17	0 WORKER'S COMPENSATON PREMIUM 22-		0.00	503-3702-41785	9,112.00
18	0 WORKER'S COMPENSATON PREMIUM 22-		0.00	504-3803-41785	5,666.00
19	0 WORKER'S COMPENSATON PREMIUM 22-		0.00	505-3904-41785	12,801.00
20	0 WORKER'S COMPENSATON PREMIUM 22-		0.00	506-4005-41785	9,189.00
21	0 WORKER'S COMPENSATON PREMIUM 22-		0.00	508-4303-41785	2,484.00
22	0 WORKER'S COMPENSATON PREMIUM 22-		0.00	509-4403-41785	1,435.00

PO Description: WORKER'S COMPENSATON PREMIUM 2022-23

Detailed Description:

WORKER'S COMPENSATON PREMIUM 22-23

SUBTOTAL:	89,371.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	89,371.00

Authorized By: _____



REQUISITION

Requisition #: 87735

Date: 07/01/2022

Vendor #: 0538

ISSUED TO: NM SELF INSURERS FUND
P.O. BOX 846
SANTA FE, NM 87504

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 ANNUAL GENERAL LIAB INSURANCE PRE		0.00	101-1018-46732	5,550.00
2	0 ANNUAL GENERAL LIAB INSURANCE PRE		0.00	101-1007-46732	91,824.00
3	0 ANNUAL GENERAL LIAB INSURANCE PRE		0.00	216-4503-46732	632.00
4	0 ANNUAL GENERAL LIAB INSURANCE PRE		0.00	502-3601-46732	524.00
5	0 ANNUAL GENERAL LIAB INSURANCE PRE		0.00	503-3702-46732	6,390.00
6	0 ANNUAL GENERAL LIAB INSURANCE PRE		0.00	504-3803-46732	6,390.00
7	0 ANNUAL GENERAL LIAB INSURANCE PRE		0.00	505-3904-46732	6,390.00
8	0 ANNUAL GENERAL LIAB INSURANCE PRE		0.00	506-4005-46732	6,390.00
9	0 ANNUAL GENERAL LIAB INSURANCE PRE		0.00	509-4403-46732	1,148.00

PO Description: ANNUAL GENERAL LIAB INSURANCE PREM 22-23

Detailed Description:

Authorized By: _____

SUBTOTAL:	125,238.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	125,238.00



REQUISITION

Requisition #: 87730

Date: 07/01/2022

Vendor #: 7752

ISSUED TO: HALL ENVIRONMENTAL ANALYSIS LA
4901 HAWKINS NE
ALBUQUERQUE, NM 87109-4337

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 EPA METHOD 625 SVOCs		0.00	506-4005-48598	11,700.00
2	0 EPA MWTOD 624 VOCS		0.00	506-4005-48598	5,200.00
3	0 SM5210B BOD		0.00	506-4005-48598	6,240.00
4	0 EPA 200.8 METALS/200.7 METALS		0.00	506-4005-48598	5,460.00
5	0 TAX ON LABOR 7.875%		0.00	506-4005-48598	2,300.00

PO Description: WEEKLY TESTING

Detailed Description:

WEEKLY TESTING

Authorized By: _____

SUBTOTAL:	30,900.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	30,900.00



Hall Environmental Analysis Laboratory
 4901 Hawkins NE
 Albuquerque, NM 87109
 TEL: 505-345-3975 FAX: 505-345-4107
 Website: www.hallenvironmental.com

QUOTATION

Quote#: 2521
 Date: 6/8/2022

Company: City of T or C
 Contact: Jesse Cole
 Address: 505 Sims Street
 T or C, NM 87901
 Phone: (575) 740-2277
 Fax:

Project: Weekly Testing
 TAT: 12 working days
 QC Level: LEVEL II
 Project Manager: Andy Freeman
 Sales Rep: Andy Freeman
 Quote Expires: 12/5/2022

Item Description	Test	Matrix	Remarks	Qty	Unit Price	Total
EPA Method 625 - SVOCs	E625	Aqueous	Hexachlorobenzene only	52	225.00	11,700.00
EPA Method 624 - VOCs	E624	Aqueous	Acrylonitrile only	52	100.00	5,200.00
SM5210B: BOD	M5210 B	Aqueous		104	60.00	6,240.00
EPA 200.8: Metals	E200.8	Aqueous	Cd only be either method 200.7 or 200.8	156	35.00	5,460.00

Sub Total: \$28,600.00
 Misc: \$0.00
 Surcharge: 0%
TOTAL: \$28,600.00

Comments: Hall Environmental will pay for shipping the samples to the lab.

Sincerely,

Andy Freeman
 Laboratory Manager
 Phone: 505-345-3975
 Email: andy@hallenvironmental.com

Handwritten notes: \$28,900, 2, 5200

Terms and Conditions:

Hall Environmental Analysis Laboratory (HEAL) will provide all sampling containers, coolers, chains of custody and labels. A standard data deliverables package and QC package will be provided with this report, including lab spikes and lab spike duplicates. NM State tax has not been included in this quotation. Thank you, for the opportunity to bid on this project. Please feel free to call with any questions (505) 345-3975. Invoices can be paid via Visa, Master Card, American Express, Company Check or Cash.

Ramos, Christina

From: Shirley Garcia <shirley@bsnsantafe.com>
Sent: Wednesday, June 15, 2022 10:27 AM
To: Ramos, Christina
Subject: Quote

Hi Christina,

We do not perform any of the tests you are asking about. We would only outsource them to another lab.

Sorry we cannot assist you at this time. Thank you for your inquiry.

--
Shirley Garcia
28 Bisbee Court Suite B10
Santa Fe NM 87508
505-473-7973

Analytical Services Quotation

WW PERMIT WEEKLY TESTING 2022
 TRUTH OR CONSEQUENCES, CITY OF
 JESSE COLE

Bid Date: 06/16/2022
 Bid Expires: 06/16/2023
 Prices Expire: 06/16/2023

Matrix	Parameters	Method	#	TAT (days)	Unit Price	Extended Price
Wastewater	Biochemical Oxygen Demand	SM 5210B	104	10	\$60.00	\$6,240.00
Wastewater	Cadmium 200.8	200.8	156	10	\$22.50	\$3,510.00
Wastewater	Volatile 624 (Acrylonitrile) BNA 625	EPA 624	52	10	\$72.00	\$3,744.00
Wastewater	(Hexachlorobenzene)	EPA 625	52	10	\$135.00	\$7,020.00
Water	Shipping (monthly)	FedEx Ground	12	10	\$72.00	\$864.00
Water	Metals Digestion	200.2/200.7/200.8/3	156	10	\$22.50	\$3,510.00

Subtotal w/ 10% Discount **\$24,888.00**
 Tax \$1,695.50
 Total **\$26,583.50**

Client is responsible for the cost of shipping cooler/samples back to Cardinal Labs.

 Celey D. Keene
 Lab Director/Quality Manager
 Cardinal Laboratories



REQUISITION

Requisition #: 87736

Date: 07/01/2022

Vendor #: 0204

ISSUED TO: SIERRA ELECTRIC CO-OP, INC.
P.O. BOX 290
ELEPHANT BUTTE, NM 87935

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 POWER SERVICES- OPEN PO FY-22/23		0.00 503-3702-50795	2,645,000.00
2	0 MIMS CITY LIGHTS- OPEN PO FY-22/23		0.00 503-3702-43780	7,000.00

PO Description: POWER SERVICES- OPEN PO FY-22/23

Detailed Description:

POWER SERVICES- OPEN PO FY-21/22 JULY 1, 2022 TO JUNE 30, 2023
SEE ATTACHED CONTRACT
10-20-2006 - 12-31-2024

Authorized By: _____

SUBTOTAL:	2,652,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	2,652,000.00

ELECTRIC SERVICE AGREEMENT
B E T W E E N
SIERRA ELECTRIC COOPERATIVE, INC.
A N D
CITY OF TRUTH OR CONSEQUENCES

THIS AGREEMENT ("Agreement"), dated as of the 20th day of October, 2006, is entered into by and between SIERRA ELECTRIC COOPERATIVE, INC., ("Sierra"), a cooperative corporation organized and existing under the New Mexico Rural Electric Cooperative Act, and the CITY OF TRUTH OR CONSEQUENCES, New Mexico ("City"), a municipal corporation organized and existing under the laws of the State of New Mexico. Sierra and the City are sometimes hereinafter referred to individually as a "Party" and collectively as the "Parties."

WITNESSETH:

0.1 WHEREAS, Sierra is a public utility subject to the general supervision and jurisdiction of the New Mexico Public Regulatory Commission ("NMPRC") which regulates rates, service and other matters and requires or authorizes certain contractual provisions.

0.2 WHEREAS, Sierra is also subject to requirements of the Rural Utilities Service ("RUS") and other entities ("Supplemental Lender").

0.3 WHEREAS, Sierra is a member of Tri-State Electric Generation and Transmission Association, Inc. ("Tri-State") from which Sierra receives certain transmission and other services and its requirements for electric power and energy, and Tri-State must furnish, operate and maintain the transmission and generation facilities to commit for power and energy resources in order for Sierra to serve the City's requirements and has conditioned its service to Sierra upon certain terms, conditions and requirements.

0.4 WHEREAS, the City receives its primary electric service from the Western Area Power Administration ("WAPA") in accordance with Contract No.87-SLC-0018, as amended by Amendment No. 4 and has acquired the Point of Delivery through which facility it will continue to purchase power and

energy from WAPA.

0.5 WHEREAS, the Parties have had numerous discussions regarding the continued provision of electric service by Sierra to the City, in addition to adding flexibility to the City's purchases from WAPA. Those discussions have led to the negotiation and execution of this Agreement.

NOW, THEREFORE, in consideration of the mutual undertakings herein contained and for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties hereto covenant and agree as follows:

1 POINT OF DELIVERY

1.1 The Point of Delivery for the purpose of this Agreement shall be the 115 kV bus of the Hot Springs Substation owned by the City.

1.2 Sierra shall neither own nor be responsible for any equipment at the Point of Delivery. Delivery of power and energy to the Point of Delivery shall be made through transmission facilities owned by Tri-State.

2 SERVICE TO BE PROVIDED

2.1 The electric power and energy to be furnished hereunder shall be three-phase, alternating current, at a nominal frequency of sixty (60) hertz and will be delivered to the City at a nominal delivery voltage of 115 kV.

2.2 Sierra, under the terms and conditions stipulated herein, shall furnish and sell to the City and the City shall receive and purchase from Sierra at the Point of Delivery electric power and energy in amounts sufficient, when added to the power and energy Tri-State has scheduled on behalf of the City from the WAPA, to meet the total requirements of the City's customers.

2.3 The capacity and energy which the City purchases from WAPA, scheduled on behalf of the City by Tri-State, is hereby defined for the purposes of this Agreement as follows:

2.3.1 "Monthly Capacity": As defined in 4.7 of Amendment No. 4 of Contract No. 87 SLC 0018.

2.3.2 "Monthly Energy": As defined in 4.8 of Amendment No. 4 of Contract No. 87 SLC 0018.

2.3.3 "Surplus Energy": Energy delivered to the City from WAPA associated with additional hydro energy made available by WAPA from time to time based on projected reservoir levels, pursuant to Section 5.1.5 of Contract No. 87-SLC-0018, as amended.

2.4 The capacity and energy that will not be available to the City from WAPA is hereby defined as follows:

2.4.1 The City will not arrange for "PTC Capacity" or "PTC Energy".

2.4.2 The City will not arrange for "Annual Exchanges" pursuant to Section 7 of Contract No. 87-SLC-0018, as amended.

2.5 The Parties recognize that WAPA and the City have executed Amendment No. 4 to their Original Power Supply Contract No. 87-SLC-0018. Amendment, No. 4 provides the City with the option to request WAPA to purchase replacement capacity for lost hydroelectric capacity on the City's behalf (termed WAPA Replacement Power or "WRP" in Sections 6 and 7 of Amendment No. 4 amending Sections 4 and 5 of the Original Contract including Sections 4.13, 5.2, and 5.3) or choose to replace that capacity in some other manner (termed Customer Displacement Power or "CDP" in Sections 6 and 7 of Amendment No. 4 amending Sections 4 and 5 of the Original contract with replacement Sections 4.3, and 5.6 of the Original Contract). The City shall not select WAPA to provide

WRP but shall instead select Sierra as its CDP (Customer Displacement Power) supplier. Sierra, pursuant to its association with Tri-State, shall provide all reserves for the City's CDP supply, which reserves shall be provided as part of the service supplied to the City under this Agreement.

2.6 The City may, during the term of this Agreement, acquire, build, or contract to build renewable generation assets, specifically wind, solar or biomass assets. The renewable generation assets shall be owned and operated by the City and the renewable generation assets shall be directly connected to the City's 7.2/12.5 kV electrical system. In the event that the City acquires, builds or contracts to build renewable generation assets, the City shall have the right to operate the renewable generation assets to effectively serve itself only and reduce the net supplemental firm power and energy purchased from Sierra. The City shall furnish Sierra and Tri-State with monthly revenue class metering data for the City owned-operated renewable generation assets whenever operating the renewable generation assets within the term period of this Agreement. The City shall provide Sierra with a one-year written notice of City's intent to construct renewable generation assets. The City shall also provide to Sierra appropriate sizing and planning information of the renewable generations assets it plans to install on the City's electrical system.

3 EFFECTIVE DATE AND TERM

3.1 This Agreement, and any amendments hereto, shall become effective upon approvals pursuant to Section 14.2 and shall remain in force and effect for an initial term of ten (10) years beginning on the Date of Initial Service.

3.2 The Date of Initial Service under this Agreement shall be the commencement of the billing period immediately following approval of the Agreement pursuant to Section 14.2 but shall be no earlier than January 1, 2007.

3.3 Upon the Date of Initial Service, service provided under the Agreement for Electric Service between the Parties, dated November 12, 1985 as amended by the January 1, 1997 Amended and Restated Contract shall cease and that agreement shall terminate; provided, that all amounts due under that agreement prior to its termination shall be paid when due.

3.4 This Agreement may be terminated early by the City provided that all of the following provisions have been accomplished:

3.4.1 Notice: The minimum written notification must be one (1) year.

3.4.2 Tri-State: The City must terminate Amendment 3 to the Transmission Service Agreement with Tri-State concurrently with its termination of this Agreement.

3.4.3 Stranded Costs: The City agrees to pay Sierra for all stranded costs as defined in Section 3.5.

3.5 Stranded Costs: The City agrees to pay Sierra the following amounts for early termination:

3.5.1 Termination Fee: A payment equal to ten thousand dollars (\$10,000) multiplied by the number of months remaining from the date of the City's notice pursuant to Section 3.4.1 to the termination date determined in accordance with Section 3.1; provided, however, that the termination fee is capped at an amount equal to ten thousand dollars (\$10,000) multiplied by twelve (12) months for a maximum termination fee of one hundred twenty thousand dollars (\$120,000).

3.5.2 A payment reflecting the installed cost of any facilities that Sierra installed on behalf of the City at any time subsequent to the execution date of this Agreement; provided, however, that the City has agreed to the installation of such facilities.

3.6 During the one year period of time between the City's

notice of termination made pursuant to Section 3.4.1 and the actual termination of this Agreement, all terms and conditions of this Agreement shall remain in full force and effect; provided, however, that this Agreement shall also remain in full force and effect until all the payments made by the City to Sierra pursuant to this Section 3 have been made.

4 USE OF SERVICE

4.1 Insofar as practicable, at all times the City shall keep each of the phases balanced and shall so construct, operate and maintain equipment and facilities on its side of the Point of Delivery so as not to affect service and voltage to other customers of Sierra or Tri-State.

4.2 The electric service furnished hereunder shall be used by the City to serve its customers at retail and as a supplemental source of power and energy for resale.

5 RATES

5.1 All electric power and energy supplied and service rendered to the City by Sierra shall be delivered, rendered and paid for in accordance with Sierra's applicable Second Revised Rate No. 14 (Special Contract—Supplemental Power for the City of Truth or Consequences) the "Rate Schedule", when effective for service and as it may be modified by the NMPRC or the Parties, a draft of which is annexed hereto and incorporated by reference in this Agreement, subject to Section 14.1 and otherwise in accordance with this Section.

5.2 The Minimum Monthly Bill shall be (i) the energy charge for the billing period at the rates set forth in the annexed Rate Schedule, as the same may be revised by the Parties or pursuant to this

Section and Section 14.1, plus; (ii) \$0.002 (2 mills) per kilo-watt-hour for the total kilo-watt-hours supplied as supplemental power to the City of Truth of Consequences, plus and (iii) reimbursement of the supervision and inspection fee (which is presently 0.5%), payable by Sierra to the State of New Mexico with respect to revenues received by Sierra from the City hereunder, plus (iv) an amount equal to the sum of the taxes payable under the gross Receipts and Compensating Act and of all other taxes, fees, charges, (exclusive of ad valorem, state and federal income tax) payable by the Seller and levied or assessed by any governmental authority on the service, or on any other object or event incidental to the rendition of the service.

5.3 Sierra may, at appropriate intervals, revise its rate schedules to meet its obligations to RUS, and the Supplemental Lender, and its power supplier to attract capital, to provide for the repayment of capital credits to its members, to meet operating and capital costs, to establish reasonable reserves and working capital, to furnish facilities and to fulfill its duties and responsibilities as a cooperative and as a public utility. Nothing contained herein shall be construed as affecting in any way the right of either of the Parties to unilaterally make application to the NMPRC or other regulatory body having jurisdiction for a change in rates, charges, classification of service or in any rule, regulation or contract relating thereto, or to petition for an adjustment or investigation of existing rate schedules pursuant to applicable law. If a filing is made, Sierra shall continue to furnish, and the City shall pay for, electric service according to such revisions and from and after the effective date of such revised rates. If Sierra finds it necessary to revise its rate schedules, exclusive of changes required by Tri-State's Rate NM EX-7 (Sale for Re-Sale, Load Retention Rate), Rate NM A-33 (Wholesale Firm Power Service) or their successors, for reasons stated above, it agrees that any rate increases to the City will be limited to an amount equal to the increase from its power supplier and an adder by Sierra to cover the add-on margin required by Sierra to operate its business and to meet the requirements of RUS or and its supplemental lender, and to fulfill its duties as a Cooperative and a

public utility, subject to modifications by the NMPRC or other governmental regulatory agency, with jurisdiction, if any, in addition to the charges set forth in its Rate Schedule. Sierra agrees to notify the City, with fifteen (15) days advance notice of increases, if it becomes necessary to revise its Rate Schedule for reasons stated above. Furthermore, Sierra will provide to the City with written documentation explaining the need for revising its Rate Schedule.

5.4 Billings under this Agreement and the Rate Schedule, as it may be revised, may be increased by an amount equal to the sum of taxes payable under the Gross Receipt and Compensating Tax Act and of all other taxes, fees or charges (exclusive of ad valorem, state and federal income taxes) payable by the Seller and levied or assessed by any governmental authority on the public utility service rendered, or on the right or privilege of rendering the service, or on any object or event incidental to the rendition of the service.

5.5 The rate charged is an all-energy rate with Sierra subject to certain conditions and provisions of Option 1 of Tri-State's Rate NM EX-7, as it may be amended, superseded or replaced as filed by Tri-State with the NMPRC and which will apply to the City. Sierra will apply an adder of \$0.002 (2 mill) per kilo-watt-hour to that price charged Sierra by Tri-State for all power delivered to the City by Sierra. Components of the rate will be true-up each year during the term of the contract as specified in the filed rate NM-EX-7, as amended from time to time, with the true-up rate applied beginning March 1 of each contract year.

5.6 If the rate charged to Sierra by Tri-State under Option 1 of the filed Rate NM EX-7 is less than the average Tri-State member Class A Rate in any calendar year, the Tri-State Class A Rate (mills/kWhr) shall be applied to the City and be used for billing pursuant to the conditions of Tri-State's Rate NM EX-7 or its successors.

6 METER READINGS AND PAYMENT OF BILLS

6.1 The billing period for transactions hereunder shall be one calendar month unless the Parties shall specify a different period.

6.2 Bills for amounts payable for any billing period shall be rendered as soon as practicable after the end of that accounting period and shall be paid within ten (10) days from date of receipt of said bill. To such extent as may be approved by the Parties, bills for a current month may be rendered on the basis of estimated data with corrective adjustment being made with the bill rendered for the succeeding billing period.

6.3 Billings shall be submitted to the following address:

City Manager
City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

6.4 Payments shall be submitted to the following address:

General Manager
Sierra Electric Cooperative, Inc.
P. O. Box 290
Elephant Butte, New Mexico 87935

or hand delivered to the offices of Sierra located at

610 Highway 195
Elephant Butte, New Mexico 87935

6.5 Delinquent bills shall bear interest at the rate of two percent (2%) per month from the due date to the date of payment.

6.6 In case a portion of any bill is in dispute, the total amount

billed shall be paid when due, and upon determination of the amount to be refunded, if any, shall be paid to the City by Sierra together with interest accrued from the date of payment at the rate specified in NMSA 1978, § 62-13-13, which is at a rate equal to the federal five-year treasury note rate as reported on the first day of the calendar year by the federal reserve board of governors.

7 METER TESTING AND BILLING ADJUSTMENT

7.1 Meter reading and testing shall be in accordance with NMPRC Rule No. 560.

7.2 The metering equipment shall be operated and maintained by or on behalf of the City at the Point of Delivery.

7.3 The City shall make reasonable efforts to ensure that the metering equipment referenced in Section 7.2 above is compatible with metering equipment of Tri-State and capable of measuring service at the Point of Delivery at fifteen (15) minute and one-hour intervals is available and maintained in a normal manner. The City shall give access to personnel of Sierra and/or Tri-State for reading and testing the meter at reasonable times when requested in advance. The City shall bear all expense of meter testing as reasonably requested by Sierra or Tri-State.

8 DEFAULTS

8.1 If the City defaults in the performance of any of its obligations (other than the payment of money) under this Agreement and an immediate hazard is created or threatened to Tri-State or Sierra, or their respective personnel, facilities or service, Sierra may suspend service without notice until that default is remedied.

8.2 Should the City at any time be in default in the

payment of sums due or in the performance of any of its other obligations under this Agreement, and should such default continue for ten (10) days after written notice from Sierra specifying the default and demanding that the same be remedied, then Sierra may suspend service or, at its election, terminate this Agreement.

8.3 Neither the suspension of service nor termination of the Agreement shall relieve the City from the obligations to pay the Minimum Monthly Bill provided for in Section 5 during such suspension and for the period specified in Section 3. Liabilities and rights of action accrued shall survive termination.

9 CURTAILMENT OF SERVICE

9.1 In the event of breakdown, fuel shortage, labor shortage or other conditions which would reduce Sierra's or Tri-States' capability to provide the full needs of all their respective consumers, Sierra may request the City to restrict the use of electricity. When supplied such a request by Sierra, the City agrees to adopt and enforce a like curtailment and priority policy as concerns different classes of customers.

9.2 Sierra reserves the right to curtail service, without liability to the City, for necessary maintenance or to effectuate repairs to its and/or Tri-State' property, equipment or system or to make such other arrangements as may be required to enable Sierra and/or Tri-State to restore service. Sierra shall endeavor to give the City such notice as is reasonably practical in the circumstances. Should conditions require curtailment of service for extended periods, Sierra shall make every reasonable effort to maintain adequate service to those activities essential to the public welfare and service will be rendered pursuant to procedures and practices ordered or approved by the NMPRC or other public regulatory body having jurisdiction.

10. INTERRUPTION OF SERVICE

10.1 Interruption of service due to breakdown, weather or other conditions should be reported promptly by the City to Sierra and/or Tri-State. Sierra will endeavor to restore service within a reasonable time.

10.2 Subject to the other provisions of this Agreement, Sierra shall use reasonable diligence to provide a regular and uninterrupted supply of electric power and energy hereunder.

11. PARTICULAR OBLIGATIONS

11.1 The City agrees to install and maintain in a thoroughly safe and efficient manner, and in accordance with good electrical practice and all applicable regulations, all of its lines, wiring, apparatus, machinery and appliances connected to Sierra's or Tri-State' facilities. If at any time any part of the City's lines, wiring, apparatus, machinery or appliances shall be in a condition which interferes with Tri-State' wholesale service or Sierra's proper service to the City, or its other consumers, Sierra shall have the right, in addition to any other right of discontinuance hereunder, to discontinue service to the City, until such interfering parts shall be put back in safe condition, or shall have been replaced or disconnected. Sierra shall give the City reasonable written notice of its intention to discontinue service to the City on account of any such claimed interference and where practical suitable time for repair or replacement of such interfering part. Suspension shall not relieve the City of its other obligations hereunder. Sierra does not assume the duty of inspecting the City's lines, wiring, apparatus, machinery or appliances, or any part thereof, and shall not be responsible to the City therefore.

11.2 The City assumes all responsibility for the electric power and energy delivered hereunder after its delivery to the Point of Delivery, as well as for the wires, apparatus and appurtenances used in connection therewith on its side of the Point of Delivery, and shall be solely responsible for injury or

damage to the City's employees, agents or contractors in tampering with or attempting to repair and/or maintain any of Sierra's or Tri-State's lines, wiring, apparatus, meters or equipment. The City will protect and indemnify against all loss, cost, damage and expenses by reason of injury (including death) to persons or damages (including destruction) to property occasioned by such power or energy or such facilities on its side of the Point of Delivery, and by reason of such tampering or attempting to repair non-owned facilities, except to the extent that such injury or damage shall be shown to have been caused by the negligence of Sierra or Tri-State.

12 NON-LIABILITY

12.1 Neither Party shall be considered to be in default in respect to any obligation hereunder, other than the obligations of the City to make payments of amounts due Sierra under this Agreement, if failure of performance shall be due to uncontrollable forces, the term "uncontrollable forces" meaning any cause beyond the control of the Party affected, including, but not limited to, failure of facilities, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, labor disturbance, sabotage, inability to obtain rights-of-way, permits, licenses, and authorizations from any local, state or federal agency or person for any of the facilities or equipment required to provide service hereunder, and restraint by court or public authority, which by exercise of due foresight such Party could not reasonably have been expected to avoid, and which by the exercise of due diligence it shall be unable to overcome. Neither Party, however, shall be relieved of liability for failure of performance if such failure is due to removable or remediable causes which it fails to remove or remedy with reasonable dispatch. Nothing contained herein, however, shall be construed to require either Party to prevent or settle a strike against its will. The failure of Tri-State to render wholesale electric and transmission service shall be deemed to be within the meaning of 3 "uncontrollable forces" for the purpose of this Agreement.

12.2 Each Party shall, to the extent allowed by law, indemnify and save the other Party harmless from liability, loss, cost and expenses on account of injury to persons (including death) or damage or destruction of property occasioned by the willful misconduct or negligence of its officers, employees or its contractors, except to the extent that it be proven that injury or damage resulted from the willful misconduct or negligence of the other Party; provided, however, that:

12.2.1 Each Party shall be solely responsible for the claims or any payments to any employee or agent for injuries occurring in connection with their employment or arising out of any Workers Compensation Act or Occupational Disease Disablement Law; and

12.2.2 Sierra shall not be liable for any loss of earnings, revenues, indirect or consequential damages or injury which may occur to the City as a result of interruption or partial interruption (including single phasing) in delivery of service hereunder by reason of any cause whatsoever; and

12.2.3 Sierra shall not be liable to the City for any loss or damage to its electrical system or other equipment or facilities or for injury to the City's employees, agents, contractors, licensees or invitees.

13 GENERAL

13.1 A waiver at any time by a Party of its rights with respect to a default under this Agreement, or with respect to any other matter arising connection with this Agreement, shall not be deemed a waiver with respect to any subsequent default or matter. No delay, short of the statutory periods of limitations, in asserting or enforcing any right hereunder shall be deemed a waiver of such right. Every right or remedy herein conferred upon or reserved to a Party shall be cumulative and shall be in addition to every right or remedy not or hereafter existing at law, in equity or by statute or contract

13.3 This Agreement, including the Rate Schedule annexed hereto, as it may be revised from time to time, shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties, but may not be assigned by the City without Sierra's prior written approval. Nothing contained herein shall be construed to create any right, remedy or action against or in favor of a person or entity other than the Parties hereto.

13.4 It is understood and agreed that all representations and agreements between the Parties covering the subject matter hereof are expressed herein and that no other representation of any kind or nature, whether made by the officers or agents of either of the Parties, shall be binding.

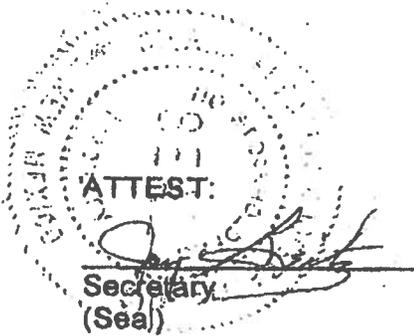
13.5 The headings of the Sections in this Agreement have been inserted for convenience only and shall in no way affect the interpretation of any of the terms or provisions hereof. This Agreement may only be amended by written agreement of the Parties. The laws of the State of New Mexico hereto, shall govern this Agreement and all amendments and attachments.

14 REGULATORY AUTHORITIES AND MODIFICATION

14.1 This Agreement, including any amendments hereto and the attached Rate Schedule, shall at all times be subject to change or modification by order of the NMPRC or any other governmental regulatory agency to the extent of their jurisdiction, if any. The City will receive notice in accordance with the NMPRC's or other agency requirements when Sierra is requesting the NMPRC or other agency to take action that could cause a change in the terms of this Agreement.

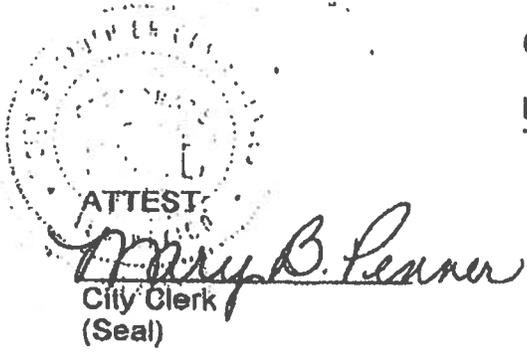
14.2 This Agreement and all amendments hereto shall not be binding upon the Parties hereto until the same are approved by the Administrator of the RUS and by the Supplemental Lender and if required by the NMPRC or any other governmental regulatory agency.

IN WITNESS WHEREOF, Sierra and the City have caused this Agreement to be signed in their respective corporate names and their respective seals to be hereto affixed and attested to by their duly authorized officers as of the day and year first written above.



SIERRA ELECTRIC COOPERATIVE, INC.

By: Jim R. Bass
Title: President



CITY OF TRUTH or CONSEQUENCES

By: Ed Montgomery
Title: Mayor

AMENDMENT No. 3
to the
ELECTRIC SERVICE AGREEMENT
BETWEEN
SIERRA ELECTRIC COOPERATIVE, INC.
And
CITY OF TRUTH OR CONSEQUENCES

PREAMBLE and RECITAL in Amendment No. 3:

THIS AMENDMENT NO. 3 to the Electric Service Agreement, is entered into and effective as of December 1, 2018 ("Amendment No. 3 Effective Date"), by and between Sierra Electric Cooperative, Inc. ("Sierra"), a cooperative corporation organized and existing under the New Mexico Rural Electric Cooperative Act, and the City of Truth or Consequences ("City" or "Tor C"), a municipal corporation organized and existing under the laws of the State of New Mexico. Sierra and the City are sometimes hereinafter referred to individually as a "Party" and collectively as the "Parties."

WHEREAS, the Parties entered into the Electric Service Agreement, dated October 20, 2006, as amended ("Agreement"); and

WHEREAS, the Parties wish to further amend the Agreement.

Amend Section No. 0. 4 of the Recitals to the Agreement:

Section 0.4 of the Agreement is deleted in its entirety and replaced by the following:

WHEREAS, the City receives its primary electric service from the Western Area Power Administration ("WAPA") in accordance with Contract No. 87-SLC-0018, as amended by Amendment Nos. 1 through 5, and Contract No. 17-SLC-0914, (collectively the "WAPA Contracts") and has acquired the Point of Delivery through which facility it will continue to purchase power and energy from WAPA.

Amend portions of Section 2 entitled SERVICE TO BE PROVIDED:

Sections 2.3, 2.4, and 2.5 of the Agreement are deleted in their entirety and replaced by the following:"

"2.3 The capacity and energy which the City purchases from WAPA, scheduled on behalf of the City by Tri-State, is hereby defined for the purposes of this Agreement as follows:"

"2.3.1 "Monthly Capacity" shall have the meaning as defined in the WAPA Contracts."

"2.3.2 "Monthly Energy" shall have the meaning as defined in the WAPA Contracts."

"2.3.3 "Surplus Energy": Energy delivered to the City from WAPA associated with additional hydro energy made available by WAPA from time to time based on projected reservoir levels, pursuant to the WAPA Contracts. "

"2.4 The capacity and energy that will not be available to the City from WAPA is hereby defined as follows:

"2.4.1 [RESERVED]"

"2.4.2 The City will not arrange for "Annual Exchanges" pursuant to the WAPA Contracts."

"2.5 As provided for under the WAPA Contracts, the City shall not elect for WAPA to arrange for the supply of Western Replacement Power and Sierra shall supply all Supplemental Requirements, including reserves, to the City."

Amend Section 3 entitled EFFECTIVE DATE AND TERM:

Sections 3.1, 3.1.1, and 3.1.2 of the Agreement are deleted in their entirety and replaced by the following (Section 3.1.3 is unchanged by this Amendment No. 3):

"3.1 This Agreement, and any amendments hereto, shall become effective upon, approvals pursuant to Section 14.2 and shall remain in force and effect until December 31, 2026 (the "Term" of the Agreement), provided however, Sierra, at its sole discretion, may provide written notice to City on or before Tuesday, December 31, 2024, that it is electing to extend the Term of this Agreement to December 31, 2031 ("Extension Period"). By Sierra providing written notice to extend this Agreement, this Agreement will be automatically extended to December 31, 2031 (if Sierra provides such written notice, the "Term" of the Agreement will include the Extension Period"). During the Extension Period, if applicable, the rate set forth in Section 5 RATES will continue to apply."

"3.1.1 [RESERVED]"

"3.1.2 Should any of the following conditions occur after the Amendment No. 3 Effective Date, the Parties shall negotiate in good faith to modify the terms and conditions of this Agreement, including, but not limited to, the rates thereto, such that Tri-State recovers its fixed costs (e.g. administrative, transmission, and generation) and variable costs (e.g. losses, energy, and fuel) incurred as a result of the sale of Supplemental Requirements:"

"a) The amount of Supplemental Requirements sold to the City falls below 16,500,000 kWh during any calendar year, or"

"b) The amount of Supplemental Requirements sold to the City falls below 500,000 kWh during any calendar month, or,"

Amend Section 5 entitled RATES:

Sections 5.1, 5.3, 5.5, and 5.6 of the Agreement are deleted in their entirety and replaced by the following:

"5.1 All electric power and energy supplied and service rendered to the City by Sierra pursuant to this Agreement, as amended, shall be delivered, rendered and paid for in accordance with Sierra's applicable Fifth Revised Rate No. 14 (Special Contract-Supplemental Power for the City of Truth or Consequences) the "Rate Schedule" when effective for service and as it may be modified by the NMPRC or the Parties, a draft of which is annexed hereto as Exhibit B and incorporated by reference in this Agreement, subject to Section 14.1 and otherwise in accordance with this Section."

"5.3 Sierra may, at appropriate intervals, revise its rate schedules to meet its obligations to RUS, and the Supplemental Lender, and its power supplier to attract capital, to provide for the repayment of capital credits to its members, to meet operating and capital costs, to establish reasonable reserves and working capital, to furnish facilities and to fulfill its duties and responsibilities as a cooperative and as a public utility. Nothing contained herein shall be construed as affecting in any way the right of either of the Parties to unilaterally make application to the NMPRC or other regulatory body having jurisdiction for a change in rates, charges, classification of service or in any rule, regulation or contract relating thereto, or to petition for an adjustment or investigation of existing rate schedules pursuant to applicable law. If a filing is made, Sierra shall continue to furnish, and the City shall pay for, electric service according to such revisions and from and after the effective date of such revised rates. If Sierra finds it necessary to revise its rate schedules, inclusive and/or exclusive of changes required by Tri-State's Rate NM LDR-1(Load Development and Retention Rate), Rate NM A-40 (Wholesale Firm Power Service) or their successors, for reasons stated above, it agrees that any rate increases to the City will be limited to an amount equal to the increase from its power supplier and an adder by Sierra to cover the add-on margin required by Sierra to operate its business and to meet the requirements of RUS or and its supplemental lender, and to fulfill its duties as a Cooperative and a public utility, subject to modifications by the NMPRC or other governmental regulatory agency, with jurisdiction, if any, in addition to the charges set forth in its Rate Schedule. Sierra agrees to notify the City, with fifteen (15) days advance notice of increases prior to filing with the NMPRC, if it becomes necessary to revise its Rate Schedule for reasons stated above. Furthermore, Sierra will provide to the City with written documentation explaining the need for revising its Rate Schedule."

"5.5 The rate charged to the City for Supplemental Requirements from Sierra is an all-energy rate with Sierra, as set forth in the Rate Schedule and summarized as follows: The sum of (i) the Tri-State Class A Average Rate commencing on the first day of the first full billing period following the date Sierra's Rate Schedule becomes effective plus any increased adjustments to Tri-State's billings for new or increased existing taxes, fees or other charges incurred by Tri-State and levied, assessed, or required by any governmental authority on the service rendered, and (ii) an adder of \$0.0036 (3.6 mills) per kilo-watt-hour to that price charged Sierra by Tri-State for all power delivered to the City by Sierra during the Term of this Agreement."

"5.5.1 The term "Class A Average Rate" means the forecasted budgeted average rate (in mills per kWh) to be charged by Tri-State to its Class A members such as Sierra for the upcoming year (or other period) for electric service furnished by Tri-State to its members pursuant to wholesale electric service contracts, as such rate is adopted by Tri-State's Board of Directors. It may vary each year as each year's total revenue requirements and loads change. The Class A Average Rate is 76.38 mills per kWh for calendar year 2018 and the Class A Average Rate is 76.30 mills per kWh for the calendar year 2019, subject to change by Tri-State's Board of Directors."

"5.6 [RESERVED]"

Miscellaneous provisions of Amendment No. 3

This Amendment No. 3 shall not be binding upon the Parties hereto until it is approved, if required, by the Administrator of Rural Utilities Service and by Sierra's Supplemental Lenders and by the New Mexico Public Regulation Commission or any other governmental regulatory agency having such authority.

Except to the extent expressly modified by this Amendment No. 3 and to the extent the provisions of the previously signed Amendment No. 1 or Amendment No. 2 are not deleted by or revised by this Amendment No. 3, the terms, conditions and provisions of this Agreement by and between the Parties shall remain in effect as amended by Amendment No. 3, which amends and revises Amendment No. 1 and Amendment No. 2.

NEW EXHIBIT B

Copy of Sierra Electric Cooperative, Inc. Fifth Revised Rate No. 14, Cancelling Fourth Revised Rate No. 14 filed at, and pending approval by, NMPRC.

IN WITNESS WHEREOF, Sierra and the City has caused this Agreement to be signed in their respective corporate names and their respective seals to be hereto affixed and attested to by their duly authorized officers as of the day and year first written above.

SIERRA ELECTRIC COOPERATIVE, INC.

BY: [Signature]

Title: President

ATTEST:

[Signature]

SECRETARY

(SEAL)

CITY OF TRUTH OR CONSEQUENCES

BY: [Signature]

Title: Mayor

ATTEST:

[Signature]

CITY CLERK

(SEAL)



REQUISITION

Requisition #: 87737

Date: 07/01/2022

Vendor #: 0538

ISSUED TO: NM SELF INSURERS FUND
P.O. BOX 846
SANTA FE, NM 87504

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 ANNUAL VEHICLE LIAB INSURANCE PREM		0.00	101-1018-46733	15,439.00
2	0 ANNUAL VEHICLE LIAB INSURANCE PREM		0.00	216-4503-46733	7,715.00
3	0 ANNUAL VEHICLE LIAB INSURANCE PREM		0.00	502-3601-46733	1,553.00
4	0 ANNUAL VEHICLE LIAB INSURANCE PREM		0.00	503-3702-46733	7,435.00
5	0 ANNUAL VEHICLE LIAB INSURANCE PREM		0.00	504-3803-46733	6,920.00
6	0 ANNUAL VEHICLE LIAB INSURANCE PREM		0.00	505-3904-46733	8,911.00
7	0 ANNUAL VEHICLE LIAB INSURANCE PREM		0.00	506-4005-46733	5,174.00
8	0 ANNUAL VEHICLE LIAB INSURANCE PREM		0.00	509-4403-46733	1,553.00
9	0 ANNUAL VEHICLE LIAB INSURANCE PREM		0.00	509-4403-46733	8,279.00

PO Description: ANNUAL VEHICLE LIAB INSURANCE PREM 22-23

Detailed Description:

Authorized By: _____

SUBTOTAL:	62,979.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	62,979.00



REQUISITION

Requisition #: 87739

Date: 07/01/2022

Vendor #: 1753

ISSUED TO: WESTERN AREA POWER ADMIN
P.O. BOX 6200-15
PORTLAND, OR 97228-6200

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 BASE DEMAND & BASE ENERGY CHARGE		0.00	503-3702-50795	580,000.00

PO Description: BASE DEMAND & BASE ENERGY CHARGES OPEN PO FY-22/23

Detailed Description:

BASE DEMAND & BASE ENERGY CHARGES OPEN PO FY-21/22 JULY 1, 2022 TO JUNE 30, 2023
SEE ATTACHED CONTRACT
12-12-2018 - 09-30-2057

Authorized By: _____

SUBTOTAL:	580,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	580,000.00

CONTRACT

BETWEEN

CITY OF TRUTH OR CONSEQUENCES

AND

UNITED STATES

DEPARTMENT OF ENERGY

WESTERN AREA POWER ADMINISTRATION

SALT LAKE CITY AREA INTEGRATED PROJECTS

FOR

FIRM ELECTRIC SERVICE

**CONTRACT
 BETWEEN
 CITY OF TRUTH OR CONSEQUENCES
 AND
 UNITED STATES
 DEPARTMENT OF ENERGY
 WESTERN AREA POWER ADMINISTRATION
 SALT LAKE CITY AREA INTEGRATED PROJECTS
 FOR
 FIRM ELECTRIC SERVICE**

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CONTRACT
BETWEEN
CITY OF TRUTH OR CONSEQUENCES
AND
UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
SALT LAKE CITY AREA INTEGRATED PROJECTS
FOR
FIRM ELECTRIC SERVICE

I. PREAMBLE

This CONTRACT is made this 12th day of December, 2018, pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388), the Act of Congress approved February 25, 1905 (33 Stat. 814), the Reclamation Project Act of August 4, 1939 (53 Stat. 1187), the Flood Control Act of December 22, 1944 (58 Stat. 887), the Act of Congress approved July 3, 1952 (66 Stat. 325), the Act of Congress approved April 11, 1956 (70 Stat. 105), the Act of Congress approved August 4, 1977 (91 Stat. 565), and acts amendatory or supplementary to the foregoing Acts, between THE UNITED STATES OF AMERICA, acting by and through the Administrator, Western Area Power Administration, an agency of the Department of Energy, hereinafter called "WAPA," represented by the officer executing this Contract, a duly appointed successor, or a duly authorized representative, hereinafter called the "Contracting Officer," and the City of Truth or Consequences, duly organized, created, and existing under and by virtue of the laws of the State of New Mexico hereinafter referred to as the "Contractor,"

its successors and assigns, each sometimes hereinafter individually called “Party,” and both sometimes hereinafter collectively called the “Parties.”

2. EXPLANATORY RECITALS

- 2.1 The United States Bureau of Reclamation (Reclamation) operates certain Federal hydroelectric facilities known as the Collbran Project, Rio Grande Project, and the Colorado River Storage Project.
- 2.2 WAPA refers to the hydroelectric facilities of the Collbran Project, Rio Grande Project, and the Colorado River Storage Project collectively as the Salt Lake City Area Integrated Projects, hereinafter called “SLCA Integrated Projects.”
- 2.3 WAPA markets and transmits hydroelectric power generated at the SLCA Integrated Projects pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388), the Act of Congress approved February 25, 1905 (33 Stat. 814), the Reclamation Project Act of August 4, 1939 (53 Stat. 1187), the Flood Control Act of December 22, 1944 (58 Stat. 887), the Act of Congress approved July 3, 1952 (66 Stat. 325), the Act of Congress approved April 11, 1956 (70 Stat. 105), the Act of Congress approved August 4, 1977 (91 Stat. 565), and acts amendatory or supplementary to the foregoing Acts by the United States of America.

- 2.4 To implement the foregoing authorities, WAPA developed and published the Salt Lake City Area Integrated Projects Post-1989 General Power Marketing and Allocation Criteria (hereinafter called the “Criteria” and/or “Post-1989 Marketing Plan”) in the Federal Register on February 7, 1986 (51 FR 4844).
- 2.5 WAPA and Reclamation are under a continuing obligation to ensure the operation of Reclamation’s hydroelectric facilities complies with Federal law. Due to this, WAPA maintains flexibility in its contracts to respond if Reclamation changes the way its facilities are operated.
- 2.6 As published in the Federal Register on April 2, 1987 (52 FR 10620), WAPA’s Administrator approved final allocations of the hydroelectric power generated at the SLCA Integrated Projects, under which the Contractor received Summer and Winter Season capacity and energy allocations. Minor revisions were subsequently made to the allocations on August 24, 1989 (54 FR 35234).
- 2.7 WAPA entered into long-term firm power contracts for the delivery of the SLCA Integrated Projects capacity and energy allocations listed in the April 2, 1987, Federal Register notice (52 FR 10620), as subsequently revised in the August 24, 1989, Federal Register notice (54 FR 35234) and other Federal Register notices explained below. These contracts are referred to as the Firm Electric Service contracts executed with the SLCA Integrated Projects.

- 2.8 Effective November 20, 1995, WAPA published the Energy Planning and Management Program (Program), 10 C.F.R. Part 905, to implement Section 114 of the Energy Policy Act of 1992 (106 Stat. 2776).
- 2.9 The Program consists of two components: a requirement that each long-term firm power customer prepare an integrated resource plan, and a Power Marketing Initiative (PMI) under which WAPA extended a major portion of the Federal resource commitments to its existing long-term firm power customers. Subpart C - Power Marketing Initiative of the Program provides for the establishment of project-specific resource pools and the allocation of power from these pools to new preference customers.
- 2.10 WAPA did not consider applying the PMI to the SLCA Integrated Projects until after completion of the SLCA Integrated Projects Electric Power Marketing Environmental Impact Statement (EIS). The Record of Decision on that EIS was issued on November 1, 1996.
- 2.11 Subsequent to WAPA's proposed application of the PMI to the SLCA Integrated Projects, the public was provided opportunities to comment on WAPA's proposed application of the PMI. Public comment was also invited on how WAPA should market power given recent changes in the electric industry; and, on how much power should be set aside for new customers, particularly Native American Tribal entities. On June 25, 1999, WAPA announced its decision in the Federal Register

(64 FR 34414) that the term of SLCA Integrated Projects contracts would be renewed and extended until September 30, 2024. On September 8, 1999, WAPA established the Power Allocation Procedures and Call for Applications in the Federal Register (64 FR 48825), for SLCA Integrated Projects Post-2004 Resource Pool.

- 2.12 On February 4, 2002, WAPA published final allocations of the Post-2004 Resource Pool in the Federal Register (67 FR 5113) and on July 29, 2002, adjusted final allocations as published in the Federal Register (67 FR 49019).
- 2.13 In the May 20, 2004, Federal Register (69 FR 29135), WAPA published its Notice of Determination of the Post-2004 Marketable Resources which stated that due to drought conditions it was necessary to reduce the energy component of the SLCA Integrated Projects marketable resources. WAPA stated that it would reduce the marketable energy available to its Contractors beginning October 1, 2004, then gradually increase the energy available over a 5-year period, reaching a level in the fifth year (beginning October 1, 2009) that would remain constant through September 30, 2024. WAPA also indicated that additional hydroelectric power could be available to its customers when hydrologic conditions warranted. On October 1, 2004, most entitlements of Contractors to the long-term firm SLCA Integrated Projects capacity and energy available at that time were reduced by seven (7) percent to provide power for new preference customers. WAPA amended the existing contracts with the Contractors to implement this decision.

- 2.14 The existing contracts expire on September 30, 2024. WAPA published its Proposed 2025 Marketing Plan on December 16, 2015 (80 FR 78222), for the marketing of SLCA Integrated Projects' hydroelectric power and energy for a period beginning October 1, 2024.
- 2.15 In the November 29, 2016, Federal Register (81 FR 85946) WAPA announced its Final 2025 Salt Lake City Area Integrated Projects Marketing Plan (hereinafter called the "2025 Marketing Plan"), extending existing capacity and energy allocations to existing Contractors of SLCA Integrated Projects, while recognizing additional project development may occur in future years. It also provided for establishing a new Firm Electric Service contract based upon the existing SLCA Integrated Projects contract.
- 2.16 The Contractor desires to purchase and WAPA is willing to furnish Firm Electric Service from the SLCA Integrated Projects under the terms and conditions stated herein.

3. AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the Parties hereto agree as follows.

4. TERM OF CONTRACT

4.1 This Contract shall become effective as of the date in Section 1 above or October 1, 2017, whichever is later, and will remain in effect through the end of the calendar day on September 30, 2057, subject to prior adjustments, modifications, or termination as provided herein.

4.2 The delivery of Firm Electric Service under this Contract shall commence October 1, 2024.

4.3 The delivery of Firm Electric Service from the effective date hereof through the end of the calendar day on September 30, 2024, shall be subject to the terms and conditions of Contract No. 87-SLC-0018, except that sections 7.1.6, 13, 14, and 15 of this Contract shall become effective for all Firm Electric Service deliveries on or after the effective date hereof. Except as provided above, in the event of a conflict between the terms of Contract No. 87-SLC-0018 and the terms of this Contract, the terms of Contract No. 87-SLC-0018 shall control through the end of calendar day September 30, 2024, and the terms of this Contract shall control thereafter.

5. RELATED CONTRACTS

5.1 The Contractor's SLCA Integrated Projects Contract No. 87-SLC-0018 with

WAPA expires by its own terms and terminates in its entirety at the end of the calendar day on September 30, 2024.

- 5.2 Termination of Contract No. 87-SLC-0018 and implementation of this Contract shall occur simultaneously, at the end of the calendar day on September 30, 2024, with no disruption in delivery of Firm Electric Service.
- 5.3 In the event that Contract No. 87-SLC-0018 is terminated prior to the end of the calendar day on September 30, 2024, this Contract shall terminate effective with the termination of the Contract No. 87-SLC-0018, unless otherwise provided.
- 5.4 The Contract Rate of Delivery (CROD), as defined in Section 6.2, with associated energy under Contract No. 87-SLC-0018 may be modified prior to October 1, 2024, based upon the terms in Contract No. 87-SLC-0018. If modifications are made to Contract No. 87-SLC-0018, such as reductions, withdrawals, restrictions, limits, penalties, termination, additions, increases, and any other applicable adjustment prior to October 1, 2024, the same modifications shall be made to this Contract and any applicable exhibits and attachments.
- 5.5 If applicable, certain allocation holders identified in Contract No. 87-SLC-0018 have assigned their CROD and associated energy allocations to Contractor, and those assigned allocations are included in this Contract as allowed by the terms of the assignment. If Contract No. 87-SLC-0018 terminates prior to the end of the

calendar day on September 30, 2024, any applicable allocation assignment agreement(s) shall terminate concurrently.

6. DEFINITIONS

For the purposes of this Contract:

6.1 Available Hydro Power (AHP) is the maximum amount of hydroelectric capacity and energy that will be made available to the Contractor monthly as determined by WAPA based on prevailing water release conditions and set forth in Exhibit A; Provided, however, that AHP shall not be less than the Contractor's Sustainable Hydro Power.

6.2 Contract Rate of Delivery (CROD) is the maximum level of long-term capacity that the Contractor is entitled to receive in each Season as set forth in Section 7 and in Exhibit A of this Contract. The CROD is the Contractor's allocated share of the SLCA Integrated Projects marketing commitment level established for each Season through the term of this Contract. CROD is met first with the Contractor's AHP, and then with Customer Displacement Power or Western Replacement Power, or a combination thereof.

- 6.3 Contractor is a preference customer within the marketing area of the SLCA Integrated Projects. Contractors refers to all SLCA Integrated Projects customers.
- 6.4 Contracting Officer is the officer executing this Contract, a duly appointed successor, or a duly authorized representative.
- 6.5 Customer Displacement Power (CDP) is the amount of supplemental power acquired or generated by the Contractor on its own behalf, or by a third party on behalf of Contractor, which if provided by Contractor under Section 7 may be used, as required, as part of the Contractor's CROD and Monthly Energy within a given period.
- 6.6 Designated Points of Delivery are those points described in Exhibit A where Firm Electric Service furnished by the SLCA Integrated Projects is delivered to the Contractor or to a transmission agent for further delivery to the Contractor.
- 6.7 Firm Electric Service is the firm energy and capacity provided by WAPA at Designated Points of Delivery.
- 6.8 Firming Power is power purchased by WAPA from time-to-time which it determines to be required in order to meet its commitments for AHP and Seasonal SHP Energy.

- 6.9 Long Term Western Replacement Power (Long Term WRP) is the amount of Western Replacement Power that WAPA will purchase for the Contractor for a specified period of at least one (1) year pursuant to Section 7.3 which will be used, as required, as part of the Contractor's CROD and Monthly Energy within the given period.
- 6.10 Monthly Capacity is the maximum quantity of firm capacity expressed in kilowatts (kW) that WAPA is committed to deliver and the Contractor is entitled to receive each month, pursuant to Section 7.8.
- 6.11 Monthly Energy is the maximum quantity of total firm energy expressed in kilowatt-hours (kWh) that WAPA is committed to deliver and the Contractor is entitled to receive each month pursuant to Sections 7.1.3 and 7.8, and as set forth in Exhibit A.
- 6.12 Season or Seasonal is Summer or Winter Season.
- 6.13 Seasonal SHP Energy is the minimum quantity of firm energy expressed in kWh the Contractor is entitled to receive each Season as set forth in Section 7.1.2.
- 6.14 Seasonal Western Replacement Power (Seasonal WRP) is the maximum amount of Western Replacement Power WAPA will purchase for the Contractor during a

Season or shorter period of time, pursuant to Section 7.2, which will be used, as required, as part of the Contractor's CROD and Monthly Energy.

- 6.15 Summer Season is the six (6) month period from the first day of the April billing period through the last day of the September billing period of any calendar year.
- 6.16 Sustainable Hydro Power (SHP) is a level of long-term operable SLCA Integrated Projects hydroelectric capacity with energy, projected at an established risk level and supplemented by WAPA power purchases as may be required from time-to-time due to hydrological conditions, which level shall be fixed and made available to the Contractor each Season through a specified contract period. SHP will be established by WAPA in consultation with the Contractors, and set forth in the attached Exhibit A.
- 6.17 Western Replacement Power (WRP) is the amount of supplemental power requested by the Contractor to be acquired by WAPA on behalf of the Contractor as part of the Contractor's CROD and Monthly Energy within a given period and paid for by the Contractor on a pass-through-cost basis. WRP may also be purchased as Seasonal WRP, as provided for in Section 7.2, or as Long Term WRP, as provided for in Section 7.3.

6.18 Winter Season is the six (6) month period from the first day of the October billing period of any calendar year through the last day of the March billing period of the following calendar year.

7. FIRM ELECTRIC SERVICE

7.1 WAPA's Energy and Capacity Obligations: WAPA, under the terms and conditions specified herein and within the available capacity of the substation and transmission facilities to deliver the Firm Electric Service at specific Designated Points of Delivery, will furnish Firm Electric Service to the Contractor, up to the mutually agreed upon Monthly Energy and Monthly Capacity set forth in Exhibit A.

7.1.1 The Seasonal CROD, SHP, AHP, and Monthly Capacity shall be as set forth in Section 3 of Exhibit A.

7.1.2 The Seasonal SHP Energy and Monthly SHP Energy shall be as set forth in Section 4 of Exhibit A.

7.1.3 The Monthly Energy available with the CROD shall be the sum of the Contractor's monthly portion of (1) Seasonal SHP Energy or energy associated with AHP, whichever is greater, plus (2) energy associated with WRP, plus (3) energy associated with the CDP as set forth in Exhibit A.

Monthly Energy available with the CROD shall not exceed 100 percent load factor.

7.1.4 If the Seasonal SHP Energy and the CROD are changed due to exchanges of energy and capacity in accordance with Section 8 of the Contract, any such changes will be reflected prior to the beginning of each Season in a revision to Exhibit A.

7.1.5 Should WAPA determine that hydrology projections, operational or other changes, show AHP energy or capacity in sufficient quantities to be made available above that identified as AHP in Exhibit A, WAPA shall first offer said energy or capacity to its Contractors. Appropriate written notification from WAPA will be given to the Contractor.

7.1.6 WAPA may revise the amount of the Contractor's Seasonal SHP Energy or Seasonal CROD as required to respond to changes in hydrology and river operations, upon five (5) years' notice to the Contractor.

7.2 Seasonal WRP: The procedure for acquiring Seasonal WRP is as follows, and the schedule of dates by which the terms of Seasonal WRP are to be complied with are listed in Attachment No. 2.

- 7.2.1 WAPA will notify the Contractor in writing as to what portion of the CROD in the upcoming season will be supplied from AHP. The notification will also provide WAPA's estimated price of purchasing Seasonal WRP for the upcoming Season and any advancement of funds necessary pursuant to Section 7.5. This notice will be in substantially the same form as Attachment No. 1.
- 7.2.2 The Contractor will provide authorization by returning the form to WAPA indicating the amount of Seasonal WRP that it requests WAPA to purchase for the upcoming Season. Such written notice will constitute a commitment by the Contractor to pay its share of WAPA's cost of the Seasonal WRP pursuant to this Section 7.2, except when power is not available per Section 7.2.3. The amount of Seasonal WRP for which notice is provided by the Contractor for a Season may vary by month. Such monthly amounts must be so indicated in the Contractor's notification.
- 7.2.3 Upon receipt of the authorization from the Contractor, pursuant to Section 7.2.2, WAPA will endeavor to purchase the requested Seasonal WRP. If the power is not available for purchase by WAPA under the authorized terms and conditions, WAPA shall notify the Contractor. If the Contractor then chooses to rescind its request for WRP, it must do so promptly in writing.

- 7.2.4 At the beginning of the billing period for each Season, WAPA will notify the Contractor of any revisions to WAPA's estimated price for Seasonal WRP for each month of the Season.
- 7.2.5 WAPA will include in its regular monthly power bill to the Contractor WAPA's cost of providing Seasonal WRP for that month.
- 7.2.6 The costs associated with Seasonal WRP shall reflect additional costs, if any, incurred by WAPA for energy purchased as Seasonal WRP, as compared with the cost WAPA has determined is necessary to support its monthly energy commitments without Seasonal WRP purchases. Such additional costs shall be limited to the net cost of such energy calculated by subtracting from WAPA's total cost of providing the energy (i) the revenues received by WAPA from the sale of such energy, and (ii) if used by WAPA for Firming Power, the estimated cost for such Firming Power that WAPA otherwise would have incurred.
- 7.2.7 If the Contractor has paid in excess of WAPA's actual cost of the Seasonal WRP provided to the Contractor during the Season, WAPA will credit the amount toward payment of the Contractor's next practicable service month power bill unless otherwise mutually agreed. If the Contractor has paid less than WAPA's actual costs of Seasonal WRP accepted by the

Contractor during the Season, WAPA will bill the Contractor for such amount in its next practicable service month power bill unless otherwise mutually agreed. When advanced funds are needed, pursuant to Section 7.5, the provisions in Subsection 7.2.7 shall not be applicable.

7.3 Long Term WRP: The procedure for acquiring Long Term WRP is as follows, and the schedule of dates by which the terms of Long Term WRP are to be met is listed in Attachment No. 3.

7.3.1 WAPA will notify the Contractor as to what portion of the Contractor's CROD is expected to be supplied from AHP for the remainder of the Contract.

7.3.2 If the Contractor is interested in acquiring Long Term WRP, the Contractor will notify WAPA of the amount of Long Term WRP desired, the period of time for which the Contractor is willing to commit to purchase that amount, and the maximum price that the Contractor would be willing to have WAPA pay to purchase Long Term WRP. These will be used by WAPA in soliciting and evaluating potential power purchase options and will limit any obligation of WAPA to provide Long Term WRP.

- 7.3.3 After receipt of the notice(s) referenced in Section 7.3.2, WAPA shall request proposals from power suppliers for power to supply the request(s) for Long Term WRP.
- 7.3.4 Once WAPA receives and evaluates proposals from suppliers, WAPA shall inform the Contractor of the length of commitment, terms, and conditions, including adequacy of transmission, under which Long Term WRP is available. WAPA will also notify the Contractor of any advancement of funds needed pursuant to Section 7.5.
- 7.3.5 The Contractor shall provide written authorization to WAPA to contract for the Long Term WRP under the specified terms and conditions. Such written authorization will constitute a commitment by the Contractor to pay its share of the cost of the Long Term WRP under the terms and conditions specified.
- 7.3.6 Only upon receipt of written authorization from the Contractor will WAPA pursue purchasing Long Term WRP for the Contractor. If the power is not available for purchase by WAPA under the authorized terms and conditions, WAPA will notify the Contractor of the changes. If the Contractor then chooses to rescind its request for Long Term WRP, it must do so promptly in writing. Service shall normally begin on the first day of the next Season.

- 7.3.7 The Contractor may commit to more than one Long Term WRP arrangement; Provided, That its request for Long Term WRP, when combined with the Contractor's SHP, other WRP commitments and CDP commitments, shall not exceed the Contractor's CROD, or 100 percent load factor of the CROD.
- 7.3.8 WAPA will include in its regular monthly power bill to the Contractor WAPA's cost of Long Term WRP for that month. The cost will be calculated by placing WAPA's total Long Term WRP costs into a cost pool for each term of commitment of Long Term WRP, and then prorating the costs to the Contractor in proportion to its share of Long Term WRP in that pool.
- 7.3.9 Determination of WAPA's actual costs for Long Term WRP and excess or deficient payments by the Contractor for Long Term WRP will be made at the end of WAPA's fiscal year. If the Contractor has paid in excess of WAPA's actual costs of the Long Term WRP, WAPA will reflect such excess amount in a credit to the Contractor's amount of payment to be made in the next practicable service month power bill, unless otherwise mutually agreed. If the Contractor has paid less than WAPA's actual costs of Long Term WRP, WAPA will bill such deficiency to the Contractor in its next practicable service month power bill, unless otherwise mutually

agreed. When advanced funds are needed, pursuant to Section 7.5, these provisions in Subsection 7.3.9 shall not be applicable.

7.3.10 If requested by the Contractor, WAPA shall attempt to sell any energy associated with Long Term WRP that is in excess of the Contractor's needs. If WAPA sells such energy, WAPA shall credit the Contractor's charges for Long Term WRP by any revenues obtained, less WAPA's costs, if any, to provide this service.

7.4 Cost of Providing WRP: WAPA's cost of providing WRP shall not be included in the capacity and energy rates charged to the Contractor under the SLCA Integrated Projects Firm Power Rate Schedule.

7.5 Advancement of Funds

7.5.1 WAPA may make purchases of WRP from the funds it has available. In the event that WAPA does not have sufficient funds to make WRP purchases, the Contractor will provide its pro-rata share of funds in advance for WAPA's use in purchasing WRP on the Contractor's behalf. The notice provided to the Contractor by WAPA pursuant to Sections 7.2.1 and 7.3.4 will notify the Contractor as to its pro-rata share, if an advance is needed. The Contractor shall submit the advanced funds to WAPA with the written authorization pursuant to Sections 7.2.2 or

7.3.5. Advanced funds will be credited to a separate account and will be held by WAPA for the Contractor to be used solely for purchases of WRP. When advanced funds are needed, Sections 7.2.7 and 7.3.9 shall not be applicable. The amounts advanced will be determined according to the following criteria:

7.5.1.1 For Seasonal WRP, the Contractor will advance an amount equal to (i) one third of the estimated cost of Seasonal WRP to be purchased by WAPA on behalf of the Contractor in the upcoming Season, less (ii) the amount, if any, held by WAPA for purchases of Seasonal WRP on behalf of the Contractor for the current Season; Provided, That if the amount held by WAPA for the current Season is greater than the amount required for the upcoming Season, the difference will either be refunded to the Contractor after the current Season or, at the Contractor's option, be reflected as a credit in the Contractor's next power bill.

7.5.1.2 If the Contractor fails to advance WAPA sufficient funds for Seasonal WRP in accordance with the amounts and schedules set forth in Sections 7.5.1.1, WAPA will not purchase Seasonal WRP on the Contractor's behalf for that upcoming Season.

7.5.1.3 For Long Term WRP, the Contractor will advance an amount equal to (i) the next two (2) months of the estimated cost of the Long Term WRP to be purchased by WAPA on behalf of the Contractor, less, (ii) the amount, if any, then held by WAPA for purchases of Long Term WRP on behalf of the Contractor; Provided, That if the amount then held by WAPA is greater than the amount required for the next two (2) months, the difference will either be refunded to the Contractor by WAPA or at the Contractor's option, be reflected as a credit in the Contractor's next power bill.

7.5.1.4 Upon termination of the Contract, any funds advanced by the Contractor that are still held by WAPA and are in excess of amounts owed to WAPA will be refunded to the Contractor.

7.6 Customer Displacement Power: The procedure for acquiring CDP is as follows, and the schedule of dates by which the terms of CDP are to be met are listed in Attachment No. 4.

7.6.1 The Contractor may, individually or in association with other Contractors of the SLCA Integrated Projects, furnish written notice to WAPA that it wishes to provide to WAPA, for delivery to the Contractor, CDP for a portion or all of the power above AHP and WRP up to the CROD and for

which it has not otherwise provided notification for Seasonal WRP or Long Term WRP in accordance with the notification guidelines set forth in Section 7.2 or 7.3. CDP may only be accepted in time periods offered for Seasonal or Long Term WRP.

- 7.6.2 The Contractor will furnish with its notification to provide CDP pursuant to Section 7.6.1, information regarding the source and point of receipt of power, the amount of power to be provided, the initial month of delivery, the commitment length, the designation of the scheduling entity, and any prescheduling and scheduling requirements and restrictions. WAPA will determine its ability to deliver this CDP in accordance with Section 7.7.3.
- 7.6.3 The Contractor may request a change or modification to the source(s) or conditions of CDP at any time prior to or during a Season upon written notification to WAPA's appropriate scheduling office. WAPA shall make its best efforts to expedite its determination of its ability to accept this CDP for delivery to the Contractor and shall so notify the Contractor, in writing, of its determination as soon as possible. However, WAPA shall have the sole determination of its ability to accept this CDP under the new conditions.

7.6.4 Any portion of CDP not supplied pursuant to Section 7.6.1 will be deemed to be supplied pursuant to this Section 7.6. WAPA will not be responsible for firming CDP purchases made by the Contractor.

7.7 Transmission Provisions

7.7.1 Reserved Firm Capacity (RFC) in the CRSP transmission system will be maintained by WAPA to deliver the Contractor's CROD, to meet other firm transmission and firm exchange commitments, and to serve loads solely dependent upon transmission service on WAPA's system. The Contractor's AHP, WRP, and CDP, where CDP has been accepted by WAPA pursuant to Section 7.6.2, will be treated as firm deliveries up to the Contractor's CROD. Procedures for management of curtailments shall be contained in Scheduling, Accounting, and Billing Procedures (SABPs), as referenced in Section 10, jointly developed and executed by both Parties.

7.7.2 To the extent that actual AHP, combined with the sum of contractual commitments by the Contractor for purchase of Long Term WRP, Seasonal WRP, and CDP, result in capacity greater than the Contractor's CROD, it is the Contractor's responsibility to arrange for transmission and delivery of any Long Term WRP, Seasonal WRP, and CDP in excess of the Contractor's CROD. Additionally, the Contractor shall independently

arrange for delivery to itself of all CDP over and above CDP accepted by WAPA for delivery to the Contractor pursuant to Section 7.6.

7.7.3 Pursuant to the CRSP Joint Planning Agreement Principles No. 96-SLC-0315, as may be amended, WAPA shall engage in a consultative process with the Contractors for determination of (i) the transmission capacity of the existing CRSP transmission system and any modification or additions thereto, (ii) the capacity in the system needed to meet the RFC requirement of Section 7.7.1, and (iii) any remaining available transmission capacity that could be made available for other firm transmission purposes.

7.7.3.1 Determination of transmission availability among competing new requests for WRP and CDP will be based, among other things, on the length of the commitment, i.e., for the upcoming Season or in increments offered by WAPA for Long Term WRP, with requests of longer commitment lengths being given higher priority. Prior to the beginning of Long Term WRP, as established in Section 7.3 of this Contract, the maximum commitment length for WRP and CDP will be the upcoming Season.

7.7.3.2 For requests of WRP and CDP of equal commitment length, WRP and CDP will share current RFC pro-rata when such concurrent

requests exceed estimated RFC. Prior to the first Long Term WRP commitment date, as established in Section 7.3 of this Contract, requests received through the date of the Contractor's notice for Seasonal WRP will be considered as being received concurrent for the upcoming Season. Subsequent to the first commitment date for Long Term WRP, requests for CDP will be considered as outlined in Attachment No. 4.

7.7.3.3 The commitment length for CDP can be no longer than the Contractor's purchase commitment to the resource designated at WAPA's point of receipt.

7.8 Monthly Commitments: At least sixty (60) days before the beginning of each Season, the Contractor and the Contracting Officer shall establish the Monthly Energy and Monthly Capacity for the upcoming Season at each Designated Point of Delivery; Provided, however, that Monthly Capacity in any month may not exceed the Contractor's CROD as set forth in Section 7.1.1. The Monthly Energy and Monthly Capacity will be set forth in Exhibit A. Energy or capacity may not be transferred from month to month without revision to Exhibit A.

7.9 Minimum Hourly Delivery: The Minimum Hourly Delivery shall be 35 percent of the total of the Contractor's CROD, or the Contractor's total load, whichever is less, or as otherwise set forth in Exhibit A. Upon request of the Contractor, the

requirement for a Minimum Hourly Delivery may be waived by WAPA, if operating conditions permit. At no greater than 2-year intervals, WAPA, in consultation with its Contractors, shall reevaluate, and may revise, the minimum hourly delivery. Such revision will be reflected in a revised Exhibit A.

- 7.10 Operating Reserves: WAPA is able to provide operating reserves for the Contractor for AHP. To the extent that the Contractor's CDP or WRP from a third-party purchase includes the provision of operating reserves, WAPA shall allow the Contractor to claim such reserves from any unscheduled portion of CDP or WRP.
- 7.11 Designated Point(s) of Delivery and Voltages: Firm Electric Service furnished by WAPA to the Contractor will be delivered at the point(s) and voltage(s) set forth in Exhibit A. Charges and losses will be established as follows: (i) any transmission costs and associated losses incurred in the delivery of AHP to the Designated Point(s) of Delivery described in Exhibit A shall be the responsibility of WAPA, (ii) losses in the delivery of WRP and/or CDP shall be the responsibility of the Contractor, and (iii) any transmission costs and associated losses in the delivery of Firm Electric Service beyond the Designated Point(s) of Delivery shall be the responsibility of the Contractor.
- 7.12 Metering: The point(s) of measurement, metering voltage(s), and ownership of metering equipment shall be set forth in the SABPs entered into pursuant to

Section 10 hereof. Insofar as the Firm Electric Service delivered hereunder may be measured at point(s) and/or voltage(s) other than the Designated Point(s) of Delivery, the measured amount(s) may be adjusted for losses between the Designated Point(s) of Delivery and the point(s) of measurement as set forth in said SABPs.

- 7.13 Transmission Agent: Electric service provided to the Contractor at the Designated Point(s) of Delivery listed in Exhibit A may be supplied over the facilities of Public Service Company of New Mexico under the terms and conditions provided in Contract No. 14-06-400-2425 and Contract No. 8-07-40-P0695 as amended or extended from time-to-time, or under the terms and conditions of any contract(s) that may supersede or succeed said contract(s). The term of Contract No. 14-06-400-2425 and Contract No. 8-07-40-P0695, has a final termination date of June 1, 2047. Whereas this Contract has a final termination date of September 30, 2057, WAPA will in good faith work to negotiate an extension or an alternative to Contract No. 14-06-400-2425 and Contract No. 8-07-40-P0695. If there is termination of Contract No. 14-06-400-2425 and Contract No. 8-07-40-P0695 and another alternative cannot be arranged, the Designated Point(s) of Delivery will be Four Corners 345-kV or another CRSP-owned Point(s) of Delivery as determined by the Contracting Officer in consultation with the Contractor, unless alternative arrangements are made between WAPA and the Contractor.

7.14 Firming Power

7.14.1 In the event that actual power produced by SLCA Integrated Projects generation is inadequate to meet AHP or Seasonal SHP Energy as set forth in Exhibit A, WAPA will purchase Firming Power required to meet any shortfall. The cost of such Firming Power purchases, as well as revenues from any associated short term power sales, shall be included in the capacity and energy rates charged to the Contractor under the then-current SLCA Integrated Projects Firm Power Rate Schedule.

7.14.2 Any expenses deemed non-reimbursable pursuant to Section 1807 of the Grand Canyon Protection Act of 1992, Pub. L. 102-575, shall be treated as non-reimbursable expenses.

8. EXCHANGE OF ENERGY AND CAPACITY

In order to optimize use of SLCA Integrated Projects' resources, WAPA will consider, subject to the conditions set forth herein, an exchange of energy and/or capacity between Contractors. If the Contractor desires an exchange of energy and/or capacity, it must submit a request sixty (60) days prior to the anticipated effective date of the exchange of energy and/or capacity. WAPA will then review requests on the basis of its operational requirements. If operational requirements permit, requesting Contractors will be offered a letter agreement, for an exchange of energy and/or capacity. The Contractor will return

the signed letter agreement accepting the proposed exchange. The Seasonal Energy and the Contract Rates of Delivery will then be increased or decreased, as necessary, in a revision to Exhibit A. Any exchange of energy and/or capacity is at the discretion of WAPA, and WAPA may elect to not facilitate an exchange. In the event WAPA does facilitate an exchange, the exchange is for the approved period only, and at the end of that approved period the Contractor's Seasonal Energy and Contract Rates of Delivery will revert to those amounts set forth in Section 7.1.

9. SCHEDULE OF RATES

The Contractor shall pay WAPA for the Firm Electric Service furnished hereunder in accordance with rates, charges, and conditions set forth in the General Power Contract Provisions (GPCPs) dated as of September 1, 2007, and in applicable Rate Schedule, both attached hereto and made a part hereof, or any superseding rate schedules.

10. SCHEDULING, ACCOUNTING, AND BILLING PROCEDURES

10.1 Written SABPs, shall be developed and agreed upon by the authorized representatives of the Parties before the date of initial service under this Contract. The SABPs are intended to implement the terms of this Contract but not to modify or amend it and are, therefore, subordinate to this Contract. Revisions to the SABPs may be needed to meet operational requirements and such revisions shall be made in accordance with Section 10.3. Any revisions to the SABPs shall be developed in consultation with the Contractor.

10.2 Deliveries of Firm Electric Service hereunder may be scheduled in advance as determined by the Contracting Officer, on an hourly basis, emergencies excepted, and accounted for on the basis of such advance schedules, all in accordance with SABPs agreed upon in advance between the authorized representatives. Said SABPs will specify the conditions under which inadvertent deliveries, which are greater or less than scheduled deliveries, shall be corrected in later deliveries. If operating conditions warrant and WAPA so notifies the Contractor, WAPA may,

at its option, revise the Contractor's schedule or request the Contractor to schedule its resources from the SLCA Integrated Projects to approximate normal hourly and/or daily load patterns to avoid abrupt changes in water releases and generation levels or other undesirable results. The Contractor will initiate hourly scheduling within ninety (90) days of a request by WAPA.

- 10.3 In the event the Contractor fails or refuses to execute the initial SABPs or any revised SABPs which WAPA determines to be necessary due to changes in this Contract or the power system of either Party, WAPA will temporarily implement essential procedures as determined by WAPA until mutually acceptable SABPs have been developed and executed by the authorized representatives.

11. POWER FACTOR

- 11.1 The Contractor will be expected to maintain the power factor specified in the attached rate schedule or the GPCPs. If the power factor requirements under applicable rate schedule(s) and the GPCPs are not the same, the more stringent requirement will apply.
- 11.2 If the applicable power factor standard is not complied with, WAPA may, after giving the Contractor ninety (90) days' written notice to correct the condition or such additional time as warranted by circumstances, make delivery system improvements associated with power factor correction at the Contractor's expense

to WAPA's system or to the system used by the Contractor with the agreement of the Contractor and/or Third Party Service Provider. If WAPA is required to pay for delivery system improvements associated with power factor correction on the systems of its transmission agents, which are attributable to conditions on the system used by the Contractor, the Contractor shall pay for the cost of such improvements.

12. INTEGRATED RESOURCE PLANS AND SMALL CUSTOMER PLANS

- 12.1 The Contractor shall comply with the Integrated Resource Plan (IRP) or Small Customer Plan requirements, as applicable, in accordance with the Program. If the Contractor submits an IRP with a State or Tribal regulatory body, that same plan may be submitted to WAPA for approval in meeting the IRP or Small Customer Plan requirements.
- 12.2 WAPA shall administer the IRP or Small Customer Plan requirements, as applicable, in accordance with the Program.
- 12.3 Failure to comply with the IRP or Small Customer Plan requirements, after exhaustion of all appeals, will result in the application of penalties as specified in the Program.

12.4 In the event that WAPA, or any successor agency, shall promulgate changes to the IRP portion of the Program following its initial adoption as published in the Federal Register at 60 FR 54151 (October 20, 1995), the Contractor, by written notice to the Contracting Officer within ninety (90) days after the effective date of a Program change, may elect to terminate this Contract. The termination shall be effective one (1) year from the date of receipt of the notice by WAPA.

13. ENVIRONMENTAL ATTRIBUTES

WAPA shall allocate to the Contractor available environmental attributes, such as renewable energy credits/certificates (RECs), that exist from SLCA Integrated Projects hydroelectric generation. Environmental attributes are considered bundled with the energy (kWh) allocation, and the Contractor has the right, but not the obligation, to take title and ownership to its proportionate share based upon its energy allocation set forth in Section 7.1.

14. GENERAL POWER CONTRACT PROVISIONS

The GPCPs effective September 1, 2007, attached hereto, are hereby made a part of this Contract the same as if they had been expressly set forth herein; Provided, That Articles 1.2 and 20 through 30, shall not apply or be incorporated herein; Provided, That Contractor transactions utilizing capacity and/or energy under this Contract with an entity or entities that coordinate, control, monitor, or support operation of the bulk electric system, or act as a marketplace operator of wholesale power, or procure products or service on behalf of any such entity, including but not limited to independent system

operators, regional system operators, transmission organizations, balancing authorities, or successor organizations associated with the Contractor's load shall not be considered a sale for resale.

15. CREDITWORTHINESS

The WAPA Creditworthiness Procedures effective September 1, 2017, attached hereto, are hereby made a part of this Contract the same as if they had been expressly set forth herein.

16. REVIEW OF FINANCIAL AND WORK PROGRAM DATA

Letter Agreement No. 92-SLC-0208 dated September 24, 1992, as supplemented, or any superseding agreement, among the Salt Lake City Area Office of WAPA, the Upper Colorado Region of the Bureau of Reclamation, and Colorado River Energy Distributors Association provides for implementation of the Statement of Principles and Joint Procedures for Contractor review of financial and work program data relating to rates of the SLCA Integrated Projects. This Letter Agreement and supplement are attached hereto as Attachment No. 5, and incorporated into this Contract and implemented as provided for therein.

17. EXHIBITS AND AMENDMENTS

Inasmuch as certain provisions of this Contract may change during the term hereof, they will be set forth in exhibits from time-to-time agreed upon by the authorized representatives of the Parties. The initial Exhibit A, and all future exhibits shall be

attached hereto and made a part hereof, and each shall be in force and effect in accordance with its terms unless superseded by a subsequent exhibit. This Contract may be amended or modified only by an amendment or modification duly executed by the Parties.

18. AUTHORIZED REPRESENTATIVES OF THE PARTIES

Each Party shall, by written notice to the other, designate the representative(s) who is (are) authorized to act on its behalf with respect to those matters contained herein which are the functions and responsibilities of its authorized representative(s). Either Party may change the designation of its authorized representative(s) upon written notice.

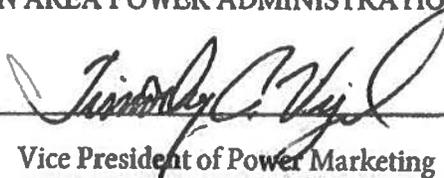
19. AUTHORITY TO EXECUTE

The Preamble and Explanatory Recitals of this Contract are incorporated by reference herein. Each individual signing this Contract certifies that the Party represented has duly authorized such individual to execute this Contract that binds and obligates the Party.

IN WITNESS WHEREOF, The Parties hereto have caused this Contract to be duly executed the day and year first written above.

U.S. DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION

By:



Title:

Vice President of Power Marketing

Address:

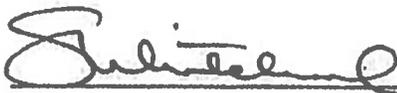
CRSP Management Center

299 South Main Street, Suite 200

Salt Lake City, UT 84111

CITY OF TRUTH OR CONSEQUENCES

By:



Title:

Mayor

Address:

City of Truth or Consequences

505 Sims St.

Truth or Consequences, NM 87901



REQUISITION

Requisition #: 87741

Date: 07/01/2022

Vendor #: 8261

ISSUED TO: PATTILLO BROWN & HILL, LLP
5310 HOMESTEAD RD NE STE 100B
ALBUQUERQUE, NM 87110-

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 ANNUAL AUDIT FY 2021-22 GENERAL FL		0.00	101-1018-48596	14,024.00
2	0 ANNUAL AUDIT FY 21-22 ELEC DEPT PO		0.00	503-3702-48596	9,709.00
3	0 ANNUAL AUDIT FY 21-22 WATER DEPT F		0.00	504-3803-48596	9,709.00
4	0 ANNUAL AUDIT FY 21-22 SOLID WASTE		0.00	505-3904-48596	9,709.00
5	0 ANNUAL AUDIT FY 21-22 WASTE WATER		0.00	506-4005-48596	9,709.00

PO Description: ANNUAL AUDIT FY 2021-22

Detailed Description:

ANNUAL 2021-22 AUDIT
PER CONTRACT 7/1/22 - 6/30/23 APPROVED BY COMMISSION 5/25/22

Authorized By: _____

SUBTOTAL:	49,000.00
TOTAL TAX:	3,860.00
SHIPPING:	0.00
TOTAL	52,860.00

Ref. 87741

Contract No.

STATE OF NEW MEXICO AUDIT CONTRACT

City of Truth or Consequences

hereinafter referred to as the "Agency," and

Patillo, Brown & Hill, LLP

hereinafter referred to as the "Contractor," agree:

As required by the Audit Rule, Section 2.2.2.1 NMAC *et seq.*, Contractor agrees to, and shall, inform the Agency of any restriction placed on Contractor by the Office of the State Auditor pursuant to Section 2.2.2.8 NMAC, and whether the Contractor is eligible to enter into this Contract despite the restriction.

1. **SCOPE OF WORK** (Include in Paragraph 25 any expansion of scope)

A. The Contractor shall conduct a financial and compliance audit of the Agency for Fiscal Year 2022 in accordance with auditing standards generally accepted in the United States of America, *Government Auditing Standards, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, the Audit Act, Sections 12-6-1 through 12-6-15, NMSA 1978, and the Audit Rule (Section 2.2.2.1 NMAC *et seq.*).

2. **DELIVERY AND REPRODUCTION**

A. In order to meet the delivery terms of this Contract, the Contractor shall deliver the documents required by Section 2.2.2.9 NMAC to the State Auditor on or before the deadline set forth for the Agency in Section 2.2.2.9 NMAC.

B. Reports uploaded into OSA Connect by 5:00 pm of the Agency's due date will be considered received by the due date for purposes of Section 2.2.2.9 NMAC. Unfinished or excessively deficient reports will not satisfy this requirement; such reports will be rejected and returned to the Contractor and the State Auditor may take action in accordance with Section 2.2.2.13 NMAC. If the State Auditor does not receive copies of the management representation letter and the completed Report Review Guide with the audit report or prior to delivery of the audit report, the State Auditor will not consider the report submitted to the State Auditor.

C. As soon as the Contractor becomes aware that circumstances exist that will make the Agency's audit report late, the Contractor shall immediately provide written notification of the situation to the State Auditor in accordance with Section 2.2.2.9 NMAC.

D. Pursuant to Section 2.2.2.10 NMAC, the Contractor shall prepare a written and dated engagement letter that identifies the specific responsibilities of the Contractor and the Agency.

E. After its review of the audit report pursuant to Section 2.2.2.13 NMAC, the State Auditor shall authorize the Contractor to print and submit the final audit report. Within five business days after the date of the authorization to print and submit the final audit report, the Contractor shall provide the State Auditor an electronic version of the audit report, in PDF format, and the electronic copy of the Excel version of the Summary of Findings Form, and any other required electronic schedule (if applicable). After the State Auditor officially releases the audit report by issuance of a release letter, the Contractor shall deliver 10 copies of the audit report to the Agency. The Agency or Contractor shall ensure that every member of the Agency's governing authority shall receive a copy of the report.

3. **COMPENSATION**

A. The total amount payable by the Agency to the Contractor under this Contract shall not exceed \$52,859.00 including applicable gross receipts tax.

B. Contractor agrees not to, and shall not, perform any services in furtherance of this Contract prior to approval by the State Auditor. Contractor acknowledges and agrees that it will not be entitled to payment or compensation for any services performed by Contractor pursuant to this Contract prior to approval by the State Auditor.

C. Total Compensation will consist of the following:

SERVICES	AMOUNTS
----------	---------

(1) Financial statement audit	<u>\$42,500.00</u>
(2) Federal single audit	<u>\$4,000.00</u>
(3) Financial statement preparation	<u>\$2,500.00</u>
(4) Other nonaudit services, such as depreciation schedule updates	<u>\$0.00</u>
(5) Other (i.e., component units, specifically identified)	<u>\$0.00</u>

Gross Receipts Tax = \$3,859.00

Total Compensation = \$52,859.00 including applicable gross receipts tax

D. The Agency shall pay the Contractor the New Mexico gross receipts tax levied on the amounts payable under this Contract and invoiced by the Contractor. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below

E. The State Auditor may authorize progress payments to the Contractor by the Agency; pursuant to Section 2.2.2.8(M)(3) NMAC; provided that the authorization is based upon evidence of the percentage of audit work completed as of the date of the request for partial payment. State Auditor approval after being approved by the Agency. If requested by the State Auditor, the Agency shall provide a copy of the progress billings. Final payment for services rendered by the Contractor shall not be made until a determination and written finding is made by the State Auditor in the release letter that the audit has been made in a competent manner in accordance with the provisions of this Contract and applicable rules of the State Auditor. G. The State Auditor may authorize progress payments to the Contractor by the Agency; pursuant to Section 2.2.2.8(M)(3) NMAC; provided that the authorization is based upon evidence of the percentage of audit work completed as of the date of the request for partial payment. If requested by the State Auditor, the Agency shall provide a copy of the progress billings. Final payment for services rendered by the Contractor shall not be made until a determination and written finding is made by the State Auditor in the release letter that the audit has been made in a competent manner in accordance with the provisions of this Contract and applicable rules of the State Auditor.

4. **TERM.** Unless terminated pursuant to Paragraphs 5 or 19, this Contract shall terminate one calendar year after the latest date on which it is signed.

5. **TERMINATION, BREACH AND REMEDIES**

A. This Contract may be terminated:

1. By either party without cause, upon written notice delivered to the other party and the State Auditor at least ten (10) days prior to the intended date of termination.
2. By either party, immediately upon written notice delivered to the other party and the State Auditor, if a material breach of any of the terms of this Contract occurs. Unjustified failure to deliver the report in accordance with Paragraph 2 shall constitute a material breach of this Contract.
3. By the Agency pursuant to Paragraph 19, immediately upon written notice to the Contractor and the State Auditor.
4. By the State Auditor, immediately upon written notice to the Contractor and the Agency after determining that the audit has been unduly delayed, or for any other reason.

B. By termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. If the Agency or the State Auditor terminates this Contract, the Contractor shall be entitled to compensation for work performed prior to termination in the amount of earned, but not yet paid, progress payments, if any, that the State Auditor has authorized to the extent required by Paragraph 3(E). If the Contractor terminates this Contract for any reason other than Agency's breach of this Contract, the Contractor shall repay to the Agency the full amount of any progress payments for work performed under the terms of this Contract.

C. Pursuant to Section 2.2.2.8 NMAC, the State Auditor may disqualify the Contractor from eligibility to contract for audit services with the State of New Mexico if the Contractor knowingly makes false statements, false assurances or false disclosures under this Contract. The State Auditor on behalf of the Agency or the Agency may bring a civil action for damages or any other relief against a Contractor for a material breach of this Contract.

D. **THE REMEDIES HEREIN ARE NOT EXCLUSIVE, AND NOTHING IN THIS SECTION 5 WAIVES OTHER LEGAL RIGHTS AND REMEDIES OF THE PARTIES.**

6. **STATUS OF CONTRACTOR**

The Contractor and its agents and employees are independent contractors performing professional services for the Agency and are not employees of the Agency. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles or any other benefits afforded to employees of the Agency as a result of this Contract. The Contractor agrees not to purport to bind the State of New Mexico to any obligation not assumed under this Contract unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. ASSIGNMENT

The Contractor shall not assign or transfer any interest in this Contract or assign any claims for money due or to become due under this Contract.

8. SUBCONTRACTING

The Contractor shall not subcontract any portion of the services to be performed under this Contract without the prior written approval of the Agency and the State Auditor. An agreement between the Contractor and a subcontractor to subcontract any portion of the services under this Contract shall be completed on a form prescribed by the State Auditor. The agreement shall be an amendment to this Contract and shall specify the portion of the audit services to be performed by the subcontractor, how the responsibility for the audit will be shared between the Contractor and the subcontractor, the party responsible for signing the audit report and the method by which the subcontractor will be paid. Pursuant to Section 2.2.2.8 NMAC, the Contractor may subcontract only with independent public accounting firms that are on the State Auditor's List of Approved Firms, and that are not otherwise restricted by the State Auditor from entering into such a contract.

9. RECORDS

The Contractor shall maintain detailed time records that indicate the date, time, and nature of services rendered during the term of this Contract. The Contractor shall retain the records for a period of at least five (5) years after the date of final payment under this contract. The records shall be subject to inspection by the Agency and the State Auditor. The Agency and the State Auditor shall have the right to audit billings both before and after payment. Payment under this Contract shall not foreclose the right of the Agency or the State Auditor on behalf of the Agency to recover excessive or illegal payments.

10. RELEASE

The Contractor, upon receiving final payment of the amounts due under the Contract, releases the State Auditor, the Agency, their respective officers and employees and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Contract. This paragraph does not release the Contractor from any liabilities, claims or obligations whatsoever arising from or under this Contract.

11. CONFIDENTIALITY

All information provided to or developed by the Contractor from any source whatsoever in the performance of this Contract shall be kept confidential and shall not be made available to any individual or organization by the Contractor, except in accordance with this Contract or applicable standards, without the prior written approval of the Agency and the State Auditor.

12. PRODUCT OF SERVICES; COPYRIGHT AND REPORT USE

Nothing developed or produced, in whole or in part, by the Contractor under this Contract shall be the subject of an application for copyright by or on behalf of the Contractor. The Agency and the State Auditor may post an audited financial statement on their respective websites once it is publicly released by the State Auditor. For District Courts and District Attorneys only, the contractor agrees that the Financial Control Division of the Department of Finance and Administration (DFA) is free to use the audited financial statements in the statewide Comprehensive Annual Financial Report and that the Contractor's audit report may be relied upon during the audit of the statewide Comprehensive Annual Financial Report, if applicable. However, DFA should not provide to any third party, other than the Comprehensive Annual Financial Report auditor, the District Courts' or District Attorneys' draft audit reports or their opinion letters or findings.

13. CONFLICT OF INTEREST

The Contractor represents and warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Contract. Each of the Contractor and the Agency certifies that it has followed the requirements of the Governmental Conduct Act, Section 10-16-1, *et seq.*, NMSA 1978, regarding contracting with a public officer, state employee or former state employee, as required by the applicable professional standards.

14. INDEPENDENCE

The Contractor represents and warrants its personal, external and organizational independence from the Agency in accordance with the *Government Auditing Standards*, issued by the Comptroller General of the United States, and Section 2.2.2.8 NMAC. The Contractor shall immediately notify the State Auditor and the Agency in writing if any impairment to the Contractor's independence occurs or may occur during the period of this Contract.

15. AMENDMENT

This Contract shall not be altered, changed or amended except by prior written agreement of the parties and with the prior written approval of the State Auditor. Any amendments to this Contract shall comply with the Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978.

16. MERGER

This Contract supersedes all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Contract. Contractor and Agency shall enter into and execute an engagement letter pursuant to Section 2.2.2.10 NMAC, consistent with

Generally Accepted Auditing Standards (GAAS) and Government Auditing Standards (GAGAS). The engagement letter and any associated documentation included with or referenced in the engagement letter shall not be interpreted to amend this Contract. Conflicts between the engagement letter and this Contract are governed by this Contract, and shall be resolved accordingly.

17. APPLICABLE LAW

The laws of the State of New Mexico shall govern this Contract. By execution of this Contract, Contractor irrevocably consents to the exclusive personal jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising from or related to this Contract.

18. AGENCY BOOKS AND RECORDS

The Agency is responsible for maintaining control of all books and records at all times and the Contractor shall not remove any books and records from the Agency's possession for any reason.

19. APPROPRIATIONS

The terms of this Contract are contingent upon sufficient appropriations and authorization being made by the legislature or the Agency's governing body for the performance of this Contract. If sufficient appropriations and authorization are not made by the legislature or the Agency's governing body, this Contract shall terminate upon written notice being given by the Agency to the Contractor. The Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. This section of the Contract does not supersede the Agency's requirement to have an annual audit pursuant to Section 12-6-3(A) NMSA 1978.

20. PENALTIES FOR VIOLATION OF LAW

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for certain violations. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

21. EQUAL OPPORTUNITY COMPLIANCE

The Contractor shall abide by all federal and state laws, rules and regulations, and executive orders of the Governor of the State of New Mexico pertaining to equal employment opportunity. In accordance with all such laws, rules, regulations and orders, the Contractor assures that no person in the United States shall, on the grounds of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap or serious medical condition, spousal affiliation, sexual orientation or gender identity be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Contract. If the Contractor is found not to be in compliance with these requirements during the life of this Contract, the Contractor shall take appropriate steps to correct these deficiencies.

22. WORKING PAPERS

A. The Contractor shall retain its working papers of the Agency's audit conducted pursuant to this Contract for a period of at least five (5) years after the date shown on the opinion letter of the audit report, or longer if requested by the federal cognizant agency for audit, oversight agency for audit, pass through-entity or the State Auditor. The State Auditor shall have access to the working papers at the State Auditor's discretion. When requested by the State Auditor, the Contractor shall deliver the original or clear, legible copies of all working papers to the requesting entity.

B. The Contractor should follow the guidance of AU-C 210 A.27 to A.31 and AU-C 510 .A3 to .A11 in communications with the predecessor auditor and to obtain information from the predecessor auditor's audit documentation.

23. DESIGNATED ON-SITE STAFF

The Contractor's on-site individual auditor responsible for supervision of work and completion of the audit is Chris Garner. The Contractor shall notify the Agency and the State Auditor in writing of any changes in staff assigned to perform the audit.

24. INVALID TERM OR CONDITION

If any term or condition of this Contract shall be held invalid or unenforceable, the remainder of this Contract shall not be affected.

25. OTHER PROVISIONS

SIGNATURE PAGE

This Contract is made effective as of the date of the latest signature.

AGENCY

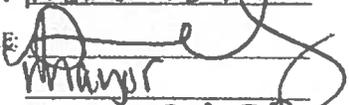
CONTRACTOR

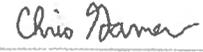
City of Truth or Consequences

Patillo, Brown & Hill, LLP

PRINTED NAME: Amanda Forrister

PRINTED NAME: Chris Garner

SIGNATURE: 

SIGNATURE: 

TITLE: Mayor

TITLE: Partner

DATE: May 25, 2022

DATE: 5/31/22

State Auditor Contract No. 22-6176



REQUISITION

Requisition #: 87743

Date: 07/01/2022

Vendor #: 7884

ISSUED TO: SSA SOLAR OF NM 4, LLC
750 PARK COMMERCE BLVD., SUITE
BOCA RATON, FL 33487-

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 POWER SERVICES- OPEN PO FY 22/23		0.00 503-3702-50795	330,000.00

PO Description: POWER SERVICES- OPEN PO FY 22/23

Detailed Description:

POWER SERVICES- OPEN PO FY JULY 1, 2022 TO JUNE 30, 2023
POWER SERVICE- 3300 COOK ST. SOLAR ARRAY
SEE ATTACHED AFFORDABLE SOLAR CONTRACT 12-1-2014 THROUGH 1-30-2039

Authorized By: _____

SUBTOTAL:	330,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	330,000.00

POWER PURCHASE AGREEMENT

THIS POWER PURCHASE AGREEMENT (this "PPA" or "Agreement" as the context may require) is made and entered into as of June 18th, 2014 (the "Effective Date"), by and between Affordable Solar Installation, Inc, a New Mexico Corporation, with its principal place of business at 4840 Pan American Freeway NE, Albuquerque, NM 87109 ("Owner"), and the City of Truth or Consequences, an incorporated New Mexico municipality with its principal place of business at 505 Sims Truth or Consequences, NM 87901 ("Host Customer"). Owner and Host Customer are sometimes hereinafter referred to individually as a "Party" and collectively as the "Parties."

RECITALS

- A. Owner has experience in building, financing, owning and operating solar energy facilities.
- B. Owner intends to build, finance, own and operate a solar energy facility (the "SEF") as more particularly defined in Exhibit A-1 (I) and hereto on the Property described in Exhibit C-1 (I) hereto.
- C. Owner desires to sell to Host Customer, and Host Customer desires to purchase from Owner, all of the Energy Output, subject to the Terms and conditions, hereunder, delivered to Host Customer at the Delivery Point during the Term and otherwise in accordance with the terms of this PPA.

AGREEMENT

In consideration of the foregoing recitals, the mutual agreements, representations, warranties and covenants set forth in this PPA and the Exhibits hereto, and other good and valuable consideration, the receipt of which is hereby acknowledged, Owner and Host Customer agree as follows:

ARTICLE 1. DEFINED TERMS; RULES OF INTERPRETATION

1.1 Defined Terms. Capitalized terms used in this PPA shall have the meanings ascribed to them in Exhibit E, the *Schedule of Definitions and Rules of Interpretation*, attached hereto and made a part of this PPA by this reference, or elsewhere in this PPA.

1.2 Rules of Interpretation. The rules of interpretation in Exhibit E, the *Schedule of Definitions and Rules of Interpretation*, shall apply to this PPA unless expressly provided otherwise.

1.3 Public Works. It is agreed and understood between the Parties that the installation, operations, sale, and/or purchase of electricity under this PPA *is not*, nor in any ways should be construed as a public works project, as such term is commonly used in conjunction with municipal or other governmental projects.

ARTICLE 2. TERM AND TERMINATION

2.1 Term.

(a) The initial term of this PPA (the "Initial Term") with respect to each Array shall commence on the Effective Date and shall be in effect until 11:59 p.m. local time in Truth or Consequences, New Mexico on the twenty-fifth (25th) year anniversary of the applicable Commercial Operation Date.

(b) Without constituting an Event of Default under this PPA, and without liability of either Party to the other Party (except for such amounts then due and owing under this PPA as of the date of such termination), Owner shall have the right, but not the obligation, to terminate this PPA prior to expiration of the Term upon the occurrence of the following and by notification to the Host Customer as soon as reasonably practical under the circumstances:

(i) an unstayed order of any Governmental Entity having the effect of subjecting the sales of Energy Output to federal or state regulation of prices and/or services; or

the Host Customer under the provisions of the Worker's Compensation Act of the State of New Mexico, or to any of the benefits granted to employees of the Host Customer as described in its Employee Personnel Manual.

(j) Discrimination Prohibited: In performing the services required hereunder, the Owner shall not discriminate against any person on the basis of race, color, religion, sex, national origin or ancestry, age, physical handicap or disability. Owner will agree to comply with the Presidents Executive Order No. 11246 as amended.

(k) ADA Requirement: In performing the services required hereunder, if required, the Owner agrees to meet all the requirements of the Americans with Disabilities Act, (the "ADA"), which are imposed directly on the Owner or which would be imposed on the Host Customer as a public entity. The Owner agrees to be responsible for knowing all applicable rules and requirements of the ADA and to defend, indemnify and hold harmless the Host Customer, its officials, agents and employees from and against any claims, actions, suits or proceedings of any kind brought against the Owner as a result of any act or omissions of the Owner or its agents in violation.

(l) Reports and Information: In conjunction with Section 10.4, at such times and in such forms as the Host Customer may reasonably require, Owner shall furnish to the Host Customer such statements, records, reports, data and information relating to local hire, compliance with federal and state law, and/or notifications of litigation pertaining to the construction and/or operation of the SEF. In providing documentation pursuant to this provision, Owner shall clearly designate any information that it deems proprietary and not subject to disclosure under the New Mexico Inspection of Public Records Act, Sections 14-2-1 through 14-2-12 NMSA 1978. Any records which are considered to be "public records" in the possession of the Host Customer under the New Mexico Inspection of Public Records Act shall be disclosed upon lawful request notwithstanding any provision to the contrary found in this Agreement.

(m) Conflict of Interest: The Owner warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required by this Agreement. The Owner shall comply with any applicable provisions of the New Mexico Governmental Conduct Act and the New Mexico Financial Disclosures Act. Owner also agrees that it shall not represent any person, company or otherwise that would create a conflict of interest for the Term of this Agreement.

(n) Applicable Laws: All applicable federal laws, state laws, municipal ordinances, and the rules and regulations, as may be amended from time to time, including those requirements relating to health, safety and the environment, of all authorities having jurisdiction over said item, shall apply to the contract throughout. They will be deemed to be included in the contract the same as though herein written out in full.

(o) Taxes. The Energy Payment Rate as reflected on Exhibit B-1 (1) does not include taxes, if any, which may be applicable to the purchase and sale of Energy as contemplated in Section 4.6.

(p) Non-Collusion. In signing this PPA, Owner certifies it has not, either directly or indirectly, entered into action in restraint of full competition in connection with this PPA.

3.4 Survival. Effective as of any termination of this PPA, the Parties will no longer be bound by the terms and conditions of this PPA, except (a) to the extent necessary to enforce any rights and obligations of the Parties, including payment and performance obligations, arising under this PPA prior to termination of this PPA and (b) as provided in Sections 9.3 through 9.7, Section 10.3, Articles 12, 13 (as necessary to give effect to its terms), 14, 15 and 18.

ARTICLE 4. PURCHASE AND SALE; DELIVERY; GOVERNMENTAL CHARGES

4.1 Purchase and Sale of Energy Output.

(a) Commencing on the first Commercial Operation Date and continuing throughout the remainder of the Term, Owner shall make available to Host Customer, and Host Customer shall take delivery of, at the Delivery Point, all of the Energy Output produced by the SEF.

(b) Host Customer shall be responsible for arranging delivery of Energy Output from the Delivery Point to Host Customer's installations and/or equipment on Host Customer's side of the Delivery Point necessary for acceptance and use of the Energy Output. The Parties acknowledge that (1) the Energy Output from the SEF is an intermittent, as available energy product, (2) Owner guarantees a level of Energy Output in accordance with the Production Guarantee in Exhibit F, and (3) except as provided in the Written Savings Guarantee of Section 4.4 below and in Exhibit F, Host Customer is solely responsible for meeting any and all of its energy needs not met from SEF generated-energy at Host Customer's cost and expense.

4.2 Price for Energy Output. Host Customer shall pay Owner for the Energy Output, as metered at the Metering Device, at the applicable Energy Payment Rate in accordance with Exhibit B-1 (I) hereto. The payment to be made by Host Customer to Owner shall equal the Energy Output for the relevant period multiplied by the Energy Payment Rate for such period. Host Customer shall be obligated to make any payment required pursuant to this Section 4.2 solely from Pledged Revenues.

4.3 Energy Payment Rate.

(a) Initial Term. The Energy Payment Rate for the first Contract Year of the Initial Term shall be as stated in Exhibit B-1 (I) hereto. On the first anniversary of the first Commercial Operation Date and each anniversary of such Commercial Operation Date thereafter during the Initial Term, the Energy Payment Rate shall be increased by the Energy Payment Rate Increase Factor applicable to the Initial Term stated in Exhibit B-1 (I) hereto.

(b) Extension Terms. The Energy Payment Rate during the first Contract Year of each Extension Term shall be as mutually agreed between the Parties.

(c) Adjustments to Energy Payment Rate. In all cases, any adjustments in the Energy Payment Rate shall be made to the nearest hundredth of a cent.

4.4 Guaranteed Savings. Owner shall:

(a) guaranty annual energy savings as provided in the Form of Written Guarantee attached to this PPA as Exhibit I; and,

(b) provide a performance guarantee in the amount of \$2,500 in the form of a performance bond, a cash bond, a letter of credit issued by a bank with a Moody's or Standard and Poor's rating of "A" or better or any other surety, including insurance, satisfactory to Host Customer and its approving agency.

(c) The guarantee for each year shall be in an amount equal to the amount of the annual guarantee given by the Owner, a qualified provider within the meaning of Section 6-23-2((E) NMSA 1978 in this PPA, which is a guaranteed utility savings contract within the meaning of 6-23-2(D) NMSA 1978.

4.5 Title and Risk of Loss of Energy Output. Title to and risk of loss of the Energy Output will pass from Owner to Host Customer at the Delivery Point. Owner warrants that it will deliver the Energy Output to Host Customer at the Delivery Point free and clear of all liens, security interests, claims and other encumbrances.

4.6 Governmental Charges.

(a) Owner is responsible for paying income taxes attributable to Owner for income received under this PPA.

(b) Host Customer is responsible for all Governmental Charges attributable to the sale of the Energy Output from Owner to Host Customer customarily charged by the electric utility serving Host Customer (including but not limited to the gross receipt taxes if applicable) or imposed specifically upon the production of renewable and/or distributed electrical energy, irrespective of whether imposed before, upon or after the delivery of the Energy Output to Host Customer at the Delivery Point. Host Customer shall promptly reimburse Owner for any such Governmental Charges that are assessed to and paid by Owner.

(c) Both Parties shall use reasonable efforts to administer this PPA and implement its provisions so as to minimize Governmental Charges. In the event any of the sales of Energy Output hereunder are to be exempted from or not subject to one or more Governmental Charges, the applicable Party shall, promptly upon the other Party's request therefrom, provide the applicable Party with all necessary documentation to evidence such exemption or exclusion.

4.7 Utility Rates/Tariffs. In conjunction with 4.1(b)(3) above, Host Customer understands and acknowledges that Owner is not replacing 100% of its energy needs and that Host Customer will still need to purchase some energy from the Utility. The Host Customer is relying on the Production Guarantees provided in Exhibit F-2 (I). In conjunction with said purchase of energy from the Utility, Host Customer expressly agrees and understands that it is responsible for the applicable rates and/or tariffs charged to it by the Utility for any such energy purchased, and that any loss relating to the failure to obtain a preferential tariff rate shall be borne solely by the Host Customer.

4.8 Host Customer Electric Utility Rate Covenants. In addition to any covenants concerning utility rates charged by Host Customer to its electric utility customers, Host Customer hereby agrees: that it will at all times fix rates and collect charges for each class of service rendered by the Utility System and, from time to time, amend or adjust such rates so that Gross Revenues of the Utility System will always be sufficient to provide for payment of the debt service requirements on all outstanding System Obligations and other obligations secured, directly or indirectly by such Gross Revenues of the Utility System, including this PPA, as and when the same become due and payable, to maintain the funds and accounts established

for the Utility System, to provide for the payment of expenses of administration, System Operation and Maintenance Expenses which may be necessary to preserve the same in good repair and working order, including necessary reserves therefor and all other payments necessary to meet ongoing legal obligations to be paid at that time. The foregoing covenants are herein referred to as the "Rate Covenant." Host Customer's failure to comply with the Rate Covenant in any fiscal year will not constitute an event of default hereunder so long as Host Customer, within 180 days after the end of any such fiscal year, adopts the schedule of rates and charges recommended or approved by a Consulting Engineer which would bring Host Customer into compliance with the Rate Covenant. Host Customer shall, in each fiscal year, complete a review of its financial condition for the purpose of estimating whether the Gross Revenues for such Fiscal Year and the next succeeding fiscal year will be sufficient to comply with the Rate Covenant. If Host Customer determines that the Gross Revenues may not be so sufficient, it will forthwith cause the Consulting Engineer to make a study for the purpose of recommending a schedule of fees, rates and charges for the Utility System which, in the opinion of the Consulting Engineer, will cause sufficient Gross Revenues to be collected in such Fiscal Year sufficient to eliminate the amount of any deficiency at the earlier practicable time within such fiscal year.

4.9 Pledge of Pledged Utility Cost Savings Revenue; Non-impairment. Host Customer hereby pledges the Pledged Utility Cost Savings Revenues, payable from the gross revenues of Host Customer's Electric Utility Revenue Fund, together with the amounts on deposit in the Pledged Utility Cost Savings Account of the Electric Utility Fund, and the proceeds thereof, and grants a security interest therein for, the payment of amounts due pursuant to this PPA. The Pledge of Utility Cost Savings Revenues is an irrevocable and first lien, but not necessarily an exclusive first lien, on the Pledged Utility Cost Savings Revenues. During the Term of this PPA, and thereafter while any amounts owed by Host Customer to Owner shall be unpaid, Host Customer shall take no action that would impair the pledge of Pledged Utility Cost Savings Revenue or its ability to make PPA payments from the Pledged Utility Cost Savings Account of the Electric Utility Revenue Fund.

ARTICLE 5.

ENVIRONMENTAL ATTRIBUTES; ENVIRONMENTAL INCENTIVES; REPORTING RIGHTS

5.1 Title to Environmental Attributes, Environmental Incentives and Reporting Rights. Notwithstanding the SEF's presence on the Property, Host Customer shall own, and may assign or sell in its sole discretion, all right, title and interest associated with or resulting from the production, sale, purchase or use of the Energy Output including, without limitation (a) all Environmental Attributes and (b) the Reporting Rights.

5.2 Further Assurances. Host Customer shall execute all such documents and instruments reasonably necessary or desirable to effect or evidence Host Customer's right, title and interest in and to the Environmental Attributes and Reporting Rights. If the standards used to qualify the Environmental Attributes or Reporting Rights to which Host Customer is entitled under this PPA are changed or modified, Owner shall, at Host Customer's request and expense, use all reasonable efforts to cause the Environmental Attributes or Reporting Rights to comply with new standards as changed or modified.

ARTICLE 6.

DESIGN, CONSTRUCTION, INITIAL OPERATION, MAINTENANCE AND MONITORING

6.1 Design, Construction, Maintenance and Monitoring of SEF by Owner.

(a) Owner shall, at its sole cost and expense, (i) design, specify, procure (including but not limited to all inverters, transformers, switchgear, wiring and protective devices to connect to the base electrical distribution system) and construct the SEF substantially in accordance with applicable Laws and the General SEF Description set forth for each array in Exhibit A-1 (I) and generally in accordance with the construction schedules set forth in Exhibit A-3 (I) (ii) maintain the SEF in good condition and repair and in accordance with applicable Laws, requirements of applicable insurance policies and the terms of this PPA, (iii) reasonably monitor the SEF's performance and provide "commercial best efforts" to repair the SEF in a reasonable time in an effort to minimize any loss of Energy Output caused by a SEF malfunction, and (iv) provide Host Customer with real-time online access to the performance data from the SEF.

(b) Owner shall, at its sole cost and expense, develop and design a grading plan, and as applicable, a drainage plan and storm water prevention plan at the Property. Such plan shall be submitted to the Host Customer's Flood Plain Manager for review and approval if required, which shall not be unreasonably conditioned, burdened, or withheld. Further, if after ten (10) Business Days following submittal by Owner to Host Customer's Flood Plain Manager, Owner has not received any response, such plans shall be deemed approved.

(c) Prior to commencement of construction of an Array, Owner shall provide (i) to Host Customer the opportunity to participate in a formal design review with Owner, the purpose of which is to ensure that the Array has been

designed in accordance with the terms of this PPA, and (ii) a detailed design package including system and product specifications and drawings and descriptions, which shall be conforming to design.

(d) The Owner's scope of work, in addition to providing a functional, interconnected solar PV facility, includes all site preparation work, fencing, implementation of effective control of dust, weeds, and erosion for the duration of the PPA. Owner will limit the use of water to amounts reasonably necessary for compaction and dust control during construction, and for maintenance of the Arrays during operation; provided, that Owner shall pay for water used during construction and operation at the rates applicable to such uses.

(e) Owner will comply with all Federal, State and local regulations re the transportation, storage and use of hazardous materials. "Hazardous material" means any substance, pollutant or contaminant that is listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601 et seq., and its regulations. The definition of hazardous substances under CERCLA includes any "hazardous waste" as defined in the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 9601 et seq., and its regulations. The term hazardous materials also includes any nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq. The term does not include petroleum, including crude oil or any fraction thereof that is not otherwise specifically listed or designated as a hazardous substance under CERCLA Section 101(14), 42 U.S.C. 9601(14), nor does the term include natural gas.

(f) Owner hereby covenants not to commence construction of an Array without financing available and sufficient to complete construction of the Array.

6.2 Access Provisions in Lease Agreement. Owner and Host Customer shall include in the lease agreement for the Property provisions to allow Owner reasonable access to the Property through transit of Host Customer property to the adjacent Property. Owner and its sub-contractors, agents, consultants, and representatives shall have reasonable access at all reasonable times to the Property for the purpose of planning, constructing, operating, inspecting, maintaining, repairing and removing the SEF, and to any documents, materials and records of Host Customer relating to the Property that Owner reasonably requests in conjunction with these activities. Owner shall comply with all reasonable access and notice procedures agreed upon between Host Customer and Owner from time to time in writing relating to activities conducted by or on behalf of Owner on the Property relating to the SEF. During any such activities, Owner, and its sub-contractors, agents, consultants and representatives, shall comply with Host Customer's reasonable safety and security procedures (as may be promulgated from time to time and communicated to Owner), and Owner and its sub-contractors, agents, consultants and representatives shall conduct such activities in such a manner and such a time and day as to minimize interference with Host Customer's nearby/adjacent activities to the extent reasonably practicable. Notwithstanding anything to the contrary in this Section 6.2, Owner shall be allowed immediate access to the Property and the SEF in connection with any emergency condition then existing with respect to the SEF that could reasonably be expected to pose an imminent threat to the safety of persons or property.

6.3 Owner's Maintenance.

(a) Nothing in this PPA shall limit Owner's ability to maintain the Property in a reasonable manner consistent with Owner's standard practices.

(b) Notwithstanding Section 6.2 above, Host Customer acknowledges, agrees and accepts that activities conducted by or on behalf of Owner on the Property relating to the SEF may interfere with Host Customer's conduct of business thereon. Owner agrees to take all commercially reasonable measures to minimize such interference.

6.4 Host Customer Maintenance of Contiguous Property. Host Customer shall maintain any real property owned or occupied by Host Customer which abuts the Property on which an Array is located in a manner which will not disturb or interfere with the operation and maintenance of the SEF by Owner.

(a) Host agrees to reasonably assist Seller (at no cost to Host) in obtaining all necessary permits, licenses and approvals in connection with the installation, operation and maintenance of the System, including but not limited to the submission of applications for interconnection of the System with the local electric utility and applications for the resale of excess power to the local utility (in case of a Host Event of Default or otherwise). Host shall not make any material changes to its electrical equipment at the Premises after the date on which the applicable utility interconnection application is submitted unless any such changes, individually or in the aggregate, would not adversely affect the approval by such utility of such interconnection. Should the local electric utility or the local inspector fail to approve the interconnection of the System with respect to the Premises or require equipment in addition to the equipment set forth in Exhibit A-1 (I) and in connection with the Premises, Seller may terminate this Agreement immediately subsequent to notification from the local utility. The Parties shall not be obligated to proceed with the installation of the System if the applicable utility or inspector approvals are conditioned upon material upgrades to the existing electrical infrastructure and neither Party elects to provide for such upgrades.

**ARTICLE 7.
METERING DEVICE AND METERING**

7.1 Metering Equipment. The Parties acknowledge and agree that the Owner will engage a Third Party Production Monitoring and Reporting Service (a licensed and neutral testing agency), and that the Metering Device used will, at a minimum, be certified by a nationally recognized independent testing laboratory to ANSI C12.20-0.2% class.

7.2 Measurements. Readings of the Metering Device shall be conclusive as to the amount of Energy Output. If the Metering Device is out of service, is discovered to be inaccurate pursuant to Section 7.3, or registers inaccurately, measurements of Energy Output shall be determined by Owner in a commercially reasonable manner by reference to quantities of Energy Output measured during periods of similar conditions when the Metering Device was registering accurately. If no reliable information exists as to the period of time during which such Metering Device was registering inaccurately, it shall be assumed that the period of such inaccuracy was equal to one-half of the period from the date of the last previous test of such Metering Device (or if no such test had been conducted, from the first Commercial Operation Date) through the date the inaccuracy of the Metering Device has been discovered; *provided, however*, that the period covered by the correction under Section 7.3 shall not exceed six (6) months. If, for calculation purposes, no time period of similar conditions, during which the Metering Device registered accurately can be determined, measurements of Energy Output shall be calculated in good faith by Owner with reference to applicable solar production modeling and solar insolation data generally accepted in the solar industry.

7.3 Testing and Correction.

(a) Right to Conduct Tests. Each Party and its consultants and representatives shall have the right to witness each test conducted by or under the supervision of the Third Party Monitoring and Reporting Service Provider, or the Metering Device's manufacturer or other certified testing authority to verify the accuracy of the measurements and recordings of the Metering Device. Either Party shall provide at least ten (10) Business Days prior written notice to the other Party of the date upon which any such test is to occur. The Party requesting the test shall prepare a written report setting forth the results of each such test, and shall provide the other Party with copies of such written report not later than twenty (20) Business Days after completion of such test. The Party requesting the test shall bear the cost of the testing of the Metering Device and the preparation of the Metering Device test reports.

(b) Owner Maintenance of Metering Device. Owner shall maintain the Metering Device in accordance with the Metering Device manufacturer's specifications and requirements, and those of applicable Governmental Authorities.

(c) Standard of Metering Device Accuracy; Resolution of Disputes as to Accuracy. The following steps shall be taken to resolve any disputes regarding the accuracy of the Metering Device:

(i) If either Party disputes the accuracy or condition of the Metering Device, such Party shall so advise the other Party in writing, stating in reasonable detail the basis for such dispute.

(ii) The non-disputing Party shall, within fifteen (15) Business days of receiving such notice from the disputing Party, advise the disputing Party in writing as to its position concerning the accuracy of such Metering Device and state reasons for taking such position.

(iii) If the Parties are unable to agree to the accuracy or condition of the Metering Device, either Party may request additional testing of the Metering Device by the Third Party Monitoring and Reporting Service provider, or the Metering Device's manufacturer or other certified testing authority.

(iv) If the Metering Device is found to be inaccurate by 1% or less, any previous recordings of the Metering Device shall be deemed accurate, and the Party disputing the accuracy or condition of the Metering Device under Section 7.3(c)(i) shall bear the cost of inspection and testing of the Metering Device as described in Section 7.3(c)(iii).

(v) If the Metering Device is found to be inaccurate by more than 1% or if such Metering Device is for any reason out of service or fails to register, then (A) Owner shall promptly cause any Metering Device found to be inaccurate to be replaced or adjusted to correct, to the extent practicable, such inaccuracy, (B) the Parties shall estimate the correct amounts of Energy Output delivered during the periods affected by such inaccuracy, service outage or failure to register in accordance with Section 7.2 and (C) Owner shall bear the cost of inspection and testing of the Metering Device as described in Section 7.3(c)(iii). If as a result of such adjustment the quantity of Energy Output for any period is decreased (such quantity, the "*Energy Deficiency Quantity*"), Owner shall reimburse Host Customer for the amount paid by Host Customer in consideration for the Energy Deficiency Quantity by crediting such amount against Host Customer's payment obligations under this PPA. If as a result of such adjustment the quantity of Energy Output for any period is increased (such

quantity, the "*Energy Surplus Quantity*"), Owner shall separately invoice for, and Host Customer shall pay for the Energy Surplus Quantity at the Energy Payment Rate applicable during the applicable Contract Year in accordance with Article 9 below.

ARTICLE 8.

SEF OWNERSHIP; RISK OF LOSS; INSURANCE; FORCE MAJEURE; CHANGE IN LAW

8.1 SEF Ownership. Owner shall be deemed the owner of the SEF for all purposes. In the event that an Array is located on land leased from Host Customer, the provisions of Section 8.1(a) shall apply.

(a) Unless and until the SEF is sold to Host Customer as contemplated in Article 13 of this PPA or is assigned as provided in Article 17 of this PPA, notwithstanding the presence and operation of the SEF on the Property, except as otherwise provided in the documents relating to any industrial revenue bonds, Owner shall at all times retain title to and be the legal and beneficial owner of the SEF and all alterations, additions or improvements made thereto by Owner, and the SEF shall remain the property of Owner or Owner's assigns. In no event shall anyone claiming by, through or under Host Customer (including but not limited to any present or future mortgagee of the Property) have any rights in or to the SEF at any time. Host Customer acknowledges and agrees that Owner may be required to grant or cause to be granted to Owner's Financing Parties a security interest in the SEF and Host Customer expressly disclaims, waives and agrees not to assert any lien, security interest or any other rights it may have in the SEF, from time to time, pursuant to this PPA, at law or in equity.

(b) The Parties specifically acknowledge and agree that Owner or Owner's financing parties shall be the owner of the SEF for federal income tax purposes, and in that connection, Owner and/or Owner's Financing Parties shall be entitled to all depreciation deductions associated with the SEF and to any and all tax credits or other tax benefits associated with the SEF, including any such tax credits or tax benefits under the Code.

(c) Nothing in this PPA shall be construed to convey to Host Customer a license or other right to trademarks, copyrights, technology or other intellectual property of Owner or associated with the SEF.

(d) In no event shall the Owner be considered a public utility by the Host Customer or any third party entity.

8.2 Array Loss.

(a) Owner shall bear the risk of any Array Loss excluding, however, any Array Loss caused totally or partially by the negligence, gross negligence or intentional misconduct of Host Customer or Host Customer's agents, representatives, customers, vendors, visitors, employees, contractors or invitees (collectively, "*Host Customer Misconduct*"), shall be the responsibility of the Host Customer, its agents, representatives, customers, vendors, visitors, employees, contractors or invitees that caused the Array Loss.

(b) In the event of any Array Loss that, in the reasonable judgment of Owner, results in less than total damage, destruction or loss of the Array, this PPA will remain in full force and effect with respect to such Array and Owner will, at Owner's sole cost and expense, repair or replace the Array as quickly as practicable. Notwithstanding the foregoing, to the extent that such Array Loss has been caused by Host Customer Misconduct, Host Customer shall, promptly upon demand from Owner, pay all damages, costs and expenses arising in connection with such Array Loss, including, without limitation, cost of repair, lost revenues under this PPA, loss of Environmental Incentives, Environmental Attributes and Reporting Rights, if any. The calculation of losses described in the preceding sentence shall be based upon Energy Output calculated as provided in Section 7.2 above. Within ten (10) Business Days after written demand from Owner, Host Customer shall deposit with Owner or post security acceptable to Owner for any repair expenses reasonably estimated by Owner.

(c) In the event of any Array Loss that, in the reasonable judgment of Owner, results in total damage, destruction or loss of the Array, Owner shall, within twenty (20) Business Days following the occurrence of such Array Loss, notify Host Customer whether Owner is willing, notwithstanding such Array Loss, to repair or replace the Array.

(i) In the event that Owner notifies Host Customer that Owner is not willing to repair or replace the Array, this PPA will terminate automatically upon the effective date of such notice and Owner shall promptly remove the Array from the Property in accordance with Section 2.3 above. If such Array Loss has been caused by Owner, Owner shall be obligated to pay the Owner Termination Payment for that contract year as specified in Exhibit D-2 (I). If such Array Loss has been caused by Host Customer Misconduct, Host Customer shall, within ten (10) Business Days following such termination, pay to Owner, as liquidated damages, an amount equal to the Host Customer Optional Termination Payment, applicable as of such termination date, which shall be payable solely from Pledged Revenues until fully paid, which obligation shall survive the termination of this PPA with respect to such Array.

(ii) In the event that Owner notifies Host Customer that Owner is willing to repair or replace the Array, the following shall occur: (A) this PPA will remain in full force and effect; (B) Owner will repair or replace the Array as quickly as economically practicable; and (C) if such Array Loss has been caused, totally or partially, by Host Customer Misconduct, Host Customer shall, promptly upon demand from Owner, pay all damages, costs and expenses arising in connection with such Array Loss, including, without limitation, cost of repair, lost revenues under this PPA, loss of Environmental Incentives, Environmental Attributes and Reporting Rights, if any. The calculation of losses described in the preceding sentence shall be based upon Energy Output calculated as provided in Section 7.2 above. Within ten (10) Business Days after written demand from Owner, Host Customer shall pre-pay or post security acceptable to Owner for any repair expenses reasonably estimated by Owner.

(d) Host Customer shall be obligated to make any payment required pursuant to this Section 8.2 solely from Pledged Revenues.

8.3 Insurance. The Parties agree to provide insurance in accordance with Exhibit H attached hereto.

8.4 Performance Excused by Force Majeure. To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this PPA and such Party (the "*Claiming Party*") gives notice and details of the Force Majeure to the other Party as soon as practicable (and in any event within five (5) Business Days after the Force Majeure first prevents performance by the Claiming Party), then the Claiming Party will be excused from the performance of its obligations under this PPA (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure). The Claiming Party will use commercially reasonable efforts to eliminate or avoid the Force Majeure and resume performing its obligations under this PPA; *provided, however*, that neither Party is required to settle any strikes, lockouts or similar disputes except on terms acceptable to such Party, in its sole discretion. The non-Claiming Party will not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligations of the Claiming Party excused by Force Majeure for so long as the claim of Force Majeure continues.

8.5 Termination due to Force Majeure. If a Claiming Party claims Force Majeure for a consecutive period of one (1) year or longer, then either Party may terminate this PPA, in whole or in part, without any liability to the Claiming Party as a result of such termination and Owner shall promptly remove the SEF from the Property at its expense.

8.6 Change in Law. The Parties acknowledge and agree that the Energy Payment Rate is based on assumptions related to the availability to Owner of the Environmental Incentives. In the event of the elimination or alteration of one or more Environmental Incentives or any other change in Law that results in a material adverse economic impact on Owner in respect of this PPA (including due to a Law that increases Owner's cost of compliance with this PPA), the Parties shall work in good faith to amend the provisions of this PPA within twenty (20) Business days after such elimination or alteration, as may be reasonably necessary to restore the allocation of economic benefits and burdens contemplated by this PPA as of the Effective Date.

ARTICLE 9. EVENTS OF DEFAULT; REMEDIES

9.1 Events of Default. An "*Event of Default*" means, with respect to a Party (a "*Defaulting Party*"), the occurrence of any of the following:

(a) such Party's failure to make, when due, any payment required under this PPA if such failure is not remedied within twenty (20) Business Days after receipt of written notice from the other Party (the "*Non-Defaulting Party*");

(b) any representation or warranty made by such Party in this PPA is false or misleading in any material respect when made or when deemed made or repeated if such breach is not cured or remedied (including by payment of money to the Non-Defaulting Party) within twenty-five (25) Business Days after receipt of written notice from the Non-Defaulting Party;

(c) the failure to perform any material covenant or obligation set forth in this PPA, if such failure is not remedied within twenty (20) Business Days after receipt of written notice from the Non-Defaulting Party (provided that so long as the Non-Defaulting Party has initiated and is diligently attempting to effect a cure, such cure period shall be extended for an additional period not to exceed ninety (90) days), except in connection with Owner's failure to maintain insurance as provided in Exhibit H hereto, in which case such cure period shall be thirty (30) days;

(d) Host Customer becomes Bankrupt, if permitted by applicable law;

(e) such Party fails to provide or maintain in full force and effect any required insurance, if such failure is not remedied within thirty (30) days after receipt of written notice from the Non-Defaulting Party;

(f) Landlord (as defined in the Lease), transfers any right, title and interest in the Premises, which transfer interferes with the System operations as contemplated under the terms of the Lease and this PPA, unless (i) Landlord's transferee agrees to be bound by the terms of the Lease and this PPA, and (ii) Landlord's transferee is reasonably acceptable to Seller; or,

(g) Landlord defaults under the Lease, which interferes with the System operation for more than thirty (30) days.

(h) with respect to Host Customer, Host Customer consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity, and (i) the resulting, surviving or transferee entity fails to assume, effective immediately upon the effectiveness of such consolidation, amalgamation, merger or transfer, each and all of the obligations of Host Customer under this PPA, and any existing agreements required for the continued receipt of Environmental Incentives, Environmental Attributes or Reporting Rights by Owner (or to otherwise reasonably cooperate with Owner with respect to any additional agreements or other documentation or actions in connection therewith), either by operation of law or pursuant to an agreement reasonably satisfactory to Owner and (ii) the resulting or transferee entity's Credit Rating is not reasonably acceptable to Owner.

9.2 Remedies for Event of Default. If at any time an Event of Default has occurred and is continuing, the Non-Defaulting Party may (a) pursue applicable remedies or damages at law or equity, as provided in Sections 9.3 through 9.7. Non defaulting parties will additionally have the right:

(a) by notice to the Defaulting Party, to designate a date, not earlier than the date such notice is effective and not later than ninety (90) days after the date such notice is effective, as the date on which this PPA shall terminate ("Early Termination Date"), except in connection with any insurance-related event of default as provided in Section 9.1(c) and (e) of this Article 9, for which an Early Termination Date shall be not later than thirty (30) days after the date that such notice is effective;

(b) to withhold any payments due to the Defaulting Party under this PPA; and

(c) to suspend performance due to the Defaulting Party under this PPA. In the event that the Non-Defaulting Party designates an Early Termination Date, this PPA will terminate as of the Early Termination Date.

9.3 Host Customer Rights Upon Default. In the event that Host Customer is the Non-Defaulting Party, Host Customer may elect to terminate this PPA, in which event Host Customer will be entitled, at its sole and exclusive option and in its sole and absolute discretion, (a) in the event that the SEF is located on land leased by Host Customer to Owner, to require Owner to remove the SEF, as provided in Section 2.3 above, and to pay the Owner Termination Payment for the Contract Year as listed in Exhibit D-2, or (b) in the event that the SEF is located on land sold by Host Customer to Owner, sell such property back to Host Customer at the original price and pay the Owner Termination Payment for the Contract Year as listed in Exhibit D-2 (I). Notwithstanding any other provision of this Agreement, prior to the exercise of its remedies under this section 9.3, Host Customer shall allow customary notice and cure rights for the benefit of any person who provides financing for the SEF to Owner. Such notice and cure rights shall be set forth in Host Customer's consent to assignments or transfers to such financing parties, such as a Consent to Collateral Assignment or a Consent to Sale and Leaseback, as provided for in Section 17.3 hereof.

9.4 Owner Rights Upon Default. In the event that Owner is the Non-Defaulting Party,

(a) Owner may obtain a court order of specific performance of this PPA, to which Host Customer hereby consents, pursuant to which Owner shall continue to deliver Energy to Host Customer and Host Customer shall be obligated to pay each PPA payment as the same become due from Pledged Utility Cost Savings. Host Customer hereby agrees that an order of specific performance directing Host Customer to accept and purchase Energy as provided in Section 4.1 and Section 4.2 of this PPA is a necessary and appropriate remedy, and not to oppose Owner's application for such relief on an expedited basis.

(b) Alternatively, after a thirty (30) Business day period following a Host Customer Event of Default, with proper notice having been given, Owner may terminate this PPA and elect, in its sole discretion, to continue to operate the SEF and sell Energy to any third party or parties, and shall be entitled to collect as actual and consequential damages, (a) an amount equal to the difference between (1) the amounts actually received from the sale of Energy to any third party or parties and (2) the amount that would have been due from Host Customer, plus (c) the cost of connection and metering necessary to deliver Energy to such third party or parties. Owner's rights under this Section 9.4(b) shall survive termination of the PPA by Owner under this Section 9.4(b).

(c) In the event that Owner elects either of the foregoing remedies, such express remedy shall be the sole and exclusive remedy available to Owner as a result of termination of this PPA subject, however, to Section 9.7 below.

SCHEDULE OF DEFINITIONS AND RULES OF INTERPRETATION

1. **Definitions.** The definitions provided below and elsewhere in this PPA will apply to the defined terms used in this PPA:

- (a) **"Actual Annual Cost of the Energy Conservation Measure"** shall have the meaning ascribed to it in Exhibit I hereto.
- (b) **"Actual Annual Energy Output"** shall have the meanings ascribed to it in Exhibit F and Exhibit I hereto.
- (c) **"Actual Annual Savings"** shall have the meaning ascribed to it in Exhibit I hereto.
- (d) **"Actual Annual Utility Cost Savings"** shall have the meaning ascribed to it in Exhibit I hereto.
- (e) **"Adjusted Actual Annual Energy Output"** shall have the meaning ascribed to it in Exhibit F hereto.
- (f) **"Adjusted Annual Savings"** shall have the meaning ascribed to it in Exhibit I hereto.
- (g) **"Affiliate"** means, with respect to any entity, such entity's general partner or manager, or any other entity that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such entity.
- (h) **"Annual Output Guaranty Level"** shall have the meaning ascribed to it in Exhibit F hereto.
- (i) **"Annual Savings Guaranty Amount"** shall have the meaning ascribed to it in Exhibit I hereto.
- (j) **"Array"** means each operating solar array which consists of modules and inverters that interconnect to a single point of interconnection and serve a customer load located on an individual meter.
- (k) **"Array Loss"** means loss, theft, damage or destruction of the Array, or SEF Assets, or any other occurrence or event that prevents or limits the Array from operating in whole or in part, resulting from or arising out of any cause (including casualty, condemnation or Force Majeure).
- (l) **"Bankrupt"** means that a Party or other entity (as applicable): (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (ii) becomes insolvent or is unable to pay its debts or fails (or admits in writing its inability) generally to pay its debts as they become due; (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (iv) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency Law or other similar Law affecting creditor's rights, or a petition is presented for its winding-up, reorganization or liquidation, which proceeding or petition is not dismissed, stayed or vacated within forty-five (45) Business Days thereafter; (v) commences a voluntary proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency Law or other similar Law affecting creditors' rights; (vi) seeks or consents to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets; (vii) has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of its assets except for, with respect to Owner, any enforcement of rights by Owner's Financing Parties pursuant to the Financing Documents; (viii) causes or is subject to any event with respect to it which, under the applicable Laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (i) to (vii) inclusive; or (ix) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.
- (m) **"Business Day"** means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday.
- (n) **"Claiming Party"** shall have the meaning ascribed to it in Section 8.4 of the PPA.
- (o) INTENTIONALLY DELETED.
- (p) **"Code"** means the Internal Revenue Code of 1986, as amended.
- (q) **"Commercial Operation"** means that the subject Array is ready for regular, daily operation, has been connected to the Property electrical system, has undergone testing as provided herein, is in compliance with applicable Laws in all respects and is capable of producing Energy Output.

- (r) **“Commercial Operation Date”** means the first day on which the subject Array is ready for Commercial Operation as certified in writing by Owner to Host Customer in the applicable Notice of Commercial Operation.
- (s) **“Confidential Information”** shall have the meaning ascribed to it in Section 14.1(a) of the PPA.
- (t) **“Consulting Engineer”** means a professional analyst that is hired for the purpose of recommending the utility rates that are necessary to raise the revenue to meet all of the Host Customer’s obligations.
- (u) **“Contract Year”** means the consecutive 12 month period commencing on the first Commercial Operation Date.
- (v) **“Costs”** means (i) all reasonable attorneys’ fees and expenses incurred by the relevant Party in connection with the termination of this PPA and (ii) all reasonable costs and expenses incurred by the relevant Party in removal of the Array from the Property; provided that in the case of clauses (i) and (ii), the relevant Party uses commercially reasonable effort to mitigate such Costs.
- (w) **“Credit Rating”** shall mean, with respect to any entity on any date of determination, the respective rating then assigned to its unsecured and senior long-term debt or deposit obligations (not supported by third party credit enhancement) by a national rating agency, such as Standard & Poor’s Ratings Services (a division of McGraw Hill), Moody’s Investors Service, Inc., Fitch Ratings, Dun & Bradstreet, or their respective successors.
- (x) **“DAS”** shall have the meanings ascribed to it in Exhibit F and Exhibit I hereto.
- (y) **“Defaulting Party”** shall have the meaning ascribed to it in Section 9.1 of the PPA.
- (z) **“Delivery Point”** means the agreed location or locations where Energy Output is to be delivered and received under this PPA (Host Customer’s side of the meter(s)), and specifically the electrical tie-in point(s) between the SEF and the Property.
- (aa) **“Dispute”** shall have the meaning ascribed to it in Section 15.1 of the PPA.
- (bb) **“Effective Date”** shall have the meaning ascribed to it in the preamble of the PPA.
- (cc) **“Energy”** means electric energy (alternating current, expressed in kilowatt-hours).
- (dd) **“Energy Commission”** means the Public Regulation Commission.
- (ee) **“Energy Conservation Measure”** shall have the meaning ascribed to it in Exhibit I hereto.
- (ff) **“Energy Deficiency Quantity”** shall have the meaning ascribed to it in Section 7.3(c)(v) of the PPA.
- (gg) **“Energy Output”** means the actual and verifiable amount of Energy generated by the SEF and delivered to Host Customer at the Delivery Point, as metered in whole kilowatt-hours (kWh) at the Metering Device. The Energy Output delivered to Host Customer at the Delivery Point shall be deemed to be equal to the energy measured at the Metering Device; actual energy losses between the Metering Device and the Delivery Point shall not affect the Energy Output.
- (hh) **“Energy Payment Rate”** shall have the meanings ascribed to it in Section 4.3 of the PPA and Exhibit I hereto.
- (ii) **“Energy Payment Rate Increase Factor”** means the factor expressed in percent by which the Energy Payment Rate shall increase from one Contract Year to another as set forth in Exhibit B-1 (I) hereto.
- (jj) **“Energy Surplus Quantity”** shall have the meaning ascribed to it in Section 7.3(c)(v) of the PPA.
- (kk) **“Environmental Attributes”** means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the SEF, and its displacement of conventional Energy generation. Environmental Attributes include, but are not limited to (1) Renewable Energy Credits; (2) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx),

nitrogen oxides (NO_x), carbon monoxide (CO) and other pollutants; and (3) any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere, irrespective of whether such Environmental Attributes accrue for the benefit of Owner, any Affiliate, or any investor of Owner to any Affiliate. Environmental Attributes do not include (i) any energy, capacity, reliability or other power attributes from the SEF, (ii) emission reduction credits encumbered or used by the SEF for compliance with local, state, or federal operating and/or air quality permits, and (iii) Environmental Incentives.

(ll) **"Environmental Incentives"** means any and all (i) investment tax credits attributable to the SEF, any SEF Asset or Energy Output, (ii) production tax credits attributable to the SEF, any SEF Asset or Energy Output, (iii) accelerated depreciation attributable to the SEF, any SEF Asset or Energy Output, (iv) direct third-party rebates or subsidies for generation of energy by a renewable energy source, (v) fuel-related subsidies or "tipping fees" that may be paid to accept certain fuels, (vi) local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits and (vii) other financial incentives in the form of credits, tax write-offs, reductions, or allowances under applicable Law attributable to the SEF, any SEF Asset or Energy Output, irrespective of whether such Environmental Incentives accrue for the benefit of Owner, any Affiliate or any investor of Owner or its Affiliate.

(mm) **"Estimated Annual Cost of the Energy Conservation Measure"** shall have the meaning ascribed to it in Exhibit I hereto.

(nn) **"Estimated Annual Energy Output"** shall have the meaning ascribed to it in Exhibit F hereto.

(oo) **"Estimated Annual Utility Cost Savings"** shall have the meaning ascribed to it in Exhibit I hereto.

(pp) **"Event of Default"** shall have the meaning ascribed to it in Section 9.1 of the PPA.

(qq) **"Exercise Notice"** shall have the meaning ascribed to it in Section 13.6(a) of the PPA.

(rr) **"Exercise Period"** shall have the meaning ascribed to it in Section 13.6(a) of the PPA.

(ss) **"Extension Term"** shall have the meaning ascribed to it in Section 2.1(b) of the PPA.

(tt) **"Fair Market Value"** means the value of the SEF determined by an Independent Appraiser based on either (a) the equipment value of solar energy facilities located in geographical proximity to the SEF and comparable in age, size, condition and actual average annual energy production, or (b) the applicable discount revenue forecast whichever amount is greater.

(uu) **"Final Determination"** shall have the meaning ascribed to it in Section 13.3(b) of the PPA.

(vv) **"Financial Statements"** means with respect to a Party, such Party's most recently available audited balance sheet and statement of income and cash flows as provided in the most recently available audited report, prepared in accordance with generally accepted accounting principles (GAAP) and/or Public Accounting principles.

(ww) **"Financing Documents"** means the loan and credit agreements, notes, bonds, indentures, security agreements, lease or license financing agreements, purchase agreements, mortgages, interest rate exchanges, or swap agreements, and any other documents relating to the development, bridge construction or the permanent financing for the SEF, even if more than one financing arrangement exists at any time and even if the financing arrangements are of different tiers or tranches, including any credit enhancement, credit support, working capital financing, or refinancing documents, and any and all amendments, modifications or supplements to the foregoing that may be entered into from time to time.

(xx) ***Intentionally removed***

(yy) **"Force Majeure"** means any event or circumstance that prevents a Party from performing its obligations under this PPA, which event or circumstance (i) is not within the reasonable control, or is not the result of the negligence, of the Claiming Party, examples of 'not within the reasonable control' include, but are not limited to, lightning, blizzard, hurricane, earthquake, volcano, war, strikes, fires, floods, acts of

God, and civil disobedience, and (ii) by the exercise of reasonable due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. Force Majeure will not be based on (i) Host Customer's inability economically to use Energy purchased hereunder or to pay amounts owed hereunder or (ii) Owner's ability to sell Energy at a price greater than the price of Energy Output under this PPA.

(zz) **"General SEF Description"** means the conceptual design of the SEF as of the Effective Date. After the Effective Date, the Parties shall continue to work to refine and finalize the SEF General Description.

(aaa) **"Governmental Approvals"** shall have the meaning ascribed to it in Section 3.1(d) of the PPA and shall specifically include approval of the PPA by the governing body of Host Customer pursuant to Section 6-23-5(A)(3) NMSA 1978; which approval shall include (1) a determination that the contracts and agreements comply with the Energy Efficiency and Water Conservation Act, Sections 6-23-1 through 6-23-11 NMSA 1978; and (2) certification by the Energy, Minerals and Natural Resources Department that the qualified provider of energy conservation measures meets the experience requirements set by the department and the guaranteed energy savings from the energy conservation measures proposed appear to be accurately estimated and reasonable.

(bbb) **"Governmental Charges"** means all applicable federal, state and local taxes (other than taxes based on income or net worth but including, without limitation sales, use, gross receipts or similar taxes), governmental charges, emission allowance costs, duties, tariffs, levies, licenses, fees, permits, assessments, adders or surcharges (including public purposes charges and low income bill payment assistance charges), imposed or authorized by a Governmental Entity, independent system operator, utility, transmission and distribution provider or other similar entity, on or with respect to the Energy Output of this PPA.

(ccc) **"Governmental Entity"** means any government or any agency, bureau, board, commission, court, department, official, political subdivision, tribunal, program administrator or other instrumentality of any government, whether federal, state or local, domestic or foreign, or any Person, owned, operated, managed or otherwise controlled thereby.

(ddd) **"Gross Revenues"** means all income and revenues directly or indirectly derived by Host Customer from fees collected from customers of Host Customer's Electric Utility System. Such term also includes:

(i) all income derived from the investment of any money in the funds and accounts established in connection with the Utility System; and

(ii) property insurance proceeds which are not necessary to restore or replace the property lost or damaged and the proceeds of the sale or other disposition of any part of the Utility System.

(eee) **"Host Customer"** shall have the meaning ascribed to it in the preamble of the PPA.

(fff) **"Host Customer Event"** shall have the meanings ascribed to it in Exhibit F and Exhibit I hereto.

(ggg) **"Host Customer Misconduct"** shall have the meaning ascribed to it in Section 8.2(a) of the PPA.

(hhh) **"Host Customer Optional Termination Payment"** means the amount stated on the Host Customer Optional Termination Payment *Schedule* attached to this PPA as Exhibit D-1 (I) for any given Contract Year. This amount will be paid by the Host Customer to Owner. The Host Customer Optional Termination Payment is calculated by taking the net present value of all net operating income (NOI) remaining in the initial term of the PPA. The NOI includes all PPA revenues and Renewable Energy Credit sales, minus operating costs. The NPV calculation uses a discount rate of 5%. Additionally, the Host Customer Optional Termination Payment for years 1-5 includes a cost reflecting recapture of the ITC, which would occur if a system is terminated in those years.

(iii) **"Indemnitee"** shall have the meaning ascribed to it in Section 12.1 of the PPA.

(ijj) **"Indemnitor"** shall have the meaning ascribed to it in Section 12.1 of the PPA.

(kkk) **"Indemnity Claims"** means all losses, liabilities, damages, costs, expenses and attorneys' fees, whether incurred by settlement or otherwise, related to injury to persons or damage to property.

- (lll) **"Independent Appraiser"** means an individual who is a member of a national accounting, engineering or energy consulting firm qualified by education, certification, experience and training to determine the value of solar generating facilities of the size and age and with the operational characteristics of the SEF. Except as may be otherwise agreed by the Parties, the Independent Appraiser shall not be (or within three years before his appointment have been) a director, officer or an employee of, or directly or indirectly retained as consultant or adviser to, Owner or any Affiliate of Owner or Host Customer or any Affiliate of Host Customer.
- (mmm) **"Initial Term"** shall have the meaning ascribed to it in Section 2.1(a) of the PPA.
- (nnn) **"kWh"** shall have the meanings ascribed to it in Exhibit F and Exhibit I hereto.
- (ooo) **"Late Payment Interest Rate"** means, for any date, the lesser of (i) the per annum rate of interest equal to the Prime lending rate as may from time to time be published in The Wall Street Journal under "Money Rates" on such day (or, if not published on such day, on the most recent preceding day on which published), plus 4% and (ii) the maximum rate permitted by applicable Law.
- (ppp) **"Law"** means any national, regional, state or local law, statute, rule, regulation, code, ordinance, administrative ruling, judgment, decree, order or directive of any jurisdiction applicable to this PPA or the transaction contemplated hereby.
- (qqq) **"Metering Device"** means any and all meters at or before the Delivery Point needed for the registration, recording and transmission of information regarding the Energy Output generated by the SEF.
- (rrr) **"Non-Defaulting Party"** shall have the meaning ascribed to it in Section 9.1(a) of the PPA.
- (sss) **"Notice of Commercial Operation"** shall have the meaning ascribed to it in Section 2.4 of the PPA.
- (ttt) **"Owner"** shall have the meaning ascribed to it in the preamble of the PPA.
- (uuu) **"Owner Termination Payment"** means the amount stated on the *Termination Payment Schedule* attached to this PPA as Exhibit D-2 (i) for any given Contract Year, plus the Costs incurred and/or payable by Owner as a result of termination of this PPA with respect to each Array, as determined by Owner in a commercially reasonable manner.
- (vvv) **"Owner's Financing Parties"** means any Persons, and their permitted successors and assignees, providing funding in connection with any development, bridge, construction, permanent debt or tax equity financing or refinancing for the SEF.
- (www) **"Parties"** shall have the meaning ascribed to it in the preamble of the PPA.
- (xxx) **"Party"** shall have the meaning ascribed to it in the preamble of the PPA.
- (yyy) **"Performance Assurance"** shall mean collateral in the form of either cash, letter(s) of credit, or other security reasonably acceptable to Owner.
- (zzz) **"Performance Credit Balance"** shall have the meaning ascribed to it in Exhibit F hereto.
- (aaaa) **"Performance Credit Difference"** shall have the meaning ascribed to it in Exhibit F hereto.
- (bbbb) **"Performance Credits"** shall have the meaning ascribed to it in Exhibit F hereto.
- (cccc) **"Performance Guaranty Difference"** shall have the meaning ascribed to it in Exhibit F hereto.
- (dddd) **"Person"** means an individual, general or limited partnership, corporation, municipal corporation, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Entity, limited liability company, or any other entity of whatever nature.
- (eeee) **"Pledged Revenues"** means Pledged Utility Cost Savings Revenues.
- (ffff) **"Pledged Utility Cost Savings Revenues"** means Actual Utility Cost Savings, payable from Gross Revenues (i.e., the gross revenues of Host Customer's Electric Utility Revenue Fund).
- (gggg) **"PPA"** shall have the meaning ascribed to it in the preamble of the PPA.

- (hhhh) **"PPA Payment Date"** means the 20th Business Day after applicable invoice date.
- (iiii) **"Preliminary Determination"** shall have the meaning ascribed to it in Section 13.3(a) of the PPA.
- (jjjj) **"Property"** shall have the meaning ascribed to it in each exhibit which describes the location of an Array.
- (kkkk) **"Proposed Purchase Price"** shall have the meaning ascribed to it in Section 13.4 of the PPA.
- (llll) **"Purchase Offer"** shall have the meaning ascribed to it in Section 13.1 of the PPA.
- (mmmm) **"Purchase Price"** shall have the meaning ascribed to it in Section 13.6 of the PPA.
- (nnnn) **"Renewable Energy Credits"** means certificates, green tags, or other transferable indicia indicating generation of a particular quantity of energy from a renewable energy source by a renewable energy facility attributed to all of the Energy Output during the Term created under a renewable energy, emission reduction, or other reporting program adopted by a governmental authority, or for which a registry and a market exists (which, as of the Effective Date are certificates issued by Green-e in accordance with the Green-e Renewable Electric Certification Program, National Standard Version 1.3 administered by the Center of Resource Solutions); *excluding, however*, all Environmental Incentives.
- (oooo) **"Replacement Energy Incremental Cost"** shall have the meanings ascribed to it in Exhibit I hereto.
- (pppp) **"Reporting Rights"** means the right of Owner to report to any Governmental Entity, utility or other party, including without limitation under Section 1605(b) of the Energy Policy Act of 1992 and provisions of the Energy Policy Act of 2005, or under any present or future domestic, international or foreign emissions trading program, that Owner owns the Environmental Attributes and the Environmental Incentives associated with the Energy Output.
- (qqqq) **"Representatives"** shall have the meaning ascribed to it in Section 14.1(a) of the PPA.
- (rrrr) **"Savings Credit Balance"** shall have the meaning ascribed to it in Exhibit I hereto.
- (ssss) **"Savings Credit Difference"** shall have the meaning ascribed to it in Exhibit I hereto.
- (tttt) **"Savings Credits"** shall have the meaning ascribed to it in Exhibit I hereto.
- (uuuu) **"Savings Guaranty Difference"** shall have the meaning ascribed to it in Exhibit I hereto.
- (vvvv) **"SEF"** means the solar electric generating facility that produces the Energy Output sold and purchased under this PPA.
- (wwww) **"SEF Assets"** means each and all of the assets of which the SEF is comprised, including Owner's solar energy panels, mounting systems, carports, tracking devices, inverters, integrators and other related equipment and components installed on the Property, electric lines and conduits required to connect such equipment to the Delivery Point, protective and associated equipment, improvements, and other tangible and intangible assets, permits, property rights and contract rights reasonably necessary for the construction, operation, and maintenance of the SEF.
- (xxxx) ***Intentionally removed***
- (yyyy) **"System Obligations"** means any bonds or other debt obligations currently outstanding or which may be issued in the future, the repayment of which is secured by the net revenues of the Utility System, i.e., the revenues remaining after paying System Operation and Maintenance Expenses.
- (zzzz) **"System Operation and Maintenance Expenses"** means all reasonable and necessary current expenses of the Utility System, in any particular fiscal year or period to which such term is applicable, paid or accrued, relating to operating, maintaining and repairing the Utility System, including, without limitation:
- (i) legal and overhead expenses of the various Host Customer departments directly related and reasonably allocated to the administration of the Utility System;

(ii) insurance premiums for the Utility System, including, without limitation, premiums for property insurance, public liability insurance and workers' compensation insurance, whether or not self-funded;

(iii) the costs of audits of the books and accounts of the Utility System;

(iv) salaries, administrative expenses, labor costs, surety bonds and the cost of materials and supplies, including but not limited to electricity, used for or in connection with the current operation of the Utility System; and

(v) any fees required to be paid under any operation, maintenance and/or management agreement with respect to the Utility System.

(aaaaa) "**Term**" means the Initial Term and any Extension Term.

(bbbbb) "**Third Party Monitoring and Reporting Service Provider**" means an unaffiliated third party, selected in each case by Owner, that reads and reports the Energy Output as recorded by the specified Metering Device.

(ccccc) "**Transfer Date**" shall have the meaning ascribed to it in Section 13.7 of the PPA.

(ddddd) "**Utility**" means the electric utility serving Host Customer in the service territory in which Host Customer is located.

(eeeee) "**Utility Documents**" shall have the meaning ascribed to it in Section 3.1(e) of the PPA.

(fffff) "**Utility System**" means the municipal electric utility system owned and operated by Host Customer and designated as the Host Customer's electric utility system consisting of all properties, real, personal, mixed or otherwise now existing or hereafter acquired by Host Customer through acquisition, purchase, construction or otherwise, including all expansions extensions, enlargements and improvements of or to the electric utility system, and used in connection therewith or relating thereto, in any other related activity or enterprise of Host Customer designated by Host Customer's governing body as part of the electric system, either situated within or outside the limits of Host Customer.

2. Rules of Interpretation. In this PPA, unless expressly provided otherwise:

(a) the words "herein", "hereunder" and "hereof" refer to the provisions of this PPA and a reference to a recital, Article, Section, subsection or paragraph of this PPA or any other agreement is a reference to a recital, Article, Section, subsection or paragraph of this PPA or other agreement in which it is used unless otherwise stated;

(b) references to this PPA, or any other agreement or instrument, includes any schedule, exhibit, annex or other attachment hereto or thereto;

(c) a reference to a paragraph also refers to the subsection in which it is contained, and a reference to a subsection refers to the Section in which it is contained;

(d) a reference to this PPA, any other agreement or an instrument or any provision of any of them includes any amendment, variation, restatement or replacement of this PPA or such other agreement, instrument or provision, as the case may be;

(e) a reference to a statute or other Law or a provision of any of them includes all regulations, rules, subordinate legislation and other instruments issued or promulgated thereunder as in effect from time to time and all consolidations, amendments, re-enactments, extensions or replacements of such statute, Law or provision;

(f) the singular includes the plural and vice versa;

(g) a reference to a Person includes a reference to the Person's executors and administrators (in the case of a natural person) and successors, substitutes (including Persons taking by novation) and permitted assigns;

(h) words of any gender shall include the corresponding words of the other gender;

(i) "including" means "including, but not limited to," and other forms of the verb "to include" are to be interpreted similarly;

(j) references to "or" shall be deemed to be disjunctive but not necessarily exclusive, (i.e., unless the context dictates otherwise, "or" shall be interpreted to mean "and/or" rather than "either/or");

(k) where a period of time is specified to run from or after a given day or the day of an act or event, it is to be calculated exclusive of such day; and where a period of time is specified as commencing on a given day or the day of an act or event, it is to be calculated inclusive of such day;

(l) a reference to a Business Day is a reference to a period of time commencing at 9:00 a.m. local time on a Business Day and ending at 5:00 p.m. local time on the same Business Day;

(m) if the time for performing an obligation under this PPA expires on a day that is not a Business Day, the time shall be extended until that time on the next Business Day;

(n) a reference to (i) a day is a reference to a calendar day unless the defined term "Business Day" is used, (ii) a month is a reference to a calendar month and (iii) a year is a reference to a calendar year;

(o) where a word or phrase is specifically defined, other grammatical forms of such word or phrase have corresponding meanings;

(p) a reference to time is a reference to the time in effect in San Francisco, California on the relevant date except where specifically stated, e.g., local time in Truth or Consequences (Sections 2.1 (a) and (b)); and,

(q) if a payment prescribed under this PPA to be made by a Party on or by a given Business Day is made after 5:00 pm on such Business Day, it is taken to be made on the next Business Day.

EXHIBIT F

PPA ENERGY PRODUCTION GUARANTEE

Definitions.

“Actual Annual Energy Output” means, for each Contract Year, the Energy Output produced by the SEF in kWh as measured by the Metering Device and recorded by DAS for such Contract Year, plus any kWh that are estimated to have been lost for that Contract Year due to a Force Majeure Event or Host Customer Event.

“Adjusted Actual Annual Energy Output” shall mean, for each Contract Year, the Actual Annual Energy Output plus any Performance Credit Balance.

“Annual Output Guaranty Level” for the given Contract Year is eighty percent (80%) of the Estimated Annual Energy Output.

“DAS” means the data acquisition system, including but not limited to a meteorological system, production meter and data logger. The DAS measures and logs the following four parameters on a 15-minute average basis at the Property: (1) actual AC electricity production of the SEF (in kWh); (2) solar insolation measured in the global horizontal plane (in kWh/m²); (3) ambient air temperature; (4) cell temperature; and (5) wind speed.

“Estimated Annual Energy Output” shall mean, with respect to a given Contract Year, the Energy Output in kWh expected to be produced by the System as described in Exhibit F-2 (i) to this PPA.

“Host Customer Event” shall mean loss or reduction of Energy Output caused by actions or inactions of Host Customer or Utility.

“kWh” means electric energy expressed in kilowatt-hours and measured by multiplying the amount of electric power delivered (measured in kilowatts) by the amount of time over which the electricity was consumed (measured in hours). One kilowatt hour equals one thousand watt-hours.

“Performance Credit Balance” shall mean the sum of any unused Performance Credits.

“Performance Credit Difference” shall mean, for each Contract Year, the number of kWh by which the Actual Annual Energy Output for such Contract Year exceeds the Estimated Annual Energy Output for such Contract Year.

“Performance Credits” shall mean, for each Contract Year, any positive Performance Credit Difference.

“Performance Guaranty Difference” shall mean, for each Contract Year, the number of kWh by which (i) the sum of Adjusted Actual Annual Energy Output for such Contract Year exceeds or falls short of (ii) the Annual Output Guaranty Level for such Contract Year.

“Replacement Energy Incremental Cost” shall have the meaning ascribed to it in Exhibit I.

Energy Production Guaranty.

a. Within twenty (20) Business Days of the end of each Contract Year, Owner shall provide Host Customer with a written report setting forth a good faith calculation of the Performance Guaranty Difference for such Contract Year.

b. If the Performance Guaranty Difference for such Contract Year results in a negative number, Owner shall be deemed not to have satisfied the Annual Output Guaranty Level for such Contract Year and shall credit towards future energy payment obligations of Host Customer pursuant to Article 10 of the PPA, or at Owner's option shall pay in cash to the Pledged Utility Cost Savings Account an amount in US Dollars equal to the product of the absolute value of such Performance Guaranty Difference multiplied by the difference between the

Replacement Energy Incremental Cost and the PPA Price in each Contract Year, less any credit already applied under the Savings Guarantee in Exhibit I.

c. If the Performance Guaranty Difference for such Contract Year results in a positive number, Owner shall be deemed to have satisfied the Annual Output Guaranty Level for such Contract Year.

d. If the Performance Credit Difference for any given Contract Year results in a positive number, Owner shall be credited such positive difference as Performance Credits. Such Performance Credits shall be added to the Actual Annual Energy Output when calculating the Performance Guaranty Difference for future Contract Years until such credit has been used and the Performance Credit Balance equals zero (0).

e. Notwithstanding the above, should the SEF be operating at less than 75% capacity (kW size of SEF) for longer than a four-week continuous period due to Owner's failure to perform its maintenance and/or repair responsibilities under Section 6.1 (a) of this PPA, Owner shall credit towards future energy payment obligations, or at Owner's option shall pay in cash to the Pledged Utility Cost Savings Account pursuant to Article 10 of the PPA an amount in US dollars equal to the product of the difference between expected energy production and actual energy production for that period and the Replacement Energy Incremental Cost. In any given year where this provision is exercised, payments made pursuant to this provision shall be subtracted from Performance Credits allocated in that year due to a failure of Owner to meet subsections (a) through (d) of the Production Guarantee.

EXHIBIT F-2 (1)

ESTIMATED AND GUARANTEED ANNUAL ENERGY OUTPUT

Year	System Output (kWh)	Guaranteed Output (kWh)
1	4,070,347	3,256,278
2	4,041,855	3,233,484
3	4,013,562	3,210,849
4	3,985,467	3,188,373
5	3,957,568	3,166,055
6	3,929,865	3,143,892
7	3,902,356	3,121,885
8	3,875,040	3,100,032
9	3,847,915	3,078,332
10	3,820,979	3,056,783
11	3,794,232	3,035,386
12	3,767,673	3,014,138
13	3,741,299	2,993,039
14	3,715,110	2,972,088
15	3,689,104	2,951,283
16	3,663,280	2,930,624
17	3,637,637	2,910,110
18	3,612,174	2,889,739
19	3,586,889	2,869,511
20	3,561,781	2,849,424
21	3,536,848	2,829,478
22	3,512,090	2,809,672
23	3,487,506	2,790,004
24	3,463,093	2,770,474
25	3,438,851	2,751,081

Note: Calculation of the Estimated Annual Energy Output above is based on the January 28th 2014 PVSYST V5.57 Report for the proposed SEF, with the assumption of 99% SEF availability. Numbers may be adjusted based on final engineering and independent review.

EXHIBIT G-1

Form of Consent to Collateral Assignment (Power Purchase Agreement/Site Agreement)

This CONSENT AND AGREEMENT (this "Consent"), dated as of [____], [____], is entered into by and among The City of Truth or Consequences, a New Mexico municipality (together with its successors and permitted assigns, "Host Customer"), [if applicable _____], in its capacity as collateral agent (together with its successors, designees and assigns in such capacity, the "Collateral Agent") for the Secured Parties referred to below, Affordable Solar Installation, Inc, a New Mexico Corporation ("Company").

RECITALS

A. Company is developing or has developed and is causing or has caused the construction of an approximately [*Insert kw for applicable Project*] kW solar electric facility located at [*Insert address of applicable Project*] in the State of [____], known as [*Insert name of applicable Project*] (the "Project").

B. In order to partially finance, among other things, the completion of construction of the Project, and to fund other operating expenses for the Project, Company and certain of its affiliates have entered into that certain Amended and Restated Credit and Guaranty Agreement, dated as of [____], with the Collateral Agent and the lenders and other agents and arrangers from time to time party thereto (as amended, amended and restated, modified or supplemented from time to time, the "Credit Agreement").

C. Host Customer and Company are parties to each of (i) that certain [*Insert description of relevant Power Purchase Agreement*], dated as of [____] [____], [____] [*List any current amendments*] (as [**further**] amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof and hereof, the "PPA") and (ii) that certain [*Insert description of relevant Lease Agreement*], dated as of [____] [____], [____] [*List any current amendments*] (as [**further**] amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof and hereof, the "Lease" and, together with the PPA, the "Contracts"), copies of which are attached hereto as Exhibit A.

D. In connection with the financing arrangements under the Credit Agreement, (i) as of the date hereof, [____] owns the Project and is party to the Contracts (as assignee of DevCo), (ii) [____] may from time to time assign all of its right, title and interest in and to the Contracts, along with certain assets and other contracts and agreements related thereto, to [____], or one or more other affiliates of Company; (iii) [____] may assign all of its right, title and interest in and to the Contracts to [____]; (iv) [____] may collaterally assign all of its right, title and interest in and to the Contracts as security for its obligations under a leasing arrangement between [____] and [____]; and (v) one or more Company affiliates that may from time to time be a counterparty to the Contracts as described above, including [____], may from time to time collaterally assign, as security for its obligations under the Credit Agreement, all of its assets, including the contractual and collateral interests described above, to the Collateral Agent for the benefit of itself and the lenders and other secured parties under the Credit Agreement (collectively, the "Secured Parties"). The assignments referred to in clauses (ii) and (iii) above, together with the assignment of the Contracts from DevCo to [____] and any subsequent assignment from any such assignee back to any one or more of the prior assignors identified above, are referred to herein as the "Permitted Assignments", and the collateral assignments referred to in clauses (iv) and (v) above are referred to herein as the "Collateral Assignments".

E. Host Customer may issue an industrial revenue bond to assist the Company in the financing of the Project, pursuant to which the Company has agreed that the Project (denominated under the IRB documentation the "Project Property") may be assigned to a third party only if such assignment does not result in the Project failing to constitute a "project" within the meaning of the New Mexico Industrial Revenue Bond statutes, Sections 3-32-1 through 3-32-16 NMSA 1978.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the parties hereto hereby agree, notwithstanding anything in the Contracts to the contrary, as follows:

SECTION 1. CONSENT TO ASSIGNMENT

Host Customer, acknowledges the Credit Agreement and the Permitted Assignments and Collateral Assignments referred to in Recital D above, consents to such Permitted Assignments and Collateral Assignments (including, without limitation, the assignment of all of Company's rights to receive payments under or with respect to the Contracts, whether as contractual obligations, damages, indemnity payments or otherwise), and agrees with Company and the Collateral Agent for the benefit of the Secured Parties, as follows:

(a) The Collateral Agent shall be entitled (but not obligated) to exercise all rights and to cure any defaults of Company under the Contracts. Upon receipt of notice from the Collateral Agent, Host Customer agrees to accept such exercise and cure and to render to the curing party all performance due by Host Customer to Company under the Contracts and this Consent.

(b) Host Customer agrees to deliver duplicates or copies of all notices of default and any other material notices delivered by Host Customer under or pursuant to the Contracts to the Collateral Agent simultaneously with delivery thereof to Company under the Contracts.

(c) Host Customer will not, without the prior written consent of the Collateral Agent (such consent not to be unreasonably withheld), (i) subject to Section 1(d) below, cancel or terminate the Contracts, or consent to or accept any cancellation, termination or suspension thereof by Company, (ii) subject to Section 1(d) and except as provided in the Contracts, suspend performance of its obligations thereunder, (iii) except as provided in the Contracts, sell, assign or otherwise dispose (by operation of law or otherwise) of any part of its interest in the Contracts, or (iv) amend or modify the Contracts.

(d) Host Customer will not terminate any Contract on account of any default or breach of Company thereunder without written notice to the Collateral Agent and Company and first providing to the Collateral Agent (i) thirty (30) days from the date notice of default or breach is delivered to the Collateral Agent and Company to cure such default if such default is the failure to pay amounts to Host Customer which are due and payable by Company under such Contract or (ii) a reasonable opportunity, but not fewer than ninety (90) days, to cure such breach or default if the breach or default cannot be cured by the payment of money to Host Customer so long as the Collateral Agent shall have commenced to cure the breach or default within such ninety (90)-day period and thereafter diligently pursues such cure to completion and continues to perform any monetary obligations under such Contract, and all other obligations under such Contract are performed by Company or the Collateral Agent; provided that, in connection a failure by Company or any assignee to provide or maintain in full force and effect any required insurance, if such failure is not remedied within thirty (30) days after receipt of written notice from Host Customer, Host Customer may exercise its right to terminate the Contract or Contracts. If possession of the Project is necessary to cure such breach or default, and the Collateral Agent declares Company in default and commences foreclosure proceedings, the Collateral Agent will be allowed a reasonable period to complete such proceedings. If the Collateral Agent is prohibited by any court order or bankruptcy or insolvency proceedings from curing the default or from commencing or prosecuting foreclosure proceedings, the foregoing time periods shall be extended by the period of such prohibition.

(e) Host Customer consents to the transfer of interest in the Contracts pursuant to or in connection with the Collateral Assignments, including a transfer of Company's interest under the Contracts to the Collateral Agent, or any transfer by any beneficiary, assignee or designee under a Collateral Assignment or

a purchaser or grantee at a foreclosure sale by judicial or nonjudicial foreclosure and sale or by a conveyance by Company in lieu of foreclosure, and agrees that upon such foreclosure, sale or conveyance, Host Customer shall recognize the Collateral Agent or any other purchaser or grantee as the applicable party under the Contracts (provided that such Collateral Agent or purchaser or grantee assumes the obligations of Company under the Contracts). Host Customer agrees that if the Collateral Agent shall notify Host Customer that it is exercising remedies under or in connection with the Credit Agreement, the Collateral Agent shall be substituted at the Collateral Agent's request for Company under each Contract and, in such an event, and provided, that the Collateral Agent shall have assumed all Company's obligations under the PPA, Host Customer will continue to perform under the Contracts in favor of the Collateral Agent; In the event that any Contract is rejected by a trustee or debtor-in-possession in any bankruptcy or insolvency proceeding, or if any Contract is terminated for any reason other than a default which could have been but was not cured as provided in Section 1(d) above (including in the event Host Customer bids for and purchases (or causes another person to bid for and purchase) any Contract in any foreclosure, bankruptcy, insolvency or similar proceeding), and if, within forty-five (45) days after such rejection or termination, the Collateral Agent shall so request, Host Customer will execute and deliver to the Collateral Agent a new contract, which contract shall be on the same terms and conditions as the original Contract for the remaining term of the original Contract before giving effect to such termination.

(f) In the event that the Collateral Agent elects to perform Company's obligations under the Contracts as provided in Section 1(d) above or to enter into a new contract as provided in Section 1(e) above, the Collateral Agent's liability to Host Customer for the performance of such obligations and Host Customer's recourse for enforcement thereof shall be limited to the Collateral Agent's interest in the Project and shall exclude any liability for acts or omissions of Company or any other predecessor of such party's interest in such Contract that arose prior to the assumption by such party of its interest in the Project and such Contract; provided, that Company shall not be relieved of its obligations as a result of such assumption.

(g) In the event that the Collateral Agent assumes Company's right, title, interest and obligations under the Contracts, the Collateral Agent shall cure any then-existing payment and performance defaults under the Contracts, except any performance defaults which by their nature are not capable of being cured. The Collateral Agent shall have the right to assign its interest in the Contracts or the new contract entered into pursuant to Section 1(f) above to a person or entity to whom the Project is transferred, provided such transferee assumes the obligations of Company (or the Collateral Agent, as applicable) under the Contracts which arise from and after the date of such assignment. Upon such assignment, the Collateral Agent shall be released from any further liability thereunder.

(h) The assignment and assumption of the Company's rights and obligations under the PPA shall be valid hereunder only if such assignment does not result in the Project failing to constitute a "project" within the meaning of the New Mexico Industrial Revenue Bond statutes, Sections 3-32-1 through 3-32-16 NMSA 1978.

SECTION 2. REPRESENTATIONS AND WARRANTIES

Host Customer hereby represents and warrants that:

(a) Host Customer (i) is a [_____] duly [formed][organized] and validly existing under the laws of the State of [_____] , (ii) is duly qualified, authorized to do business and in good standing in every jurisdiction necessary to perform its obligations under the Contracts and this Consent, and (iii) has all requisite power and authority to enter into and to perform its obligations hereunder and under the Contracts, and to carry out the terms hereof and thereof and the transactions contemplated hereby and thereby;

(b) the execution, delivery and performance by Host Customer of this Consent and the Contracts have been duly authorized by all necessary corporate or other action on the part of Host Customer and, except as set forth on Schedule 1(b), do not require any approvals, filings with, or consents of any entity or person (including interconnection requests and agreements with the applicable

interconnection utility for the Project) which have not previously been obtained or made; all of the approvals, filings, agreements and consents listed on Schedule 1(b) are of a type that are routinely granted on application and that would not normally be obtained at the current stage of development of the Project and performance of the parties' respective obligations under the Contracts, and Host Customer has no reason to believe that any such approval, filing or consent will not be obtained in a timely manner consistent with the requirements of the Contracts;

(c) each of this Consent and the Contracts is in full force and effect, has been duly executed and delivered on behalf of Host Customer by the appropriate officers of Host Customer, and constitutes the legal, valid and binding obligation of Host Customer, enforceable against Host Customer in accordance with its terms, except as the enforceability thereof may be limited by (i) bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally and (ii) general equitable principles (whether considered in a proceeding in equity or at law);

(d) there is no litigation, action, suit, proceeding or investigation pending or (to the best of Host Customer's knowledge) threatened against Host Customer before or by any court, administrative agency, arbitrator or governmental authority, body or agency which, if adversely determined, individually or in the aggregate, (i) could adversely affect the performance by Host Customer of its obligations hereunder or under the Contracts, or which could modify or otherwise adversely affect any required approvals, filings or consents which have previously been obtained or made, (ii) could have a material adverse effect on the condition (financial or otherwise), business or operations of Host Customer or (iii) questions the validity, binding effect or enforceability hereof or of the Contracts, any action taken or to be taken pursuant hereto or thereto or any of the transactions contemplated hereby or thereby;

(e) the execution, delivery and performance by Host Customer of this Consent and the Contracts, and the consummation of the transactions contemplated hereby and thereby, will not result in any violation of, breach of or default under any term of its formation or governance documents, or of any contract or agreement to which it is a party or by which it or its property is bound, or of any license, permit, franchise, judgment, injunction, order, law, rule or regulation applicable to it;

(f) the Contracts and this Consent are the only agreements between Company and Host Customer with respect to the Project, all of the conditions precedent to effectiveness under the Contracts have been satisfied or waived and, to the best knowledge of Host Customer, no default has occurred and is continuing under any Contract; and

(g) attached hereto as Exhibit A is a true, correct and complete copy of each of the Contracts, including all amendments, modifications, supplements and waivers with respect thereto as of the date hereof.

Each of the representations and warranties set forth in this Section 2 shall survive the execution and delivery of this Consent and the Contracts and the consummation of the transactions contemplated hereby and thereby.

SECTION 3. PAYMENTS UNDER THE CONTRACTS. Host Customer will pay all amounts payable by it under the Contracts from and after the date hereof in lawful money of the United States, directly to the Collateral Agent for deposit to [____], Account No. [____] at [____] (ABA#: [____]) or at such other person or entity and/or at such other address as the Collateral Agent may from time to time specify in writing to Host Customer. Host Customer shall not, without the prior written consent of the Collateral Agent, make any payments to or for the benefit of Company other than as contemplated pursuant to the first sentence of this Section 3.

SECTION 4. [Insert the following only if applicable: STIPULATIONS AND MODIFICATIONS. Notwithstanding any provision contained in the Contracts to the contrary, Host Customer and Company acknowledge and agree to the following amendments, supplements, modifications or clarifications, as the case may be, to the Contracts:

(a) [Additional provisions to be added upon completion of due diligence review of the Contracts]

SECTION 5. NOTICES

All notices required or permitted hereunder shall be in writing and shall be effective (a) upon receipt if hand delivered, (b) upon telephonic verification of receipt if sent by facsimile and (c) if otherwise delivered, upon the earlier of receipt or two (2) Banking Days after being sent registered or certified mail, return receipt requested, with proper postage affixed thereto, or by private courier or delivery service with charges prepaid, and addressed as specified below:

If to Host Customer:

[_____]
[_____]
[_____]
Telephone No.: [_____]
Telecopy No.: [_____]
Attn: [_____]

If to the Collateral Agent:

[_____]
[_____]
[_____]
Telephone No.: [_____]
Telecopy No.: [_____]
Attn: [_____]

If to Company:

[_____]
[_____]
[_____]
Telephone No.: [_____]
Telecopy No.: [_____]
Attn: [_____]

SECTION 6. ASSIGNMENT, TERMINATION, AMENDMENT AND GOVERNING LAW

This Consent shall be binding upon and benefit the successors and assigns of the parties hereto and their respective successors, transferees and assigns (including without limitation, any entity that refinances all or any portion of the obligations under the Credit Agreement). Host Customer agrees (a) to confirm such continuing obligation in writing upon the reasonable request of Company and the Collateral Agent for the benefit of the Secured Parties or any of their respective successors, transferees or assigns and (b) to cause any successor-in-interest to Host Customer with respect to its interest in the Contracts to assume, in writing in form and substance reasonably satisfactory to the Collateral Agent, the obligations of Host Customer hereunder. Any purported assignment or transfer of the Contracts not in conjunction with the written instrument of assumption contemplated by the foregoing clause (b) shall be null and void. Notwithstanding anything to the contrary contained herein or in the Contracts, if the Collateral Agent elects to exercise any of its rights or remedies under this Consent or take any other action provided herein, then the Collateral Agent may exercise such rights or remedies or take such other actions through any assignee, designee or successor. To the extent any security interest in any Contract has been granted by [_____] to [_____] , [_____] hereby appoints the Collateral Agent as its designee to exercise any and all

rights and remedies of [_____] under or with respect to such Contract, , whether direct or by way of collateral assignment and exercise of remedies in respect thereof, and Host Customer shall, upon written demand therefor by the Collateral Agent, render to the Collateral Agent all of such rights and remedies as may be due and owing to [_____]. In addition, any actions taken by Company at any time when Company is under the control of the Collateral Agent shall be deemed to be actions taken by the Collateral Agent for purposes of this Consent, and the Collateral Agent may at any time elect to exercise any of its rights or remedies under this Consent or take any other action provided herein in such manner. No termination, amendment or variation of any provisions of this Consent shall be effective unless in writing and signed by the parties hereto, and no waiver of any such provision shall be effective unless in writing and signed by the waiving party. This Consent shall be governed by, and construed under, the laws of the State of New Mexico without regard to conflicts of law principles that would result in the application of any law other than the law of the State of New Mexico.

SECTION 7. COUNTERPARTS

This Consent may be executed in one or more duplicate counterparts, and when executed and delivered by all the parties listed below, shall constitute a single binding agreement.

SECTION 8. SEVERABILITY

In case any provision of this Consent, or the obligations of any of the parties hereto, shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions, or the obligations of the other parties hereto, shall not in any way be affected or impaired thereby, and the parties hereto shall negotiate in good faith to replace such invalid, illegal or unenforceable provisions.

IN WITNESS WHEREOF, the parties hereto by their officers thereunto duly authorized, have duly executed this Consent as of the date first set forth above.

[Signature block and exhibits intentionally excluded]

EXHIBIT G-2

Form of Consent to Consent and Agreement re: Assignments (Power Purchase Agreement/Site Lease Agreement)

CONSENT AND AGREEMENT RE ASSIGNMENTS (POWER PURCHASE AGREEMENT/SITE LEASE AGREEMENT)

This CONSENT AND AGREEMENT (this "Consent"), dated as of _____, is entered into by and among THE CITY OF TRUTH OR CONSEQUENCES ("Host Customer") and _____ ("Lessee"), for the benefit of _____ ("Lessor") in connection with (a) that certain Master Purchase and Sale Agreement, dated as of _____ (as amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof and hereof, the "Master Purchase Agreement"), between Lessor and Lessee, pursuant to which Lessee has agreed to sell to Lessor certain photovoltaic solar energy equipment (the "Equipment"), and (b) that certain Master Lease Agreement, dated as of _____ (as amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof and hereof, the "Master Lease Agreement"), between Lessor and Lessee, pursuant to which Lessor agreed to lease the Equipment back to Lessee.

RECITALS

F. Host Customer and Lessee (by assignment) are parties to each of (i) that certain Power Purchase Agreement, dated as of _____ and as further amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof and hereof, the "PPA"), (ii) that certain Lease Agreement, dated as of _____ (as amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof and hereof, the "Site Lease" and, together with the PPA, the "Assigned Agreements"), copies of which are attached hereto as Exhibit A.

G. Lessee acquired its ownership interest in the Assigned Agreements, the SEF Assets (as defined in the PPA) and other related assets, and a security interest in the Pledged Utility Cost Savings Revenue Account created thereunder (the "PPA Account", which security interests in the PPA Accounts are expressly limited to an amount not to exceed \$ _____ per month as provided in Section 10.6(b)(i) of the PPA, pursuant to that certain Asset Purchase Agreement, dated as of _____ (the "APA"), by and between Lessee, as buyer, and Affordable Solar Installation, Inc., as seller ("ASI").

H. In connection with the absolute sale and leaseback of the Equipment by Lessee to Lessor pursuant to the Master Purchase Agreement and the Master Lease Agreement, respectively, Lessee has assigned or will assign to Lessor pursuant to an Assignment Agreement between Lessee and Lessor, dated on or about _____, (the "Assignment Agreement") all of its right, title and interest in, to and under the Assigned Agreements, along with its right in certain related assets (including the PPA Accounts) and other contracts and agreements related thereto, as security for Lessee's obligations under the Master Purchase Agreement and the Master Lease Agreement (all such assigned rights, the "Assigned Rights").

I. Pursuant to the Master Lease Agreement, Lessee has also agreed to deposit all revenues its receives with respect to the Equipment and under the Assigned Agreements into a lockbox account designated by Lessor and as further described on Schedule I hereto (the "Lockbox Account").

J. Host Customer is willing to (a) acknowledge notice of (i) the assignments from ASI to Lessee pursuant to the APA, (ii) the sale of the Equipment by Lessee to Lessor, (iii) the collateral assignment of the Assigned Agreements and the grant of a security interest in the Assigned Rights by Lessee in favor of Lessor and (iv) Lessee's direction to Host Customer to remit payments to the Lockbox Account and (b) agree to such other terms as are described herein.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the parties hereto hereby agree, notwithstanding anything in the Assigned Agreements to the contrary, as follows:

SECTION 2. CONSENT TO ASSIGNMENT

Lessee hereby notifies Host Customer that it has purchased and absolutely acquired all legal and beneficial ownership of, among other things, the SEF Assets, the PPA, the Site Lease and the security interest in the PPA Accounts from ASI, and has assumed the obligations of ASI under the PPA and Site Lease, pursuant to the terms of the APA. Lessee hereby notifies Host Customer that it has absolutely sold and assigned all legal and beneficial ownership of the Equipment (including all attributes and proceeds associated with the Equipment) included in the SEF Assets to Lessor and, as security for the due and punctual performance and payment of all of Lessee's obligations under the Master Purchase Agreement and the Master Lease Agreement, has assigned or will assign to Lessor as collateral security for its obligations under the Master Lease Agreement, the Assigned Rights upon the terms set forth in the Assignment Agreement. In connection with such notice, Host Customer acknowledges and agrees with Lessor and Lessee, as follows:

(b) Host Customer acknowledges receipt of notices of the assignments specified in this Section 1 and in the Recitals hereto and hereby consents to each of the foregoing assignments. Host further agrees that Lessor shall have all the rights of a "Provider's Financing Party" set forth in Section 16 of the PPA, including the right to rely on all representations, warranties, indemnities and agreements made by Host Customer under or pursuant to the PPA and the right to enforce the Assigned Agreements as an intended third party beneficiary thereof.

(c) Lessor shall be entitled (but not obligated) to exercise all rights and to cure any defaults of Lessee under the Assigned Agreements. Upon receipt of notice from the Lessor, Host Customer agrees to accept such exercise and cure and to render to the curing party all performance due by Host Customer to Lessee under the Assigned Agreements and this Consent.

(d) Host Customer agrees to deliver duplicates or copies of all notices of default under Section 9.1 of the PPA and any other material notices delivered by Host Customer under or pursuant to the Assigned Agreements to the Lessor simultaneously with delivery thereof to Lessee under the Assigned Agreements.

(e) Host Customer will not, without the prior written consent of the Lessor, (i) subject to Section 1(e) below, cancel or terminate the Assigned Agreements, or consent to or accept any cancellation, termination or suspension thereof by Lessee, (ii) subject to Section 1(e) and except as provided in the Assigned Agreements, suspend performance of its obligations thereunder, (iii) sell, assign or otherwise dispose (by operation of law or otherwise) of any part of its interest in the Assigned Agreements, or (iv) amend or modify the Assigned Agreements.

(f) Host Customer will not terminate any Assigned Agreement on account of any default or breach by Lessee thereunder without giving written notice to Lessor and Lessee of its intent to do so and first providing to Lessor a reasonable opportunity, not to exceed 90 days, to cure such breach or default. So long as Lessor gives Host Customer prompt written notice of its intent to cure or cause such breach or default to be cured by Lessee or Lessor's designee, and then promptly commences to cure and thereafter diligently pursues such cure to completion (and continues to perform or cause to be performed any monetary or other obligations of Lessee under the Assigned Agreement), such reasonable opportunity to cure shall continue for a minimum of thirty (30) days in the case of a default in payment or maintenance of insurance or ninety (90) days in the case of any other default. If the Lessor is prohibited by any court order or bankruptcy or insolvency proceedings from curing the default, the foregoing time periods shall be extended for a reasonable period to be mutually agreed by Lessor and Host Customer.

(g) Host Customer hereby consents to any subsequent transfer of Lessor's interest in the Assigned Agreements made pursuant to or in connection with a future foreclosure, assignment in-lieu of foreclosure or other exercise of remedies by Lessor against Lessee under the Master Lease or the Assignment Agreement. Host Customer further agrees that if the Lessor notifies Host Customer in writing that it is exercising remedies under or in connection with the Assignment Agreement that Host Customer will recognize Lessor and/or its designee or assignee as the substituted counterparty under the Assigned Agreements and will continue to perform under the Assigned Agreements so long as (i) Lessor or its designee or assignee assumes in writing the obligations of Lessee under the Assigned Agreements and (ii) if Lessor appoints a designee or arranges for an assignee to assume such obligations, such person either (A) has at least three years prior experience providing operations, maintenance and administrative services for commercial solar facilities located in the United States and similar to the SEF Assets or (B) has, in the reasonable determination of Lessor, prior experience operating solar facilities similar to the SEF Assets that is at least equivalent to that of Lessee and its parent and a tangible net worth that is at least equal to that of Lessee and its parent as of the date hereof. In the event that any Assigned Agreement is rejected by a trustee or debtor-in-possession in any bankruptcy or insolvency proceeding, or if any Assigned Agreement is terminated for any reason other than a default which could have been but was not cured as provided in Section 1(e) above (including in the event Host Customer bids for and purchases (or causes another person to bid for and purchase) any Assigned Agreement in any foreclosure, bankruptcy, insolvency or similar proceeding), and if, within forty-five (45) days after such rejection or termination, the Lessor shall so request, Host Customer will execute and deliver to the Lessor a new contract, which contract shall be on the same terms and conditions as the original Assigned Agreement for the remaining term of the original Assigned Agreement before giving effect to such termination.

(h) In the event that the Lessor elects to perform or cause to be performed Lessee's obligations under the Assigned Agreements as provided in Section 1(e) or 1(f) above or to enter into a new contract as provided in Section 1(f) above, the Lessor's liability to Host Customer for the performance of such obligations and Host Customer's recourse for enforcement thereof shall be limited to the Lessor's interest in the Equipment and shall exclude any liability for acts or omissions of Lessee or any other predecessor of such party's interest in such Assigned Agreement that arose prior to the assumption by such party of its interest in the Equipment and such Assigned Agreement; provided, that Lessee shall not be relieved of its obligations as a result of such assumption.

(i) In the event that the Lessor assumes or causes to be assumed Lessee's right, title, interest and obligations under the Assigned Agreements as provided in Section 1(e) above, the Lessor shall cure any then-existing payment and performance defaults under the Assigned Agreements, except any performance defaults which by their nature are not capable of being cured. The Lessor shall have the right to assign its interest in the Assigned Agreements or the new contract entered into pursuant to Section 1(f) above to a person or entity to whom the Equipment is transferred, provided such transferee assumes the obligations of Lessee (or the Lessor, as applicable) under the Assigned Agreements which arise from and after the date of such assignment. Upon such assignment, the Lessor shall be released from any further liability thereunder.

(j) Except as expressly stated in this Section 1, nothing herein shall be construed as diminishing Host Customer's rights under the PPA.

SECTION 2. REPRESENTATIONS AND WARRANTIES

Host Customer hereby represents and warrants that:

(h) Host Customer (i) is a municipality duly organized and validly existing under the laws of the State of New Mexico, (ii) is duly qualified, authorized to do business and in good standing in every jurisdiction necessary to perform its obligations under the Assigned Agreements and this Consent, and (iii) has all requisite power and authority to enter into and to perform its obligations hereunder and under the Assigned Agreements, and to carry out the terms hereof and thereof and the transactions contemplated hereby and thereby;

(i) the execution, delivery and performance by Host Customer of this Consent and the Assigned Agreements have been duly authorized by all necessary corporate or other action on the part of Host Customer and do not require any approvals, filings with, or consents of any entity or person (including interconnection requests and agreements with the applicable interconnection utility for the Equipment) which have not previously been obtained or made;

(j) this Consent and each of the Assigned Agreements is in full force and effect, has been duly executed and delivered on behalf of Host Customer by the appropriate officers of Host Customer, and constitutes the legal, valid and binding obligation of Host Customer, enforceable against Host Customer in accordance with its terms, except as the enforceability thereof may be limited by (i) bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally and (ii) general equitable principles (whether considered in a proceeding in equity or at law);

(k) there is no litigation, action, suit, proceeding or investigation pending or (to the best of Host Customer's knowledge) threatened against Host Customer before or by any court, administrative agency, arbitrator or governmental authority, body or agency which, if adversely determined, individually or in the aggregate, (i) could adversely affect the performance by Host Customer of its obligations hereunder or under the Assigned Agreements, or which could modify or otherwise adversely affect any required approvals, filings or consents which have previously been obtained or made, (ii) could have a material adverse effect on the condition (financial or otherwise), business or operations of Host Customer or (iii) questions the validity, binding effect or enforceability hereof or of the Assigned Agreements, any action taken or to be taken pursuant hereto or thereto or any of the transactions contemplated hereby or thereby;

(l) the execution, delivery and performance by Host Customer of this Consent and the Assigned Agreements, and the consummation of the transactions contemplated hereby and thereby, will not result in any violation of, breach of or default under any term of its formation or governance documents, or of any contract or agreement to which it is a party or by which it or its property is bound, or of any license, permit, franchise, judgment, injunction, order, law, rule or regulation applicable to it;

(m) the Assigned Agreements and this Consent are the only agreements between Lessee and Host Customer with respect to the Project, all of the conditions precedent to effectiveness under the Assigned Agreements have been satisfied or waived and, to the best knowledge of Host Customer, no default has occurred and is continuing under any Assigned Agreement;

(n) attached hereto as Exhibit A is a true, correct and complete copy of each of the Assigned Agreements, including all amendments, modifications, supplements and waivers with respect thereto as of the date hereof;

(o) there has been no referendum called pursuant to Section 3-54-1 NMSA regarding the Site Lease and the time period during which any such referendum could be called has expired.

Each of the representations and warranties set forth in this Section 2 shall survive the execution and delivery of this Consent and the Assigned Agreements and the consummation of the transactions contemplated hereby and thereby.

SECTION 3. PAYMENTS UNDER THE CONTRACTS. Host Customer agrees that, until the termination or expiration of this Consent pursuant to Section 5, Host Customer shall pay all amounts payable by it under the Assigned Agreements from and after the date hereof in lawful money of the United States, directly to the Lockbox Account or at such other person or entity and/or at such other address as the Lessor may from time to time specify in writing to Host Customer. Host Customer shall not, without the prior written consent of the Lessor, make any payments to or for the benefit of Lessee other than as contemplated pursuant to the first sentence of this Section 3.

SECTION 4. STIPULATIONS AND MODIFICATIONS

(a) Host Customer hereby waives any requirement under the PPA that Lessee continue to be the owner of the Equipment; and

(b) Host Customer acknowledges that it has granted a security interest in the PPA Accounts and the revenues deposited therein or credited thereto to ASI, which security interest was assigned to and is now held by Lessee and Host Customer further agrees that pursuant to Assignment Agreement, Lessor now holds the security interest in the PPA Accounts and the revenues deposited therein or credited thereto.

SECTION 5. NOTICES

All notices required or permitted hereunder shall be in writing and shall be effective (a) upon receipt if hand delivered, (b) upon telephonic verification of receipt if sent by facsimile and (c) if otherwise delivered, upon the earlier of receipt or three (3) Business Days (as such term is defined in the PPA) after being sent registered or certified mail, return receipt requested, with proper postage affixed thereto, or by private courier or delivery service with charges prepaid, and addressed as specified below:

If to Host Customer:

City of Truth or Consequences
505 Sims
P.O. Box 706
Truth or Consequences, NM
Telephone No.:
Telecopy No.:
Attn: City Manager

If to the Lessor:

If to Lessee:

SECTION 6. ASSIGNMENT, TERMINATION, AMENDMENT AND GOVERNING LAW

This Consent shall be binding upon and benefit the successors and assigns of the parties hereto and their respective successors, transferees and assigns. Host Customer (a) agrees to confirm such continuing obligation in writing upon the reasonable request of Lessee and the Lessor for the benefit of the Secured Parties or any of their respective successors, transferees or assigns and (b) to cause any successor-in-interest to Host Customer with respect to its interests under the Assigned Agreements to assume, in writing in form and substance reasonably satisfactory to Lessor, the obligations of Host Customer hereunder. Host Customer shall not assign its rights or obligations under any of the Assigned Agreements without the express written consent of the Lessor, which consent will not be unreasonably withheld or delayed so long as the assignee is of equivalent or better credit standing and passes all required "know your customer" checks required by Lessor under applicable law. Notwithstanding anything to the contrary contained herein or in the Assigned Agreements, if the Lessor elects to exercise any of its rights or remedies under this Consent or take any other action provided herein, then the Lessor may exercise such rights or remedies or take such other actions through any assignee, designee or successor. To the extent any security interest in any Assigned Agreement has been granted by Lessee to Lessor, Lessee hereby appoints the Lessor as its designee to exercise any and all rights and remedies of Lessee under or with respect to such Assigned Agreement, whether direct or by way of collateral assignment and

exercise of remedies in respect thereof, and Host Customer shall, upon written demand therefore by the Lessor, render to the Lessor all of such rights and remedies as may be due and owing to Lessee. Lessor shall be an express beneficiary of Sections 16.2 of the PPA and shall have the right to enforce all rights provided for its benefit thereunder against any party hereto. No termination, amendment or variation of any provisions of this Consent shall be effective unless in writing and signed by the parties hereto and Lessor, and no waiver of any such provision shall be effective unless in writing and signed by the waiving party and Lessor. The rights of Lessor under this Consent shall terminate upon the earlier of (i) exercise by Lessee of its rights, if any, to repurchase the Equipment in accordance with the Master Lease Agreement and/or (ii) the exercise by Lessor of its right to substitute or cause the substitution for and assumption of Lessee's interest in the Assigned Agreements as provided herein and in the Assigned Agreements. THIS CONSENT SHALL BE GOVERNED BY AND CONSTRUED UNDER THE LAWS OF THE STATE OF NEW MEXICO APPLICABLE TO CONTRACTS MADE AND TO BE PERFORMED IN SUCH STATE AND WITHOUT REFERENCE TO CONFLICTS OF LAWS.

SECTION 7. COUNTERPARTS

This Consent may be executed in one or more duplicate counterparts, and when executed and delivered by all the parties listed below, shall constitute a single binding agreement. Delivery of an executed counterpart of a signature page of this Consent by facsimile shall be effective as delivery of a manually executed counterpart of this Consent

SECTION 8. SEVERABILITY

In case any provision of this Consent, or the obligations of any of the parties hereto, shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions, or the obligations of the other parties hereto, shall not in any way be affected or impaired thereby, and the parties hereto shall negotiate in good faith to replace such invalid, illegal or unenforceable provisions.

SECTION 9. FURTHER ASSURANCES

Host Customer will from time to time, upon the written request of Lessor, execute and deliver such further documents and do such other acts and things as Lessor may reasonably request in order to effectuate more fully the purposes of this Consent and Section 16 of the PPA.

[Signatures follow on next page.]

IN WITNESS WHEREOF, the parties hereto by their officers thereunto duly authorized, have duly executed this Consent and Agreement re Assignments as of the date first set forth above.

Accepted:

[Insert name of Assignee]

By: _____

Name: _____

Title: _____

EXHIBIT G-2

**Form of Consent to Consent and Agreement re: Assignments
(Power Purchase Agreement/Site Lease Agreement)**

SCHEDULE I - Lockbox Account Information

Bank:

Account Name:

Account #:

ABA #:

Lockbox Address:

EXHIBIT G-2

**Form of Consent to Consent and Agreement re: Assignments
(Power Purchase Agreement/Site Lease Agreement)**

EXHIBIT A to Consent and Agreement re: Assignment

[attach Assigned Agreements]

Exhibit H

Insurance Requirements

GENERAL LIABILITY

1. Requirements Applicable to Owner. Owner shall maintain during the Term of this PPA (or any extensions thereof), the insurance coverage outlined below, and all such other insurance as required by applicable law. Evidence of coverage will be provided to the other party and Owner's Financing Parties on an annual basis, prior to each renewal date, via a Certificate of Insurance as specified below.

All Insurance Carriers will be rated A- VIII or better by A.M. Best Company:

- a. Commercial General Liability with limits of:
 - i. \$1,000,000 per occurrence for 3rd Party Bodily Injury & Property Damage
 - ii. \$1,000,000 per occurrence for Products Completed Operations
 - iii. \$2,000,000 General Aggregate
 - iv. Coverage to be written on an Occurrence form basis, including (1) Broad Form Contractual Liability and (2) provisions for severability of interest
 - v. Owner shall include Host Customer and Owner's Financing Parties as Additional Insureds with respect to the insurance required under this PPA. The Additional Insured shall be on ISO forms CG 20 11 07 04 and 20 37 97 04 or equivalent.
 - vi. Any other insurance required for financing of the SEF, including flood insurance.
 - vii. The policy should provide that the coverage is Primary and Non-Contributory with any other available insurance of the other party and/or of Owner's Financing Parties.
 - viii. Owner will provide Host Customer with 30 days advance notice of cancellation or non-renewal (10 days for non-payment of premium).
- b. Excess/Umbrella Liability Policy with minimum limits of:
 - i. \$4,000,000 per occurrence for 3rd Party Bodily Injury and Property Damage
 - ii. \$4,000,000 General Aggregate - other than Products/Completed Operations
 - iii. Coverage terms and limits to apply excess of the primary per occurrence and/or aggregate limits provided for in the Commercial General Liability, Auto Liability and Employers' Liability coverage.
- c. Workers' Compensation/Employers Liability limits as follows:
 - i. Workers' Compensation – Statutory Coverage.
 - ii. Employers Liability
 1. Bodily Injury by accident \$1,000,000 each accident
 2. Bodily Injury by disease \$1,000,000 each employee
 3. Bodily Injury policy limit \$1,000,000 policy limit
 - iii. Policy shall include a blanket endorsement that provides a Waiver of Subrogation in favor of Owner and Owner's Financing Parties.

2. Requirements Applicable to Host Customer. Host Customer shall maintain general liability insurance in the amounts indicated above, or the maximum amount permitted under the New Mexico Tort Claims Act, Sections 41-4-1 through 41-4-30 NMSA 1978, whichever amount is less.

Exhibit I
Form of Written Guarantee

Definitions.

“Actual Annual Cost of the Energy Conservation Measure” means the Actual Energy Output multiplied by Energy Payment rate, for each contract year.

“Actual Annual Energy Output” means, for each Contract Year, the Energy Output produced by the SEF in kWh as measured by the Metering Device and recorded by DAS for such Contract Year, plus any kWh that are estimated to have been lost for that Contract Year due to a Force Majeure Event or Host Customer Event.

“Actual Annual Savings” means, the Actual Annual Utility Savings less Actual Annual Cost of the Energy Conservation Measure.

“Actual Annual Utility Cost Savings” shall mean, for each Contract Year, the Replacement Energy Incremental Cost multiplied by the Actual Energy Output.

“Adjusted Annual Savings” shall mean, for each Contract Year, the Actual Annual Savings plus any Savings Credit Balance.

“Annual Savings Guaranty Amount” for the given Contract Year, shall mean the Estimated Annual Utility Savings minus the Estimated Annual Cost of the Energy Conservation Measure, or \$100, whichever number is less.

“Energy Conservation Measure” means kWh produced by the SEF to be sold by Owner to Host Customer.

“Energy Payment Rate” shall have the meaning ascribed to it in Section 4.3 of the PPA.

“Estimated Annual Cost of the Energy Conservation Measure” -means the Estimated Annual Energy Output for each contract year, measured in kWh, multiplied by the Energy Payment Rate, for Each Contract Year.

“Estimated Annual Energy Output” shall have the meaning described in Exhibit F “PPA Production Guarantee”.

“Estimated Annual Utility Cost Savings” means the Estimated Annual Energy Output for each contract year, measured in kWh multiplied by the Replacement Energy Incremental Costs, for each Contract Year.

“DAS” means the data acquisition system, including but not limited to a meteorological system, production meter and data logger. The DAS measures and logs the following five parameters on a 15-minute average basis at the Property: (1) actual AC electricity production of the SEF (in kWh); (2) solar insolation measured in the global horizontal plane (in kWh/m²); (3) ambient air temperature; (4) cell temperature; and (5) wind speed.

“Host Customer Event” shall mean loss or reduction of Energy Output caused by actions or inaction of Host Customer or Utility.

“kWh” means electric energy expressed in kilowatt-hours and measured by multiplying the amount of electric power delivered (measured in kilowatts) by the amount of time over which the electricity was consumed (measured in hours). One-kilowatt hour equals one thousand watt-hours.

“Replacement Energy Incremental Cost” shall mean the estimated costs of replacement energy, on per kWh basis, for such Contract Year, as outlined Exhibit I-1.

“Savings Credit Balance” shall mean the sum of any unused Savings Credits.

“Savings Credit Difference” shall mean, for each Contract Year, the amount by which the Actual Annual Savings exceeds the Annual Savings Guarantee Amount for such Contract Year.

“Savings Credits” shall mean, for each Contract Year, any positive Savings Credit Difference.

“Savings Guaranty Difference” shall mean, for each Contract Year, the amount of savings by which (i) Adjusted Annual Savings for such Contract Year exceeds or is less than (ii) the Annual Savings Guaranty Amount for such Contract Year.

Guarantee

- a. Owner hereby guarantees that the Actual Annual Savings Amount will equal or exceed the Annual Savings Guarantee Amount.
- b. Within twenty (20) Business Days of the end of each Contract Year, Owner shall provide Host Customer with a written report setting forth a good faith calculation of the Savings Credit Difference for such Contract Year.
- c. If the Savings Guaranty Difference for such Contract Year results in a negative number, Owner shall be deemed not to have satisfied the Annual Savings Guaranty Level for such Contract Year and shall credit towards future energy payment obligations of Host Customer pursuant to Article 10 of the PPA, or at Owner's option shall pay in cash to the Pledged Utility Cost Savings Account, an amount in US Dollars equal to the Savings Guaranty Difference.
- d. Owner and Host Customer agree that the Replacement Energy Incremental Cost is equal to the annual figures found in Exhibit I-1 (f) for each array. These assumptions reflect Host Customer's current cost of electricity, peak usage, meter configuration (transformer), tariff structure, and anticipated annual utility cost increases of 3%. Owner shall not be responsible for lower or negative savings on an annual or cumulative basis if actual utility costs, meter configuration or anticipated annual utility cost increases of 3% differ from those assumed conditions as described in this Guarantee.

Exhibit I-1**Array****1.85 MW****Rate Schedule**

Sierra

Electric

Wholesale

Replacement Energy Cost

\$0.0836

Utility Cost Increase %

3.00%

Contract	Estimated Annual Energy Output (kWh)	Replacement Energy Incremental Cost Per kWh	Energy Payment Rate	Estimated Annual Cost Of The Energy Conservation Measure	Estimated Annual Utility Cost Savings	Estimated Annual Savings Amount	Annual Savings Guarantee Amount
1	4,070,347	\$0.0836	\$0.07943	\$323,308	\$340,281	\$16,973	\$100.00
2	4,041,855	\$0.0861	\$0.08062	\$325,860	\$348,036	\$22,176	\$100.00
3	4,013,562	\$0.0887	\$0.08183	\$328,433	\$355,968	\$27,535	\$100.00
4	3,985,467	\$0.0914	\$0.08306	\$331,026	\$364,080	\$33,054	\$100.00
5	3,957,568	\$0.0941	\$0.08430	\$333,639	\$372,378	\$38,738	\$100.00
6	3,929,865	\$0.0969	\$0.08557	\$336,273	\$380,864	\$44,591	\$100.00
7	3,902,356	\$0.0998	\$0.08685	\$338,928	\$389,544	\$50,616	\$100.00
8	3,875,040	\$0.1028	\$0.08815	\$341,604	\$398,422	\$56,818	\$100.00
9	3,847,915	\$0.1059	\$0.08948	\$344,301	\$407,502	\$63,201	\$100.00
10	3,820,979	\$0.1091	\$0.09082	\$347,019	\$416,789	\$69,769	\$100.00
11	3,794,232	\$0.1124	\$0.09218	\$349,759	\$426,287	\$76,528	\$100.00
12	3,767,673	\$0.1157	\$0.09356	\$352,520	\$436,002	\$83,482	\$100.00
13	3,741,299	\$0.1192	\$0.09497	\$355,304	\$445,939	\$90,635	\$100.00
14	3,715,110	\$0.1228	\$0.09639	\$358,109	\$456,102	\$97,993	\$100.00
15	3,689,104	\$0.1265	\$0.09784	\$360,936	\$466,496	\$105,561	\$100.00
16	3,663,280	\$0.1302	\$0.09931	\$363,785	\$477,128	\$113,342	\$100.00
17	3,637,637	\$0.1342	\$0.10080	\$366,658	\$488,002	\$121,344	\$100.00
18	3,612,174	\$0.1382	\$0.10231	\$369,552	\$499,123	\$129,571	\$100.00
19	3,586,889	\$0.1423	\$0.10384	\$372,470	\$510,498	\$138,028	\$100.00
20	3,561,781	\$0.1466	\$0.10540	\$375,411	\$522,132	\$146,722	\$100.00
21	3,536,848	\$0.1510	\$0.10698	\$378,374	\$534,032	\$155,657	\$100.00
22	3,512,090	\$0.1555	\$0.10859	\$381,362	\$546,202	\$164,841	\$100.00
23	3,487,506	\$0.1602	\$0.11021	\$384,373	\$558,650	\$174,278	\$100.00
24	3,463,093	\$0.1650	\$0.11187	\$387,407	\$571,382	\$183,975	\$100.00
25	3,438,851	\$0.1699	\$0.11355	\$390,466	\$584,404	\$193,938	\$100.00

The following APPLICATION is intended to be made available as a downloadable file on the City's Interconnection and Net Metering website front page as well as made available in hardcopy at the City's offices.

City of Truth or Consequences
EXHIBIT 1B
Standard Interconnection Application
Generating Facilities with Rated Capacities Greater Than 10 kW

A. Customer-Generator applicant ("Applicant") hereby makes application to Truth or Consequences ("Utility") to install and operate a generating facility with rated capacity greater than 10 kW interconnected with the utility system.

Written applications should be submitted by mail, e-mail or fax to Utility, as follows:

City of Truth or Consequences
505 Sims
Truth or Consequences, NM 87901
P: 575-894-2469 F: 575-894-7767 Attn: Building Inspection Department
Email: Rtravis@torcnm.org
Contact Name: Building Inspection Department

An application is a Complete Application when it provides all applicable information required below. (Additional information to evaluate a request for interconnection may be required and will be so requested from the Interconnection Applicant by Utility after the application is deemed complete).

SECTION 1. APPLICANT INFORMATION

Legal Name of Interconnecting Applicant (or, if an individual, individual's Name)

Name: Affordable Solar Installation, Inc.

Mailing Address: 4840 Pan American Freeway NW

City: Albuquerque State: NM Zip Code: 87109

Facility Location (if different from above): S. Broadway St, between Michigan St & Hyde Ave

Telephone (Daytime): 505-944-4245 Telephone (Evening): 505-715-4199

Fax Number: 505-244-9222

E-Mail Address: havin.bossalock@affordable-solar.com

Utility: Truth or Consequences Utilities Dept.

(Existing Account Number, if generator to be interconnected on the Customer side of a utility revenue meter)

Type of Interconnect Service Applied for (choose one):

Network Resource: Energy Only Load Response (no export) Net metering

SECTION 2. GENERATOR QUALIFICATIONS

Data apply only to the Generating Facility, not the Interconnection Facilities.

Energy Source: Solar Wind Hydro Hydro Type (e.g. Run-of-River) _____

Diesel Natural Gas Fuel Oil Other (state type) _____

Prime Mover: Fuel Cell Recip. Engine Gas Turbine Steam Turbine Microturbine PV
Other _____

Type of Generator: Synchronous Induction Inverter

Generator Nameplate Rating: 1500 kW (Typical); Generator Nameplate kVA: 1500

Interconnection Customer or Customer-Site Load: _____ kW (if none, so state)

Typical Reactive Load (if known): _____

Maximum Physical Export Capability Requested: 1,500 kW

List components of the Generating Facility Equipment Package that are currently certified:

Equipment Type	Certifying Entity
1. Inverters	UL
2. PV Modules	UL
3. Disconnects / Combiners	UL
4. Fusing	UL
5. Isolation Transformer	UL

Is the prime mover compatible with the certified protective relay package? Yes No

Generator (or solar collector)

Manufacturer, Model Name & Number: Canadian Solar, #CSX-300P

Version Number: NA

Nameplate Output Power Rating in kW:

(Summer) .3kW (ea.) (Winter) .3kW (ea.)

Nameplate Output Power Rating in kVA:

(Summer) .3kW (ea.) (Winter) .3kW (ea.)

Individual Generator Power Factor

Rated Power Factor: Leading: >0.99 Lagging: >0.99

Total Number of Generators to be interconnected pursuant to this Interconnection Application: 50

Elevation: _____ Single phase: _____ Three phase: X

Inverter Manufacturer, Model Name & Number (if used) ABB "Ultra" #1500-TL-OUTD-2-US-690

List of adjustable set points for the protective equipment or software: Multiple Conditions. See Attachments.

Note: A completed Power Systems Load Flow data sheet must be supplied with the Interconnection Application.

Generating Facility Characteristic Data (for inverter-based machines): 601ARMS @ 1 Cyc/512RMS @ 3 Cyc

Max design fault contribution current: Instantaneous or RMS? _____

Harmonics Characteristics: <3% THD

Start-up requirements: 470 VDC @ 430W

Generating Facility Characteristic Data (for rotating machines):

RPM Frequency: _____

(* Neutral Grounding Resistor (If Applicable): _____

Synchronous Generators:

Direct Axis Synchronous Reactance, Xd: _____ P.U.

Direct Axis Transient Reactance, X' d: _____ P.U.

Direct Axis Subtransient Reactance, X'' d: _____ P.U.

Negative Sequence Reactance, X2: _____ P.U.

Zero Sequence Reactance, X0: _____ P.U.

KVA Base: _____

Field Volts: _____

Field Amperes: _____

Induction Generators:

Motoring Power (kW): _____

I2t or K (Heating Time Constant): _____

Rotor Resistance, Rr: _____

Stator Resistance, Rs: _____

Stator Reactance, Xs: _____

Rotor Reactance, Xr: _____

Magnetizing Reactance, Xm: _____

Short Circuit Reactance, Xd'': _____

Exciting Current: _____

Temperature Rise: _____

Frame Size: _____

Design Letter: _____

Reactive Power Required In Vars (No Load): _____

Reactive Power Required In Vars (Full Load): _____

Total Rotating Inertia, H: _____ Per Unit on kVA Base

Note: Please contact the Utility prior to submitting the Interconnection Application to determine if the specified information above is required.

Excitation and Governor System Data for Synchronous Generators Only:

Provide appropriate IEEE model block diagram of excitation system, governor system and power system stabilizer (PSS) in accordance with the regional reliability council criteria. A PSS may be determined to be required by applicable studies. A copy of the manufacturer's block diagram may not be substituted.

SECTION 3. INTERCONNECTION FACILITIES INFORMATION

Will a transformer be used between the generator and the Point of Common Coupling?

Yes No

Transformer Data (If Applicable, for Interconnection Customer-Owned Transformer):

Is the transformer: single phase three phase Size: 1500 kVA

Transformer Impedance: 5.75 percent on 1500 kVA Base

If Three Phase:

Transformer Primary: ^{12.47kV} _____ Volts _____ Delta _____ Wye Wye Grounded

Transformer Secondary: 690 Volts Delta _____ Wye _____ Wye Grounded

Transformer Tertiary: _____ Volts _____ Delta _____ Wye _____ Wye Grounded

Transformer Fuse Data (If Applicable, for Interconnection Customer-Owned Fuse):

(Attach copy of fuse manufacturer's Minimum Melt and Total Clearing Time-Current Curves)

Manufacturer: Bussmann Type: 15.5kV/CL14 Size: 100E Speed: _____

Interconnecting Circuit Breaker (If applicable):

Manufacturer: _____ Type: _____

Load Rating (Amps): _____ Interrupting Rating (Amps): _____ Trip Speed Cycles: _____

Interconnection Protective Relays (If Applicable):

If Microprocessor-Controlled:

List of Functions and Adjustable Setpoints for the protective equipment or software:

Setpoint Function	Minimum	Maximum
1.		
2.		
3.		
4.		

If Discrete Components

(Enclose Copy of any Proposed Time-Ovarcurrent Coordination Curves)

Manufacturer:	Type:	Style/Catalog No.:	Proposed Setting:
Manufacturer:	Type:	Style/Catalog No.:	Proposed Setting:
Manufacturer:	Type:	Style/Catalog No.:	Proposed Setting:

Current Transformer Data (If Applicable)

Enclose Copy of Manufacturer's Excitation and Ratio Correction Curves

Manufacturer:	Type:	Accuracy Class:	Proposed Ratio Connection:
Manufacturer:	Type:	Accuracy Class:	Proposed Ratio Connection:
Manufacturer:	Type:	Accuracy Class:	Proposed Ratio Connection:

Potential Transformer Data (if Applicable)

Manufacturer:	Type:	Accuracy Class:	Proposed Ratio Connection:
Manufacturer:	Type:	Accuracy Class:	Proposed Ratio Connection:
Manufacturer:	Type:	Accuracy Class:	Proposed Ratio Connection:
Manufacturer:	Type:	Accuracy Class:	Proposed Ratio Connection:
Manufacturer:	Type:	Accuracy Class:	Proposed Ratio Connection:

SECTION 4. GENERAL INFORMATION

Enclose copy of site electrical one-line diagram showing the configuration of all Generating Facility equipment, current and potential circuits, and protection and control schemes.

This one-line diagram must be signed and stamped by a licensed Professional Engineer if the Generating Facility is larger than 50 kW. Is One-Line Diagram Enclosed? Yes No

Enclose copy of any site documentation that indicates the precise physical location of the proposed Generating Facility (e.g., USGS topographic map or other diagram or documentation).

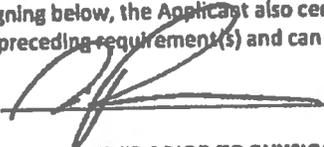
Proposed location of protective interface equipment on property (include address if different from the Interconnection Customer's address) **South Boundary - Immediate Access Gate**

Enclose copy of any site documentation that describes and details the operation of the protection and control schemes. Is Available Documentation Enclosed? Yes No

Enclose copies of schematic drawings for all protection and control circuits, relay current circuits, relay potential circuits, and alarm/monitoring circuits (if applicable). Are Schematic Drawings Enclosed? Yes No

SECTION 5. APPLICANT SIGNATURE

I hereby certify that, to the best of my knowledge, all the information provided in the Interconnection Application is true and correct. I also agree to install a Warning Label provided by (utility) on or near my service meter location. Generating systems must be compliant with IEEE, NEC, ANSI, and UL standards, where applicable. By signing below, the Applicant also certifies that the installed generating equipment meets the appropriate preceding requirement(s) and can supply documentation that confirms compliance.

Signature of Applicant:  Date: 6.26.14

SECTION 6. INFORMATION REQUIRED PRIOR TO PHYSICAL INTERCONNECTION
(Not required as part of the application, unless available at time of application.)

Installing Electrician: _____ Firm: _____
License No.: _____
Mailing Address: _____
City: _____ State: _____ Zip Code: _____
Telephone: _____
Installation Date: _____
Interconnection Date: _____

Signed (Inspector - if required): _____

Date: _____

(In lieu of signature of Inspector, a copy of the final inspection certificate may be attached)

The following INTERCONNECTION AGREEMENT is intended to be made available as a downloadable file on the City's Interconnection and Net Metering website front page as well as made available in hardcopy at the City's offices.

**City of Truth or Consequences
(Exhibit 3B)**

**Interconnection Agreement for Generating Facilities
With a Rated Capacity No Greater than 10 MW and Not
Qualified for Simplified Interconnection**

This Generating Facility Interconnection Agreement (“Agreement”) is entered into by and between the City of Truth or Consequences (“Utility”) and Affordable Solar Installation, Inc. (“Interconnection Customer”). The Interconnection Customer and Utility are sometimes referred to as “Parties” or individually as “Party”.

In consideration of the mutual promises and obligations stated in this Agreement and its appendices, the Parties agree as follows:

I. SCOPE AND PURPOSE

- A) This Agreement is intended to provide for the Interconnection Customer to interconnect and operate the Generating Facility in parallel with the Utility’s System. Appendix A (*supplied by the Interconnection Customer*) provides a one-line diagram of the Generating Facility and the Point of Common Coupling. Appendix B (*supplied by the Interconnection Customer*) provides a description of the Generating Facility and its location.
- B) This Agreement contains the terms and conditions under which the Interconnection Customer may interconnect the Generating Facility to the Utility. This Agreement does not authorize the Interconnection Customer to export power or constitute an agreement to purchase or wheel the Interconnection Customer’s power. Other services that the Interconnection Customer may require from the Utility, or others, may be covered under separate agreements.
- C) This Agreement allows for the occasional and inadvertent export of energy to the Utility, though it does not constitute an agreement by the Utility to purchase or pay for any energy, inadvertently or intentionally exported.
- D) This Agreement does not constitute a request for, nor the provision of any transmission delivery service or any local distribution delivery service.
- E) The technical requirements for interconnection are provided in New Mexico Administrative Code 17.9.568, which incorporates by reference the New Mexico Interconnection Manual (“Manual”). Rule 17.9.568 and the Manual are incorporated and made part of this Agreement by this reference.

II. DEFINITIONS

“Agreement” means this Generating Facility Interconnection Agreement and its appendices.

“Business Day” means Monday through Friday, excluding holidays observed by the Utility.

- “Commission”** means the New Mexico Public Regulation Commission.
- “Generating Facility”** means the Interconnection Customer’s device for the production of electricity identified in the Interconnection Application, including all generators, electrical wires, equipment, and other facilities owned or provided by the Interconnection Customer for the purpose of producing electric power.
- “Generator”** means any device producing electrical energy, including rotating generators driven by wind, steam turbines, internal combustion engines, hydraulic turbines, solar panels, fuel cells, or any other electric producing device, including energy storage technologies.
- “Interconnection Application”** means the request by an Interconnection Customer to interconnect a new Generating Facility, or to increase the capacity or make a material modification to the operating characteristics of an existing Generating Facility that is interconnected with the Utility’s System.
- “Interconnection Customer”** is the person or entity so defined in the first paragraph of this Agreement.
- “Interconnection Facilities”** means the Utility’s Interconnection Facilities and the Interconnection Customer’s Interconnection Facilities. Collectively, Interconnection Facilities include all facilities and equipment between the Generating Facility and the Point of Common Coupling, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Generating Facility to the Utility’s System. Interconnection Facilities are sole use facilities and shall not include Distribution Upgrades.
- “Manual”** is the New Mexico Interconnection Manual incorporated by reference into New Mexico Administrative Code 17.9.568.
- “Point of Common Coupling”** means the point where the Interconnection Facilities connect with the Utility’s System.
- “Rated Capacity”** when used with respect to solar PV systems means 85% of the combined DC name plate rating of the solar panels. When used with respect to any other Generating Facility, Rated Capacity means the name plate rating of the Generating Facility.
- “System”** means the facilities owned, controlled, or operated by the Utility that are used to provide electric service under a Utility’s tariff.
- “System Emergency”** means a condition on the Utility’s System that is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property.
- “Upgrade”** means the required additions and modifications to the Utility’s System at or beyond the Point of Common Coupling. Upgrades do not include Interconnection Facilities.
- “Utility”** is the entity so defined in the first paragraph of this Agreement.

III. GENERATING FACILITY DESCRIPTION

- A) A single-line diagram of the Generating Facility is attached to and made part of this Agreement as Appendix A. The single line diagram shows the general arrangement of how the Generating Facility is interconnected with the Utility's System and shows all major equipment, including visual isolation equipment, Point of Common Coupling, ownership of equipment and meter location(s).
- B) A description of the Generating Facility is attached to and made a part of this Agreement as Appendix B. Appendix B is standard form that provides the engineering and operating information about the Generating Facility, including the Generating Facility's Rated Capacity and scheduled operational (on-line) date.

IV. RESPONSIBILITIES OF THE PARTIES

- A) The Parties shall perform all obligations of this Agreement in accordance with all applicable laws and regulations.
- B) The Interconnection Customer shall design, construct, operate and maintain the Generating Facility in accordance with the equipment manufacturers' recommended maintenance schedules, the Manual and applicable laws and regulations, including local building codes and other applicable ordinances.
- C) Interconnection of the Generating Facility in no way affects the Utility's obligation to serve the Utility's customer at whose location the Generating Facility is sited pursuant to the tariffs applicable to the customer's class of service.
- D) The Interconnection Customer is responsible for the actual costs to interconnect and test the Generating Facility with the Utility to the extent required by the Manual. Estimates of these costs are outlined in Appendix C (provided by the Utility). While estimates, for budgeting purposes, have been provided in Appendix C, the actual costs are still the responsibility of the Interconnection Customer, even if they exceed the estimated amount(s). All costs, for which the Interconnection Customer is responsible, must be reasonable under the circumstances of the design and construction.
- E) The Interconnection Customer shall grant to the Utility, at no expense to the Utility, all easements and rights-of-way necessary for the Utility to install, operate, maintain, replace, and remove the Utility's Interconnection Facilities and Upgrades, including, but not limited to, adequate and continuous access rights to property owned or controlled by the Interconnection Customer. If any part of the Interconnection Facilities or Upgrades is to be installed on property owned by any person who is not a party to this Agreement, the Interconnection Customer shall, at no expense to the Utility, obtain from the owner of the property all such necessary easements and rights-of-way for the Utility. The Utility has no obligation to commence procurement, installation or construction of the Utility's Interconnection Facilities or Upgrades until the Interconnection Customer has provided all documents the Utility deems necessary to enable the Utility to obtain and record such easements and rights-of-way.
- F) Upgrades:
 - a) The Utility shall design, construct, operate and maintain the Upgrades outlined in Appendix C in a good and workmanlike manner, and in

accordance with standard design and engineering practices, the Manual and applicable laws and regulations, including local building codes and other applicable ordinances.

- b) Once installed, the Upgrades shall be owned and operated by the Utility and all costs associated with the operating and maintenance of the Upgrades, after the Generating Facility is operational, shall be the responsibility of the Utility, unless otherwise agreed.
- c) The Interconnection Customer grants permission for the Utility to begin construction and to procure the necessary facilities and equipment to complete the installation of the Upgrades, as outlined in Appendix C. The Interconnection Customer may, for any reason, cancel or modify the Generating Facility project, so that any or all of the Upgrades are not required to be installed. If for any reason, the Generating Facility project is canceled or modified, so that any or all of the Upgrades are not required, the Interconnection Customer shall be responsible for all costs incurred by the Utility, including, but not limited to the additional costs to remove and/or complete the installation of the Upgrades. The Interconnection Customer shall provide written notice to the Utility of cancellation or modification. Upon receipt of a cancellation or modification notice, the Utility shall take reasonable steps to minimize additional costs to the Interconnection Customer, where reasonably possible.

G) Payments:

- 1) The Interconnection Customer shall provide for the payment of its obligations under this Agreement in one of the following ways:
 - i. The Interconnection Customer may pay the Utility the costs identified in Appendix C at the time the Parties execute this Agreement; or
 - ii. The Interconnection Customer may pay the Utility in accordance with Section IV.G (2) if, at the time the Parties execute this Agreement, the Interconnection Customer provides reasonably adequate assurance of its creditworthiness to the Utility. Reasonably adequate assurance may be satisfied by evidence of the Interconnection Customer's creditworthiness, or a letter of credit in an amount sufficient to cover the costs identified in Appendix C, or a guaranty from another entity accompanied by evidence of that entity's creditworthiness.
- 2) If the Interconnection Customer provides for assurance of creditworthiness in accordance with Section IV. G(1)(ii), the Utility will invoice the Interconnection Customer monthly for all amounts expended and all amounts for which the Utility has become obligated since the execution of this Agreement or the prior monthly invoice. The Interconnection Customer will pay each such invoice within 20 days.

V. TERM AND TERMINATION

- A) This Agreement becomes effective when the Interconnection Customer and the Utility have both signed this Agreement. The Agreement shall continue in full force and effect until the earliest date that one of the following events occurs:
 - 1) The Parties agree in writing to terminate the Agreement;

- 2) The Interconnection Customer terminates this Agreement by written notice to the Utility prior to the completion of the final acceptance testing of the Generating Facility by the Utility;
 - 3) The Utility terminates this Agreement after 30 days written notice to the Interconnection Customer if the Interconnection Customer has failed to comply with the payment or creditworthiness terms of Section IV.G and has not taken appropriate corrective action;
 - 4) The Utility terminates this Agreement after three days written notice to the Interconnection Customer if the Interconnection Customer does not obtain and deliver the easements and rights-of-way described in Section IV.E to the Utility within 30 days of the Utility's request for such easements and rights-of-way;
 - 5) Once the Generating Facility is operational, the Interconnection Customer terminates this Agreement after 30 days written notice to the Utility, unless otherwise agreed; or,
 - 6) The Utility terminates this Agreement after 30 days written notice to the Interconnection Customer if the Interconnection Customer fails to:
 - i. take all corrective actions specified in the Utility's written notice that the Generating Facility is out of compliance with the terms of this Agreement or the Manual within the time frame set forth in such notice, provided that the terms and timeframes stated by the Utility conform to this Agreement and the Manual; or
 - ii. to complete construction of the Generating Facility within 24 months of the date of this Agreement or as otherwise agreed.
- B) Upon termination of this Agreement the Utility may disconnect the Generating Facility from the Utility's System. The termination of this Agreement shall not relieve either Party of its liabilities and obligations, owed or continuing, at the time of the termination.

VI. OPERATIONAL ISSUES

- A) Costs: Each Party will, at its own cost and expense, operate, maintain, repair and inspect, and shall be fully responsible for, the facilities which it now or hereafter may own, unless otherwise specified.
- B) Right of Access: At all times, the Utility's personnel shall have access to the disconnect switch of the Generating Facility for any reasonable purpose in connection with the performance of the obligations imposed on it by this Agreement, to meet its obligation to operate the Utility safely and to provide service to its customers. If necessary for the purposes of this Agreement, the Interconnection Customer shall allow the Utility access to the Utility's equipment and facilities located on the premises.
- C) Cooperation and Coordination: Both the Utility and the Interconnection Customer shall communicate and coordinate their operations, so that the normal operation of the Utility does not unduly effect or interfere with the normal

operation of the Generating Facility and the Generating Facility does not unduly effect or interfere with the normal operation of the Utility. Under abnormal operations of either the Generating Facility or the Utility system, the responsible Party shall provide timely communication to the other Party to allow mitigation of any potentially negative effects of the abnormal operation of their system.

- D) **Disconnection of Unit:** The Utility may disconnect the Generating Facility as reasonably necessary for the following reasons: termination of this Agreement; non-compliance with this Agreement; System Emergency, and routine maintenance, repairs and modifications to the Utility's System. When reasonably possible the Utility shall provide prior notice to the Interconnection Customer explaining the reason for the disconnection. If prior notice is not reasonably possible the Utility shall after the fact, provide information to the Interconnection Customer as to why the disconnection was required. The Utility shall expend reasonable effort to reconnect the Generating Facility in a timely manner and to mitigate damages and losses to the Interconnection Customer.
- E) **Modifications to the Generating Facility:** The Interconnection Customer shall notify the Utility in writing of any proposed modifications to the Generating Facility that could affect the Utility's System, providing twenty (20) Business Days notice or as many days notice as is reasonably possible. The notice shall provide all information needed by the Utility as part of the review described in this paragraph. Modifications that could affect the Utility's System include any change affecting the Generating Facility's Rated Capacity and any modification of Interconnection Facilities, which include without limitation: protective systems, generation control systems, transfer switches/breakers, voltage transformers and current transformers. When reasonably possible the Interconnection Customer agrees not to make any material modifications to the Generating Facility until the Utility has approved the modifications, in writing, which approval shall not be unreasonably withheld. The Utility shall not take longer than ten (10) Business Days to review and respond to the proposed modifications after the receipt of the information required to review the modifications, and if the Utility fails to respond within ten (10) Business Days, the modification(s) shall be considered to be approved by the Utility. When it is not reasonably possible for the Interconnection Customer to provide prior written notice of modifications, the Interconnection Customer shall provide written notice to the Utility as soon as reasonably possible after the modifications have been made.
- F) **Permits and Approvals:** The Interconnection Customer shall obtain all environmental and other permits lawfully required by governmental authorities prior to the construction of the Generating Facility. The Interconnection Customer shall also maintain these applicable permits and compliance with these permits during the term of this Agreement.

VII. INDEMNIFICATION AND LIMITATION OF LIABILITY

- A) The Interconnection Customer shall indemnify and hold harmless the Utility against all damages, expenses and other obligations to third parties attributable to the negligence, strict liability or intentional acts of the Interconnection Customer. The Utility shall indemnify and hold harmless the Interconnection Customer against all damages, expenses and other obligations to third parties attributable to the negligence, strict liability or intentional acts of the Utility. The terms "Utility" and "Interconnection Customer," for purposes of this indemnification provision, include their officers, directors, trustees, managers, members, employees, representatives, affiliates, successors and assigns.
- B) Except in the event of acts of willful misconduct, each Party's liability to the other Party for failure to perform its obligations under this Agreement, shall be limited to the amount of direct damage actually incurred. Neither Party shall be liable to the other Party for any punitive, incidental, indirect, special, or consequential damages of any kind whatsoever, including for loss of business opportunity or profits, regardless of whether such damages were foreseen.
- C) Notwithstanding any other provision in this Agreement, with respect to Utility's provision of electric service to any customer including the Interconnection Customer, the Utility's liability to such customer shall be limited as set forth in the Utility's tariffs and terms and conditions for electric service, and shall not be affected by the terms of this Agreement.

VIII. DISPUTE RESOLUTION

- A) Each Party agrees to attempt to resolve all disputes arising hereunder promptly, equitably and in a good faith manner.
- B) In the event a dispute arises under this Agreement, the Parties may mutually agree to submit the dispute to mediation by a mutually acceptable mediator or either party may request that the New Mexico Public Regulatory Commission designate a facilitator to assist the Parties to resolve their dispute.

IX. INSURANCE

[The City ("Utility") shall determine if this Section shall either state that "the Interconnection Customer is not required to maintain insurance unless so ordered by the Commission for good cause upon the petition of the Utility" or, for Generating Facilities with Rated Capacity greater than 250 kW, the City Utility may include the following provisions:

- A) *The Interconnection Customer shall maintain, during the term of the Agreement, general liability insurance from a qualified insurance agency with a B+ or better rating by "Best" and with a combined single limit of not more than one million dollars (\$1,000,000). Such general liability insurance shall include coverage against claims for damages resulting from (i) bodily injury, including wrongful death; and (ii) property damage arising out of the Interconnection Customer's ownership and/or operation of the Generating Facility under this Agreement.*
- B) *The general liability insurance required by Section IX.A shall, by endorsement to the policy or policies, (a) include the Utility as an additional insured; (b) contain a severability of interest clause or cross-liability clause; (c) provide*

that the Utility shall not by reason of its inclusion as an additional insured incur liability to the insurance carrier for the payment of premium for such insurance; and (d) provide for thirty (30) calendar days written notice to the Utility prior to cancellation, termination, alteration, or material change of such insurance.

- C) *The Interconnection Customer shall furnish the insurance certificates and endorsements required by Sections IX.A and IX.B to the Utility prior to the initial operation of the Generating Facility. Thereafter, the Utility shall have the right to periodically inspect or obtain a copy of the original policy or policies of insurance.*
- D) *The general liability insurance required by Section IX.A shall state that coverage provided is primary and is not excess to or contributing with any insurance or self-insurance maintained by the Utility.*
- E) *The Interconnection Customer may elect to self-insure rather than complying with Sections IX.A through IX.D if:*
 - 1) *The Interconnection Customer provides to the Utility, at least thirty (30) days prior to the date of initial operation, a plan reasonably acceptable to the Utility to self-insure to a level of coverage equivalent to that required under Section IX.A; and,*
 - 2) *The Interconnection Customer agrees to immediately obtain the coverage required under Section IX.A if the Interconnection Customer fails to comply with its self-insurance plan.*
- F) *Failure of the Interconnection Customer or Utility to enforce the minimum levels of insurance does not relieve the Interconnection Customer from maintaining such levels of insurance or relieve the Interconnection Customer of any liability.*
- G) *All insurance certificates, statements of self-insurance, endorsements, cancellations, terminations, alterations, and material changes of such insurance shall be issued and submitted to the following address:*

*City of Truth or Consequences (Utility)
Attention: Manager of Generation Insurance, Building Inspection
Department*

X. MISCELLANEOUS

- A) **Force Majeure:** Force majeure shall mean any cause beyond the control of the Party affected, including, but not limited to, failure of or threat of failure of facilities, flood, earthquake, tornado, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, [labor dispute,] labor or material shortage, sabotage, restraint by court order or public authority, and action or non-action by or failure to obtain the necessary authorizations or approvals from any governmental agency or authority, which by exercise of due diligence such Party could not reasonably have been expected to avoid and which by exercise of due diligence, it shall be unable to overcome. If either Party, because of force majeure, is rendered wholly or partly unable to perform its obligations

under this Agreement, except for the obligation to make payments of money, that Party shall be excused from whatever performance is affected by the force majeure to the extent so affected, provided that:

- 1) the nonperforming Party, within a reasonable time after the occurrence of the force majeure, gives the other Party written notice describing the particulars of the occurrence;
- 2) the suspension of performance is of no greater scope and of no longer duration than is required by the force majeure; and
- 3) the nonperforming Party uses its best efforts to remedy its inability to perform. [This subparagraph shall not require the settlement of any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the party involved in the dispute, are contrary to its interest. It is understood and agreed that the settlement of strikes, walkouts, lockouts or other labor disputes shall be entirely within the discretion of the Party involved in the disputes.]

B) Notices: Any written notice, demand, or request required or authorized in connection with this Agreement shall be deemed properly given if delivered in person, sent by first class mail with postage prepaid, or sent by electronic mail as specified below:

- 1) To the Utility:

City of Truth or Consequences

Building Inspection Department

Email: rtravis@torcnm.org

- 2) To the Interconnection Customer:

Affordable Solar Installation, Inc.

Mr. Kevin Bassalleck

4840 Pan American Fwy NE

Albuquerque, NM 87109

Email: kevin.bassalleck@affordable-solar.com

- 2) A Party may change its address for notices at any time by providing the other Party written notice of the change, in accordance with this Section.
- 3) The Parties may also designate operating representatives to conduct the daily communications, which may be necessary or convenient for the administration of this Agreement. Such designations, including names, addresses, phone numbers and electronic mail addresses may be communicated or revised by one Party's notice to the other Party.

C) Assignment: The Interconnection Customer shall not assign its rights nor delegate its duties under this Agreement without the Utility's written consent.

Any assignment or delegation the Interconnection Customer makes without the Utility's written consent shall not be valid. The Utility shall not unreasonably withhold its consent to the Generating Entities assignment of this Agreement.

- D) **Non-waiver:** None of the provisions of this Agreement shall be considered waived by a Party unless such waiver is given in writing. The failure of a Party to insist in any one or more instances upon strict performance of any of the provisions of this Agreement or to take advantage of any of its rights hereunder shall not be construed as a waiver of any such provisions or the relinquishment of any such rights for the future, but the same shall continue and remain in full force and effect.
- E) **Governing Law and Inclusion of Utility's Tariffs and Rules:**
- 1) This Agreement shall be interpreted, governed and construed under the laws of the State of New Mexico as if executed and to be performed wholly within the State of New Mexico without giving effect to choice of law provisions that might apply to the law of a different jurisdiction.
 - 2) The interconnection and services provided under this Agreement shall at all times be subject to the terms and conditions set forth in the tariff schedules and Commission rules applicable to the electric service provided by the Utility, which tariff schedules and Commission rules are hereby incorporated into this Agreement by this reference.
 - 3) Notwithstanding any other provisions of this Agreement, the Utility shall have the right to unilaterally file with the Commission, pursuant to the Commission's rules and regulations, an application for change in rates, charges, classification, service, tariff or rule or any agreement relating thereto.
- F) **Amendment and Modification:** This Agreement can only be amended or modified by a writing signed by both Parties.
- G) **Entire Agreement:** This Agreement, including its Appendices, constitutes the entire Agreement between the Parties with regard to the interconnection of the Generating Facility of the Parties at the Point(s) of Common Coupling expressly provided for in this Agreement and supersedes all prior agreements or understandings, whether verbal or written. It is expressly acknowledged that the Parties may have other agreements covering other services not expressly provided for herein, which agreements are unaffected by this Agreement. Each Party also represents that in entering into this Agreement, it has not relied on the promise, inducement, representation, warranty, agreement or other statement not set forth in this Agreement or in the incorporated attachments and appendices.
- H) **Confidential Information:** Except as otherwise agreed or provided herein, each Party shall hold in confidence and shall not disclose confidential information, to any person (except employees, officers, representatives and agents, who agree to be bound by this section). Confidential information shall be clearly marked as such on each page or otherwise affirmatively identified. If a court, government agency or entity with the right, power, and authority to do so, requests or requires either Party, by subpoena, oral disposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose

confidential information, that Party shall provide the other Party with prompt notice of such request(s) or requirements(s) so that the other Party may seek an appropriate protective order or waive compliance with the terms of this Agreement. In the absence of a protective order or waiver the Party shall disclose such confidential information which, in the opinion of its counsel, the party is legally compelled to disclose. Each Party will use reasonable efforts to obtain reliable assurance that confidential treatment will be accorded any confidential information so furnished.

I) Non-warranty: Neither by inspection, if any, or non-rejection, nor in any other way, does the Utility give any warranty, expressed or implied, as to the adequacy, safety, or other characteristics of any structures, equipment, wires, appliances or devices owned, installed or maintained by the Interconnection Customer or leased by the Interconnection Customer from third parties, including without limitation the Generating Facility and any structures, equipment, wires, appliances or devices appurtenant thereto.

J) No Partnership: This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

XI. SIGNATURES

IN WITNESS WHEREOF, the Parties hereto have caused two originals of this Agreement to be executed by their duly authorized representatives. This Agreement is effective as of the last date set forth below.

Interconnection Customer

By: 

Name: Kevin Bassalbeck

Title: Director of Business Development - Affordable Solar

Date: 6.26.14

City of Truth or Consequences (Utility)

By: 

Name: Edward Williams

Title: Electric Dept. Director

Date: 7/20/2014



REQUISITION

Requisition #: 87744

Date: 07/01/2022

Vendor #: 0297

ISSUED TO: TRI-STATE GENERATION & TRANSMI
P.O. BOX 33695
DENVER, CO 80233

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 POWER SERVICES- OPEN PO FY-22/23		0.00 503-3702-50795	445,000.00
<p>PO Description: POWER SERVICES- OPEN PO FY-22/23</p> <p>Detailed Description: POWER SERVICES- OPEN PO FY-22/23 JULY 1, 2022 TO JUNE 30, 2023 SEE ATTACHED CONTRACT 10-20-2006 - 12-31-2024</p>				

Authorized By: _____

SUBTOTAL:	445,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	445,000.00

ELECTRIC SERVICE AGREEMENT
B E T W E E N
SIERRA ELECTRIC COOPERATIVE, INC.
A N D
CITY OF TRUTH OR CONSEQUENCES



REQUISITION

Requisition #: 87745

Date: 07/01/2022

Vendor #: 0187

ISSUED TO: POSTMASTER

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 UTILITY OFFICE POSTAGE CITY MAIL FY		0.00 502-3601-43735	45,000.00

PO Description: POSTAGE CITY MAIL FY 2022/2023

Detailed Description:

Authorized By: _____

SUBTOTAL:	45,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	45,000.00



REQUISITION

Requisition #: 87746
Date: 07/01/2022
Vendor #: 7735

ISSUED TO: TRIPLE H SOLAR, LLC
 5604 SINGLETREE LANE
 PARKER, CO 80134-

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 ENGINEERING SERVICES- OPEN PO FY-2		0.00	503-3702-48598	40,000.00

PO Description: CONTRACT-PROFESSIONAL SERVICES OPEN PO FY-22/23

Detailed Description:

PROFESSIONAL SERVICES OPEN PO FY22/23 JULY 1, 2022 TO JUNE 30, 2023
 SEE ATTACHED CONTRACT W/TRIPLE H. SOLAR
 09-12-2019 - 09-01-2023

Authorized By: _____

SUBTOTAL:	40,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	40,000.00

City of Truth or Consequences New Mexico

PROFESSIONAL SERVICES CONTRACT # _____

THIS AGREEMENT is made and entered into by and between Truth of Consequences New Mexico (the "Agency"), a municipal corporation and political subdivision of the State of New Mexico, and Triple H Solar LLC (the "Contractor"), a New Mexico limited liability company, and is effective as of the date set forth below upon which it is executed.

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work.

- a. The Contractor shall perform the following work: Professional services as requested by the Agency.

2. Compensation.

- a. The Agency shall pay to the Contractor in full payment for services satisfactorily performed at the rate of \$70.00 per hour, such compensation not to exceed \$60,000.00 per year, excluding gross receipts tax. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling \$60,000.00 shall be paid by the Agency to the Contractor. The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed \$64,462.50 per year. This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the Agency when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.
- b. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work. All invoices MUST BE received by the Agency no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.
- c. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the Agency finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the Agency that the services have been received and accepted, payment shall be

tendered to the Contractor within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the agency shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

3. Term.

- a. This Agreement shall be valid for one year from the date of signature with the parties having the right to renew the contract annually. Total length of contract renewals shall not exceed 4 years unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

4. Termination.

- a. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the Agency's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the Agency is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the Agency or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of state funds or due to the Appropriations paragraph herein. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE CITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.*
- b. Termination Management. Immediately upon receipt by either the Agency or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the Agency; 2) comply with all directives issued by the Agency in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the Agency shall direct for the protection, preservation, retention or transfer of all property titled to the Agency and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the Agency upon termination and shall be submitted to the agency as soon as practicable.

5. Appropriations.

- a. 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, this Agreement shall terminate immediately upon written notice being given by the Agency to the Contractor. The Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Agency proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. Status of Contractor.

- a. The Contractor and its agents and employees are independent contractors performing professional services for the Agency and are not employees of the State of New Mexico. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the State of New Mexico as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment, and business income tax. The Contractor agrees not to purport to bind the State of New Mexico unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. Claims

- a. 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.

8. Assignability

- a. 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 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.

9. Subcontracting.

- a. The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the Agency. No such

subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the Procuring Agency.

10. Release.

- a. Final payment of the amounts due under this Agreement shall operate as a release of the Agency, its officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

11. Confidentiality.

- a. Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the Agency.

12. Product of Service -- Copyright.

- a. All materials developed or acquired by the Contractor under this Agreement shall become the property of the State of New Mexico and shall be delivered to the Agency no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

13. Conflict of Interest: Governmental Conduct Act.

- a. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.
- b. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978. Without in anyway limiting the generality of the foregoing, the Contractor specifically represents and warrants that:
 - i. in accordance with Section 10-16-4.3 NMSA 1978, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any Agency employee while such employee was or is employed by the Agency and participating directly or indirectly in the Agency's contracting process;
 - ii. this Agreement complies with Section 10-16-7(A) NMSA 1978 because (i) the Contractor is not a public officer or employee of the State; (ii) the Contractor is not a member of the family of a public officer or employee of the State; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial

interest; or (iv) if the Contractor is a public officer or employee of the State, a member of the family of a public officer or employee of the State, or a business in which a public officer or employee of the State or the family of a public officer or employee of the State has a substantial interest, public notice was given as required by Section 10-16-7(A) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;

iii. in accordance with Section 10-16-8(A) NMSA 1978, (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the State within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the State whose official act, while in State employment, directly resulted in the Agency's making this Agreement;

A. this Agreement complies with Section 10-16-9(A) NMSA 1978 because (i) the Contractor is not a legislator; (ii) the Contractor is not a member of a legislator's family; (iii) the Contractor is not a business in which a legislator or a legislator's family has a substantial interest; or (iv) if the Contractor is a legislator, a member of a legislator's family, or a business in which a legislator or a legislator's family has a substantial interest, disclosure has been made as required by Section 10-16-9(A) NMSA 1978, this Agreement is not a sole source or small purchase contract, and this Agreement was awarded in accordance with the provisions of the Procurement Code;

B. in accordance with Section 10-16-13 NMSA 1978, the Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement or any procurement related to this Agreement; and

C. in accordance with Section 10-16-3 and Section 10-16-13.3 NMSA 1978, the Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of the Agency.

D. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the Agency relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the Agency if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A

and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the Agency and notwithstanding anything in the Agreement to the contrary, the Agency may immediately terminate the Agreement.

E. All terms defined in the Governmental Conduct Act have the same meaning in this Article 12(B).

14. Amendment.

- a. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.
- b. If the Agency proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

15. Merger.

- a. This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

16. Penalties for violation of law.

- a. The Procurement Code, Sections 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.

17. Equal Opportunity Compliance.

- a. The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the

life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

18. Applicable Law.

- a. The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

19. Workers Compensation.

- a. The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the Agency.

20. Records and Audits

- a. The Contractor shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Agreement and such other records as may be deemed necessary by the City and to assure proper accounting for all project funds, both federal and non-federal shares. These records will be made available for audit purposes to the City or any authorized representative, and will be retained for three (3) years after the expiration of this Agreement unless permission to destroy them is granted by the City and the funding agency.

21. Indemnification.

- a. The Contractor shall defend, indemnify and hold harmless the Agency and the State of New Mexico from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the Agency and the Risk Management Division of the New Mexico General Services Department by certified mail.

22. New Mexico Employees Health Coverage.

- a. If Contractor has, or grows to, six (6) or more employees who work, or who are

expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Contractor certifies, by signing this agreement, to have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.

- b. Contractor agrees to maintain a record of the number of employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the state.
- c. Contractor agrees to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information:
<http://insurenwmxico.state.nm.us/>.

23. Employee Pay Equity Reporting

- a. Contractor agrees if it has ten (10) or more New Mexico employees OR eight (8) or more employees in the same job classification, at any time during the term of this contract, to complete and submit the PE10-249 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. If contractor has (250) or more employees contractor must complete and submit the PE250 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. For contracts that extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, contractor also agrees to complete and submit the PE10-249 or PE250 form, whichever is applicable, within thirty (30) days of the annual contract anniversary date of the initial submittal date or, if more than 180 days has elapsed since submittal of the last report, at the completion of the contract, whichever comes first. Should contractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor agrees to provide the required report within ninety (90) days of meeting or exceeding the size requirement. That submittal date shall serve as the basis for submittals required thereafter. Contractor also agrees to levy this requirement on any subcontractor(s) performing more than 10% of the dollar value of this contract if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the contract. Contractor further agrees that, should one or more subcontractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor will submit the required report, for each such subcontractor, within ninety (90) days of that subcontractor meeting or exceeding the size requirement. Subsequent report submittals, on behalf of each such subcontractor, shall be due on the annual anniversary of the initial report submittal. Contractor shall submit the required form(s) to the State Purchasing

Division of the General Services Department, and other departments as may be determined, on behalf of the applicable subcontractor(s) in accordance with the schedule contained in this paragraph. Contractor acknowledges that this subcontractor requirement applies even though contractor itself may not meet the size requirement for reporting and be required to report itself.

- b. Notwithstanding the foregoing, if this Contract was procured pursuant to a solicitation, and if Contractor has already submitted the required report accompanying their response to such solicitation, the report does not need to be re-submitted with this Agreement.

24. Invalid Term or Condition.

- a. If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

25. Enforcement of Agreement.

- a. A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

26. Notices.

- a. Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:
 - b. To the Agency:
 - i. City Manager, 505 Sims, Truth or Consequences, NM 87901
 - c. To the Contractor:
 - i. Steve House, 940 Saratoga Dr. NE, Rio Rancho, NM 87144

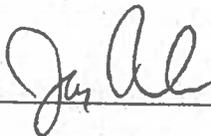
27. Authority.

- a. If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

Contract ID# _____

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature below.

By:  Date: 9-12-19
Agency

By:  Date: 9-13-19
Agency's Legal Counsel –Certifying legal sufficiency

By:  Date: 5/31/2019
Contractor



REQUISITION

Requisition #: 87748

Date: 07/01/2022

Vendor #: 0024

ISSUED TO: B & H OIL CO.
PO BOX 29
T OR C, NM 87901

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 RED DIESEL- OPEN PO FY 22/23		0.00 216-4503-43316	40,000.00

PO Description: RED DIESEL- OPEN PO FY 22/23
Detailed Description:
 RED DIESEL- OPEN PO FY 22/23

Authorized By: _____

SUBTOTAL:	40,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	40,000.00



REQUISITION

Requisition #: 87752

Date: 07/01/2022

Vendor #: 0180

ISSUED TO: PITNEY BOWES INC.
P.O. BOX 981023
BOSTON, MA 02298-1023

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 PITNEY BOWES RELAY 5000/POSTAGE M		0.00	502-3601-43465	22,000.00

PO Description: PITNEY BOWES UTILITY OFFICE FY 2022/2023

Detailed Description:

Authorized By: _____

SUBTOTAL:	22,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	22,000.00



REQUISITION

Requisition #: 87761

Date: 07/01/2021

Vendor #: 7389

ISSUED TO: WEX BANK
P.O. BOX 6293
CAROL STREAM, IL 60197-6293

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 WEX FUEL POLICE DEPT-FY JULY 1, 2022		0.00 101-1007-43316	50,000.00

PO Description: WEX FUEL POLICE DEPT-FY JULY 1, 2022-23 OPEN PO

Detailed Description:

UNLEADED FUEL FOR THE POLICE DEPARTMENT FY JULY 1, 202022-2023.

Authorized By: _____

SUBTOTAL:	50,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	50,000.00



REQUISITION

Requisition #: 87764

Date: 07/01/2022

Vendor #: 6058

ISSUED TO: PARKHILL SMITH & COOPER
ACCOUNTS PAYABLE
4222 85TH ST.
LUBBOCK, TX 79423-

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 ENVIRONMENTAL LANDFILL MONITORINI		0.00	505-3904-48599	25,000.00

PO Description: MONITORING/REPORTING OF LANDFILLS

Detailed Description:

ENVIRONMENTAL MONITORING FOR BLM AND T OR C LANDFILLS
SEE ATT.SIGNED PORPOSAL FOR 2022 DATES:01-17-2022 to &05-20-2022

Authorized By: _____

SUBTOTAL:	25,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	25,000.00

January 17, 2022

Transmitted Via E-mail: Aalvarez@torcnm.org
Hard Copy Upon Request

Mr. Bruce Swingle
Manager
City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

Re: Truth or Consequences Landfill
Proposal for 2022 Environmental Monitoring/Reporting Services

Dear Mr. Swingle:

Parkhill is pleased to provide the City of Truth or Consequences (the City) with this Proposal for 2022 Environmental Monitoring/Reporting Services for the closed City of Truth or Consequences Landfill (the Landfill) in order to comply with NMED requirements. The Scope of Work for this project is summarized below, and includes conducting the following activities, as required by the NMED-approved 2009 Closure/Post-closure (C/PC) Plan prepared by Parkhill.

TASK 01: QUARTERLY LANDFILL GAS AND VADOSE ZONE MONITORING

Consistent with our current practice, we will perform quarterly landfill gas (LFG) and vadose zone monitoring. The first quarterly event is scheduled for either February or March 2022. Within 45 days of each monitoring event, unless an extension is requested, we will submit to the City and NMED a brief Letter Report summarizing the results of each monitoring event prepared consistent with previous Reports.

TASK 02: SEMI-ANNUAL SITE INSPECTIONS

Now that final cover construction and formal closure for the Landfill is complete, the site is subject to post-closure maintenance and inspection requirements provided in the 2009 C/PC Plan and New Mexico Solid Waste Rules (the Rules), specifically 20.9.6.9 NMAC, for the 30-year post-closure care period. In order to minimize project costs, concurrent with two of the quarterly LFG/vadose zone monitoring events, we propose to inspect the Landfill for potential evidence of differential settlement or surface ponding due to settlement, wind and/or water erosion, and vegetative stress. We will also inspect the integrity and function of site infrastructure, including drainage, fencing, gates, monitoring wells, etc.

We will utilize the Post-Closure Care Site Inspection Checklist provided as Attachment G.3 of the 2009 C/PC Plan to record our observations, and will provide the City with a copy of the executed Checklist for inclusion in Annual Reports. Any observed deficiencies will be discussed with the City such that corrective measures may be implemented as soon as practical after inspection and documented accordingly on the Checklist.

We propose to complete this project for a Lump Sum fee of \$8,100 (excluding NMGR), with monthly invoicing. This fee includes costs for mobilization, on-site labor, and required regulatory reporting, and is based on the following assumptions:

1. Monitoring/inspections can be performed within a one-day timeframe.
2. Responding to NMED Solid Waste Bureau requests for additional information (RAIs) is not required.

Should additional monitoring, testing, inspections or RAI responses be required, we would be pleased to provide the City with a separate scope of work and associated cost estimate for these additional services. Consistent with historical practices, we will coordinate field activities and scheduling with the City prior to mobilization.

Should you find this Proposal acceptable, please indicate your Authorization to Proceed by signing the Acceptance Sheet for Task Order TorC 2022.1 provided as Exhibit A; and e-mailing a copy to us.

We appreciate this opportunity of providing ongoing Environmental Monitoring/Reporting Services to the City for the closed City of Truth or Consequences Landfill. Please contact us if you have any questions or if we can be of additional assistance.

Sincerely,

PARKHILL

By 
Michael J. Crepeau, PE
Senior Project Manager | Senior Associate

By 
Matthew W. Kingsley, PE
Principal

MJC/pg

Enclosures: Exhibit A – Task Order TorC Landfill 2022.1

cc: Ms. Traci Alvarez, Assistant Manager, City of Truth or Consequences (w/enclosures)
Mr. Andres Alvarez, Sanitation Director, City of Truth or Consequences (w/enclosures)

EXHIBIT A
TASK ORDER TorC Landfill 2022.1
ACCEPTANCE SHEET

PARKHILL
333 Rio Rancho Blvd, Suite 400
Rio Rancho, New Mexico 87124
505.867.6990

Description of Services: 2022 Environmental Monitoring/Reporting Services
Project Name: City of Truth or Consequences Landfill
Project Address: Sierra County, NM
Date: January 17, 2022

For approval and payment of charges, invoices will be charged to the account of:

Firm: City of Truth or Consequences
Attention: Mr. Bruce Swingle
Address: 505 Sims Street
City/State: Truth or Consequences, NM
Zip Code: 87901
Telephone: 575.894.6673
Email: aalvarez@torcnm.org

This AGREEMENT acknowledges acceptance of the Agreement for Professional Services between the Client and PARKHILL dated February 21, 2018; and is subject to the following special provisions/payment schedule:

Exhibit A -- Task Order TorC Landfill 2022.1 Scope of Services

Proposed "Lump Sum" estimated fee of \$8,100.00 with monthly progress payments
Plus NMGR of \$622.69 (@ 7.6875%), for a Total Fee of \$8,722.69

This AGREEMENT is accepted by:

CITY OF TRUTH OR CONSEQUENCES


By (Signature)

BRUCE SWINGLE
By (Type/Print)

CITY MGR.
Title

Accepted 01/18/22

PARKHILL


By (Signature)

Matthew W. Kingsley, PE
By (Type/Print)

Principal
Title

Accepted January 17, 2022



REQUISITION

Requisition #: 87768

Date: 07/01/2022

Vendor #: 8694

ISSUED TO: TYLER TECHNOLOGIES, INC.
P O BOX 203556
DALLAS, TX 75320-3556

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 ANNUAL TYLER SUBSCRIPTION FEE 22-2		0.00	101-1004-43815	10,092.07
2	0 ANNUAL TYLER SUBSCRIPTION FEE		0.00	101-1007-43815	9,902.19
3	0 ANNUAL TYLER SUBSCRIPTION FEE		0.00	503-3702-43815	9,902.19
4	0 ANNUAL TYLER SUBSCRIPTION FEE		0.00	504-3803-43815	9,902.19
5	0 ANNUAL TYLER SUBSCRIPTION FEE		0.00	505-3904-43815	9,902.19
6	0 ANNUAL TYLER SUBSCRIPTION FEE		0.00	506-4005-43815	9,902.19
7	0 ANNUAL TYLER SUBSCRIPTION FEE		0.00	502-3601-43815	3,200.00

PO Description: ANNUAL TYLER SUBSCRIPTION FEE 2022-23

Detailed Description:

ANNUAL SUBSCRIPTION FEE
7/1/22 - 6/30-23

Authorized By: _____

SUBTOTAL:	62,012.40
TOTAL TAX:	790.62
SHIPPING:	0.00
TOTAL	62,803.02

Amendment to Contract ID# 2014-0253



AMENDMENT

This amendment ("Amendment") is effective as of the date of signature of the last party to sign as indicated below ("Amendment Effective Date"), by and between Tyler Technologies, Inc. with offices at One Tyler Drive, Yarmouth, Maine 04096 ("Tyler") and City of Truth or Consequences, New Mexico, with offices at ADDRESS("Client").

WHEREAS, Tyler and the Client are parties to an agreement dated October 21, 2014 ("Agreement"); and

WHEREAS, the Term of the Agreement expires June 30, 2022 ("Expiration Date");

THEREFORE, in consideration of the mutual covenants contained herein, Tyler and the Client agree as follows.

1. The following Tyler Software as a Service (SaaS) are hereby removed from the Agreement as of the Amendment Effective Date:
 - a. Project Accounting
 - b. Inventory Control

As of such date, Client's right to access the above-listed software is terminated, as are Tyler's obligations to maintain, support, host and update such software.

2. SaaS Term. The term of the Agreement is hereby renewed for one (1) year commencing on the day following the Expiration Date (for the purposes of this Amendment, the "Renewal Term"). After the completion of the Renewal Term, the Agreement will renew automatically for additional one (1) year terms at our then-current SaaS Fees unless terminated in writing by either party at least sixty (60) days prior to the end of the then-current term. We will provide you notice of any increase in SaaS Fees no less than sixty (60) days prior to the commencement of the renewal term.
3. SaaS Fees. SaaS Fees for year one in the amount of \$58,746.00, are invoiced annually in advance, beginning on the commencement date of the Renewal Term. Subsequent annual SaaS Fees are invoiced annually in advance, beginning on the anniversary of the initial invoice date.
4. Users. The SaaS fees are based on an unlimited number of users.
5. This Amendment shall be governed by and construed in accordance with the terms and conditions of the Agreement.
6. All other terms and conditions of the Agreement shall remain in full force and effect.

SIGNATURE PAGE FOLLOWS

Amendment to Contract ID# 2014-0253

IN WITNESS WHEREOF, persons having been duly authorized and empowered to enter into this Amendment hereunto executed this Amendment effective as of the date last set forth below.

Tyler Technologies, Inc.

City of Truth or Consequences, NM

By: Robert Kennedy-Jensen

By: [Signature]

Name: Rob Kennedy-Jensen

Name: Amanda Forrister

Title: Group General Counsel

Title: Mayor

Date: May 23, 2022

Date: May 11, 2022



REQUISITION

Requisition #: 87769

Date: 07/01/2022

Vendor #: 2920

ISSUED TO: SCRDA
100 NORTH DATE STREET #8
T. OR C., NM 87901

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 DISPATCH SERVICES FOR THE CITY FY20		0.00 101-1007-48599	196,000.00

PO Description: SCRDA DISPATCH SERVICES FOR THE CITY

Detailed Description:

SCRDA DISPATCHING SERVICE FOR THE CITY OF TRUTH OR CONSEQUENCES FY JULY 1 2022 - JUNE 30 -2023

Authorized By: _____

SUBTOTAL:	196,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	196,000.00



REQUISITION

Requisition #: 87770

Date: 07/01/2021

Vendor #: 0214

ISSUED TO: SIERRA COUNTY TREASURER
100 DATE ST.
T OR C, NM 87901

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 PRISONER CARE OPEN PO FY JULY 1, 20:		0.00	201-1903-48710	34,000.00

PO Description: PRISONER CARE OPEN PO FY JULY 1, 2022-23

Detailed Description:

PRISONER CARE OPEN PO FY JULY 1 2022-23

Authorized By: _____

SUBTOTAL:	34,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	34,000.00



REQUISITION

Requisition #: 87772

Date: 07/01/2022

Vendor #: 2146

ISSUED TO: CITY OF LAS CRUCES
P.O. BOX 20000
LAS CRUCES, NM 88004-9002

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 SCSWA OPEN PO FY2022-2023		0.00 505-3904-45601	480,000.00

PO Description: WASTE DISPOSAL FOR SCSWA

Detailed Description:

WASTE DISPOSAL TRANSPORTED TO LAS CRUCES, SCSWA.
SEE ATT. AGREEMENT RECITALS 1-2016 TO 01-13-2023

Authorized By: _____

SUBTOTAL:	480,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	480,000.00



City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901
City (575) 894-6673 • Fax (575) 894-7767

**EXTENSION OF CONTRACT BETWEEN THE CITY OF TRUTH
OR CONSEQUENCES ("CITY") AND SOUTH CENTRAL SOLID
WASTE AUTHORITY ("SCSWA")**

Comes now the Parties, and hereby agree to extend a certain Contract, as described below.

RECITALS

1. The parties entered into a certain Contract in January 2016, whereby SCSWA agreed to provide solid waste/transfer station handling services to the city as specified in RFP 15-16-001 and the response documents.
2. The Contract contemplated that the parties could extend the Contract upon mutual consent.
3. The parties signed an Extension of the Contract through January 13, 2022.
4. The Parties desire to extend the Contract for an additional year.

Wherefore, the parties agree as follows:

1. The aforesaid Contract shall be extended through January 13, 2023.
2. The cost of transfer and disposal services are invoiced by SCSWA, the month after service. The invoices will reflect the CPI increase percentages current for the prior month of service through January 13, 2023. CPI increases invoices are found on the Bureau of Labor Statistics for all items less food and energy for the Western region. The cost charge for transfer and disposal services will be increased to \$53.68 per ton through January 13, 2023.
3. All other provisions of the Contract shall remain in full force and effect.



City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901
City (575) 894-6673 • Fax (575) 894-7767

THE CITY:

CONTRACTOR:

City Manager -- Bruce Swingle

Terri D. Del Ferraro, Purchasing Manager, CPO
South Central Solid Waste Authority (SCSWA)
2865 W. Amador Ave. Las Cruces, NM 88005

Chief Procurement Officer -Donna Gardner



City Attorney -- Jay Rubin

DATE: 01-04-2022

**CONTRACT BETWEEN THE CITY OF TRUTH OR CONSEQUENCES AND
SOUTH CENTRAL SOLID WASTE AUTHORITY**

This Contract entered into by and between the City of Truth or Consequences, hereinafter referred as the "City," and South Central Solid Waste Authority hereinafter referred to as the "Contractor," to transfer Municipal Solid Waste (as defined in the New Mexico Solid Waste Act) for the City of Truth or Consequences. The City is authorized to enter into this Contract pursuant to Section 13-1-97 et seq. NMSA 1978 and has let this Contract pursuant to state and local purchasing procedures for Contracts of this type and amount. The City Commission approved the Contract during its regularly scheduled meeting on **January 12, 2016** in consideration of the mutual promises and agreements contained in this Contract, the parties agree as follows:

ARTICLE 1. MATERIAL TO BE PROVIDED: When requested, Contractor shall provide solid waste/transfer station hauling services as specified in the RFP and response documents for the City of Truth or Consequences. The Contractor shall have available the service required on an as ordered basis.

The Contractor shall provide the services in accordance with the provisions of this Contract and with the terms and conditions of both Request for Proposals 15-16-001 and Contractor's response to the Request for Proposals Incorporated herein by reference and made a part of this contract.

ARTICLE 2. PERIOD OF PERFORMANCE: The period of performance of this Contract shall begin from **January 13, 2016** through **January 13, 2017**. The Contract may be renewed and renegotiated for additional annual terms upon mutual consent of the parties, but in no event may this Contract be extended beyond a total of eight (8) years.

ARTICLE 3. PLACE OF PERFORMANCE: Contractor shall have available the item(s) and provide the service as per contract.

ARTICLE 4. ESTIMATED COST: The amount of the contract during the period specified above is as related in the bid documents. Funds are obligated by this Contract on an as needed basis. The unit cost for the item(s) is based per the Contractor's unit bid response. **Price Per Ton \$ 46.50**, the said price includes tipping fees, contract fee/base fee and a fuel fee.

ARTICLE 5. NOTICES AND INVOICES: Invoices shall be mailed to Accounts Payable Office, 505 Sims Street, Truth or Consequences, New Mexico, 87901. All other correspondence shall be submitted jointly to:

CITY OF Truth or Consequences
505 Sims Street
T or C, NM 87901
575-894-6673 Ext. 312
FAX 575-894-0363
e-mail: pat@torcnm.org

ARTICLE 6. ASSIGNMENT OF CLAIMS: The Contractor shall not assign or delegate any interest in this Contract or transfer any interest or assign any claims for money due or to become due under this Contract, without the written consent of the City.

ARTICLE 7. MUTUAL HOLD HARMLESS AND INDEMNIFY CLAUSE: The contractor shall indemnify, defend and hold harmless the City, their officers, agents and employees from and against any liability, claims, damages, losses, expenses, actions and suits whatsoever, including injury or death of others or any employees of the contractor, or sub-contractor caused by or arising out of the performance, act or omission by the contractor of any term of this contract.

Likewise, the City shall indemnify, defend and hold harmless the contractor, their officers, agents and employees from and against any liability, claims, damages, losses, expenses, actions and suits whatsoever, including injury or death of others or any employees of the City caused by or arising out of the performance, act or omission by the City of any term of this contract.

ARTICLE 8. INSURANCE: For the duration of the contract and until all work specified in the contract is completed the Contractor shall maintain in effect all insurance as required below and comply with all limits, terms and conditions stipulated therein.

Work under this contract shall not commence until evidence of all required insurance and bonding is provided to the Finance Department.

Evidence of such insurance shall consist of a completed copy of the certificate of insurance, signed by the insurance agent for the Contractor and returned to the City. If for any reason, any material change occurs in the coverage during the course of the contract such change will not become effective until thirty (30) days after the City has received written notice of such change.

A. The policy shall be written and the certificate shall reflect that:

1. All insurance required below is in effect.
2. The City is an additional insured on the Contractor's general liability policy with respect to activities under the contract.
3. The insurance afforded applies separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company's liability.
4. The insurance afforded therein shall be primary insurance and any insurance or self-insurance of the City shall be excess and not contributory insurance.
 - i. Being that both Parties are governmental agencies and members of the New Mexico Self Insurance Pool, the contractor shall obtain insurance of the types described below from the New Mexico Self Insurance Fund.
 1. Commercial General Liability insurance shall cover liability arising from products and completed operations, premises, contractual liability, personal injury, and advertising injury. There shall be no endorsement or modification of the Commercial General Liability insurance limiting coverage for claims arising from explosion, collapse or underground exposures.
 2. Worker's Compensation Insurance as required by the State.
 3. Automobile Liability Insurance covering all owned, non-owned, hired and leased vehicles.

B. Contractor shall maintain insurance coverage to meet the limits set in place by the New Mexico Tort Claims Act.

1. \$100,000 for damage to or destruction of property arising out of a single occurrence;
2. \$300,000 for all past and future medical and medically related expenses arising out of a single occurrence;
3. \$400,000 to any person for any number of claims arising out of a single occurrence;
4. \$750,000 for all claims other than medical or medically related expenses arising out of a single occurrence;
5. Worker's Compensation Insurance as required by statute.

Contractor shall hold harmless, indemnify and defend the City and its "public employees" as defined in the New Mexico Tort Claims Act, Sections 41-4-1 to 41-4-29, NMSA 1978, as amended, against and from any and all claims, losses, demands, judgments, damages, liabilities, lawsuits, expenses, fees of attorneys, costs and/or actions of any kind and nature whether from death, bodily injury or damage to property resulting from or related to the Contractor's negligence or intentional acts, errors or omissions in the Contractor's

performance under this Contract. The Contractor's agreement to hold harmless, indemnify and defend shall not be affected or terminated by the cancellation, expiration of the term or any renewal or any other modification of the Contract for any reason and shall survive the cancellation, expiration of the term or any renewal or any other modification of this Contract, for negligence, acts, errors or omissions to act occurring during the term of this Contract.

ARTICLE 9. TERMINATION: Either party may terminate this Contract with or without cause by providing written notice to the other party sixty (60) days in advance of the termination. In the event of Contract termination, the Contractor shall be reimbursed for completed work that is approved by the City.

ARTICLE 10. RELEASE: The Contractor, upon final payment of the amount due under this Contract for work completed and approved by the City, releases the City, its officers and employees from all liabilities, claims, and obligations whatsoever arising from or under this Contract. The Contractor agrees not to purport to bind the City to any obligation not assumed herein by the City, unless the Contractor has express written authority from an authorized City employee to do so, and then only within the limits of the expressed written authority.

ARTICLE 11. CONFLICT OF INTEREST: The Contractor warrants that he presently has no interest, and shall not acquire any interest during the term of this Contract, which would have the potential to conflict with the performance of the services required under this Contract. In the event such a conflict arises, it shall be brought to the attention of the City and appropriate action acceptable to the City shall be taken. The Contractor's failure to inform the City of the existence of a potential conflict of interest constitutes default and shall be grounds for immediate termination of Contract by the City.

ARTICLE 12. INDEPENDENT CONTRACTOR: Nothing in this Contract is intended, or should be construed in any way, to create or establish a partnership relationship between the parties or to establish the Contractor as an agent, representative or employee of the City for any purpose or any manner whatsoever. Contractor and its employees shall not accrue leave, retirement, insurance, or any other benefits afforded to employees of the City. Contractor is an independent Contractor of the City. The Contractor, its officers, directors, employees, servants, agents, or representatives are not and shall not be deemed employees of the City and shall not bind the City in any respect.

ARTICLE 13. PROCUREMENT CODE: The Procurement Code Sections 13-1-28 through 13-1-199, NMSA 1978 as amended, imposes civil and criminal penalties for its violation. In addition, New Mexico Criminal Statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

ARTICLE 14. AMENDMENT: This Contract shall not be altered, changed or amended except by a written instrument signed by both parties.

ARTICLE 15. SOVEREIGN IMMUNITY: By entering into this Contract, the City and its "public employees" as defined in the New Mexico Tort Claims Act, supra, do not waive sovereign immunity, do not waive any defense, and do not waive any limitations of liability pursuant to law. No provision in this Contract modifies or waives any provision of the New Mexico Tort Claims Act, supra.

ARTICLE 16. WAIVER: Any waiver of any breach of any covenant, term, condition or agreement in this Contract to be kept and performed by Contractor shall not be deemed or considered as a continuing waiver and shall not operate to bar or prevent the City from declaring a default for any succeeding breach either of the same covenant, term, condition or agreement or another. All remedies afforded in this Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided herein or by law.

ARTICLE 17. MERGER OF PRIOR AGREEMENTS: This Contract incorporates all the conditions, agreements and understandings of the parties concerning the subject matter of the Contract. All such conditions, understandings and agreements have been merged into this written Contract. No prior condition, agreement or understanding, verbal or otherwise, shall be valid or enforceable unless embodied in this Contract.

ARTICLE 18. PARAGRAPH HEADINGS: Paragraph headings are for convenience and reference and are not intended to limit the scope of any provision of this Contract.

ARTICLE 19. THIRD PARTY BENEFICIARY: It is agreed between the parties executing this Contract that it is not intended by any of the provisions of the Contract to create on behalf of the public or any member thereof the status of third party beneficiary or to authorize anyone not a party to the Agreement to maintain a suit based upon this Contract.

ARTICLE 20. PERSONAL LIABILITY: No elected or appointed official, employee, servant, agent or law enforcement officer of the City shall be held personally liable under this Contract or any extension or renewal thereof because of its enforcement or attempted enforcement, provided they are acting within the course and scope of their employment or governmental duty and responsibility.

ARTICLE 21. GOVERNING LAW: This contract shall be construed in agreement with the Laws of the State of New Mexico. The Contractor shall also comply with all applicable Federal and local laws, ordinances, and the rules and regulations of the City.

ARTICLE 22. BINDING EFFECT OF AGREEMENT: Both parties agree that the terms of this Contract and any extension or renewal thereof shall extend to and be binding on the administrators, assigns, and successors of the Contracting Parties.

ARTICLE 23. SEVERABILITY: If any clause or provision of the Contract is held to be illegal, invalid or unenforceable, the remainder of the Contract shall remain in full force and effect. However, in the event that neither party can reasonably perform pursuant to the remaining Contract terms, or if the purpose of the Contract can no longer be carried out by either party, the Contract is void and no damages shall accrue to either party.

ARTICLE 24. ARBITRATION: In the event that a dispute arises with respect to any of the provisions contained in this Contract or any other matter affecting this contractual relationship between the City and the Contractor, it shall be resolved by arbitration in New Mexico in accordance with the rules and procedures of the American Arbitration Association, and judgment upon the award rendered may be entered into any court having jurisdiction. All attorneys' fees and associated expenses shall be awarded as decided by the Arbitrator.

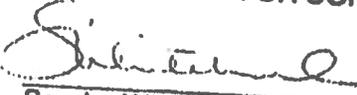
ARTICLE 25. NOTICE TO PROCEED: It is expressly understood that this Contract is not binding upon the City until approved and signed by the City and, further, that the Contractor is not to proceed with its obligations under the Contract until the Contractor has received a fully signed copy of the Contract.

ARTICLE 26. NON-APPROPRIATION: The City's obligation to make payment under the terms of this Agreement are contingent upon its appropriation of sufficient funds to make those payments. If the City does not appropriate funds for the continuation of this Contract, this Contract will terminate upon written notice of that effect to the Principal. The City's determination that sufficient funds have not been appropriated is firm, binding and not subject to review.

ARTICLE 27. DUPLICATE ORIGINALS: This document shall be executed in no less than four (4) counterparts, each of which shall be deemed an original.

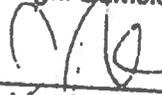
ARTICLE 28. SUB-CONTRACT: The Contractor shall not subcontract any portion of the services to be performed under this Agreement without prior written approval of the City or as negotiated an made part of this Agreement.

CITY OF TRUTH OR CONSEQUENCES

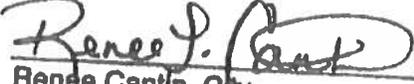

Sandra Whitehead, Mayor

Date: 1/12/2016

As to Legal Sufficiency:


Jay Rubin, Attorney

Date: 1/14/16


Renee Cantin, City
Clerk-Treasurer

Date: 1/12/2016

CONTRACTOR


Patrick Pock
Print Name

Address: _____

CRS #: 02-301828-00-3

Federal Tax ID #or SS#: 85-0469300

Telephone#: 575 528-3800

Date: 1-21-16

POWER PURCHASE AGREEMENT

THIS POWER PURCHASE AGREEMENT (this “PPA” or “Agreement” as the context may require) is made and entered into as of September 11, 2014 (the “Effective Date”), by and between Affordable Solar Installation, Inc, a New Mexico Corporation, with its principal place of business at 4840 Pan American Freeway NE, Albuquerque, NM 87109 (“Owner”), and the City of Truth or Consequences, an incorporated New Mexico municipality with its principal place of business at 505 Sims Truth or Consequences, NM 87901 (“Host Customer”). Owner and Host Customer are sometimes hereinafter referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

- A. Owner has experience in building, financing, owning and operating solar energy facilities.
- B. Owner intends to build, finance, own and operate a solar energy facility (the “SEF”) as more particularly defined in Exhibit A-1 (I) and hereto on the Property described in Exhibit C-1 (I) hereto.
- C. Owner desires to sell to Host Customer, and Host Customer desires to purchase from Owner, all of the Energy Output, subject to the Terms and conditions, hereunder, delivered to Host Customer at the Delivery Point during the Term and otherwise in accordance with the terms of this PPA.

AGREEMENT

In consideration of the foregoing recitals, the mutual agreements, representations, warranties and covenants set forth in this PPA and the Exhibits hereto, and other good and valuable consideration, the receipt of which is hereby acknowledged, Owner and Host Customer agree as follows:

ARTICLE 1.

DEFINED TERMS; RULES OF INTERPRETATION

1.1 Defined Terms. Capitalized terms used in this PPA shall have the meanings ascribed to them in Exhibit E, the *Schedule of Definitions and Rules of Interpretation*, attached hereto and made a part of this PPA by this reference, or elsewhere in this PPA.

1.2 Rules of Interpretation. The rules of interpretation in Exhibit E, the *Schedule of Definitions and Rules of Interpretation*, shall apply to this PPA unless expressly provided otherwise.

1.3 Public Works. It is agreed and understood between the Parties that the installation, operations, sale, and/or purchase of electricity under this PPA *is not*, nor in any ways should be construed as a public works project, as such term is commonly used in conjunction with municipal or other governmental projects.

ARTICLE 2.

TERM AND TERMINATION

2.1 Term.

(a) The initial term of this PPA (the “Initial Term”) with respect to each Array shall commence on the Effective Date and shall be in effect until 11:59 p.m. local time in Truth or Consequences, New Mexico on the twenty-fifth (25th) year anniversary of the applicable Commercial Operation Date.

(b) Without constituting an Event of Default under this PPA, and without liability of either Party to the other Party (except for such amounts then due and owing under this PPA as of the date of such termination), Owner shall have the right, but not the obligation, to terminate this PPA prior to expiration of the Term upon the occurrence of the following and by notification to the Host Customer as soon as reasonably practical under the circumstances:

(i) an unstayed order of any Governmental Entity having the effect of subjecting the sales of Energy Output to federal or state regulation of prices and/or services; or



REQUISITION

Requisition #: 87780

Date: 07/01/2022

Vendor #: 1555

ISSUED TO: SIERRA JOINT OFFICE ON AGING
P.O. BOX 829
T OR C, NM 87901

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 OPEN PO FOR SUBRECIPIENT GRANT ALI		0.00 101-1000-60725	35,000.00
PO Description: OPEN PO FOR SUBRECIPIENT GRANT ALLOCATION				
Detailed Description: FY 22/23 GRANT RECIPIENT				

Authorized By: _____

SUBTOTAL:	35,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	35,000.00

SUBRECIPIENT AGREEMENT

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 Joint Office on Aging (SJOA)**, herein referred to as "Contractor".

WHEREAS, the City and the Contractor desire to enter into an Agreement with the City to provide Subrecipient funds to the Contractor in exchange for needed services.

RECITALS

A. The City hereby declares that it is in need of certain services for its community. Those services are described in a portion of the Contractor's Subrecipient application, a copy of which is attached hereto as **EXHIBIT A**.

B. The City is willing to provide funding to the Contractor in exchange for these services. The City determines that the municipal public will benefit from these services.

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 \$35,000.00 to the Contractor for a one (1) year period commencing on July 1, 2022 and continuing through June 30, 2023.
2. Contractor shall, at a minimum:
 - A. Provide all of the services described in **EXHIBIT A**, which was included in the Contractor's Subrecipient application.
 - B. Submit a written quarterly report to the City Commission via the City Manager's Office in October 2022, January 2023, April 2023 and June 2, 2023. Reports are due by the 15th of the month following the quarter except for the fourth quarter report which is due as previously stated.

Your report must be separate from your invoice; and your invoice detail alone will not suffice as your report. Contractor's report will be submitted to the City Commission. The reports must detail the progress made in providing the services. Failure to timely submit a detailed report will subject Contractor to having its funding decreased 50% for that particular quarter. The Contractor is responsible to get the reports in on time. No other notice will be given.

- C. Submit a written invoice in the amount of \$8,750.00 on a quarterly basis to the City Manager's Office for disbursement of funds at the same time the quarterly report is due. Failure to timely submit a detailed invoice will subject Contractor to having its funding decreased 50% for that particular quarter. **The fourth quarter invoice must be submitted by June 2, 2023.** The Contractor is responsible to get the invoices in on time. No other notice will be given. The quarterly report must be on file before the subsequent quarter's invoice is paid except for the 4th quarter report, of course, which is due in compliance with B above.
- D. Designate an alternate to serve as the point of contact and authorized to conduct business in the absence of the primary party.

1. Alternate's Name Lisa L Mattioli
Print Name

2. Alternate's Phone No. 575-740-2066

3. Alternate's E-mail finance_sj02@scwiascenter-sj02.org

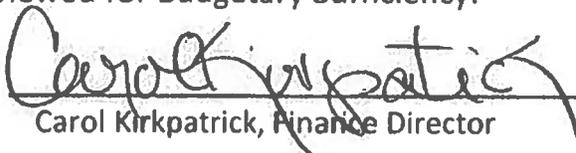
3. Either party shall have the right to terminate this Contract without cause by giving thirty (30) days written notice to the other party. Upon termination neither party shall have any further obligation with respect to this agreement.

CITY OF TRUTH OR CONSEQUENCES

BY: 
Bruce Swingle, City Manager

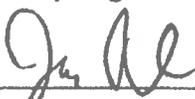
Date: 06/13/22

Reviewed for Budgetary Sufficiency:

BY: 
Carol Kirkpatrick, Finance Director

Date: 6-8-22

Reviewed by Legal Counsel

BY: 
Jaime Rubin, City Attorney

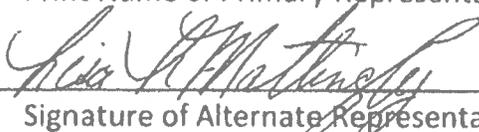
Date: 6-8-22

SUBRECIPIENT

BY: 
Signature of Primary Representative

Date: 6-15-22

Crystal Walton
Print Name of Primary Representative


Signature of Alternate Representative

Date: 6-15-22

Lisa H. Mattingly
Print Name of Alternate Representative

SUBRECIPIENT AGREEMENT

THIS AGREEMENT is made and entered into by and between the City of Truth or Consequences, New Mexico, herein referred to as "City", and the **Domestic Abuse Intervention Center (DAIC)**, herein referred to as "Contractor".

WHEREAS, the City and the Contractor desire to enter into an Agreement with the City to provide Subrecipient funds to the Contractor in exchange for needed services.

RECITALS

A. The City hereby declares that it is in need of certain services for its community. Those services are described in a portion of the Contractor's Subrecipient application, a copy of which is attached hereto as **EXHIBIT A**.

B. The City is willing to provide funding to the Contractor in exchange for these services. The City determines that the municipal public will benefit from these services.

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 \$2,000.00 to the Contractor for a one (1) year period commencing on July 1, 2022 and continuing through June 30, 2023.
2. Contractor shall, at a minimum:
 - A. Provide all of the services described in **EXHIBIT A**, which was included in the Contractor's Subrecipient application.
 - B. Submit a written quarterly report to the City Commission via the City Manager's Office in October 2022, January 2023, April 2023 and June 2, 2023. Reports are due by the 15th of the month following the quarter except for the fourth quarter report which is due as previously stated.

Your report must be separate from your invoice; and your invoice detail alone will not suffice as your report. Contractor's report will be submitted to the City Commission. The reports must detail the progress made in providing the services. Failure to timely submit a detailed report will subject Contractor to having its funding decreased 50% for that particular quarter. The Contractor is responsible to get the reports in on time. No other notice will be given.

- C. Submit a written invoice in the amount of \$500.00 on a quarterly basis to the City Manager's Office for disbursement of funds at the same time the quarterly report is due. Failure to timely submit a detailed invoice will subject Contractor to having its funding decreased 50% for that particular quarter. **The fourth quarter invoice must be submitted by June 2, 2023.** The Contractor is responsible to get the invoices in on time. No other notice will be given. The quarterly report must be on file before the subsequent quarter's invoice is paid except for the 4th quarter report, of course, which is due in compliance with B above.
- D. Designate an alternate to serve as the point of contact and authorized to conduct business in the absence of the primary party.

1. Alternate's Name Mairani Ramirez
Print Name

2. Alternate's Phone No. 575-894-3557

3. Alternate's E-mail victimadvocate2@daictorc.org

3. Either party shall have the right to terminate this Contract without cause by giving thirty (30) days written notice to the other party. Upon termination neither party shall have any further obligation with respect to this agreement.

CITY OF TRUTH OR CONSEQUENCES

BY: Bruce Swingle
Bruce Swingle, City Manager

Date: 06/13/22

Reviewed for Budgetary Sufficiency:

BY: Carol Kirkpatrick
Carol Kirkpatrick, Finance Director

Date: 6-8-22

Reviewed by Legal Counsel

BY: Jaime Rubin
Jaime Rubin, City Attorney

Date: 6-8-22

SUBRECIPIENT

BY: Blanca Chavez
Signature of Primary Representative

Date: 6-15-2022

Blanca Chavez
Print Name of Primary Representative

Maura Ramirez
Signature of Alternate Representative

Date: 6/15/22

Maireni Ramirez
Print Name of Alternate Representative

SUBRECIPIENT AGREEMENT

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**, herein referred to as "Contractor".

WHEREAS, the City and the Contractor desire to enter into an Agreement with the City to provide Subrecipient funds to the Contractor in exchange for needed services.

RECITALS

A. The City hereby declares that it is in need of certain services for its community. Those services are described in a portion of the Contractor's Subrecipient application, a copy of which is attached hereto as **EXHIBIT A**.

B. The City is willing to provide funding to the Contractor in exchange for these services. The City determines that the municipal public will benefit from these services.

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 \$5,000.00 to the Contractor for a one (1) year period commencing on July 1, 2022 and continuing through June 30, 2023.
2. Contractor shall, at a minimum:
 - A. Provide all of the services described in **EXHIBIT A**, which was included in the Contractor's Subrecipient application.
 - B. Submit a written quarterly report to the City Commission via the City Manager's Office in October 2022, January 2023, April 2023 and June 2, 2023. Reports are due by the 15th of the month following the quarter except for the fourth quarter report which is due as previously stated.

Your report must be separate from your invoice; and your invoice detail alone will not suffice as your report. Contractor's report will be submitted to the City Commission. The reports must detail the progress made in providing the services. Failure to timely submit a detailed report will subject Contractor to having its funding decreased 50% for that particular quarter. The Contractor is responsible to get the reports in on time. No other notice will be given.

- C. Submit a written invoice in the amount of \$416.66 on a monthly basis to the City Manager's Office for disbursement of funds. Invoices are due by the 15th of the following month. **The 12th month invoice shall be in the amount of \$416.74 and must be submitted by June 2, 2023.** Failure to timely submit a detailed invoice will subject Contractor to having its funding decreased 50% for that particular month. The Contractor is responsible to get the invoices in on time. No other notice will be given. The quarterly report must be on file before the subsequent invoice is paid except for the 4th quarter report, of course, which is due in compliance with B above.
- D. Designate an alternate to serve as the point of contact and authorized to conduct business in the absence of the primary party.

1. Alternate's Name Kim Skinner
Print Name
2. Alternate's Phone No. 575-740-1777
3. Alternate's E-mail kims Skinner01@windstream.net

3. Either party shall have the right to terminate this Contract without cause by giving thirty (30) days written notice to the other party. Upon termination neither party shall have any further obligation with respect to this agreement.

CITY OF TRUTH OR CONSEQUENCES

BY: Bruce Swingle
Bruce Swingle, City Manager

Date: 06/13/22

Reviewed for Budgetary Sufficiency:

BY: Carol Kirkpatrick
Carol Kirkpatrick, Finance Director

Date: 6.8.22

Reviewed by Legal Counsel

BY: Jaime Rubin
Jaime Rubin, City Attorney

Date: 6-8-22

SUBRECIPIENT

BY: Lakena Miller
Signature of Primary Representative

Date: 6-15-22

Lakena Miller
Print Name of Primary Representative

Kim Skinner
Signature of Alternate Representative

Date: 6/16/22

Kim Skinner
Print Name of Alternate Representative



REQUISITION

Requisition #: 87784

Date: 07/01/2022

Vendor #: 7389

ISSUED TO: WEX BANK
P.O. BOX 6293
CAROL STREAM, IL 60197-6293

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 WEX DIESEL & GASOLINE		0.00	505-3904-43316	70,000.00

PO Description: SUPPLY VEHICLES & EQUIPMENT WITH FUEL
Detailed Description:
GAS & DIESEL FOR ALL VEHICLES & EQUIPMENT ON WEX CARD

Authorized By: _____

SUBTOTAL:	70,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	70,000.00



REQUISITION

Requisition #: 87796

Date: 07/01/2022

Vendor #: 7239

ISSUED TO: MAINSTREET T OR C
PO BOX 1602
T OR C, NM 87901

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 OPEN PO FOR LODGERS TAX SERVICE C		0.00 214-2540-60725	45,000.00
PO Description: OPEN PO FOR LODGERS TAX SERVICE CONTRACT				
Detailed Description: FY 22/23 ALLOCATION FOR SUBRECIPIENT				

Authorized By: _____

SUBTOTAL:	45,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	45,000.00

SUBRECIPIENT AGREEMENT

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 Truth or Consequences**, herein referred to as "Contractor".

WHEREAS, the City and the Contractor desire to enter into an Agreement with the City to provide Subrecipient funds to the Contractor in exchange for needed services.

RECITALS

A. The City hereby declares that it is in need of certain services for its community. Those services are described in a portion of the Contractor's Subrecipient application, a copy of which is attached hereto as **EXHIBIT A**.

B. The City is willing to provide funding to the Contractor in exchange for these services. The City determines that the municipal public will benefit from these services.

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 \$45,000.00 to the Contractor for a one (1) year period commencing on July 1, 2022 and continuing through June 30, 2023.
2. Contractor shall, at a minimum:
 - A. Provide all of the services described in **EXHIBIT A**, which was included in the Contractor's Subrecipient application.
 - B. Submit a written quarterly report to the City Commission via the City Manager's Office in October 2022, January 2023, April 2023 and June 2, 2023. Reports are due by the 15th of the month following the quarter except for the fourth quarter report which is due as previously stated.

Your report must be separate from your invoice; and your invoice detail alone will not suffice as your report. Contractor's report will be submitted to the City Commission. The reports must detail the progress made in providing the services. Failure to timely submit a detailed report will subject Contractor to having its funding decreased 50% for that particular quarter. The Contractor is responsible to get the reports in on time. No other notice will be given.

C. Submit a written invoice in the amount of \$11,250.00 on a quarterly basis to the City Manager's Office for disbursement of funds at the same time the quarterly report is due. Failure to timely submit a detailed invoice will subject Contractor to having its funding decreased 50% for that particular quarter. **The fourth quarter invoice must be submitted by June 2, 2023.** The Contractor is responsible to get the invoices in on time. No other notice will be given. The quarterly report must be on file before the subsequent quarter's invoice is paid except for the 4th quarter report, of course, which is due in compliance with B above.

D. Designate an alternate to serve as the point of contact and authorized to conduct business in the absence of the primary party.

1. Alternate's Name _____
Print Name

2. Alternate's Phone No. _____

3. Alternate's E-mail _____

3. Either party shall have the right to terminate this Contract without cause by giving thirty (30) days written notice to the other party. Upon termination neither party shall have any further obligation with respect to this agreement.

CITY OF TRUTH OR CONSEQUENCES

BY: Bruce Swingle
Bruce Swingle, City Manager

Date: 6/13/22

Reviewed for Budgetary Sufficiency:

BY: Carol Kirkpatrick
Carol Kirkpatrick, Finance Director

Date: 6-8-22

Reviewed by Legal Counsel

BY: Jaime Rubin
Jaime Rubin, City Attorney

Date: 6-8-22

SUBRECIPIENT

BY: _____
Signature of Primary Representative

Date: _____

Print Name of Primary Representative

Signature of Alternate Representative

Date: _____

Print Name of Alternate Representative



REQUISITION

Requisition #: 87805

Date: 07/01/2022

Vendor #: 7376

ISSUED TO: SUNNY 505
119 DARTMOUTH DR. SE
ALBUQUERQUE, NM 87106

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 GRANT MANAGEMENT (NM TOURISM COI		0.00	214-2540-48598	20,000.00
2	0 ACCOUNT MANAGEMENT		0.00	214-2540-48598	5,000.00

PO Description: OPEN PO FOR ACCOUNT AND GRANT MANAGEMENT

Detailed Description:

FY 22/23 COOP GRANT
FY 22/23 ACCOUNT MANAGEMENT CONTRACT WITH SUNNY 505 7/1/2022-6/30/2023

Authorized By: _____

SUBTOTAL:	25,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	25,000.00



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: June 22, 2022

Agenda Item #: I.4

SUBJECT: Approval of Award and Contract with Energy 1, LLC for Ken James Senior Center HVAC Units
DEPARTMENT: Finance Department
DATE SUBMITTED: June 13, 2022
SUBMITTED BY: Carol Kirkpatrick, Finance Director
WHO WILL PRESENT THE ITEM: Carol Kirkpatrick, Finance Director

Summary/Background: An Invitation to Bid #21-22-010 was issued on April 22, 2022 for HVAC Units at the Ken James Senior Center. Bids were due June 1, 2022. The City received one bid from Energy 1, LLC. The bid is within the budgeted amount for this project.

Recommendation:

Approval of Award to Energy 1, LLC
Approval of Contract with Energy 1, LLC

Attachments:

-
- Award letter to Energy 1, LLC
- Contract with Energy 1, LLC
- ITB 21-22-010 Ken James Senior Center HVAC Units

Fiscal Impact (Finance): Yes

\$63,510 plus gross receipts tax paid from Senior Grants funds

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 6-22-22

**CITY OF TRUTH OR CONSEQUENCES
CONTRACT FOR
KEN JAMES SENIOR CENTER HVAC UNITS
ITB #21-22-010**

THIS CONTRACT, made and entered into this 22nd day of June, 2022, by and between City of Truth or Consequences, in New Mexico, a political subdivision in the State of New Mexico, (hereinafter referred to as the "City"), and Energy 1, LLC, (hereinafter referred to as the "Contractor").

WITNESSED:

WHEREAS, the City issued a Request for Bids for a Contract for **Ken James Senior Center HVAC Units, ITB No. 21-22-010**; and

WHEREAS, the Contractor submitted its bid in response to **ITB No. 21-22-010, issued April 22, 2022**; and

WHEREAS, the City desires to engage the Contractor to render certain goods and services in connection therewith, and the Contractor is willing to provide such goods and services.

NOW, THEREFORE, in consideration of the premises and mutual obligations herein, the parties hereto do mutually agree as follows:

1. Scope of Work

The Contractor shall be required to remove all old HVAC equipment including line sets, ductwork, controls RTUs, split systems and furnaces and install new cooling HVAC equipment and furnaces at the Ken James Senior Center in Truth or Consequences, Sierra County, NM in accordance with following specifications and minimum requirements for the required work.

- a) Removal of all old HVAC equipment including line sets, ductwork, controls RTUs, split systems and furnaces.
- b) Installation of new 14 Seer cooling HVAC equipment and 85.5% modulating gas furnaces, controls (new Thermostats), line set, drain, ductwork, and electrical as well as increasing return and filter sizes to meet specs and reduce sound. Includes Reme Halo in main hall for air purification.
- c) This includes the addition of a unit to serve the Kitchen, per code this will have an economizer and be linked to the kitchen hood with a power damper in case of fire.
- d) Remove all existing systems (includes 3 RTU units, 5 furnaces, 4 condensers, 1 swamp cooler, line sets, ductwork, old stands).
- e) Set new RTU's (4), furnaces (5), condensers (4) on stands where needed.
- f) Remove duct that is sized wrong and install new duct to meet equipment specs cut holes as needed in the roof and seal penetrations.
- g) Set RTU's on curbs to account for duct changes.
- h) Run new line sets/ charge systems.
- i) Furnish/Install new equipment, electrical, controls, and gas.
- j) Provide full 5-year parts and labor warranty.
- k) Drywall or finish material repair.

l) Shipping/freight costs.

Construction Schedule:

Consult with the City of Truth or Consequences and the SJOA to develop a schedule to ensure an optimal timetable is achieved and is in successful cooperation with other site and trade work while allowing the center to remain operational.

2. Term

This Agreement shall become effective upon the date of final execution of the Agreement and shall be for one (1) year period unless terminated by either party pursuant to the termination provisions contained in this Agreement.

3. Use of Agreement

With the consent of the contractor, other Central Purchasing Offices (NMSA 1978, §13-1-27) may purchase under this Agreement, provided that the service is under the same terms and conditions as stated herein, unless a lower price is agreed to between the City and the Contractor.

4. Termination for Cause

If, through any cause, the Contractor fails to fulfill the Contractor's obligations under this Agreement in a timely and proper manner, or if the Contractor violates any of the covenants, agreements or stipulations of any part of this Agreement, the City shall have the right to cancel the Agreement. The City reserves the right to recover any excess cost incurred by the City to have this Agreement performed by a third party, collection against a performance or labor and materials payment bond, a combination of these remedies, or any other remedy available to the City pursuant to the terms of this Agreement and law. Cancellation shall be done by giving written Notice of Cancellation to the Contractor. The Notice of Cancellation shall include the effective date of cancellation.

5. Termination for Lack of Appropriations

The terms of this Agreement are contingent upon the City Commission making the appropriations and authorizations necessary for the performance of the Agreement. If sufficient appropriations and authorizations are not made by the City Commission, any agreement resulting from this Request for Bid may be terminated at the end of the City's then current fiscal year upon written notice given by the City to the Contractor. Such event shall not constitute an event of default. All payment obligations of the City and all of its interest in this Agreement shall cease upon the date of termination. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

6. Termination for Convenience of City

The City may terminate this Agreement at any time by giving at least thirty (30) calendar day notice in writing to the Contractor. If the Contract is terminated by the City as provided herein, the Contractor will be paid for materials and services rendered until the point of termination.

7. Termination by Contractor

The Contractor may terminate this Agreement by giving written notice to the City at the address listed herein at least sixty (60) calendar days prior to the expiration of the term of this Agreement. The expiration, for termination purposes, shall be defined as 365 days from the date of execution of this Agreement.

8. Compensation and Method of Payment

A. For performing the scope specified in Scope of Work hereof the City agrees to pay the Contractor **Sixty-three thousand five hundred and ten dollars (\$63,510.00) plus gross receipts tax** for work satisfactorily completed. See Attachment A.

B. Method of Payment: Such amount shall be processed for payment by the City to the Contractor upon completion of work in a manner satisfactory to the City, and upon receipt by the City of a properly documented invoice for payment as determined by the budgetary and fiscal guidelines of the City and on the condition that the Contractor has accomplished the scope as outlined herein, to the satisfaction of the City. Invoices shall be submitted on a monthly basis to City of Truth or Consequences Accounts Payable Department, 505 Sims Street, Truth or Consequences, NM 87901. Payment to the Contractor will be made within thirty (30) days from receipt of the invoice. Except as otherwise agreed to, late payment charges may be assessed against the user department in the amount and under the conditions set forth in NMSA 1978, §13-1-158.

9. Independent Contractor

Neither the Contractor nor its employees are considered to be employees of the City for any purpose whatsoever. The Contractor is considered to be an Independent Contractor at all times in the performance described herein. The Contractor further agrees that neither it nor its employees are entitled to any benefits from the City under the provisions of the Worker's Compensation Act of the State of New Mexico, or to any of the benefits granted to employees. The Contractor shall not accrue leave, retirement, workers' compensation benefits, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City, as a result of this Agreement. The City shall provide no liability coverage to the Contractor. The Contractor acknowledges that all sums received hereunder are personally reportable by him for income tax purposes as self-employment or business income, and are reportable for self-employment tax and New Mexico Gross Receipts Tax.

10. Personnel

A. Subject to the terms and conditions of this Agreement; the Contractor represents that it has, or will secure at its own expense, all personnel required in performing the scope as described under this Agreement. Such personnel shall not be employees of or have any contractual relationships with the City.

B. All work required hereunder will be performed by the Contractor or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under federal, state and local law to perform such work.

C. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the City. Any service subcontracted hereunder shall be specified by written Agreement and shall be subject to each provision of this Agreement.

11. Indemnity

The Contractor hereby agrees to hold harmless, indemnify and defend the City, its officers, agents, and employees from and against any and all liability, suits, actions, claims, damages, attorney's fees, and costs arising out of or resulting from the Contractor's and/or any of their Subcontractors' employees', agents', or officers' conduct, performance, act(s), error(s) or omission(s) relating in any manner whatsoever to this Contract. Provided, however, nothing in this Agreement shall be construed to require the Contractor to defend, indemnify and hold harmless the City, its officers, agents and employees from and against any liability, suits, actions, claims, damages and attorney's fees caused by or resulting from the negligence of the City, its officers, agents and employees.

Receipt by the City of the Contractor's services under this Agreement, review by the City of any Plans, Specifications and documents by the Contractor, and City authorizations for the Contractor to proceed with the various phases of services shall not be construed as approval of the Contractor's work product by the City or as the giving of instructions or directions by the City. This indemnification provision is subject to the limitations and provisions of Sec. 56-7-1, NMSA 1978.

The indemnity required hereunder shall not be limited by reason of the specification of any particular insurance coverage in this Agreement.

12. Insurance

Until final acceptance by the City of the work covered, the Contractor shall procure and maintain at the Contractor's expense, insurance of the kinds and in the amounts herein provided. This insurance shall be provided by insurance companies authorized to do business in the State of New Mexico and shall cover all operations under the Agreement, whether performed by the Contractor, the Contractor's agents or employees, or by subcontractors. All insurance provided shall remain in full force and effect for the entire period of the work, up to and including final acceptance, and the removal of all equipment and employees, agents and subcontractors therefrom, and shall name the City as an additional insured.

If part of the Agreement with the City is sublet or subcontracted, the vendor shall require the subcontractor to secure insurance to protect itself against all hazards enumerated herein, which are not covered by the vendor's insurance policies and to include the City as an additional insured thereon.

The Contractor shall procure and maintain, during the life of this Contract a Workers Compensation, Commercial General Liability, Business Automobile Liability policies. The policies will be written with the City as additional insured as applicable, while acting within the scope of their duties against all claims arising out of, or in connection with, the work to be performed. All insurance documents must include a provision for 30 day written notification to the City if a policy has been materially changed or canceled. The City shall be an additional insured (Form B - CG2010 10/01 or equivalent) and will be written on an occurrence form, and shall provide limits as follows:

A. 1. Workers Compensation – Statutory

2. Employers Liability - \$1,000,000

Contractor shall comply with the provisions of the Workers Compensation Act of the State of New Mexico, (the "Act"). If the Contractor has determined that it is not subject to the Act, it will certify, in a signed statement, that it is not subject to the Act. The Contractor will notify the City and comply with the Act should it employ three or more persons during the term of any Agreement with the City. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, Agreement with the City may be terminated effective immediately.

B. Commercial General Liability with ISO CG 0001 07/98

- a. Bodily Injury/Property Damage: \$1,000,000 Each Occurrence
\$2,000,000 General Aggregate
- b. Products/Completed Operations: \$1,000,000 Each Occurrence
\$2,000,000 Aggregate
- c. Property Damage Liability Insurance shall not exclude (XCU)
- d. Pollution Legal Liability: \$1,000,000 Each Occurrence

C. Business Automobile Liability

- a. Combined Single Limit: \$1,000,000 Each Occurrence with ISO CA 0001 07/98
- b. Pollution Liability (MCS90) for Transportation exposure (if applicable):
\$1,000,000 Each Occurrence

Business Automobile Liability Insurance shall include coverage for the use of all owned, non-owned and hired automobiles and vehicles.

D. Independent Contractors: Included

E. Contractual Liability: Included

The Contractor shall furnish one copy each of Certificates of Insurance herein required for each copy of the Agreement for each annual period, which shall specifically set forth evidence of all coverage required. If such limits are higher than the minimum limits required by the City, such limits shall be certified and shall apply to the coverage afforded the City under the terms and conditions of the Agreement as though required and set forth in the Agreement. The Contractor shall furnish to the City copies of any endorsements that are subsequently issued amending coverage or limits.

13. Approval of Insurance

The Contractor or subcontractor(s) shall not deliver or commence any work or any services under this Agreement until the required insurance has been obtained and the proper Certificates of Insurance (or insurance policies) have been filed with the City, adding the City as an additional insured as applicable. Neither approval nor failure to disapprove

certificates, policies or insurance by the City shall relieve the Contractor or subcontractor(s) of full responsibility to maintain the required insurance in full force and effect.

14. Increased Limits

If, during the life of this Agreement, the legislature of the State of New Mexico increases the maximum limits of the liability under the Tort Claims Act, the City may require the successful Contractor to increase the maximum limits of any insurance required herein. In the event that the successful Contractor is required to increase the limits of such insurance, an appropriate adjustment in the Agreement amount will be made.

15. Reports and Information

At such times and in such forms as the City may require, there shall be furnished to the City such statements, records, reports, data and information, as the City may request pertaining to matters covered by this Agreement.

16. Audits and Inspections

At any time during normal business hours and as often as the City may deem necessary, there shall be made available to the City for examination all of the Contractor's records with respect to all matters covered by this Agreement. The Contractor shall permit the City to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

17. Record Ownership

It shall be clearly understood and agreed between the parties that the City is and shall be the owner of all documents and records of any nature on any medium pertaining to any matter undertaken by the Contractor pursuant to this Agreement.

18. Publication, Reproduction, and Use of Material

No material produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country. The City shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared under this Agreement.

19. Release

The Contractor, upon final payment of the amount due under this Agreement, releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement. The Contractor agrees not to purport to bind the City to any obligation not assumed herein by the City, unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

20. Confidentiality

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the City.

21. Conflict of Interest

The Contractor warrants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work required under this Agreement.

22. Scope of Agreement

This Agreement incorporates all the Agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understandings, verbal or otherwise, of the parties, or their agents shall be valid or enforceable unless embodied in this Agreement.

23. Notice

Any notices required to be given hereunder shall be sent to the principals at the following addresses. If either party shall change addresses or principals, then such party shall promptly notify the other party in writing. If no notification is made, then notice shall be deemed effective if sent to the principals at the addresses specified herein.

The official address of the City is:

The official name and address of the Contractor is:

Chief Procurement Officer
City of Truth or Consequences
505 Sims Street
Truth or Consequences, NM 87901

Energy 1, LLC
4300 N Valley Dr.
Las Cruces, NM 88007

24. Compliance with Applicable Law

Contractor shall comply with State of New Mexico, federal, municipal and city, and county laws, rules and ordinances.

25. Waiver

No waiver of any breach of any of the terms or conditions of this Agreement shall be held to be a waiver of any other or subsequent breach; nor shall any waiver be valid or binding unless the same shall be in writing and signed by the party alleged to have granted the waiver.

26. Equal Opportunity Compliance

The Contractor agrees to abide by all Federal and State laws and regulations pertaining to equal employment opportunity. If Contractor is found to be not in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

27. Changes

The City may, from time to time, request changes in the Scope of Work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the City and the Contractor, shall be incorporated in written amendments to this Agreement. This Agreement shall not

otherwise be altered, changed or amended except by an instrument in writing executed by the parties hereto.

28. Assignment

The Contractor shall not assign any interest in this Agreement and shall not transfer any interest in this Agreement without the prior written consent of the City thereto.

29. Construction and Severability

If any part of this Agreement is held to be invalid or unenforceable, such holding will not affect the validity or enforceability of any other part of this Agreement so long as the remainder of the Agreement is reasonably capable of completion.

30. Enforcement

The Contractor agrees to pay to the City all costs and expenses including reasonable attorney's fees incurred by the City in exercising any of its rights or remedies in connection with the enforcement of this Agreement.

31. Penalties

The New Mexico Procurement Code, (NMSA 1978, §13-1-28 through 13-1-199), imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

32. Entire Agreement

This Agreement contains the entire Agreement of the parties and supersedes any and all other Agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.

33. Ownership of Document

The City is the sole owner of all documents, reports, and data, compiled or arising out of the Contract and/or Project regardless of the medium used.

IN WITNESS WHEREOF, the City of Truth or Consequences and the Contractor have executed this Contract as of June 22, 2022:

By: _____
City of Truth or Consequences

Date: _____

By: _____
City's Legal Counsel –Certifying legal sufficiency

Date: _____

By: _____
Contractor

Date: _____

ATTACHMENT A

PRICING FOR KEN JAMES SENIOR CENTER HVAC UNITS
ITB #21-22-010

Total Bid Price (excluding Gross Receipts Tax) \$ 63,510⁰⁰

In the interest of fairness and sound business practices, it is mandatory that Bidder state any exceptions to the specifications and/or scope of work. It is not the responsibility of the City to seek out information concerning the goods to be furnished. In the event your materials do not meet or exceed all of the stated specifications, you must so state on the space provided below and submit the explanation with your bid. Submission of stated specifications does not mean acceptance by the City. Specifications that vary from the required specifications will be evaluated on an individual basis and a determination will be made that is in the best interest of the City.

I do meet specifications (check line as appropriate)

I do not meet specifications (check line as appropriate) for the following reasons:

Please list which product does not meet the specifications, why the product(s) or services do not meet the specifications, and any alternative you may be suggesting (Please attached addition sheet if needed):

The representations herein are made under penalty of perjury. We hereby offer to sell the Agency the above product(s) or services at the prices shown and under the terms and conditions herein, attached, or incorporated by referenced.

Energy 1 LLC
Company/Bidder Name

Signature of Authorized Representative

4300 N valley Dr.
Address

Wiley Lerang
Name of Authorized Representative

Las Cruces, NM 88007
City, State, Zip Code

Branch Manager
Title of Authorized Representative

(575) 338-3020
Telephone Number

5-24-22
Date

City of Truth or Consequences
STATE OF NEW MEXICO



INVITATION FOR BIDS (ITB)

KEN JAMES SENIOR CENTER HVAC UNITS

ITB #21-22-010

**CITY OF TRUTH OR CONSEQUENCES PURCHASING
505 SIMS
TRUTH OR CONSEQUENCES, NM 87901**

ISSUED: APRIL 22, 2022

PRE-BID MEETING: MAY 12, 2022 9:00 am MST

BIDS DUE/ OPENING: JUNE 1, 2022 2:00 pm MST

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I. INTRODUCTION

The City of Truth or Consequences is requesting bids to remove all old HVAC equipment and install new HVAC equipment at the Ken James Senior Center located at 360 W 4th Street, Truth or Consequences, New Mexico. An agreement will be issued resulting from this Invitation to Bid (ITB).

A. PURPOSE OF THIS INVITATION FOR BIDS

The City of Truth or Consequences is currently requesting sealed bids to plan, design, construct, purchase, replace, equip and install heating, ventilation and air conditioning units and related equipment for the Ken James Senior Center in Truth or Consequences in Sierra County.

A Contract will be issued for the work and services to be provided. Purchase Orders will be issued within the applicable fiscal year subject to availability of funding. A Purchase Order is required prior to the delivery of any material or service under this agreement. No material or service shall be accepted or delivered without a Purchase Order.

Material requirements and related specifications are contained in the Section IV of this ITB.

Potential Bidders are highly encouraged to read this entire solicitation as important information, including mandatory requirements, is contained in other places within this ITB.

B. SUMMARY SCOPE OF WORK

This procurement will be conducted in accordance with the New Mexico State Procurement Code as required by 13-1-111 NMSA 1978. The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and misdemeanor criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities, and kickbacks.

The scope of work consists of providing the products or services specified herein. The City is requesting bids for the removal of all old HVAC equipment including line sets, ductwork, controls RTUs, split systems and furnaces and the installation of new cooling HVAC equipment and 85.5% modulating gas furnaces.

C. CHIEF PROCUREMENT OFFICER

The City of Truth or Consequences has designated a Chief Procurement Officer who is responsible for this procurement and whose name, address, and telephone number are listed below.

Name:	Kristin Saavedra, Chief Procurement Officer
Address:	505 Sims Street, Truth or Consequences, NM 87901
Telephone:	575-952-0490
Fax:	575-894-0363
Email:	procurement@torcnm.org

1. **Any inquiries or requests** regarding this procurement should be submitted, in writing, to the Chief Procurement Officer. Bidders may contact **ONLY** the Chief Procurement Officer regarding this procurement. Other City employees do not have the authority to respond to questions.
2. **Protests of the solicitation or award must be submitted in writing to the Chief Procurement Officer identified in Section II.B.10, Sequence of Events.** As a Chief Procurement Officer has been named in this Invitation to Bid, pursuant to §13-1-172, NMSA 1978 and 1.4.1.82 NMAC, **ONLY protests delivered directly to the Chief Procurement Officer in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule, and this Invitation to Bid.**

D. BID DELIVERY

All deliveries of bids via express carrier, courier, or hand delivery, must be addressed and submitted as follows (including the hard-copy requirement):

Name: Chief Procurement Officer, Kristin Saavedra
Reference ITB Name: ITB #21-22-010 Ken James Senior Center HVAC Units
Address: 505 Sims Street
Truth or Consequences, NM 87901

Electronic bids will not be accepted.

E. DEFINITION OF TERMINOLOGY

This section contains definitions that are used throughout this procurement document, including appropriate abbreviations.

"Bidder" is any person, corporation, or partnership who chooses to submit a sealed bid.

"Board of Commissioners" (also "BCC") means the elected board on who, all powers of the City are vested and who are responsible for the proper and efficient administration of the City Government.

"Chief Procurement Officer" means the person or designee authorized by the City to manage or administer a procurement requiring the evaluation of competitive sealed proposals.

"Close of Business" means 5:00 PM Mountain Standard or Daylight Time, whichever is in use at that time.

"Confidential" means confidential financial information concerning Offeror's organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act §§57-3-A-1 through 57-3A-7, NMSA 1978. See also NMAC 1.4.1.45. The following items may not be labelled as confidential: Offeror's submitted Cost response, Staff/Personnel Resumes/Bios (excluding personal information such as personal telephone

numbers and/or home addresses), and other submitted data that is not confidential financial information or that qualifies under the Uniform Trade Secrets Act.

"Contract" means a written agreement for the procurement of items of tangible personal property, services, or professional services.

"Contractor" shall mean the successful Offeror who enters into an Agreement with the City.

"Determination" means the written documentation of a decision of a Chief Procurement Officer including findings of fact required to support a decision. A determination becomes part of the procurement file.

"F.O.B. Destination" means goods are to be delivered to the destination designated by the user which is the point at which the user accepts ownership or title of the goods. Laws of New Mexico specifically prohibit acceptance of ownership of goods in transit. Any exception to F.O.B. Destination may cause a bid to be declared nonresponsive.

"Invitation for Bids" or **"ITB"** means all documents, including those attached or incorporated by reference, used for soliciting sealed bids.

"Mandatory" – the terms "must", "shall", "will", "is required", or "are required", identify a mandatory item or factor. Failure to meet a mandatory item or factor will result in the rejection of the Offeror's proposal.

"MDT" & "MST" mean Mountain Daylight Time (MDT) and Mountain Standard Time (MST). Usage is dependent on which is in effect on the date specified.

"Price Agreement" means a definite quantity contract or indefinite quantity contract which requires the contractor to furnish items of tangible personal property, services or construction to a state agency or a local public body which issues a purchase order, if the purchase order is within the quantity limitations of the contract, if any.

"Procuring agency of the City" means the department or other subdivision of the City of Truth or Consequences that is requesting the procurement of services or items of tangible personal property.

"Product" means an item of tangible personal property which is defined in the New Mexico Procurement Code as tangible property other than real property having a physical existence, including but not limited to supplies, equipment, materials and printed materials.

"Purchase Order" or "PO" means the document which directs a contractor to deliver items of tangible personal property or services pursuant to an existing, valid contract.

"Responsible Bidder" means an offeror who submits a responsive proposal and who has furnished required information and data to prove that their financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services or items of tangible personal property called for in this proposal.

"Responsive Bid" means an offer or proposal which conforms in all material respects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to, price, quality, quantity, and delivery requirements.

"Services" means the furnishing of labor, time or effort by a Contractor not involving the delivery of a specific end product other than reports and other materials which are merely incidental to the required performance. "Services" does not include construction.

"State agency" means any department, commission, council, board, committee, institution, legislative body, agency, government corporation, educational institution or official of the executive, legislative or judicial branch of the government of the State of New Mexico.

"Successful Bidder" means the lowest priced Responsible Bidder to whom City of Truth or Consequences, on the basis of the City's evaluation, makes an award. A Successful Bidder does not become a Contractor until the City signs the Contract that has been signed and submitted by the Bidder. **Successful Bidders should not provide products prior to their receipt of an approved Purchase Order.**

F. RESIDENT BUSINESS PREFERENCE

The New Mexico Procurement Code provides for preference for resident businesses and Contractors under certain conditions. If applicable, the preference will be provided to those bidders that have provided a valid resident business preference certificate with their bid, as required by 13-1-22 NMSA 1978.

To ensure adequate consideration and application of NMSA 1978, § 13-1-21 (as amended), Bidders **MUST** include a copy, in this section, of its current New Mexico Resident preference certificate, as issued by the New Mexico Taxation and Revenue Department.

For more information, reference Sections 13-1-21 and 13-1-22 of the New Mexico Procurement Code. Preference applications are available for download at:

Resident Business:

<http://www.tax.newmexico.gov/SiteCollectionDocuments/acd-bp0001.pdf>

G. RESIDENT VETERAN BUSINESS PREFERENCE

Effective July 1, 2012, certain preferences are available to Resident Veteran Businesses. In order for a Bidder to receive preference as a Resident Veteran Business, that Bidder must submit a copy of their Resident Veteran Business Preference Certificate with their bid. The preference certificate **must** have been issued by the New Mexico Taxation and

Revenue Department. Providing only a preference number or a copy of the application is not acceptable.

For more information and application forms, go to:

<http://www.tax.newmexico.gov/Businesses/Pages/In-StatePreferenceCertification.aspx>

H. PROCUREMENT LIBRARY

A procurement library has been established. Bidders are encouraged to review the material contained in the Procurement Library by selecting the link provided in the electronic version of this document through your own internet connection. The library contains information listed below:

Electronic version of ITB, Questions & Answers, ITB Amendments, etc.
http://www.torcnm.org/departments/finance/public_invitation_for_bidders.php.

II. CONDITIONS GOVERNING THE PROCUREMENT

This section contains the schedule for the procurement, describes the major procurement events, and contains the general conditions and requirements that the Bidder agrees to by submitting a bid in response to this ITB.

A. SEQUENCE OF EVENTS

The Chief Procurement Officer will make every effort to adhere to the following schedule:

ACTION	RESPONSIBILITY	DATE
1. Issue ITB	City of T or C	04/22/22
2. Return of "Acknowledgment of Receipt" Form	Potential Bidders	05/09/22 5:00 pm MST
3. Pre-Bid Meeting	City of T or C & Potential Bidders	05/12/22 time 9:00 am MST
4. Deadline to Submit Written Questions	Potential Bidders	05/19/22 5:00 pm MST
5. Response to Written Questions	Chief Procurement Officer	05/26/22 5:00 pm MST
6. Deadline for Submission of Sealed Bids	Potential Bidders	06/01/22 2:00 pm MST
7. Public Opening	Purchasing, Bidders, General Public	06/01/22 2:30 pm MST
8. Bid Tabulation*	Purchasing	06/01/22
9. Award Recommendation and Contract Submitted to the City Commission (*) (**)	Chief Procurement Officer	06/22/22 9:00 am MST
10. Notice of Award and Contract given to successful bidder*	Chief Procurement Officer	06/23/22
11. Protest Deadline*	Bidders	07/08/22 5:00 pm MST

*Dates indicated in Events 8 through 11 are estimates only, and may be subject to change without necessitating an amendment to the ITB.

**Pricing Agreement Award shall be subject to approval of the City Commission.

B. EXPLANATION OF SEQUENCE OF EVENTS

The following paragraphs further detail the activities listed in the sequence of events shown in Section II, Paragraph A.

1. Issue Invitation to Bid (ITB)

This ITB is being issued by the City of Truth or Consequences Chief Procurement Officer on behalf of the City of Truth or Consequences.

2. Acknowledgement of Receipt Form

Potential Bidders may hand deliver, e-mail, or send by registered or certified mail, the Acknowledgement of Receipt Form (APPENDIX A), to the Chief Procurement Officer

identified in Section I.C. at procurement@torcnm.org to have their organization placed on the procurement Distribution List. The form must be returned to the Chief Procurement Officer as indicated in Section II.A, Sequence of Events.

The procurement distribution list will be used for the distribution of written responses to questions, and/or any amendments to the ITB. Failure to return the Acknowledgement of Receipt Form does not prohibit potential Bidders from submitting a response to this ITB. However, by not returning the Acknowledgement of Receipt Form, the potential Bidder's representative shall not be included on the distribution list, and will be solely responsible for obtaining from the Procurement Library (Section I.H.). Responses to written questions and any amendments to the ITB can be found in the procurement library Section I.H.

3. Pre-Bid Meeting

A pre-bid meeting will be held as indicated in Section II.A, Sequence of Events, at the City of Truth or Consequences at 505 Sims Street, Truth or Consequences, NM 87901.

Potential Offeror(s) are encouraged to submit written questions in advance of the conference to the Chief Procurement Officer (see section I.C). The identity of the organization submitting the question(s) will not be revealed. Additional written questions may be submitted at the conference. All questions answered during the Pre-Bid Conference will be considered unofficial until they are posted in writing. All written questions will be addressed in writing on the date listed in Section II.A, Sequence of Events. A public log will be kept of the names of potential Offeror(s) that attend the Pre-Bid Conference.

Attendance at the Pre-Bid Conference is voluntary, but highly encouraged.

4. Deadline to Submit Written Questions

Potential bidders may submit written questions as to the intent or clarity of this ITB until the close of business on the date indicated in Section II.A (Sequence of Events). All written questions must be sent by e-mail to the Chief Procurement Officer (See Section I.C.)

5. Response to Written Questions/ITB Amendments

Written responses to written questions and any ITB amendments will be posted to the City of Truth or Consequences Purchasing Office web site:

http://www.torcnm.org/departments/finance/public_invitation_for_bidders.php.

6. Submission of Bids

BIDS MUST BE RECEIVED BY THE CHIEF PROCUREMENT OFFICER OR DESIGNEE NO LATER THAN THE TIME AND DATE INDICATED IN SECTION II.A (SEQUENCE OF EVENTS). BIDS RECEIVED AFTER THIS DEADLINE FOR ANY REASON WILL BE RETAINED, UNOPENED, AND NOT CONSIDERED.

The date and time of receipt will be recorded on each bid. Bids must be addressed and delivered to the Chief Procurement Officer at the delivery address listed in Section I.D. Bids must be sealed and should be labeled on the outside bottom left-hand corner of the package to clearly indicate that they are in response to the “KEN JAMES SENIOR CENTER HVAC UNITS” and should reference “ITB #21-22-010” and should show the opening date and time. Bids submitted by facsimile or other electronic means **WILL NOT BE ACCEPTED**. A public log will be kept of the names of all persons or companies submitting bids.

7. Public Opening

All bids timely received will be opened and read aloud in a public forum at the Commission Chambers of the City of Truth or Consequences, 405 W. 3rd Street, Truth or Consequences, NM 87901 on the date and time indicated in Section II.A (Sequence of Events), per NMSA 1978, Section 13-1-107 (1984).

At the bid opening, the amount of each bid and each bid item, if appropriate, and such other relevant information as may be specified by the Chief Procurement Officer, together with the name of each bidder, will be recorded, and the record and each bid will be open to public inspection.

If you are an individual with a disability and you require accommodations such as a hearing interpreter to attend our Public Bid Opening, please contact the Chief Procurement Officer (see Section I.C, above.) at least seven (7) days prior to the scheduled bid opening.

8. Bid Tabulation

After the public opening, the bids will be assessed for responsiveness. Responsive bids will be tabulated (price compared) to identify the lowest price(s) submitted. During this time, the Chief Procurement Officer may, at his/her option, initiate discussions with Bidders for the purpose of clarifying aspects of the bids, but bids may be accepted and considered without such discussion. Discussions SHALL NOT be initiated by the Bidders.

9. Award Recommendation and Contract Submitted to the City Commission

Award recommendation and Contract will be submitted to the City Commission for approval as indicated in Section II.A, Sequence of Events or as soon as possible thereafter.

10. Notice of Award and Contract Given to Successful Bidder

Upon receipt of the signed contractual agreement, the City’s Procurement office will submit award and contract as per Section II.A., Sequence of Events, or as soon as possible thereafter to successful bidder.

11. Protest Deadline

Any protest by a Bidder must be timely, in conformance with, and will be governed by Sections 13-1-172 through 13-1-176 NMSA. The 15-calendar day protest period shall

begin on the day following the notice of award of contract(s) and will end as indicated in Section II.A, Sequence of Events. Please be advised that all Protests must be written and must include the name and address of the protestor and the Invitation for Bid number. It must also contain a statement of grounds for protest including appropriate supporting exhibits, and it must specify the ruling requested from the Chief Procurement Officer. The protest must be delivered to the Chief Procurement Officer at:

Name: Chief Procurement Officer, Kristin Saavedra
Reference ITB Name: ITB #21-22-010 Ken James Senior Center HVAC Units
Address: 505 Sims Street
Truth or Consequences, NM 87901

NOTE: Protests received after the deadline will not be accepted.

C. GENERAL REQUIREMENTS

This procurement will be conducted in accordance with the New Mexico Procurement Code (13-1-28 NMSA 1978).

1. Acceptance of Conditions Governing the Procurement

Bidders must indicate their acceptance of the Conditions Governing the Procurement in the Letter of Transmittal Form (see Appendix B).

2. Incurring Cost

Any cost incurred by the bidder in preparation, transmittal, presentation of any bid or material or negotiation associated with their response to this ITB shall be borne solely by the bidder.

3. Prime Contractor Responsibility

Any Contract that may result from this ITB shall specify that the prime Contractor is solely responsible for fulfillment of the Contract with the City. The City will only make Contract payments to the prime Contractor.

4. Subcontractors

Not Applicable.

5. Amended Bids

A Bidder may submit an amended bid before the deadline for receipt of bids. Such amended bids must be complete replacements for a previously submitted bid and must be clearly identified as such in the transmittal letter. City personnel will not merge, collate, or assemble bid materials.

6. Bidders' Rights to Withdraw Bid

Bidders will be allowed to withdraw their bids at any time prior to the deadline for receipt of bids. The Bidder must submit a written withdrawal request signed by the

Bidder's duly authorized representative addressed to the Chief Procurement Officer in order to be permitted to withdraw the bid at the discretion of the City.

7. Bid Offer Firm

Responses to this ITB will be considered firm for ninety (90) days after the due date for receipt of bids.

8. No Obligation

This procurement in no manner obligates the City of Truth or Consequences or any of its departments or other subdivisions to the eventual lease, purchase, etc., of any tangible personal property offered or services proposed until a valid written contract is approved by the Chief Procurement Officer and other required approval authorities and one or more valid Purchase Orders are issued.

9. Termination

This ITB may be canceled at any time and any and all bids may be rejected in whole or in part when the City determines such action to be in the best interest of the City.

10. Sufficient Appropriation

Any Contract awarded as a result of this ITB process may be terminated if sufficient appropriations or authorizations do not exist. Such termination will be effected by sending written notice to the Contractor. The City's decision as to whether sufficient appropriations and authorizations are available will be accepted by the Contractor as final.

11. Legal Review

The City requires that all bidders agree to be bound by the General Requirements contained in this ITB. Any bidder's concerns must be promptly brought to the attention of the Chief Procurement Officer.

12. Governing Law

This procurement and any Agreement with bidders that may result shall be governed by the laws of the State of New Mexico.

13. Basis for Bid

Only information supplied by the City in writing through the Chief Procurement Officer or in this ITB should be used as the basis for the preparation of bids.

14. Contract Terms and Conditions

The contract terms and conditions can be found in Appendix F.

15. Bidder Qualifications

The City may make such investigations as necessary to determine the ability of the Bidder to adhere to the requirements specified within this ITB. The City will reject the bid of any Bidder who is not a responsible Bidder or fails to submit a responsive bid as defined in Sections 13-1-82 and 13-1-84 NMSA 1978.

Bidders must, upon request of the City, provide information and data to prove that the financial resources, production or service facilities, service reputation and experience are adequate to make satisfactory delivery of the materials and/or services. The City reserves the right to require a Bidder to furnish a Performance Bond prior to award, where the Bidder is unable to furnish the required information or data, or for other reasons which would insure proper performance by the Bidder.

16. Right to Waive Minor Irregularities

The City reserves the right to waive minor irregularities. The City also reserves the right to waive mandatory requirement(s) provided that all of the otherwise responsive bids failed to meet the same mandatory requirement(s) or doing so does not otherwise materially affect the procurement. This right is at the sole discretion of the City.

17. Change in Contractor Representatives

The City reserves the right to require a change in Contractor representatives if the assigned representatives are not, in the opinion of the City, meeting its needs adequately.

18. Notice

The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and misdemeanor criminal penalties for its violation. The State of New Mexico criminal statutes also impose felony penalties for bribes, gratuities and kick-backs.

19. City Rights

The City reserves the right to accept all or a portion of a Bidder's bid and to award to the Bidder whose bid is deemed to be in the best interest of the City.

20. Ownership of Bids

All documents submitted in response to the ITB shall become the property of the City. However, any technical or user documentation submitted with the bids of non-selected Bidders may be returned after the expiration of the protest period, by request, and at the expense of the Bidder.

21. Ambiguity, Inconsistency or Errors in ITB

Bidders shall promptly notify the Chief Procurement Officer, in writing, of any ambiguity, inconsistency or error which they discover upon examination of the ITB.

22. Competition

By submitting a bid, bidder certifies that they have not, either directly or indirectly, entered into any action in restraint of full competition in connection with the bid submitted to the City.

23. Use by Other Government Agencies

By submitting a bid, Bidder indicates that they understand and agree that other local public bodies and state agencies within the State of New Mexico, if allowed by their

governing directives, may contract for the goods or services included in this procurement document with the awarded Contractor(s). Contractual engagements accomplished under this provision shall be solely between the awarded Contractor and the contracting government entity with no obligation or liability by the City of Truth or Consequences.

24. Confidentiality

Any confidential information provided to, or developed by, the Contractor in the performance of any Agreement resulting from this ITB shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the City of Truth or Consequences.

25. Delivery and Failure to Meet Order Provisions

- a. No Delivery Before Purchase Order is Issued: No Bidder, including a Bidder to whom an award is made, shall deliver any item of tangible personal property or services prior to the issuance of a Purchase Order issued by the City of Truth or Consequences Purchasing Department.
- b. Failure to Meet Order Provisions: The City reserves the right to cancel all or any part of an order without cost to the City, if the Contractor fails to meet the provisions of that order and, except as otherwise provided herein, to hold the Contractor liable for any excess cost occasioned by the City due to the Contractor's default.

26. City Furnished Property

Not Applicable

27. Discounts

The Bid Form provides a space for the Bidder to identify prompt payment terms the Bidder is offering, if any. Prompt payment discounts will not be considered in computing the low bid. Discounts for payment within twenty (20) days will be considered after the award of the Contract. Discounted time will be computed from the date of receipt of the merchandise, invoice or billing for services, whichever is later.

28. Packing, Shipping and Invoicing

- a. The City's Purchasing Order number and the Contractor's name, user's name and location shall be shown on each packing and delivery ticket, package, bill of lading and other correspondence in connection with the shipments. The user's count will be accepted by the Contractor as final and conclusive on all shipments not accompanied by a packing ticket.
- b. The Contractor's invoice shall be submitted and shall contain the following information: order number, description of supplies or services, quantities, unit price and extended totals. Separate invoices shall be rendered for each and every complete shipment.

- c. Invoices must be submitted to the City of Truth or Consequences Finance Department, Attn. Accounts Payable, 505 Sims Street, Truth or Consequences, NM 87901 and NOT to the using agency.

29. Electronic Mail Address Required

A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Bidder must have a valid e-mail address to receive correspondence.

30. Use of Electronic Versions of this ITB

This ITB is being made available by electronic means. If accepted by such means, the potential Bidder acknowledges and accepts full responsibility to ensure that no changes are made to the ITB. In the event of conflict between a version of the ITB in the potential Bidder's possession and the version maintained by the City, the version maintained by the City shall govern.

31. Award Rights

Bids will be evaluated on the base of the lowest cost for each item listed in the cost table. Bids will be evaluated on the base bid without gross receipts tax or any optional local tax. However, if the bid is a Unit Price Bid and there a discrepancy between the amount shown as the Base Bid and the actual total amount of the Bid Items determined by multiplying the Unit Price shown for each Bid Item by the Estimated Quantity shown for that Bid Item and adding each such amounts, it will be awarded to the lowest responsive and responsible Bidder on the actual total amount of the Bid Items excluding gross receipts tax or any optional local tax.

32. Addenda

Changes or amendments to specifications, conditions or provisions herein may be initiated ONLY through the Chief Procurement Officer in the form of a written addendum. Any addenda shall become a part of this bid.

It is the responsibility of all persons or businesses considering submitting a bid in response to this solicitation to ensure that they have received all addenda prior to making a bid. Addenda will be posted to the Purchasing Department web site at http://www.torcnm.org/departments/finance/public_invitation_for_bidders.php prior to the due date for the receipt of bids.

III. RESPONSE REQUIREMENTS

This section tells prospective Bidders how to prepare and submit their bid in response to this ITB.

A. NUMBER OF RESPONSES

Bidders are required to bid on all items to this ITB provided that meet or exceed product specifications. In the event exceptions are taken, the Bidder must state any exception to the specifications and/or scope of work. It is the responsibility of the Bidder to certify that the materials provided under any resulting purchase order shall meet the specification requirements of this ITB. Each Bidder must provide with their return bid the written certification and/or exceptions as provided for on Appendix B of this ITB. Failure to provide this certification with your return bid shall serve as a basis for rejecting your bid without further consideration.

B. NUMBER OF COPIES

Bidders shall deliver one (1) signed and sealed original bid and one (1) copy to the Chief Procurement Officer at the location specified in Section I.D. on or before the closing date and time for receipt of bids.

C. BID CONTENTS AND BID FORMAT

All bids shall contain the following (failure to do so may result in your bid being deemed non-responsive):

1. Signed Letter of Transmittal (Appendix B) accepting the Conditions Governing the Procurement as required in Section II. C.1.
2. A written response to any exceptions to the Agency's Draft Contract (Appendix F) Reference Section C.15.
3. Statement of qualifications, including a description of your experience in the sale, delivery, installation, and service HVAC units as listed in the Scope of Work.
4. Signed Campaign Contribution Form (Appendix C)
5. Conflict of Interest-Debarment/Suspension Certification Form (Appendix D)
6. Proof of Liability Insurance
7. New Mexico Business Preference Certificate (If applicable)
8. New Mexico Resident Veterans Business Preference Certificate (if applicable)
9. Bid Form (Appendix E)
10. Delivery schedule. Provide a written guaranteed delivery after receipt of order (ARO).

Note: In order to receive a New Mexico Preference, bids MUST contain one of the following items:

1. COMPLETED AND SIGNED NEW MEXICO RESIDENT PREFERENCE CERTIFICATE (if applicable).
2. COMPLETED AND SIGNED NEW MEXICO RESIDENT VETERAN PREFERENCE CERTIFICATE (if applicable).

Failure of Bidder to complete and submit required bidding documents, in accordance with all instructions provided, is cause for rejection of their bid.

D. BID SUBMITTAL REQUIREMENTS

Bids must be submitted in a sealed envelope. The bid title, the bid number and the opening date and time should be clearly indicated on the bottom left-hand side of the front of the envelope. The Bidder's name shall also appear on the envelope. Failure to properly label the bid envelope may necessitate the premature opening of the bid in order to identify the bid number.

Failure of Bidder to complete and submit required bidding documents, in accordance with all instructions provided, is cause for rejection of their bid.

IV. SPECIFICATIONS AND REQUIREMENTS – SCOPE OF WORK

This section details the minimum requirements and specifications for products or services sought by the City.

Background Narrative:

The Ken James Senior Center has been providing services to the elderly for over 40 years. The current building is a renovated schoolhouse that was built in the early 1900's. Sierra County population is over 50% seniors. Due to the high volume of senior citizens in our community it is imperative to have the HVAC system replaced. Studies have shown that the senior population is more susceptible to the health complications related to climate change. The senior center is the only one operating in Sierra County so the need to maintain its current location is essential to provide services to an ever-increasing population.

HVAC Equipment Install and Removal at the Ken James Senior Center

1. Removal of all old HVAC equipment including line sets, ductwork, controls RTUs, split systems and furnaces.
2. Installation of new 14 Seer cooling HVAC equipment and 85.5% modulating gas furnaces, controls (new Thermostats), line set, drain, ductwork, and electrical as well as increasing return and filter sizes to meet specs and reduce sound. Includes Reme Halo in main hall for air purification.
3. This includes the addition of a unit to serve the Kitchen, per code this will have an economizer and be linked to the kitchen hood with a power damper in case of fire.
4. Remove all existing systems (includes 3 RTU units, 5 furnaces, 4 condensers, 1 swamp cooler, line sets, ductwork, old stands).
5. Set new RTU's (4), furnaces (5), condensers (4) on stands where needed.
6. Remove duct that is sized wrong and install new duct to meet equipment specs cut holes as needed in the roof and seal penetrations.
7. Set RTU's on curbs to account for duct changes.
8. Run new line sets/ charge systems.
9. Furnish/Install new equipment, electrical, controls, and gas.
10. Provide full 5-year parts and labor warranty.
11. Drywall or finish material repair.

12. Shipping/freight costs.

Construction Schedule:

Consult with the City of Truth or Consequences and the SJOA to develop a schedule to ensure an optimal timetable is achieved and is in successful cooperation with other site and trade work while allowing the center to remain operational.

V. BID OPENING, PROCESSING, AND AWARD

This section describes how bids received are handled and assessed. It also describes how the award process works as well as the role of the Contract provided in Appendix F and the role of Purchase Orders that may follow Contract award.

A. BID RECEIPT

Bids shall be accepted unconditionally per NMSA 1978, Section 13-1-105 (2005). Only those bids received before or by the deadline for the receipt of bids will be considered. Bids received after the deadline (“late bids”) will be retained in the procurement file, unopened, and shall not be considered for award.

B. BID OPENING

Bids will be opened and read in public in accordance with Section 13-1-107 of the New Mexico Procurement Code. See Section II.A. (Sequence of Events), for specific information.

C. BID TABULATION PROCESS

1. Compliance Review

After the required public opening and reading, all timely received bids will be reviewed for compliance with the requirements and specifications stated within the ITB. Bids deemed non-responsive to any mandatory requirement(s) or specification(s) may be disqualified.

2. Clarifications

The Chief Procurement Officer may contact the Bidder for clarification of the response as specified in Section II.A.

3. Other Information Sources

The City may use other sources of information to confirm the validity of bids submitted and the ability of the Bidder to perform as specified in Section II.A.

4. Bid Evaluation

Bids will be evaluated on a total cost for all items and services. Due to availability and delivery requirements, the City reserves the right to issue multiple awards to the two lowest responsive and responsible bidder(s) meeting the minimum specification requirements under this ITB.

The bid price(s) on the Bid Form will be tabulated (price compared) to identify the lowest price(s) bid. If applicable, the price(s) bid will be adjusted (for comparison and

award purposes only) for those Bidders that have submitted a valid New Mexico Preference Certificate with their bid.

Evaluation Factors <i>(Correspond to section IV.B and IV C)</i>	Points Available
Cost	100
TOTAL POINTS AVAILABLE	100
New Mexico Preference - Resident Vendor Points per Section I.F. - OR-	5
New Mexico Preference - Resident Veterans Points per Section I.G.	10

The evaluation of each Bidder’s cost proposal will be conducted using the following formula:

The total of all equipment and services will be used to calculate the Cost score.

$$\frac{\text{Lowest Responsive Bidder's Total Cost}}{\text{Each Offeror's Total Cost}} \times \text{Available Award Points (100)}$$

New Mexico Resident Business Preference

If the Bidder has provided a copy of their Preference Certificate the Preference Points for a New Mexico Resident Business is 5% of the total points available in this ITB.

-OR-

New Mexico Resident Veterans Business Preference

If the Bidder has provided a copy of their Preference Certificate the Preference Points for a New Mexico Resident Veteran Business is 10% of the total points available in this ITB.

An agency shall not award a business both a resident business preference and a resident veteran business preference.

5. Discrepancies in Price(s)

In case of an error in the Extended Price and Unit Price, the Unit Price shall govern.

6. Determination of Lowest Responsive Bid

After completion of the bid tabulation, the City will examine the results to determine which Bidder is determined to be the lowest responsive/responsible bid to the City in accordance with the specifications and terms and conditions set forth in the Invitation for Bids.

1. Public Notification of Bid Tabulations and Contract Awards

Bid tabulations and awarded Contracts will be posted to our website after the approval of the award and contract by the City Commission Section II A. Schedule of Events.

Note, the City of Truth or Consequences reserves the right to issue multiple award(s) consistent with the terms of this bid by Section.

D. AWARD AND ORDER PROCESS

1. Contract(s) awarded as a result of this solicitation shall be awarded to the lowest responsible Bidder(s) who's Base Bid and any accepted bid option represents the best value and is in the City's best interest.
2. Line Item. The City of Truth or Consequences reserves the right to award this invitation to bid based upon line-item response without discussion.
3. Signed Agreement. Upon selection for possible award, the City will add the Contractor's name and signatory information to the signed Pricing Agreement (Appendix F) submitted by the Bidder and it will be submitted to the City Commission with a recommendation for award. Once approved and signed the Pricing Agreement is officially awarded.
4. Order(s). A successful Bidder(s) SHALL NOT begin to deliver products or begin performance based solely on Contract award as detailed above. A successful Bidder(s) may only deliver products or begin performance AFTER the receipt of an approved Purchase Order issued by the City of Truth or Consequences Purchasing Department. Failure to comply is AT THE CONTRACTOR'S RISK and the City shall not be liable to pay for any products delivered or services performed prior to the issuance of an approved Purchase Order.

**APPENDIX A
ACKNOWLEDGEMENT OF RECEIPT FORM**

INVITATION TO BID
KEN JAMES SENIOR CENTER HVAC UNITS
ITB #21-22-010

This Acknowledgement of Receipt Form should be signed and submitted no later than **indicated in Section II. A, Sequence of Events**. Only potential Bidders who elect to return this form will receive copies of all submitted questions and the written responses to those questions, as well as any ITB amendments, if any are issued.

In acknowledgement of receipt of this Invitation to Bid, the undersigned agrees that he or she has received a complete copy of the ITB, beginning with the title page, and ending with APPENDIX F.

The name and address below will be used for all correspondence related to the Invitation for Bid:

ORGANIZATION: _____

CONTACT NAME: _____

TITLE: _____ PHONE NO.: _____

E-MAIL: _____ (please print)

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

AUTHORIZED SIGNATURE: _____

Submit Acknowledgement of Receipt Form to:
To: Chief Procurement Officer
E-mail: Procurement@torcnm.org
Subject Line: ITB 21-22-010 Ken James Senior Center HVAC Units,
Acknowledgement of Receipt Form

APPENDIX B
LETTER OF TRANSMITTAL FORM
KEN JAMES SENIOR CENTER HVAC UNITS

ITB #21-22-010

Items #1 to 4 MUST EACH BE RESPONDED TO. FAILURE TO RESPOND TO ALL FOUR ITEMS MAY RESULT IN THE DISQUALIFICATION OF THE BID!

1. Identity (Name) and Mailing Address of the submitting organization:

2. For the person submitting the bid:

Name	
Title	
E-Mail Address	
Telephone Number	

3. Bidder must identify any employee(s) or elected official(s) of the City of Truth or Consequences that have a financial interest in the Bidder (one of the two **must** be selected):

_____ No Financial Interest _____ Yes, Financial Interest*

*Specify by name(s): _____

4. Declarations:

- o I certify that I am authorized to contractually bind my company.
- o On behalf of the submitting organization named in item #1, above, I accept the Conditions Governing the Procurement as required in **Section II, Paragraph C.1.**
- o I acknowledge receipt of any and all amendments to this ITB.
- o I certify that my company/entity/organization commits to comply and act in accordance with (1) Federal Executive Orders and New Mexico State Statutes relating to the enforcement of civil rights, (2) Federal Code 5 USCA 7201 et. seq., Anti-Discrimination in Employment; (3) Executive Order No. 11246, Equal Opportunity in Federal Employment; (4) Title 6, Civil Rights Act of 1964; and (5) Requirements of the American with Disabilities Act of 1990 for work performed as a result of this ITB.

Signature _____ Date _____,

Authorized Signature and Date (**Must be signed by the person identified in item #2, above.**)

APPENDIX C CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to the Procurement Code, Sections 13-1-28, et seq., NMSA 1978 and NMSA 1978, § 13-1-191.1 (2006), as amended by Laws of 2007, Chapter 234, a prospective contractor subject to this section shall disclose all campaign contributions given by the prospective contractor or a family member or representative of the prospective contractor to an applicable public official of the state or a local public body during the two years prior to the date on which a bid is submitted or, in the case of a sole source or small purchase contract, the two years prior to the date on which the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor or a family member or representative of the prospective contractor to the public official exceeds two hundred fifty dollars (\$250) over the two-year period. A prospective contractor submitting a disclosure statement pursuant to this section who has not contributed to an applicable public official, whose family members have not contributed to an applicable public official or whose representatives have not contributed to an applicable public official shall make a statement that no contribution was made.

A prospective contractor or a family member or representative of the prospective contractor shall not give a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or during the pendency of negotiations for a sole source or small purchase contract.

Furthermore, a solicitation or proposed award for a proposed contract may be canceled pursuant to Section 13-1-181 NMSA 1978 or a contract that is executed may be ratified or terminated pursuant to Section 13-1-182 NMSA 1978 if a prospective contractor fails to submit a fully completed disclosure statement pursuant to this section; or a prospective contractor or family member or representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process.

The state agency or local public body that procures the services or items of tangible personal property shall indicate on the form the name or names of every applicable public official, if any, for which disclosure is required by a prospective contractor.

THIS FORM MUST BE INCLUDED IN THE INVITATION TO BID AND MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

“Applicable public official” means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed bid or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive bid.

“Campaign Contribution” means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official’s behalf for the purpose of electing the official to statewide or local office. “Campaign Contribution” includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

“Family member” means a spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law of (a) a prospective contractor, if the prospective contractor is a natural person; or (b) an owner of a prospective contractor;

“Pendency of the bid process” means the time period commencing with the public notice of the Invitation to Bid and ending with the award of the contract or the cancellation of the Invitation to Bid.

“Prospective contractor” means a person or business that is subject to the competitive sealed bid process set forth in the Procurement Code [Sections 13-1-28 through 13-1-199 NMSA 1978] or is not required to submit a competitive sealed bid because that person or business qualifies for a sole source or small purchase contract.

“Representative of a prospective contractor” means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

Name(s) of Applicable Public Official(s) if any: _____

DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s) _____

Nature of Contribution(s) _____

Purpose of Contribution(s) _____

(Attach extra pages if necessary)

Signature

Date

Title (position)

--OR--

NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250) WERE MADE to an applicable public official by me, a family member or representative.

Signature

Date

Title (Position)

APPENDIX D
CONFLICT OF INTEREST-DEBARMENT/SUSPENSION
CERTIFICATION FORM

CONFLICT OF INTEREST; GOVERNMENTAL CONDUCT ACT.

- A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.
- B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978. Without in anyway limiting the generality of the foregoing, the Contractor specifically represents and warrants that:
1. In accordance with Section 10-16-4.3 NMSA 1978, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any County employee while such employee was or is employed by the County and participating directly or indirectly in the City's contracting process.
 2. This Agreement complies with Section 10-16-7(8) NMSA 1978 because
 - i. the Contractor is not a public officer or employee of the City;
 - ii. the Contractor is not a member of the family of a public officer or employee of the City;
 - iii. the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or
 - iv. if the Contractor is a public officer or employee of the City, a member of the family of a public officer or employee of the City, or a business in which a public officer or employee of the City or the family of a public officer or employee of the City has a substantial interest, public notice was given as required by Section 10-16-7(B) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;
 3. In accordance with Section 10-16-8(C) NMSA 1978,
 - i. the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the City within the preceding year and whose official act directly resulted in this Agreement and
 - ii. the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the City whose official act, while in City employment, directly resulted in the City's making this Agreement;

4. In accordance with Section 10-16-13 NMSA 1978, the Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement or any procurement related to this Agreement; and
 5. in accordance with Section 10-16-3 and Section 10-16-13.3 NMSA 1978, the Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of the County.
- C. Contractor's representations and warranties in Paragraphs A and B of this Article 13 are material representations of fact upon which the City relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 13 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 13 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Agreement to the contrary, the City may immediately terminate the Agreement.
- D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 13(B).

DEBARMENT/SUSPENSION STATUS

The Vendor certifies that it is not suspended, debarred or ineligible from entering into contracts with the Executive Branch of the Federal Government, or in receipt of a notice or proposed debarment from any Agency. The vendor agrees to provide immediate notice to the City's Chief Procurement Officer in the event of being suspended, debarred or declared ineligible by any department or federal agency, or upon receipt of a notice of proposed debarment that is received after the submission of the quote or Bid but prior to the award of the /Purchase Order/Agreement or contract.

CERTIFICATION

The undersigned hereby certifies that he/she has read the above CONFLICT OF INTEREST and DEBARMENT/SUSPENSION Status requirements and that he/she understands and will comply with these requirements. The undersigned further certifies that they have the authority to certify compliance for the vendor named and that the information contained in this document is true and accurate to the best of their knowledge.

ORGANIZATION: _____

NAME OF AUTHORIZED SIGNER: _____

TITLE: _____ PHONE NO.: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

AUTHORIZED SIGNATURE

DATE

**APPENDIX E
BID & PRICING FORMS
KEN JAMES SENIOR CENTER HVAC UNITS
ITB #21-22-010**

City of Truth or Consequences is currently requesting sealed bids for the establishment of a Pricing Agreement for removal of all old HVAC equipment including line sets, ductwork, controls RTUs, split systems and furnaces and the installation of new cooling HVAC equipment and furnaces at the Ken James Senior Center in Truth or Consequences, Sierra County, NM

From:

Name of Company Submitting Bid

City, State & Zip

Phone Number

Email Address:

Responding to Invitation for Bid No. ITB #21-22-010 due no later than indicated in Section II.A, Sequence of Events. The undersigned Bidder agrees to furnish, deliver and install the following product(s) or service(s) per the specifications upon receipt of a valid Purchase Order. We have stated hereon the prices at which we will furnish and deliver the specified product or services and will accept as full payment therefore the amount shown below.

BID AS FOLLOWS:

****NOTE**, Bid Amounts - Bidders are required to identify and include, within bid amount, any and all costs associated with the purchase, delivery and installation (i.e., labor, materials, equipment, supplies, inspections, minimum warranty, freight, delivery, registration, licensing, testing, set up, etc.), less applicable New Mexico Gross Receipts Tax.

This bid will be awarded based upon the total bid amount as written in words. Where there are discrepancies between unit price and extended total, **UNIT PRICE WILL GOVERN.** Where there is a discrepancy between words and figures, **WORDS WILL GOVERN.**

Payment terms (OPTIONAL): Bidder offers a _____% discount for payments made within _____ days of acceptance of the goods or services shown on a correct and valid invoice. Terms of less than twenty (20) days will not be considered.

Signature below verifies that Bidder has read, understands, and agrees to the terms and conditions of this solicitation, attachments, and addenda.

NAME OF AUTHORIZED SIGNER: _____

TITLE: _____ PHONE NO.: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

AUTHORIZED SIGNATURE

DATE

**APPENDIX F
DRAFT CONTRACT
KEN JAMES SENIOR CENTER HVAC UNITS
ITB #21-22-010**

The Agreement included in this Appendix F represents the contract the Agency intends to use to make an award. The City of Truth or Consequences reserves the right to modify the Agreement prior to, or during, the award process, as necessary.

THIS CONTRACT, made and entered into this _____ day of _____, 2022, by and between City of Truth or Consequences, in New Mexico, a political subdivision in the State of New Mexico, (hereinafter referred to as the "City"), and _____, (hereinafter referred to as the "Contractor").

WITNESSED:

WHEREAS, the City issued a Request for Bids for a Contract for **Ken James Senior Center HVAC Units, ITB No. 21-22-010**; and

WHEREAS, the Contractor submitted its bid in response to **ITB No. 21-22-010, issued _____**; and

WHEREAS, the City desires to engage the Contractor to render certain goods and services in connection therewith, and the Contractor is willing to provide such goods and services.

NOW, THEREFORE, in consideration of the premises and mutual obligations herein, the parties hereto do mutually agree as follows:

1. Scope of Work

The Contractor shall be required to remove all old HVAC equipment including line sets, ductwork, controls RTUs, split systems and furnaces and install new cooling HVAC equipment and furnaces at the Ken James Senior Center in Truth or Consequences, Sierra County, NM in accordance with following specifications and minimum requirements for the required work.

- a) Removal of all old HVAC equipment including line sets, ductwork, controls RTUs, split systems and furnaces.
- b) Installation of new 14 Seer cooling HVAC equipment and 85.5% modulating gas furnaces, controls (new Thermostats), line set, drain, ductwork, and electrical as well as increasing return and filter sizes to meet specs and reduce sound. Includes Reme Halo in main hall for air purification.
- c) This includes the addition of a unit to serve the Kitchen, per code this will have an economizer and be linked to the kitchen hood with a power damper in case of fire.
- d) Remove all existing systems (includes 3 RTU units, 5 furnaces, 4 condensers, 1 swamp cooler, line sets, ductwork, old stands).
- e) Set new RTU's (4), furnaces (5), condensers (4) on stands where needed.
- f) Remove duct that is sized wrong and install new duct to meet equipment specs cut holes as needed in the roof and seal penetrations.
- g) Set RTU's on curbs to account for duct changes.
- h) Run new line sets/ charge systems.

- i) Furnish/Install new equipment, electrical, controls, and gas.
- j) Provide full 5-year parts and labor warranty.
- k) Drywall or finish material repair.
- l) Shipping/freight costs.

Construction Schedule:

Consult with the City of Truth or Consequences and the SJOA to develop a schedule to ensure an optimal timetable is achieved and is in successful cooperation with other site and trade work while allowing the center to remain operational.

2. Term

This Agreement shall become effective upon the date of final execution of the Agreement and shall be for one (1) year period unless terminated by either party pursuant to the termination provisions contained in this Agreement.

3. Use of Agreement

With the consent of the contractor, other Central Purchasing Offices (NMSA 1978, §13-1-27) may purchase under this Agreement, provided that the service is under the same terms and conditions as stated herein, unless a lower price is agreed to between the City and the Contractor.

4. Termination for Cause

If, through any cause, the Contractor fails to fulfill the Contractor's obligations under this Agreement in a timely and proper manner, or if the Contractor violates any of the covenants, agreements or stipulations of any part of this Agreement, the City shall have the right to cancel the Agreement. The City reserves the right to recover any excess cost incurred by the City to have this Agreement performed by a third party, collection against a performance or labor and materials payment bond, a combination of these remedies, or any other remedy available to the City pursuant to the terms of this Agreement and law. Cancellation shall be done by giving written Notice of Cancellation to the Contractor. The Notice of Cancellation shall include the effective date of cancellation.

5. Termination for Lack of Appropriations

The terms of this Agreement are contingent upon the City Commission making the appropriations and authorizations necessary for the performance of the Agreement. If sufficient appropriations and authorizations are not made by the City Commission, any agreement resulting from this Request for Bid may be terminated at the end of the City's then current fiscal year upon written notice given by the City to the Contractor. Such event shall not constitute an event of default. All payment obligations of the City and all of its interest in this Agreement shall cease upon the date of termination. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

6. Termination for Convenience of City

The City may terminate this Agreement at any time by giving at least thirty (30) calendar day notice in writing to the Contractor. If the Contract is terminated by the City as provided herein, the Contractor will be paid for materials and services rendered until the point of termination.

7. Termination by Contractor

The Contractor may terminate this Agreement by giving written notice to the City at the address listed herein at least sixty (60) calendar days prior to the expiration of the term of this Agreement. The expiration, for termination purposes, shall be defined as 365 days from the date of execution of this Agreement.

8. Compensation and Method of Payment

A. For performing the scope specified in Scope of Work hereof the City agrees to pay the Contractor for work satisfactorily completed in the amount listed in ATTACHMENT A of this Agreement, which amounts excludes any applicable gross receipts taxes and which amount shall constitute full and complete compensation excluding gross receipts tax for the Contractor's scope under this Agreement, including all expenditures made and expenses incurred by the Contractor in performing such scope;

B. Method of Payment: Such amount shall be processed for payment by the City to the Contractor upon completion of work in a manner satisfactory to the City, and upon receipt by the City of a properly documented invoice for payment as determined by the budgetary and fiscal guidelines of the City and on the condition that the Contractor has accomplished the scope as outlined herein, to the satisfaction of the City. Invoices shall be submitted on a monthly basis to City of Truth or Consequences Accounts Payable Department, 505 Sims Street, Truth or Consequences, NM 87901. Payment to the Contractor will be made within thirty (30) days from receipt of the invoice. Except as otherwise agreed to, late payment charges may be assessed against the user department in the amount and under the conditions set forth in NMSA 1978, §13-1-158.

9. Independent Contractor

Neither the Contractor nor its employees are considered to be employees of the City for any purpose whatsoever. The Contractor is considered to be an Independent Contractor at all times in the performance described herein. The Contractor further agrees that neither it nor its employees are entitled to any benefits from the City under the provisions of the Worker's Compensation Act of the State of New Mexico, or to any of the benefits granted to employees. The Contractor shall not accrue leave, retirement, workers' compensation benefits, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City, as a result of this Agreement. The City shall provide no liability coverage to the Contractor. The Contractor acknowledges that all sums received hereunder are personally reportable by him for income tax purposes as self-employment or business income, and are reportable for self-employment tax and New Mexico Gross Receipts Tax.

10. Personnel

- A. Subject to the terms and conditions of this Agreement; the Contractor represents that it has, or will secure at its own expense, all personnel required in performing the scope as described under this Agreement. Such personnel shall not be employees of or have any contractual relationships with the City.
- B. All work required hereunder will be performed by the Contractor or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under federal, state and local law to perform such work.
- C. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the City. Any service subcontracted hereunder shall be specified by written Agreement and shall be subject to each provision of this Agreement.

11. Indemnity

The Contractor hereby agrees to hold harmless, indemnify and defend the City, its officers, agents, and employees from and against any and all liability, suits, actions, claims, damages, attorney's fees, and costs arising out of or resulting from the Contractor's and/or any of their Subcontractors' employees', agents', or officers' conduct, performance, act(s), error(s) or omission(s) relating in any manner whatsoever to this Contract. Provided, however, nothing in this Agreement shall be construed to require the Contractor to defend, indemnify and hold harmless the City, its officers, agents and employees from and against any liability, suits, actions, claims, damages and attorney's fees caused by or resulting from the negligence of the City, its officers, agents and employees.

Receipt by the City of the Contractor's services under this Agreement, review by the City of any Plans, Specifications and documents by the Contractor, and City authorizations for the Contractor to proceed with the various phases of services shall not be construed as approval of the Contractor's work product by the City or as the giving of instructions or directions by the City. This indemnification provision is subject to the limitations and provisions of Sec. 56-7-1, NMSA 1978.

The indemnity required hereunder shall not be limited by reason of the specification of any particular insurance coverage in this Agreement.

12. Insurance

Until final acceptance by the City of the work covered, the Contractor shall procure and maintain at the Contractor's expense, insurance of the kinds and in the amounts herein provided. This insurance shall be provided by insurance companies authorized to do business in the State of New Mexico and shall cover all operations under the Agreement, whether performed by the Contractor, the Contractor's agents or employees, or by subcontractors. All insurance provided shall remain in full force and effect for the entire period of the work, up to and including final acceptance, and the removal of all equipment and employees, agents and subcontractors therefrom, and shall name the City as an additional insured.

If part of the Agreement with the City is sublet or subcontracted, the vendor shall require the subcontractor to secure insurance to protect itself against all hazards enumerated herein, which are not covered by the vendor's insurance policies and to include the City as an additional insured thereon.

The Contractor shall procure and maintain, during the life of this Contract a Workers Compensation, Commercial General Liability, Business Automobile Liability policies. The policies will be written with the City as additional insured as applicable, while acting within the scope of their duties against all claims arising out of, or in connection with, the work to be performed. All insurance documents must include a provision for 30 day written notification to the City if a policy has been materially changed or canceled. The City shall be an additional insured (Form B - CG2010 10/01 or equivalent) and will be written on an occurrence form, and shall provide limits as follows:

A. 1. Workers Compensation – Statutory

2. Employers Liability - \$1,000,000

Contractor shall comply with the provisions of the Workers Compensation Act of the State of New Mexico, (the "Act"). If the Contractor has determined that it is not subject to the Act, it will certify, in a signed statement, that it is not subject to the Act. The Contractor will notify the City and comply with the Act should it employ three or more persons during the term of any Agreement with the City. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, Agreement with the City may be terminated effective immediately.

B. Commercial General Liability with ISO CG 0001 07/98

- a. Bodily Injury/Property Damage: \$1,000,000 Each Occurrence
\$2,000,000 General Aggregate
- b. Products/Completed Operations: \$1,000,000 Each Occurrence
\$2,000,000 Aggregate
- c. Property Damage Liability Insurance shall not exclude (XCU)
- d. Pollution Legal Liability: \$1,000,000 Each Occurrence

C. Business Automobile Liability

- a. Combined Single Limit: \$1,000,000 Each Occurrence with ISO CA 0001 07/98
- b. Pollution Liability (MCS90) for Transportation exposure (if applicable):
\$1,000,000 Each Occurrence

Business Automobile Liability Insurance shall include coverage for the use of all owned, non-owned and hired automobiles and vehicles.

D. Independent Contractors: Included

E. Contractual Liability: Included

The Contractor shall furnish one copy each of Certificates of Insurance herein required for each copy of the Agreement for each annual period, which shall specifically set forth evidence of all coverage required. If such limits are higher than the minimum limits required by the City, such limits shall be certified and shall apply to the coverage

afforded the City under the terms and conditions of the Agreement as though required and set forth in the Agreement. The Contractor shall furnish to the City copies of any endorsements that are subsequently issued amending coverage or limits.

13. Approval of Insurance

The Contractor or subcontractor(s) shall not deliver or commence any work or any services under this Agreement until the required insurance has been obtained and the proper Certificates of Insurance (or insurance policies) have been filed with the City, adding the City as an additional insured as applicable. Neither approval nor failure to disapprove certificates, policies or insurance by the City shall relieve the Contractor or subcontractor(s) of full responsibility to maintain the required insurance in full force and effect.

14. Increased Limits

If, during the life of this Agreement, the legislature of the State of New Mexico increases the maximum limits of the liability under the Tort Claims Act, the City may require the successful Contractor to increase the maximum limits of any insurance required herein. In the event that the successful Contractor is required to increase the limits of such insurance, an appropriate adjustment in the Agreement amount will be made.

15. Reports and Information

At such times and in such forms as the City may require, there shall be furnished to the City such statements, records, reports, data and information, as the City may request pertaining to matters covered by this Agreement.

16. Audits and Inspections

At any time during normal business hours and as often as the City may deem necessary, there shall be made available to the City for examination all of the Contractor's records with respect to all matters covered by this Agreement. The Contractor shall permit the City to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

17. Record Ownership

It shall be clearly understood and agreed between the parties that the City is and shall be the owner of all documents and records of any nature on any medium pertaining to any matter undertaken by the Contractor pursuant to this Agreement.

18. Publication, Reproduction, and Use of Material

No material produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country. The City shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared under this Agreement.

19. Release

The Contractor, upon final payment of the amount due under this Agreement, releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever

arising from or under this Agreement. The Contractor agrees not to purport to bind the City to any obligation not assumed herein by the City, unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

20. Confidentiality

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the City.

21. Conflict of Interest

The Contractor warrants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work required under this Agreement.

22. Scope of Agreement

This Agreement incorporates all the Agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understandings, verbal or otherwise, of the parties, or their agents shall be valid or enforceable unless embodied in this Agreement.

23. Notice

Any notices required to be given hereunder shall be sent to the principals at the following addresses. If either party shall change addresses or principals, then such party shall promptly notify the other party in writing. If no notification is made, then notice shall be deemed effective if sent to the principals at the addresses specified herein.

The official address of the City is:

Chief Procurement Officer
City of Truth or Consequences
505 Sims Street
Truth or Consequences, NM 87901

The official name and address of the Contractor is:

24. Compliance with Applicable Law

Contractor shall comply with State of New Mexico, federal, municipal and city, and county laws, rules and ordinances.

25. Waiver

No waiver of any breach of any of the terms or conditions of this Agreement shall be held to be a waiver of any other or subsequent breach; nor shall any waiver be valid or binding unless the same shall be in writing and signed by the party alleged to have granted the waiver.

26. Equal Opportunity Compliance

The Contractor agrees to abide by all Federal and State laws and regulations pertaining to equal employment opportunity. If Contractor is found to be not in compliance with these requirements

during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

27. Changes

The City may, from time to time, request changes in the Scope of Work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the City and the Contractor, shall be incorporated in written amendments to this Agreement. This Agreement shall not otherwise be altered, changed or amended except by an instrument in writing executed by the parties hereto.

28. Assignment

The Contractor shall not assign any interest in this Agreement and shall not transfer any interest in this Agreement without the prior written consent of the City thereto.

29. Construction and Severability

If any part of this Agreement is held to be invalid or unenforceable, such holding will not affect the validity or enforceability of any other part of this Agreement so long as the remainder of the Agreement is reasonably capable of completion.

30. Enforcement

The Contractor agrees to pay to the City all costs and expenses including reasonable attorney's fees incurred by the City in exercising any of its rights or remedies in connection with the enforcement of this Agreement.

31. Penalties

The New Mexico Procurement Code, (NMSA 1978, §13-1-28 through 13-1-199), imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

32. Entire Agreement

This Agreement contains the entire Agreement of the parties and supersedes any and all other Agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.

33. Ownership of Document

The City is the sole owner of all documents, reports, and data, compiled or arising out of the Contract and/or Project regardless of the medium used.

IN WITNESS WHEREOF, the City of Truth or Consequences and the Contractor have executed this Contract as of _____:

By: _____
City of Truth or Consequences

Date: _____

By: _____
City's Legal Counsel –Certifying legal sufficiency

Date: _____

By: _____
Contractor

Date: _____

**ATTACHMENT A
BID & PRICING FORMS
KEN JAMES SENIOR CENTER HVAC UNITS
ITB #21-22-010**

City of Truth or Consequences is currently requesting sealed bids for the establishment of a pricing agreement for removal of all old HVAC equipment including line sets, ductwork, controls RTUs, split systems and furnaces and the installation of new cooling HVAC equipment and furnaces at the Ken James Senior Center in Truth or Consequences, Sierra County, NM

From:

Name of Company Submitting Bid

City, State & Zip

Phone Number

Email Address:

Responding to Invitation for Bid No. **ITB #21-22-010** due no later than indicated in Section II.A, Sequence of Events. The undersigned Bidder agrees to furnish, deliver and install the following product(s) or service(s) per the specifications upon receipt of a valid Purchase Order. We have stated hereon the prices at which we will furnish and deliver the specified product or services and will accept as full payment therefore the amount shown below.

BID AS FOLLOWS:

****NOTE**, Bid Amounts - Bidders are required to identify and include, within bid amount, any and all costs associated with the purchase, delivery and installation (i.e., labor, materials, equipment, supplies, inspections, minimum warranty, freight, delivery, registration, licensing, testing, set up, etc.), *less applicable New Mexico Gross Receipts Tax*.

This bid will be awarded based upon the total bid amount as written in words. Where there are discrepancies between unit price and extended total, **UNIT PRICE WILL GOVERN**. Where there is a discrepancy between words and figures, **WORDS WILL GOVERN**.

Payment terms (OPTIONAL): Bidder offers a _____% discount for payments made within _____ days of acceptance of the goods or services shown on a correct and valid invoice. Terms of less than twenty (20) days will not be considered.

Signature below verifies that Bidder has read, understands, and agrees to the terms and conditions of this solicitation, attachments, and addenda.

NAME OF AUTHORIZED SIGNER: _____

TITLE: _____ PHONE NO.: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

AUTHORIZED SIGNATURE

DATE

**PRICING FOR KEN JAMES SENIOR CENTER HVAC UNITS
ITB #21-22-010**

Total Bid Price (excluding Gross Receipts Tax) \$ _____

In the interest of fairness and sound business practices, it is mandatory that Bidder state any exceptions to the specifications and/or scope of work. It is not the responsibility of the City to seek out information concerning the goods to be furnished. In the event your materials do not meet or exceed all of the stated specifications, you must so state on the space provided below and submit the explanation with your bid. Submission of stated specifications does not mean acceptance by the City. Specifications that vary from the required specifications will be evaluated on an individual basis and a determination will be made that is in the best interest of the City.

I _____ do meet specifications (check line as appropriate)

I _____ do not meet specifications (check line as appropriate) for the following reasons:

Please list which product does not meet the specifications, why the product(s) or services do not meet the specifications, and any alternative you may be suggesting (Please attached addition sheet if needed):

The representations herein are made under penalty of perjury. We hereby offer to sell the Agency the above product(s) or services at the prices shown and under the terms and conditions herein, attached, or incorporated by referenced.

Company/Bidder Name

Signature of Authorized Representative

Address

Name of Authorized Representative

City, State, Zip Code

Title of Authorized Representative

Telephone Number

Date



City of Truth or Consequences

505 Sims Street

Truth or Consequences, New Mexico 87901

City (575) 740-7323 Fax (575) 894-0363

NOTICE OF AWARD

June 13, 2022

Wiley Levang
Energy 1, LLC
4300 N Valley Dr
Las Cruces, NM 88007

Re: Notice of Award of ITB#21-22-010 Ken James Senior Center HVAC Units

Dear Mr. Levang,

The City of Truth or Consequences is pleased to offer to you the award for ITB#21-22-010 Ken James Senior Center HVAC Units, pending approval of the City of Truth or Consequences City Commission.

If you agree to accept this award, please sign the attached acceptance of award and return it to me no later than Wednesday, June 15, 2022 by 2:00 pm. You can return the acceptance letter to me via email at procurement@torcnm.org or in person at 505 Sims Street, T or C.

In addition, if you agree with the attached contract as presented in the invitation to bid, please sign the contract and return it to me along with the award acceptance letter.

We will send you an executed copy for your records after the Commission approves the award and the contract on June 22, 2022. Please note that the award and contract are not official until the City of Truth or Consequences Commission have approved both. Please do not provide any services or products until you have received a signed purchase order.

We look forward to the execution of this contract and to working with your firm. Should you have any questions, please do not hesitate to contact me at 575-740-7323.

Sincerely,

Carol Kirkpatrick
Finance Director/Procurement Manager

**Attachments: Acceptance of Award Letter
Contract**



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: June 22, 2022

Agenda Item #: I.5

SUBJECT: Manana Contract Extension #1
DEPARTMENT: City Manager's Office
DATE SUBMITTED: June 14, 2022
SUBMITTED BY: Tammy Gardner
WHO WILL PRESENT THE ITEM: Bruce Swingle, City Manager

Summary/Background:

The City has a contract agreement with Manana for services at Veteran's Memorial Wall with the option to extend up to 3 time for a total of 4 years. This is the 1st of 3 extensions.

Recommendation:

Approval of Contract.

Attachments:

- Contract Extension Letter
- Contract Agreement

Fiscal Impact (Finance): Yes

\$10,800.00

Legal Review (City Attorney): No

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. [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 6-22-22

City of Truth or Consequences

COPY

CONTRACT FOR SERVICES

AGREEMENT

This Agreement for services is by and between the **City of Truth or Consequences** (hereinafter called "**City**"), and Paul Bustamante, d/b/a Manana, (hereinafter called "**Contractor**").

WHEREAS the City wishes to engage the Contractor to provide park maintenance services described in Exhibit "A".

NOW THEREFORE the parties do mutually agree as follows:

1. SCOPE OF WORK

The City agrees to engage the Contractor and the Contractor hereby agrees to perform the Scope of Work detailed in Exhibit A to this Agreement.

2. TIME OF PERFORMANCE

The services of the Contractor shall commence on July 1, 2021 and complete on June 30, 2022. Such services shall be continued in such sequence as to assure their relevance to the purposes of this agreement. This agreement may be extended on an annual basis for a period not to exceed four years, including all extensions or amendments.

3. ACCESS TO INFORMATION

It is agreed that all information, data, reports, records, maps, etc. as are existing, available and necessary for the carrying out of the work outlined in this Agreement, shall be furnished to the Contractor by the City and its agencies. No charge will be made to the Contractor for such information, and the City and its agencies will cooperate with the Contractor in every way possible to facilitate the performance of the work described in this Agreement.

4. COMPENSATION AND METHOD OF PAYMENT

The amount of compensation and reimbursement to be paid hereunder shall not exceed **Nine Hundred and No/100 Dollars** (\$900.00) per month. Applicable gross receipts and local option taxes are included. All work will be performed on a time and material basis.

For all payments due, the Contractor shall submit an invoice to the City monthly for payment of the full amount of the costs incurred in that period. The invoice shall itemize the tasks completed, person-days provided. The invoice shall be payable to the Contractor within 30 days of receipt of the invoice.

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.

5. OWNERSHIP OF DOCUMENTS

All documents prepared as a part of this Agreement, including original notes and data are the property of the City. The Contractor may retain reproducible copies of drawings and other documents.

6. 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.

7. TERMS AND CONDITIONS

Termination of Contract - Either party may terminate this Agreement at any time by giving at least thirty (30) days notice in writing to the other party. If the Agreement is terminated by the City, the Contractor will be paid for the time provided and expenses incurred up to the termination date.

I. Notwithstanding the above, the Contractor shall not be relieved of liability to the City damages sustained by the City by virtue of any breach of the Agreement by the Contractor, and the City may withhold any payments to the Contractor for the purpose of set-off until such time as the exact amount of damages due the City from the Contractor is determined.

II. **Changes** - The City may, from time to time, request changes in the scope of the services of the Contractor to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor compensation, which are mutually agreed upon by and between the City and the Contractor, shall be incorporated in written amendments to this Agreement.

III. **Personnel** -

a. The Contractor represents that he has, or will secure at his own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any Agreemental relationship with the City.

b. All of the services required hereunder will be performed by the Contractor or under his 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. Any work or services subcontracted hereunder shall be specified by a written Subcontract and shall be subject to each provision of this Agreement.
- IV. **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 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.
- V. **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.
- VI. **Records and Audits** - The Contractor shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Agreement and such other records as may be deemed necessary by the City and to assure proper accounting for all project funds, both federal and non-federal shares. These records will be made available for audit purposes to the City or any authorized representative, and will be retained for three (3) years after the expiration of this Agreement unless permission to destroy them is granted by the City and the funding agency.
- VII. **Findings Confidential** - All of the reports, information, data, etc., prepared or assembled by the Contractor under this Agreement are confidential and the Contractor agrees that they shall **not** be made available to any individual or organization without the prior written approval of the City.
- VIII. **Copyright** - No report, maps, 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.
- IX. **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.
- X. **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 non-discrimination 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 Sub Agreements for any work covered by this Agreement so that such provisions will be binding upon each Sub Agreementor, provided that the foregoing provisions shall not apply to Agreements or Sub Agreements 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 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 non-compliance 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 sub Agreement 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 sub Agreementor or vendor. The Contractor will take such action with respect to any sub Agreement or purchase order as the City's representative may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a sub Agreementor 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.

- XI. **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.
- XII. **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.
- XIII. **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.
- XIV. **Interest of Contractor and Employees** - The Contractor covenants that he presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed.
- XV. **Access to Records** - 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. 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 close-out of the contract.

8. BRIBES, GRATUITIES AND KICKBACKS

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.

9. ADDRESS OF NOTICES AND COMMUNICATIONS

City:

Bruce Swingle, City Manager
505 Sims Street
Truth or Consequences, NM 87901
575-894-6673 x 320

Contractor:

Mañana
Paul Bustamante
111 S Magnolia
Truth or Consequences, NM 87901
(575) 740-0591

10. CAPTIONS

Each paragraph of this Agreement has been supplied with a caption to serve only as a guide to the contents. The caption does not control the meaning of the paragraph or in any way determines its interpretation or application.

11. APPROVALS

City:

Bruce Swingle 06/09/21
Bruce Swingle, City Manager

Contractor:

Paul Bustamante
Paul Bustamante, Mañana

Reviewed for Legal Sufficiency:

Jaime F. Rubin
Jaime F. Rubin, City Attorney

Owner
Title

SCOPE OF WORK

The duties of the Contractor shall include the following and include any other work required to complete said tasks:

- Report to Park Administrator to Coordinate Activities
- Pick-up of Trash and Debris
- Sweeping / Blowing of Sidewalks as Needed
- Weeding / Spraying Weed Killer as Needed
- Pruning Bushes and Trees as Needed
- Ensure Irrigation System is Working and Properly Watering Trees and Shrubs
- Fertilize Park Areas as Needed
- Report any Damage of Park Equipment, Monuments, etc. to Park Administrator
- Contractor to Provide All Labor Necessary to Perform the Above Tasks



City of Truth or Consequences

AGENDA REQUEST FORM

MEETING DATE: June 22, 2022

Agenda Item #: I.6

SUBJECT: Extension on Contract with Tech 45 Enterprises
DEPARTMENT: Finance
DATE SUBMITTED: June 14, 2022
SUBMITTED BY: Carol Kirkpatrick, Finance Director
WHO WILL PRESENT THE ITEM: Carol Kirkpatrick, Finance Director

Summary/Background:

A contract was entered into with Tech 45 Enterprises for Airport Management Services on 7/1/21 through 9/30/21 \$(10,500). An additional extension was then entered into for 10/1/2021 through 12/31/21 (\$10,500). The City posted a Request for Proposals for those services; however, canceled the RFP until further information can be gathered. Therefore, the City needs to extend services through 1/31/2022 (3,500). 1/4/2022 The City wishes to extend the contract from 2/1/2022 through 6/30/2022 for \$17,500. The City wishes to extend the services from 7/1/22 through 12/31/22 until a Request for Proposal and new contract can be completed.

Recommendation:

Staff recommends approval in order to continue services at the Airport.

Attachments:

- Contract extension with Tech 45 Enterprises 7/1/2022 through 12/31/22
- Original contract with Tech 45 Enterprises 3/1/2021 through 6/30/2021

Fiscal Impact (Finance): Choose an item.

\$21,000 plus estimated gross receipts tax 1,837.50 for a total of \$22,837.50

Legal Review (City Attorney): Choose an item.

Legal Counsel has reviewed contract and extensions.

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 6-22-22

AIRPORT MANAGEMENT CONTRACT

This Agreement for services is by and between the **City of Truth or Consequences** (hereinafter called "**City**"), and **TECH 45 SERVICES, LLC** (hereinafter called "**Contractor**").

WHEREAS the City wishes to engage the Contractor to provide management services for operation of the Truth or Consequences Municipal Airport.

NOW THEREFORE the parties do mutually agree as follows:

Scope of Services: The City agrees to engage the Contractor and the Contractor hereby agrees to perform all duties and requirements as detailed in **Exhibit 1**.

Time of Performance: The contract shall be for a four (4) month period commencing on March 1, 2021 and ending on June 30, 2021 and terminated by either party with 30 day written notice.

Compensation and Method of Payment: For performing the services specified in the Scope of Services, the City agrees to pay the Contractor:

A. \$3,500.00 plus NMGRY per month to be paid on or before the 15th day of each month. Contractor will be required to submit monthly certifications that he fulfilled all of the necessary services described in Exhibit 1 with a monthly invoice for services rendered.

B. Sole use of the "Pippen" hangar at no charge to the Contractor during the four (4) month period. Thereafter, Contractor may rent the hangar for \$2,000.00 per year subject to the parties' right to re-negotiate these terms at any time after January 2022.

Independent Contractor: Neither the Contractor or its employees are considered to be employees of the City of Truth or Consequences for any purpose whatsoever. The Contractor is considered an independent contractor at all times in the performance of the services described in the Scope of Services. The Contractor further understands that he is not entitled to any benefits from the City under the provisions of the Worker's Compensation Act of the State of New Mexico, or to any of the benefits granted to employees of the City as described in its Employee Personnel Manual.

Taxes: Contractor acknowledges that he is responsible for the payment of all income taxes, gross receipt taxes and other deductions by law for any compensation received by the City.

Discrimination Prohibited: In performing the services required hereunder, the Contractor shall not discriminate against any person on the basis of race, color, religion, sex, national origin or ancestry, age, physical handicap or disability.

ADA Requirement: In performing the Services required hereunder, the Contractor agrees to meet all the requirements of the regulations, (the "ADA"), which are imposed directly on the Contractor or which would be imposed on the City as a public entity. The Contractor agrees to be responsible for knowing all applicable rules and requirements of the ADA and to defend, indemnify

and hold harmless the City, its officials, agents, and employees from and against any claims, actions, suits or proceedings of any kind brought against the Contractor as a result of any act or omissions of the Contractor or its agents in violation.

Reports and Information: At such times and in such forms as the City may require, there shall be furnished to the City such statements, records, reports, data and information, as the City may request pertaining to matters covered in this Agreement. (additional requirements may be added)

Establishment and Maintenance of Records: Records shall be maintained by the Contractor in accordance with applicable law and requirements prescribed by the City with respect to all matters covered by this Agreement. Except as otherwise authorized by City, such records shall be maintained for a period of three years after receipt of final payment under this Agreement. Copies and originals of pertinent documents shall be provided to the City as directed by the City Manager.

Publication, Reproduction and Use of Materials: No material(s) produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country. The City shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared under this Agreement. The City and the Contractor acknowledge that the above is not meant to affect the attorney/client privilege unless waived by the City Commission.

Construction and Severability: If any part of this Agreement is held to be invalid or unenforceable, such holding will not affect the validity or enforcement of any part of this Agreement, so long as the remainder of the Agreement is reasonably capable of completion.

Enforcement: In case of a dispute, the Contractor and the City agree to divide all costs and expenses including reasonable attorney's fees incurred by the prevailing party in exercising any of its rights or remedies in connection with the enforcement of this Agreement.

Worker's Compensation: The Contractor agrees to comply with state laws and rules applicable to worker's compensation benefits for its employees. If the Contractor fails to comply with the Worker's Compensation Act and applicable rules when required to do so, this agreement may be terminated by the City.

Other Insurance: Contractor shall maintain the types and amounts of insurance required by the New Mexico State Tort Claims Act for the term of this Agreement.

Safety: Contractor shall abide by the policies, rules and guidelines required by the City of Truth or Consequences employees when on City property for the purposes of this Agreement.

Confidentiality: Contractor shall be bound by the confidentiality requirements of §7-1-8 NMSA, 1978. Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without prior written approval by the City Manager of the Governing Body of the City of Truth or Consequences.

Conflict of Interest: The Contractor warrants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required by this Agreement. The Contractor shall comply with any applicable provisions of the New Mexico Governmental Conduct Act and the New Mexico Financial Disclosures Act. Contractor also agrees that they shall not represent any person, company or otherwise that would create a conflict of interest for the term of this Agreement.

Assignment: Contractor's obligation under this Agreement may not be assigned or transferred to any other person, firm or corporation without the written consent of the City.

Amendment: This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.

Entire Agreement: This Agreement shall be governed and construed and enforced in accordance with the laws of the State of New Mexico and the ordinances of the City of Truth or Consequences.

CITY OF TRUTH OR CONSEQUENCES

505 Sims Street
Truth or Consequences, NM 87901


CITY MANAGER

CONTRACTOR

TECH 45 SERVICES, LLC


CHAD ROSACKER

EXHIBIT 1

SCOPE OF SERVICES:

- Supervises, selects, trains, directs, and evaluates department personnel; monitors all activities and operations of the department; sets goals and objectives and establishes guidelines for performance; makes recommendations for hiring and termination; prepares assignments for Airport Attendants.
- Directs and participates in the recruitment, selection, training, supervision, and development of all Airport staff, either directly or through subordinates.
- Plans, manages, and monitors the proper allocation and utilization of staff according to projected needs and directives.
- Supervises acquisition, planning, design, construction, and maintenance of airport facilities; coordinates, and shares resources with other City Departments on maintenance and special repair projects.
- Evaluates & inspects the cleanliness and effectiveness of the airport areas, facilities, and services.
- Studies local conditions, communicates with user groups, and develops immediate and long range plans to meet airport needs of all age groups.
- Responsible for following City procurement procedures when obtaining price quotes(s) as needed for requisitions, to place orders and maintain supplies and equipment, for efficient airport operations.
- Prepares and manages annual budget for the airport program functions; approves purchase of supplies and operating inventory for recreation programs; develops alternative funding sources for programs and improvements.
- Attends regular Airport Advisory Board meetings and reports recommendations and direction to the City Manager.
- Advises the City Manager of the direction of long-term strategic planning for the City Airport.
- Oversees marketing of the airport programs, including posting on the City of Truth or Consequences website.
- Researches grant opportunities and assists with grant applications for the betterment of the airport and related community facilities.
- Coordinates facilities and programs with department staff and other agencies and organizations.
- Performs public relation duties; responds to complaints; prepares news releases and information and marketing bulletins, or other publicity on airport activities; identifies and works diligently to meet the airport needs.
- Perform Economic Development to recruit business and hangar rental Property Management to ensure City/tenant relationships are maintained for the good of the City.
- Interact directly with pilots, tenants, emergency crews, and the public.
- Represents City as necessary for Airport operations.
- Performs Attendant duties as necessary.
- Fueling and minor servicing of various types of aircraft.

- Airport and aircraft services, such as: radio communications with aircraft, providing local surface weather and area traffic advisories, parking aircraft using hand signals, and logging aircraft landings.

- Sales of incidental items.

- Cash handling operations, to include credit card sales, and daily reconciliation and reporting.

- Maintain fuel logs, measure fuel tanks, test fuel for contaminants, and order fuel as needed.

- Read and communicate monthly well readings.

- Responsible for performing and ensuring all equipment, tools and machinery are in clean and safe operating condition, including having a scheduled maintenance program.

- Maintain assigned vehicle(s) by inspecting, servicing, cleaning, and general housekeeping.

- Performs minor facility and grounds maintenance.

- May be required to perform other duties outside the scope of this agreement.

- On site management will be expected on Fridays, Saturdays, and/or Sundays, a minimum of three (3) weekends per month.

- Weekly hours put into the airport are minimum twenty (20) in addition to being on call on weeknights and available at all times while tending to Tech 45 Enterprises business at the airport

- On call Monday through Thursday 4:30 p.m. through 3:00 a.m.

- Work will be a combination of on-site and remote.

**EXTENSION OF
AIRPORT MANAGEMENT CONTRACT**

This Extension of Airport Management Contract is entered into by and between the **CITY OF TRUTH OR CONSEQUENCES**, a Municipal Corporation (hereinafter called "City") and **TECH 45 ENTERPRISES** (hereinafter called "Contractor").

RECITALS

A. The parties entered into an Airport Management Contract which sets forth a Time of Performance for a three (3) month period commencing on July 1, 2021 and ending on September 30, 2021.

B. The parties entered into an extended contract for an additional three (3) month period from October 1, 2021 through December 31, 2021.

C. The parties entered into an extended contract for one additional month from January 1, 2022 through January 31, 2022.

D. The parties entered into an extended contract for five (5) additional months from February 1, 2022 to June 30, 2022.

The parties desire to extend the Airport Management Contract for six (6) additional months beyond the June 30, 2022 expiration date.

NOW THEREFORE, the do mutually agree as follows:

1. The Airport Management Contract shall be extended for six (6) months commencing on July 1, 2022 and ending on December 31, 2022.

2. The same terms and conditions as set forth in the Airport Management Contract shall remain in full force and effect during the extended term.

3. Compensation: Twenty one thousand dollars (\$21,000) plus NMGRT.

Termination: As stated in the original contact, the agreement can be terminated by either party with 30 day's written notice.

CITY OF TRUTH OR CONSEQUENCES

505 Sims Street
Truth or Consequences, NM 87901

CITY MANAGER

DATE

CONTRACTOR

TECH 45 ENTERPRISES

CHAD ROSACKER

DATE



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: June 22, 2022

Agenda Item #: I.7

SUBJECT: Approval of Contract Amendment #6 Extension with Integrated Technologies Group
DEPARTMENT: Finance Department
DATE SUBMITTED: June 14, 2022
SUBMITTED BY: Carol Kirkpatrick, Finance Director
WHO WILL PRESENT THE ITEM: Carol Kirkpatrick, Finance Director

Summary/Background: The original extended contracts with Integrated Technologies Group were from 7/1/2021 through 9/30/2021 and 10/1/21 through 12/31/2021. That contract was extended from 1/1/2022 through 6/30/2022. A Request for Proposals for Integrated Technology Support Services was issued on 4-1-22. The City is in the process of evaluating those proposals. The extension of the current contract will allow for a smooth transition to a new vendor as well as continue services until the new vendor takes over.

Recommendation:

Approval of Contract with Integrated Technologies Group 7/1/22 through 9/30/22

Attachments:

- Extension of Contract with Integrated Technologies 7/1/22 through 9/30/22
- Original Contract with Integrated Technologies 8/28/18 through 8/28/19
-

Fiscal Impact (Finance): Yes

\$13,749.99 plus estimated gross receipts tax \$1,203.12 for a total of \$14,953.11

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 6-22-22

CITY OF TURTH OR CONSEQUENCES
CONTRACT FOR SERVICES
Amendment #6

This amendment is to extend the services as stated in the Contract for Services dated August 28, 2018 between the City of Truth or Consequences, (hereinafter referred to as the "City") and **Integrated Technologies Group, LLC** (hereinafter referred to as the "Contractor")

By virtue of the extension of Amendment #2, the parties agreed to extend the August 28, 2018 contract through September 30, 2021.

The parties had further agreed to extend the contract to begin October 1, 2021 and end December 31, 2021 for a total period of three (3) months.

The parties further agree to extend the contract to begin January 1, 2022 and end on June 30, 2022 for a total period of six (6) months.

The parties further agree to extend the contract to begin July 1, 2022 and end on September 30, 2022 for a total period of three (3) months.

The City hereby notifies the Contractor that this agreement will terminate on September 30, 2022 without further written notice. The City reserves the right to end the contract and this Amendment #6 with 30 days written notice.

The contractor agrees to be on site in Truth or Consequences a minimum of once a week. The scheduled day will be on Thursdays from 9:00 am until 4:00 pm unless other notice is given. The Contractor may notify the City Manager's Administrative Assistant or the Finance Officer if the schedule needs to be changed.

The City shall pay to the Contractor thirteen thousand, seven hundred forty nine dollars and ninety nine cents (**\$13,749.99**) plus Gross Receipts Tax, for services satisfactorily performed, to be invoiced in equal monthly amounts of four thousand, five hundred eighty three dollars and thirty three cents (**\$4,583.33**), plus gross receipts tax after performance of the services. Services outside the scope of work will be billed an additional Eighty-Five dollars (**\$85.00**) per hour plus Gross Receipts Tax (GRT) on a separate purchase order.

Both Parties agree to adhere to all other terms and conditions as set forth in the August 28, 2018 Contract (attached).

City:

Contractor:

Bruce Swingle, City Manager

Date

Date

City of Truth or Consequences

CONTRACT FOR SERVICES

This Agreement for services is made and entered into by and between the **City of Truth or Consequences** (hereinafter referred to as the "City") and **Integrated Technologies Group, LLC**,

WHEREAS the City wishes to engage the Contractor to provide information technology services.

NOW THEREFORE the parties do mutually agree as follows:

1. SCOPE OF WORK

The Contractor hereby agrees to perform the Scope of Work detailed in Exhibit A (attached) and incorporated herein by reference.

2. COMPENSATION

A. The City shall pay to the Contractor Fifty-five thousand dollars (\$55,000) annually for services satisfactorily performed, to be invoiced in equal monthly amounts of Four thousand, Five hundred Eighty-Three dollars and Thirty-three cents (\$4,583.33), after performance of the services. Services outside the scope of work will be billed an additional Eighty-Five dollars (\$85.00) per hour plus GRT.

B. Invoices should be submitted monthly, and payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work. The final invoice of the Fiscal Year **MUST BE** received by the City no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date **WILL NOT BE PAID**.

C. Contractor must submit a detailed statement accounting for all services performed, specified on a minimum of a quarter hour ($\frac{1}{4}$) basis, and expenses incurred. If the City finds that the services are not acceptable, within thirty (30) days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the City that the services have been received and accepted, payment shall be tendered to the Contractor within thirty (30) days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the City shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

D. The payment of taxes due for any money received under this Agreement shall be the Contractor's sole responsibility and shall be reported under the Contractor's Federal and State tax identification number(s).

City of Truth or Consequences

CONTRACT FOR SERVICES

TERM

This agreement is for twelve (12) months from the date of approval by the City of Truth or Consequences City Manager. This Contract will be issued with the understanding that the City will be issuing a formal solicitation for IT services and should Contractor decided not to participate in the solicitation, they are to assist the new selected vendor with the transition per requests and at their present rates and fees.

3. TERMINATION

A. Termination: This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the City's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the City is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the City or if, during the term of this Agreement, the Contractor or any of its officers, employees, or agents is indicted for fraud, embezzlement, or other crime due to misuse of government funds or due to the Appropriations paragraph herein. **This provision is not exclusive and does not waive the City's other legal rights and remedies caused by the Contractor's default/breach of this agreement.**

B. Termination Management. Immediately upon receipt by either the City or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the City; 2) comply with all directives issued by the City in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the City shall direct for the protection, preservation, retention or transfer of all property titled to the City and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the City upon termination and shall be submitted to the City as soon as practicable.

4. APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Board of City Commissioners for the performance of this Agreement. If sufficient appropriations and authorization are not made by the City Commission, this Agreement shall terminate immediately upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the City proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

5. STATUS OF CONTRACTOR

The Contractor and its agents and employees are independent contractors performing professional services for the City of Truth or Consequences and are not employees of the City. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of city vehicles, or

City of Truth or Consequences

CONTRACT FOR SERVICES

any other benefits afforded to employees of the City as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

6. ASSIGNMENT

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the City.

7. SUBCONTRACTING

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the City. In all cases, the contractor is solely responsible for fulfillment of this Agreement.

8. RELEASE

Final payment of the amounts due under this Agreement shall operate as a release of the procuring agency of the City, its officers and employees, and the City of Truth or Consequences from all liabilities, claims, and obligations whatsoever arising from or under this Agreement.

9. CONFIDENTIALITY

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the City.

10. PRODUCT OF SERVICE – COPYRIGHT

All materials developed or acquired by the Contractor under this Agreement shall become the property of the City and shall be delivered to the City no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

11. CONFLICT OF INTEREST: GOVERNMENTAL CONDUCT ACT

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

B. The Contractor further represents and warrants that it has complied with, and during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978. Without in anyway limiting the generality of the foregoing, the Contractor specifically represents and warrants that:

1) in accordance with Section 10-16-4.3 NMSA 1978, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any City employee while such employee was or is employed by the City and participating directly or indirectly in the City's contracting process;

City of Truth or Consequences

CONTRACT FOR SERVICES

2) this Agreement complies with Section 10-16-7(8) NMSA 1978 because (i) the Contractor is not a public officer or employee of the City; (ii) the Contractor is not a member of the family of a public officer or employee of the City; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the City, a member of the family of a public officer or employee of the City, or a business in which a public officer or employee of the City or the family of a public officer or employee of the City has a substantial interest, public notice was given as required by Section 10-16-7(8) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;

3) in accordance with Section 10-16-8(C) NMSA 1978, (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the City within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the City whose official act, while in City employment, directly resulted in the City's making this Agreement;

4) in accordance with Section 10-16-13 NMSA 1978, the Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement or any procurement related to this Agreement; and;

5) in accordance with Section 10-16-3 and Section 10-16-13.3 NMSA 1978, the Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of the City.

C. Contractor's representations and warranties in Paragraphs A and 8 of this Article 12 are material representations of fact upon which the City relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement, or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Agreement to the contrary, the City may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 12 (B).

12. AMENDMENT

Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

13. MERGER

This Agreement incorporates all the Agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such Agreements, covenants, and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

City of Truth or Consequences

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14. PENALTIES FOR VIOLATION OF LAW

The Procurement Code, Sections 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.

15. EQUAL OPPORTUNITY COMPLIANCE

The Contractor agrees to abide by all federal, state, and City laws, and rules and regulations, pertaining to equal employment opportunity. In accordance with all such laws, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation, or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

16. APPLICABLE LAW

In any action, suit, or legal dispute arising from this Agreement, the Contractor agrees that the laws of the State of New Mexico shall govern and that venue will lie in the Seventh Judicial District Court in Sierra City. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

17. WORKERS COMPENSATION

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the City.

18. RECORDS AND FINANCIAL AUDIT

The Contractor 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 City, the Department of Finance and Administration, and the State Auditor. The City shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments.

19. DISCLAIMER AND HOLD HARMLESS

The City shall not be liable to the Contractor, or the Contractor's successors, heirs, administrators, or assigns, for any loss, damage, or injury, whether to Contractor's person or property, occurring in connection with Contractor's performance of Contractor's duties according to this Agreement. Contractor shall hold the City harmless from all loss, damage, and injury, including court costs and attorney fees, incurred by Sierra City in connection with the performance by Contractor of Contractor's duties according to this Agreement.

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20. INDEMNIFICATION

The Contractor shall defend, indemnify and hold harmless the City from all actions, proceeding, claims, demands, costs, damages, attorneys' fees, and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors, or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant, or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit, or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant, or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the by certified mail.

21. INVALID TERM OR CONDITION

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

22. ENFORCEMENT OF AGREEMENT

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

23. AUTHORITY

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract

24. APPROVAL OF CONTRACTOR PERSONNEL

Personnel proposed in the Contractor's written proposal to the City are considered material to any work performed under this Agreement. No changes of personnel will be made by the Contractor without prior written consent of the procuring agency of the City. Replacement of any Contractor personnel, if approved, shall be with personnel of equal ability, experience and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld. The procuring agency of the City shall retain the right to request the removal of any of the Contractor's personnel at anytime.

25. SURVIVAL

The agreement paragraphs titled "Patent, Copyright, Trademark, and Trade Secret Indemnification" and "Indemnification" shall survive the expiration of this agreement. Software licenses, leases, maintenance and any other unexpired agreements that were entered into under the terms and conditions of this agreement shall survive this agreement

City of Truth or Consequences

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26. SUCCESSION

This agreement shall extend to and be binding upon the successors and assigns of the parties.

27. FORCE MAIEURE

A party shall be excused from performance under this agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

28. NOTICE TO PROCEED

It is expressly understood that this Agreement is not binding upon the City until it is executed by the City of Truth or Consequences City Commission after voting on the contract at a public meeting. Further, the Contractor is not to proceed with its obligations under the Agreement until the Contractor has received a fully signed copy of the Agreement.

29. ATTORNEY'S FEES

In the event this Agreement results in dispute, mediation, litigation, or settlement between the parties to this Agreement, the prevailing party of such action shall NOT be entitled to an award of attorneys' fees and court costs.

30. COOPERATION

All parties hereto will fully cooperate with the other and their respective counsel, accountant, and agents in connection with any steps required to be taken under this Agreement.

31. PATENT, COPYRIGHT, TRADEMARK AND TRADE SECRET INDEMNIFICATION

A. The contractor shall defend, at its own expense, the City against any claim that any product or service provided under this agreement infringes any patent, copyright or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the City based upon the contractor's trade secret infringement relating to any product or service provided under this agreement, the contractor agrees to reimburse the City for all costs, attorneys' fees, and the amount of the judgment. To qualify for such defense and/or payment, the City shall:

- 1) give the contractor prompt written notice of any claim;
- 2) allow the contractor to control the defense or settlement of the claim; and
- 3) cooperate with the contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in the contractor's opinion is likely to become the subject of a claim of infringement, the contractor shall at its option and expense:

- 1) provide the procuring agency of the City the right to continue using the product or service;
- 2) replace or modify the product or service so that it becomes non-infringing; or,
- 3) accept the return of the product or service and refund an amount equal to the depreciated value of the returned product or service, less the unpaid portion of the purchase price and any other amounts which are due to the contractor. The contractor's obligation will be void as

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to any product or service modified by the procuring agency of the City to the extent such modification is the cause of the claim.

C. All terms defined in the Governmental Conduct Act have the same meaning in this Article 12 (B).

32. AMENDMENT

Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

City of Truth or Consequences

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NOTICES

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To The City of Truth or Consequences:

Renee Cantin, Interim City Manager
505 Sims Street
Truth or Consequences, NM 87901
575-894-6673

To the Contractor:

Integrated Technologies Group, LLC
106 N. California Street
Socorro, NM 87801
575-835-2743

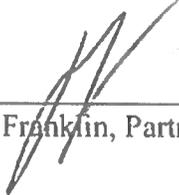
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date listed below:

City:

Contractor:



Renee Cantin, Interim City Manager



Joe Franklin, Partner

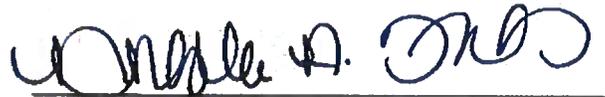
8/28/2018

Date

9/4/18

Date

Attest:



Notary Public

8/28/2018

Date



Integrated Technologies Group, LLC
106 N. California St, PO Box 1082
Socorro, NM 87801
Ph: 575.835.2743 E-Mail: support@itechnm.com

City of Truth or Consequences IT Support Services Agreement Proposal

Integrated Technologies Group, LLC proposes the following IT support agreement terms to the City of Truth or Consequences.

Scope of Work

Scope of work and services provided under this agreement consist of the following:

- **Maintenance & Support of Network Infrastructure**
 - Configuration and necessary updates of device firmware for existing network firewalls, switches, and other equipment necessary for network communications.
- **Maintenance & Support of Servers and Backups**
 - Configuration, support and necessary updates for existing servers to provide core functions and data storage.
 - Monitoring and configuration of existing backup solutions.
- **End User Workstation Support**
 - Provide technical support for end user workstations and related software and peripherals
 - Includes once per week onsite service, to provide in person technical support for end users and network equipment. Day and time will be scheduled with approval of City personnel.
 - Remote technical support available during normal business hours, 9am to 5pm, excluding national holidays. Remote support can be provided over the phone and via remote desktop access services.

Includes working with third party vendors for support and installation (Tyler, TDS, etc) but we do not warranty third party supplied equipment, services, and software such as those provided by the ISP or phone service vendors for bugs, OS compatibility, etc. The City is responsible for all third-party licensing and support fees from other vendors (Tyler, antivirus license, etc).

Support agreement does not include replacement parts/hardware, installation of new equipment, or major re-design or re-configuration of network infrastructure/servers, or large-scale software deployments. Such services will be quoted and, with approval, billed for parts and labor at the rate agreed below. Newly installed equipment (PCs, servers, etc) will be covered under this support agreement after installation.



Integrated Technologies Group, LLC
106 N. California St, PO Box 1082
Socorro, NM 87801
Ph: 575.835.2743 E-Mail: support@itechnm.com

Compensation

The amount payable under this support agreement, excluding gross receipts tax, is \$55,000 annually, to be billed in equal monthly installments of \$4,583.33.

Services outside the scope of work for this agreement will be billed at our standard hourly labor rate of \$85/hour. All billable work outside the agreement will be approved before labor is performed. If additional onsite service is required or requested beyond the included once per week onsite visit, there will be a trip fee of \$163.54, with approval from authorized personnel.

If emergency services outside of normal business hours are required, authorized personnel may request emergency services via a provided phone number. Outside of hours emergency services will be charged \$170 per incident and an additional \$163.54 if onsite service is required.



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: June 22, 2022

Agenda Item #: I.8

SUBJECT: USDA Water System Improvements-Phase 1 Project-Legal Service Agreement
DEPARTMENT: Community Development
DATE SUBMITTED: June 14, 2022
SUBMITTED BY: Tammy Gardner
WHO WILL PRESENT THE ITEM: Traci Alvarez, Assistant City Manager

Summary/Background:

A Bond Council Legal Services agreement is required for the USDA Water System Improvements-Phase 1 as defined on page 7 of the attached Letter of Conditions. The loan will be secured by a revenue bond with parity lien position in the amount of \$4,811,000.00. The bond will be fully registered as to both principal and interest in the name of the United States of America. Legal Services Fees are included in the funded amount for the project. Full scope of project is also attached.

Recommendation:

Approve

Attachments:

- Legal Services Agreement
- Letter of Conditions
- Water System Performance Improvements 1-Summary

Fiscal Impact (Finance): Yes

\$21,000.00

Legal Review (City Attorney): Yes

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. [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 6-22-22

LEGAL SERVICES AGREEMENT

THIS AGREEMENT, made this _____ day of June, 2022 between the City of Truth or Consequences, New Mexico, hereinafter referred to as "Owner," and Modrall, Sperling, Roehl, Harris & Sisk, P.A., Attorneys at Law, 500 Fourth Street NW, Albuquerque, New Mexico 87103, hereinafter referred to as "Attorney";

WHEREAS, the Owner is or will be organized to own and operate the Facility under the provisions of Chapter 3, Section 2 of the New Mexico Statutes;

WHEREAS, the Owner intends to acquire, construct, or improve its Water System, hereinafter called "Facility," in Sierra County, New Mexico;

WHEREAS, the Owner has obtained financing for the Facility from the United States Department of Agriculture, Rural Development, hereafter called "RD," to help defray the costs of the Facility;

THEREFORE, the Owner and Attorney to hereby agree to the following:

SECTION A - LEGAL SERVICES

The Attorney will perform such services as are necessary to accomplish the above recited objectives including, but not limited to, the following:

1. Preparation and filing of petition for incorporation and supervision and assistance in the taking of such other actions as may be necessary or incidental to cause the Owners to become duly organized and incorporated and to be authorized to undertake the proposed system.
2. Furnish advice and assistance to the governing body of the duly incorporated association in connection with (a) the notice for and conduct of meetings; (b) the preparation of minutes of meetings; (c) the preparation and enactment of such resolutions as may be necessary in connection with the authorization, financing, construction, and initial operation of the system; (d) the preparation of such affidavits, publication notices, ballots, reports, certifications, and other instruments and advice as may be needed in the conduct of such bond elections as may be necessary; (e) the preparation and completion of such bonds or other obligations as may be necessary to finance the system; (f) the completion and execution of documents for obtaining a loan made or insured or a grant made by the United States of America, acting through the Rural Utilities Service, U. S. Department of Agriculture; (g) entering into construction contracts; (h) preparation and adoption of By-Laws, Rules and Regulations, and rate schedules; (i) such other corporate action as may be necessary in connection with the financing, construction, and initial operation of the system.
3. Review of bid opening procedure, construction contracts, and surety and contractual bonds in connection therewith.

4. Preparation, negotiation, or review of contract with a city or other source of water supply when necessary.

5. Preparation, where necessary, and review of deeds, easements and other rights-of-way documents, and other instruments for sites for source of water supply, pumping stations, treatment plants, and other facilities necessary to the system and to provide continuous rights-of-way therefor; rendering title opinions with reference thereto; and providing for the recordation thereof.

6. Obtain necessary permits and certificates from county and municipal bodies, from State regulatory agencies, and from other public or private sources with respect to the approval of the system, the construction and operation thereof, pipeline crossings, and the like.

7. Cooperate with the engineer employed by Owners in connection with preparation of tract sheets, easements, and other necessary title documents, construction contracts, water supply contracts, health permits, crossing permits, and other instruments.

8. Furnish advice and assistance to the governing body of Owner in connection with (a) the notice for the conduct of meetings; (b) the preparation of minutes of meetings; (c) the preparation and enactment of the bond ordinance necessary in connection with the authorization for financing of the capital improvement project; (d) the preparation of such affidavits, publication notices, reports, certifications, and other instruments as may be necessary; (e) the preparation and completion of such bonds or other obligations as may be necessary to finance the capital improvement project; (f) the completion and execution of documents for obtaining a loan made or insured by the United States of America, acting through the USDA Rural Utilities Service; (g) such other corporate action as may be necessary in connection with the financing of the capital improvement project. Attorney will further furnish the Owner with an approving opinion, in customary form, in connection with the bonds.~~When applicable, secure assistance of and cooperate with recognized bond counsel in the preparation of the documents necessary for the financing aspects of the system. The attorney shall pay all bond counsel in perfecting the financing aspects, e.g., assessment procedures and completion of documents. Where bond counsel is retained, the Attorney will not be responsible for the preparation and approval of those documents pertaining to the issuance of the Owner's obligations.~~

SECTION B – COMPENSATION

The Owner will pay to the Attorney for professional services rendered in accordance herewith, fees as follows:

1. A flat fee of \$20,000, plus New Mexico Gross Receipts Tax, for bond counsel services and delivery of an unqualified approving opinion of bond counsel in connection with issuance of the bonds.

2. Reimbursement will be paid for actual out-of-pocket expenses for filing of easements, deeds, or other necessary documents, and for mileage, meals, room accommodations, if necessary, and normal long-distance calls and postage, will be paid by the Owner, with a maximum fee not to exceed of \$1,000.

3. Said fees to be payable in the following manner and at the following times:

(a) Fees and expenses to be paid on the date of closing the bond transaction, i.e. on the date the bond is delivered to Rural Utilities Service, U.S. Department of Agriculture.

(b) If, for any reason beyond the control of the Owner, the transaction is not completed and the bond delivered, Owner shall pay Attorney's reimbursable expenses only. If the transaction does not close due to the action or inaction of Owner, Owner shall pay Attorney \$175.00 per hour for work performed, not to exceed the flat fee quoted above in Section (B)(1), plus reimbursable expenses.

SECTION C - OTHER PROVISIONS

~~That upon organization and incorporation the association shall by appropriate resolution adopt and ratify this Agreement, that the association shall be substituted for the individual Owners as a party to this Agreement, and that the Owners as individuals shall thereupon be relieved of all personal liability existing or arising from this Agreement.~~

~~That upon organization and incorporation should the association fail or refuse to adopt and ratify this Agreement by appropriate resolution within ____ days from the date of the commencement of its legal existence, this Agreement shall terminate and Owners shall be liable to the Attorney for payment of \$ _____, which sum represents payment in full for the organization and incorporation of the association and for all other legal services rendered to Owners under the terms of this Agreement to the date of said termination.~~

This Agreement shall not become effective until concurred in by RD. Concurrence by RD in no way commits RD to render financial assistance to the Owner.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement on the respective dates shown below.

ATTORNEY

Name Modrall, Sperling Law Firm
Mexico

Title Shareholder

Signature  _____

Date June 3, 2022

OWNER

Name City of Truth or Consequences, New

Title City Manager

Signature _____

Date June ____, 2022

RD CONCURRENCE

**Water and Environmental Programs – RUS Instruction 1780
Legal Service Agreement - WEP
NM Guide 1780-7-WEP**

Name _____

Title _____

Signature _____

Date _____



Rural Development

August 24, 2021

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
505 Sims Street
Truth or Consequences, NM 87901

SUBJECT: Recipient Name: Truth or Consequences, City of
Project Name: Water System Improvements – Phase 1
Water Application
CFDA NUMBER 10.760 - Water and Waste Disposal Systems for
Rural Communities

Loan: \$ 4,811,000
Grant: \$ 2,720,000

Dear Mayor Whitehead:

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, 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. If significant changes are made without obtaining such concurrence, the Agency may discontinue processing of the application.

All conditions set forth under Section III – Requirements Prior to Advertising for Bids must be met within 365 days of the date of this letter. If you have not met these conditions, the Agency reserves the right to discontinue the processing of your application.

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 3 days:

Form RD 1942-46, “Letter of Intent to Meet Conditions”
Form RD 1940-1, “Request for Obligation of Funds”

The loan and grant will be considered approved on the date Form RD 1940-1, “Request for Obligation of Funds,” is signed by the approving official. Thus, this letter in itself does not constitute loan and/or grant approval, nor does it ensure that funds are or will be available for the project. When funds are available, the Form 1940-1 will be

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.

provided to you for your signature. After you sign and return the form to the Agency, the request will be processed, and loan and grant funds will be approved and obligated.

Extra copies of this letter are being provided for use by your engineer, attorney, bond counsel and accountant. All parties may access information and regulations referenced in this letter at our website located at www.rd.usda.gov.

The conditions are as follows:

SECTION I - PROJECT DETAIL

1. **Project Description** – Funds will be used to install water meters and waterline replacements which entails the water transmission lines including pressure relief valves (PRVs) throughout the city in order to address the System High Pressure issues. This project will replace approximately 4.9 miles of failing water lines due to age and condition of current infrastructure.

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) as concurred with by the Agency.

2. **Project Funding** – The Agency is offering the following funding for your project:

Agency Loan -	\$ 4,811,000
Agency Grant -	\$ 2,720,000
TOTAL PROJECT COST -	\$ 7,531,000.00

Funding is offered based on the amounts stated above. 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.

Any changes in funding sources following obligation of Agency funds must be reported to the processing official. Project feasibility and funding will be reassessed if there is a significant change in project costs after bids are received. If actual project costs exceed the project cost estimates, an additional contribution by the Owner may be necessary. 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>
Construction	\$4,930,683
NMGRT	\$461,019
Contingency	\$493,738
Engineering Fees	\$1,171,179
Includes:	
Predevelopment Work (PER/ER)	\$47,000
Design	\$554,850
Construction Administration	\$75,933
Resident Project Representation (Inspection)	\$235,270
Additional Services	\$168,475
NMGRT	\$89,651
Interest/Fees- Interim/Bridge	\$440,746
Legal Fees - Local Attorney	\$10,000
Legal Fees - Bond Counsel	\$21,000
Legal Fees - NMGRT	\$2,635
 TOTAL	 \$7,351,000

Obligated loan or grant funds not needed to complete the proposed project will be deobligated prior to start of construction. Any reduction will be applied to grant funds first. An amended letter of conditions will be issued for any changes to the total project budget or scope.

SECTION II – LOAN AND GRANT TERMS

4 **Repayment** – 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.

Your loan will be scheduled for repayment over a period of 40 years. Payments will be equal annual amortized installments, beginning one year after closing. For planning purposes, use a 1.375% interest rate and an amortization factor of 32.67, which provides for an annual payment of \$ 1,57,176.00. 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.

The payment due date will be established as the day that the loan closes. Due dates falling on the 29th, 30th, and 31st day of the month will be avoided.

5 **Security** – The loan will be secured by a Revenue bond with parity lien position in the amount of \$4,811,000.00. 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.

The bond and any ordinance or resolution relating thereto must not contain any provision in conflict with the Agency Loan Resolution, applicable regulations, or its authorizing law. 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 1780-12, "Water and Waste System Grant Agreement," and RUS Bulletin 1780-27, "Loan Resolution." A draft of all security instruments, including draft bond resolution, must be reviewed, and concurred in by the Agency prior to advertising for bids. The bond resolution and Loan Resolution must be duly adopted and executed prior to loan closing. The Grant Agreement must be fully executed prior to the first disbursement of grant funds.

6. **Electronic Payments** – Payments will be made on the day your payment is due 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.

7. **Construction Completion Timeframe** - All projects must be completed, and all funds disbursed within five years of obligation. If funds are not disbursed within five years of obligation, you must submit to the Agency a written request for extension of time with adequate justification of circumstances beyond your control. Requests for waivers beyond the initial extension will be submitted to the Assistant Administrator for concurrence decision.

8. **Disbursement of Agency Funds** - Agency funds will be disbursed into the borrower's depository account through an electronic transfer system. SF 3881, "ACH Vendor/Miscellaneous Payment Enrollment Form," must be completed and submitted to the Agency prior to advertising for bids.

Any applicant contribution will be the first funds expended, followed by other funding sources. 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 to start of construction or loan closing, whichever occurs first. Interim financing funds or Agency loan funds must be used prior to the use of Agency grant funds. The Grant Agreement must not be executed, and funds must not be disbursed prior to loan funds except as specified in RUS Instruction 1780.45(d). In the unlikely event the Agency mistakenly disburses funds, the funds will be remitted back to the Agency electronically.

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:

- a. The recipient receives less than \$120,000 in Federal awards per year.

- b. The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances.
- c. 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.
- d. A foreign government or banking system prohibits or precludes interest-bearing accounts.]

9. **Reserves** – Reserves must be properly budgeted to maintain the financial viability and sustainability of any operation. Reserves are important to fund unanticipated emergency maintenance and repairs and assist with debt service should the need arise. 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. Ten percent of the proposed loan installment would equal \$1,310 per month; this amount should be deposited monthly until a total of \$15,718 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 preliminary engineering report, 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.

Current assets can also be used to establish and maintain reserves for expected expenses, including but not limited to operation and maintenance, deferred interest during the construction period, and an asset management program.

SECTION III – REQUIREMENTS PRIOR TO ADVERTISING FOR BIDS

10. **Environmental Requirements** – 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

- a. 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.
- b. The contract documents, final plans, and specifications must comply with RUS Instruction 1780, Subpart C – Planning, Designing, Bidding, Contracting, Constructing and Inspections, and must be submitted to the Agency for concurrence prior to advertising for bids along with an updated cost estimate. The Agency may require another updated cost estimate if a significant amount of time elapses between the original submission and advertising for bids.
- c. The use of any procurement method other than competitive sealed bids must be requested in writing and approved by the Agency.
- d. **American Iron and Steel Requirements.** Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference applies a new American Iron and Steel (AIS) requirement to obligations made after May 5, 2017:
 - (1) No Federal funds made available for this fiscal year for the rural water, wastewater, waste disposal, and solid waste management programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1926 et seq.) shall be used for a project for the construction, alteration, maintenance, or repair of a public water or wastewater system unless all of the iron and steel products used in the project are produced in the United States.
 - (2) The term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.
 - (3) The requirement shall not apply in any case or category of cases in which the Secretary of Agriculture (in this section referred to as the “Secretary”) or the designee of the Secretary finds that—
 - (a) applying the requirement would be inconsistent with the public interest.
 - (b) iron and steel products are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
 - (c) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.
 - (4) Owners are ultimately responsible for compliance with AIS requirements and will be responsible for the following:

- (a) **Signing** loan resolutions, grant agreements and letters of intent to meet conditions which include AIS language, accepting AIS requirements in those documents and in the letter of conditions.
- (b) **Signing** change orders (i.e. C-941 of EJCDC) and partial payment estimates (i.e. C-620 of EJCDC) and thereby **acknowledging** responsibility for compliance with American and Iron Steel requirements.
- (c) **Obtaining** the certification letters from the consulting engineer upon substantial completion of the project and **maintaining** this documentation for the life of the loan.
- (d) Where the owner provides their own engineering and/or construction services, **providing** copies of engineers', contractors', and manufacturers' certification letters (*as applicable*) to the Agency to insert into the Agency file. All certification letters must be kept in the engineer's project file and on-site during construction. For Owner Construction (Force Account), all clauses from Section 17 must be included in the Agreement for Engineering Services.
- (e) Where the owner directly procures AIS products, **including** AIS clauses in the procurement contracts and **obtaining** manufacturers' certification letters and **providing** copies to consulting engineers and contractors.

13. Legal Services – You have been required to execute a legal services agreement 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.

14. Property Rights - Prior to advertising for bids, you and your legal counsel must furnish satisfactory evidence that you have or can obtain 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.

- e. Preliminary Title Work (Title Opinion)** – When applicable, your attorney will provide a preliminary title opinion for any property related to the facility, currently owned and to be acquired, along with copies of deeds, contracts or options for purchasing said property. Form RD 1927-9, “Preliminary Title Opinion,” may be used.

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.

15. 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 an up-to-date written policy on conflict of interest. The policy will include, at a minimum: (1) a requirement for those with a conflict or potential conflict to disclose the conflict/potential conflict; (2) a clause that prohibits interested members of the applicant’s governing body from voting on any matter in which there is a conflict, and (3) a description of the specific process by which the governing body will manage identified or potential conflicts.

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.

- a. **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.
- b. **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.
- c. **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. – Village of Williamsburg Water System Service Agreement – The draft agreement must receive Agency concurrence prior to advertising for bids.

Fully executed copies of any policies, procedures, ordinances, contracts, or agreements 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.

16. 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). Closing instructions must be obtained prior to advertising for bids.

17. Interim Financing – For all loans exceeding \$500,000, where loan funds can be borrowed at reasonable interest rates on an interim basis from commercial sources for the construction period, such interim financing will be used to preclude the necessity for multiple advances of Agency loan funds. You must provide the Agency with a copy of the interim loan financing agreement for review prior to advertising for bids. The Agency approving official may make an exception when interim financing is cost prohibitive or unavailable. Grant funds from the Agency will be disbursed by multiple advances through electronic transfer of funds after interim financing or Agency loan funds are expended, in accordance with RUS Instruction 1780.45.

18. Construction Account – You must establish a construction account for all funds related to the project. Construction funds will be deposited with an acceptable financial institution or depository that meets the requirements of 31 CFR Part 202. A separate account will not be required for Federal funds and other 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. Financial institutions or depositories accepting deposits of public funds and providing other financial agency services to the Federal Government are required to pledge adequate, acceptable securities as collateral, in accordance with 31 CFR Part 202. All funds in the account will be secured by a collateral pledge equaling at least 100% of the highest amount of funds expected to be deposited in the construction account at any one time. Your financial institution can provide additional guidance on collateral pledge requirements.

Agency funds will be disbursed into the borrower's depository account through an electronic transfer system. SF 3881, "ACH Vendor/Miscellaneous Payment Enrollment Form," must be completed and submitted to the Agency prior to advertising for bids.

19. System Users – This letter of conditions is based upon your indication at application that there will be at least 2,741 residential users and 540 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.

20. Other Funding – Prior to advertising for bids, you must provide evidence of applicant contributions and other funding sources. This evidence should include a copy of the commitment letter from each source.

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&M), debt service, and reserves. Prior to advertising for bids, you must submit a proposed annual operating budget to the Agency which supports the operation, maintenance, debt service, and reserves, 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&M 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. Vulnerability Assessment/Emergency Response Plan (VA/ERP) – The Agency requires all financed water and wastewater systems to have a VA/ERP in place. Borrowers with existing systems must provide a certification that a VA/ERP has been completed prior to advertising for bids. The VA/ERP documents themselves are not submitted to the Agency. The VA/ERP must address potential impacts from natural disasters and other emergency events. In particular, 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 three years at a minimum.

For new systems, see Section V of this letter of conditions. For VA/ERP requirements throughout the life of the loan, see Section VII. Technical assistance at no cost is available in preparing these documents.

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. 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% 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.

26. Contract Review – Your attorney will certify that the executed contract documents, including performance and payment, if required, are adequate and that the persons executing

these documents have been properly authorized to do so in accordance with RUS Instruction 1780.61(b).

Once your attorney has certified that they are acceptable, the contract documents will be submitted to the Agency for its concurrence. The Notice to Proceed cannot be issued until the Agency has concurred with the construction contracts.

27. Final Rights-of-Way – If any of the rights-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. For projects involving the acquisition of land, you must provide evidence that you have clear title to the land prior to the issuance of the Notice to Proceed.

- a. **Final Title Work** - Your attorney must furnish a separate final title opinion on all existing 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.

28. 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 or employee dishonesty bond coverage is maintained.

- a. **General Liability Insurance** – Include vehicular coverage.
- b. **Workers' Compensation** – In accordance with appropriate State laws.
- c. **Fidelity or Employee Dishonesty Bonds** – Include 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 workers. During construction, each position should be bonded in an amount equal to the maximum amount of funds to be under the control of that position at any one time. The coverage may be increased during construction based on the anticipated monthly advances. After construction and throughout the life of the loan, the amount of coverage must be for at least the total annual debt service of all outstanding Agency loans. The Agency will be identified in the fidelity bond for receipt of notices. Form RD 440-24, "Position Fidelity Schedule Bond," or similar format may be used.
- d. **National Flood Insurance** - If the project involves acquisition or construction in designated special flood or mudslide prone areas, you must purchase a flood insurance policy 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.

Insurance types described above are required to be continued throughout the life of the loan. See Section VII.

29. Initial Compliance Review – The Agency will conduct an initial compliance review of the borrower prior to loan closing or start of construction, whichever occurs first, in accordance with 7 CFR 1901, Subpart E.

SECTION V – REQUIREMENTS PRIOR TO LOAN CLOSING

30. Interim Financing - Interim financing is being used. Loan closing will occur near the end of construction when interim funds are about to be completely 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. In addition, the following items are required prior to closing:

31. Vulnerability Assessment/Emergency Response Plan (VA/ERP) – The Agency requires all financed water and wastewater systems to have a VA/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 a VA is complete must be submitted within one year of the start of operation. Borrowers with existing systems must provide a certification that a VA and ERP are completed prior to authorization to advertise for bids. The VA/ERP documents are not submitted to the Agency. Technical assistance is available in preparing these documents at no cost to you. The VA/ERP must address potential impacts from natural disasters and other emergency events. In particular, 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 three years at a minimum.

32. 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 Dun and Bradstreet Data Universal Numbering System (DUNS) number and maintain an active registration in the System for Award Management (SAM) database. Renewal can be done on-line at: <http://sam.gov>. This registration must be renewed and revalidated every twelve (12) months for as long as there are Agency funds to be expended. See Appendix A.

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, as defined by applicable State or Federal requirements, a certified operator 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

33. **Resident Inspector(s)** – Full-time inspection is required unless you request an exception. Such requests must be made in writing and the Agency must concur with the request. 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 pre-construction conference.

34. **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.

35. **Inspections** - The Agency requires a pre-construction conference, pre-final and final inspections, and a warranty inspection. Your engineer will schedule a warranty inspection with the contractor and the Agency before the end of the one-year warranty period to address and/or resolve any 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.

36. **Change Orders** – Prior Agency concurrence is required for all Change Orders.

37. **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.

38. Use of Remaining Funds – Applicant contribution and connection or tap fees will be the first funds expended in the project, followed by non-Agency sources of funds. Remaining funds may be considered in direct proportion to the amounts obtained from each source and handled as follows:

- a. Remaining funds may be used for 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. Grant funds not expended for authorized purposes will be cancelled (de-obligated) within 45 days of final completion of project. Prior to actual cancellation, you and your attorney and engineer will be notified of the Agency’s intent to cancel the remaining funds and given appropriate appeal rights.
- c. Loan funds that are not needed will be cancelled (de-obligated) prior to loan closing.

39. 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 particular 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 information.

40. Reporting Requirements Related to Expenditure of Funds

- a. **Financial Audit**– An annual 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.

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.

If an audit is required, you must enter into a written agreement with the auditor and submit a copy to the Agency prior to the advertisement of 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.

- b. **Reporting Subawards and Executive Compensation** – You as a recipient of Federal funds and your first-tier contractors are required by 2 CFR Part 170 to report

disbursements to subrecipients in accordance with Appendix B of this letter and www.fsr.gov. Your Agency processing office can provide more information.

SECTION VII – SERVICING REQUIREMENTS DURING THE TERM OF THE LOAN

41. 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.

42. 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 are able to 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.

43. 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.

44. Annual Financial Reporting/Audit Requirements – You are required to submit an annual financial report at the end of each of your fiscal years. The annual report will be certified by the appropriate organization official, and will consist of financial information, and a current rate schedule and listing of board members and their terms. Financial statements must be prepared on the accrual basis of accounting in accordance with generally accepted accounting principles (GAAP) and must include at a minimum a balance sheet and income and expense statement. The annual report will include separate reporting for each water and waste disposal facility, and itemize 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 annual 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.

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. It is not intended that audits required by this part be separate and apart from audits performed in accordance with State and local laws. To the extent feasible, the audit work should be done in conjunction with those audits. The audit must be prepared by an independent auditor meeting the requirements of generally accepted government auditing standards (GAGAS) and must be submitted within 9 months of your fiscal year end. With the submission of the audit report, you will be required to provide a current rate schedule and listing of board members and their terms.

If an audit is required, you must enter into a written agreement with the auditor and submit a copy to the Agency prior to the advertisement of 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 or financial statements to be completed, the time frame in which the audit or financial statements will be completed, what type of reports will be generated from the services provided, and how irregularities will be reported.

- 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. With the submission of the year-end report, you will be required to provide a current rate schedule and listing of board members and their terms.
- 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 or similar format to provide this information, and 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 the quarterly reports are no longer required.

45. 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 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. If you are interested, please contact our office for information.

46. **Vulnerability Assessment/Emergency Response Plan (VA/ERP)** – You will be required to submit a certification to the servicing office every three years that the VA/ERP is current and covers all sites related to the facility. The documents themselves are not submitted to the Agency. The VA/ERP must address potential impacts from natural disasters and other emergency events. In particular, 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 three years at a minimum.
47. **Insurance**. You will be required to maintain insurance on the facility and employees as previously described in this letter for the life of the loan.
48. **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.”

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.

49. Compliance Reviews and Data Collection – 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 7 CFR 1782 and other applicable regulations, statutes, and 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**

Christine Griego
Acting Community Program Director

Digitally signed by
CHRISTINE GRIEGO
Date: 2021.08.24 15:56:13
-06'00'

Attachments

cc: Community Programs Director
Accountant
Attorney
Bond Counsel
Engineer

ACRONYMS:

ABA - Architectural Barriers Act
ACH – Automated Clearing House
AD – Agriculture Department
ADA – Age Discrimination Act
AIS – American Iron and Steel
CFDA – Catalog of Federal Domestic Assistance
CFR – Code of Federal Regulations
CPAP – Commercial Programs Application Processing
DUNS – Dun and Bradstreet Data Universal Numbering System
EJCDC – Engineers Joint Contract Documents Committee
ERP – Emergency Response Plan
GAAP – Generally Accepted Accounting Principles
GAGAS – Generally Accepted Government Auditing Standards
LEP – Limited English Proficiency
NPA – Nationwide Programmatic Agreement
OC – Owner Construction
OPS – Owner-Performed Services
O&M – Operation and Maintenance
PER – Preliminary Engineering Report
RD – Rural Development
RUS – Rural Utilities Service
SAM – System for Award Management
SF – Standard Form
UCC – Uniform Commercial Code
USC – United States Code
USDA – United States Department of Agriculture
VA – Vulnerability Assessment

FORMS and BULLETINS:

- Form AD-3031 “Assurance Regarding Felony Convictions or Tax Delinquent Status for Corporate Applicants” – Item 29
- Internal Revenue Service Form 1023, Appendix A, “Sample Conflict of Interest Policy” - Item 15
- Form RD 440-22, “Promissory Note” – Item 5
- Form RD 440-24, “Position Fidelity Schedule Bond” – Item 28
- Form RD 442-2, “Statement of Budget, Income and Equity” – Items 44 and 45
- Form RD 442-3, “Balance Sheet” – Item 44
- Form RD 442-7, “Operating Budget” – Item 21
- 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 27
- Form RD 1940-1, “Request for Obligation of Funds” – Pages 1 and 2
- Form RD 1942-8, “Resolution of Members or Stockholders” – Item 5
- Form RD 1942-46, “Letter of Intent to Meet Conditions” – Page 1
- Form RD 3550-28, “Authorization Agreement for Preauthorized Payments” – Items 6 and 30
- Form UCC-1, “Financing Statement” – Item 5
- Form UCC-1Ad, “UCC Financing Statement Addendum” – Item 5
- SF 3881, “ACH Vendor/Miscellaneous Payment Enrollment Form” – Items 8 and 18
- RUS Bulletin 1780-7, “Legal Services Agreement” – Item 13
- RUS Bulletin 1780-9, “Water Users Agreement” - Items 15 and 19
- RUS Bulletin 1780-12, “Water and Waste System Grant Agreement” – Page 1 and Item 5
- 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 5
- RUS Bulletin 1780-28, “Loan Resolution Security Agreement” – Item 5

Appendix A
2 CFR Part 25

**SYSTEM FOR AWARD MANAGEMENT AND UNIVERSAL IDENTIFIER
REQUIREMENTS**

A. Requirement for System for Award Management

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the SAM until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another appendix.

B. Requirement for unique entity identifier

If you are authorized to make subawards under this award, you:

1. Must notify potential subrecipients that no entity (*see* definition in paragraph C of this appendix) may receive a subaward from you unless the entity has provided its unique entity identifier to you.
2. May not make a subaward to an entity unless the entity has provided its unique entity identifier to you.

C. Definitions

For purposes of this appendix:

1. System for Award Management (SAM) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM Internet site (currently at <http://www.sam.gov>).
2. Unique entity identifier means the identifier required for SAM registration to uniquely identify business entities.
3. Entity, as it is used in this appendix, means all of the following, as defined at 2 CFR part 25, subpart C:
 - a. A Governmental organization, which is a State, local government, or Indian Tribe;
 - b. A foreign public entity;
 - c. A domestic or foreign nonprofit organization;
 - d. A domestic or foreign for-profit organization; and

- e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
4. Subaward:
- a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
 - b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200.330).
 - c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.
5. Subrecipient means an entity that:
- a. Receives a subaward from you under this award; and
 - b. Is accountable to you for the use of the Federal funds provided by the subaward.

Appendix B
2 CFR Part 170

Reporting Subawards and Executive Compensation

a. Reporting of first tier subawards.

1. **Applicability.** Unless you are exempt as provided in paragraph d. of this appendix, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e. of this appendix).
2. **Where and when to report.**
 - i. You must report each obligating action described in paragraph a.1. of this appendix to <http://www.fsrc.gov>.
 - ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
3. **What to report.** You must report the information about each obligating action listed in the submission instructions posted at <http://www.fsrc.gov>.

b. Reporting Total Compensation of Recipient Executives.

1. **Applicability and what to report.** You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—
 - i. the total Federal funding authorized to date under this award is \$25,000 or more;
 - ii. in the preceding fiscal year, you received—
 - (A) 80 percent or more of your 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

- iii. 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>.)
2. Where and when to report. You must report executive total compensation described in paragraph b.1. of this appendix:
 - i. As part of your registration profile at <https://www.sam.gov>.
 - ii. By the end of the month following the month in which this award is made, and annually thereafter.
- c. Reporting of Total Compensation of Subrecipient Executives.
1. Applicability and what to report. Unless you are exempt as provided in paragraph d. of this appendix, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—
 - i. in the subrecipient's preceding fiscal year, the subrecipient received—
 - (A) 80 percent or more of its 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 (and subawards); and
 - ii. 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>.)
 2. Where and when to report. You must report subrecipient executive total compensation described in paragraph c.1. of this appendix:
 - i. To the recipient.
 - ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month

of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. Exemptions

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

- i. Subawards, and
- ii. The total compensation of the five most highly compensated executives of any subrecipient.

e. Definitions. For purposes of this appendix:

1. Entity means all of the following, as defined in 2 CFR part 25:
 - i. A Governmental organization, which is a State, local government, or Indian tribe;
 - ii. A foreign public entity;
 - iii. A domestic or foreign nonprofit organization;
 - iv. A domestic or foreign for-profit organization;
 - v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
2. Executive means officers, managing partners, or any other employees in management positions.
3. Subaward:
 - i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
 - ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. __.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
 - iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

4. Subrecipient means an entity that:
 - i. Receives a subaward from you (the recipient) under this award; and
 - ii. Is accountable to you for the use of the Federal funds provided by the subaward.
5. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
 - i. Salary and bonus.
 - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization, or medical reimbursement plans that do not discriminate in favor of executives and are available generally to all salaried employees.
 - iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
 - v. Above-market earnings on deferred compensation which is not tax-qualified.
 - vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

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Sincerely,

Elizabeth Ybarra
Loan Specialist – Water and Environmental Programs

Enclosure (if applicable)

Water System Performance Improvements 1

City of Truth or Consequences, New Mexico

Summary:

This \$7,531,000.00 project funded by USDA addresses the high-pressure issues in the “West” and “Williamsburg” areas by replacing the Cook St. to Morgan St. main transmission line and installing main lines PRV to eliminate high pressures issues within the City’s water system. This project replaces 6.2 percent of the existing waterlines within the city that are 6 inches or less diameter, with new pipeline PVC C-900 DR -18 pipelines 6 inches or greater. This project will replace 26.7 percent of pipe over 30 years old, this replacement also upgrades around 16.9 percent of the Asbestos Cement (AC), Cast iron (CI), and Ductile Iron (DI) material in the existing system. All waterlines will be replaced via open trench by placing the new line parallel to the existing and abandoning the existing waterline in place. The new water line is assumed to be installed in the shoulder of the road, with 6-12’ of pavement removal, and removal of any sidewalks and, curb and gutters. Areas of the City of Truth or Consequences were evaluated based on current GIS information, upsizing the existing water line to a 6, 8, 10, and 12, inch will significantly adjust available pressure in the City as well as provide for better fire flow capacity including important areas such as the City’s hospital and a City’s high school. This alternative significantly regulates the pressure throughout the City and provide for better fire flow capacity. All water meters along these line replacements will be replaced.

Details:

- 1) Six Additional Pressure Reducing Valves (PRV) are recommended to be installed within system on the northern and south part of the city. This is to avoid high pressure peaks which results in water breaks within the city’s neighborhoods.
- 2) Four particular waterlines will be replaced are also known as the main transmission lines, with their primary purpose is to ensure that water is efficiently distributed throughout the city.
 - a) A new transmission line will be installed that runs from Cook Street Booster station to Morgan Street Booster station to finally provide water flow to multiple areas of the city. Installation of this line will reduce the 30-psi pressure fluctuation in the system, mostly in the “Williamsburg” and “East” areas.
 - b) The existing 6” waterline will be replaced with 10” PVC waterline which is located on the “North” area feeding the City’s high school and hospital. This will provide adequate fire flow to these facilities and increase the water distribution to the “East” area of the city.
 - c) Upsizing a main cast iron waterline to 10” PVC, located on portions of East 8th and East 9th Streets in the “East” side of the city, will increase the water quality that is currently reduced by the aging cast iron pipe, along with increasing the water distribution to the “West” area of the city.
 - d) Replacing and looping an area in the “Williamsburg” area will also prevent pressure fluctuation in the “Williamsburg” area and will ensure its water quality.
- 3) Water meters will be replaced along the section of the waterline replacements. The new meters shall be automatic radio read meters integrated into the city’s electrical billing system. This will reduce the manpower needed to read the meters, which will reduce the labor cost on the system.

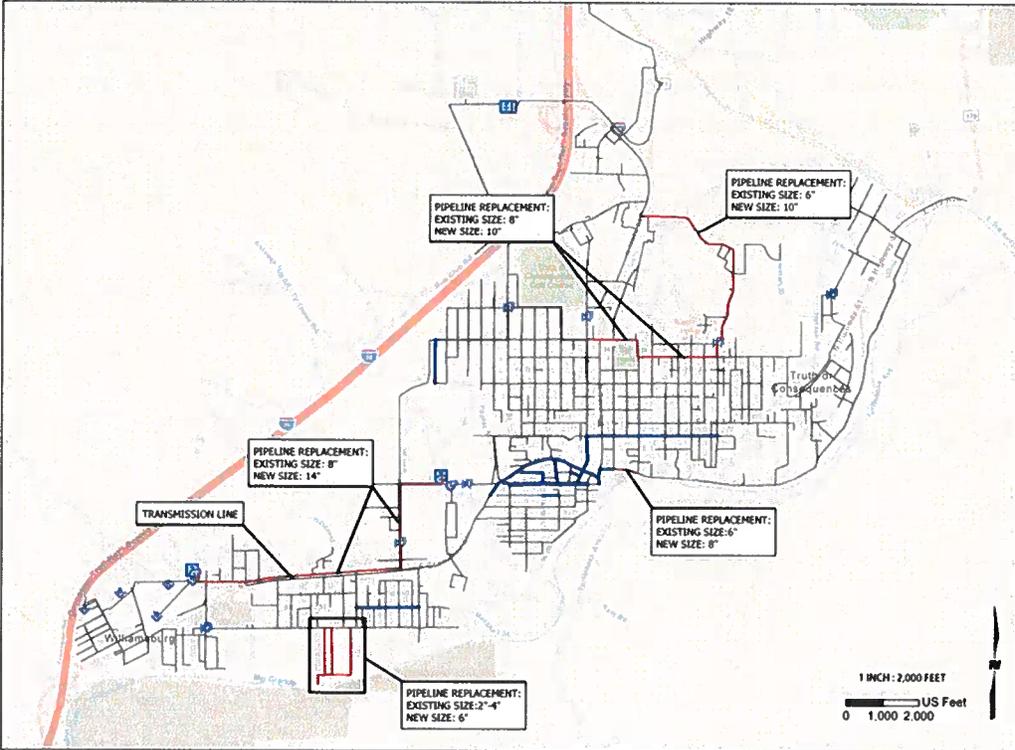


Legend

- Proposed PRV
- Well
- Booster Station
- Tank
- Existing Waterline
- Funded Upgrades
- Recommended

10-A. SYSTEM HIGH PRESSURE SOLUTIONS

FIGURE 13





CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: June 22, 2022

Agenda Item #: I.9

SUBJECT: School Resource Officer Service Agreement between the Truth or Consequences Municipal Schools and the Truth or Consequences Police Department

DEPARTMENT: Police Department

DATE SUBMITTED: June 14, 2022

SUBMITTED BY: Chief Victor Rodriguez

WHO WILL PRESENT THE ITEM: Chief Victor Rodriguez

Summary/Background:

Seeking Commission approval to enter into a School Resource Officer Service Agreement between the Truth or Consequences Municipal Schools and the Truth or Consequences Police Department

Recommendation:

Approval of Agreement.

Attachments:

- School Resource Officer Service Agreement between the Truth or Consequences Municipal Schools and the Truth or Consequences Police Department

Fiscal Impact (Finance): No

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 6-22-2022

THIS SERVICE AGREEMENT dated this 22nd, day of June, 2022

BETWEEN AND BY:

Truth or Consequences Municipal Schools (TCMS)
910 N. Date Street
Truth or Consequences, NM 87901

AND

City of Truth or Consequences Police Department (TCPD)
507 McAdoo Street
Truth or Consequences, New Mexico, 87901

WHEREAS, the TCMS requires the services of a School Resource Officer (SRO) and the TCPD agrees to provide and manage for the TCMS a SRO in the TCMS consisting of one full-time SRO, their vehicle, supplies and equipment and the TCMS agrees to reimburse the TCPD for its expenses in providing the said SRO Program; and

WHEREAS the TCMS and the TCPD desire to set forth in this SRO Agreement the specific terms and conditions of the services to be performed and provided by the said SRO in the TCMS;

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

Section I: Goals and Objectives

It is understood and agreed that the TCMS and TCPD officials share the following goals and objectives with regard to the SRO in the schools:

Foster a positive community relationship with students, school officials, and parents to include participating in educational programs and activities that will increase student's knowledge of and respect for the law and the function of law enforcement agencies;

Attend extra-curricular activities held at schools, when possible, such as school board meetings, athletic events, and other school functions;

Act swiftly and cooperatively when responding to reports of criminal offenses at school;

Report crimes that occur on campus to school officials, and investigate any crime reported that occurred within TCPD jurisdiction. Assist with home visits for truancy, attendance or student welfare issues at residences within the city. If the crime did not occur or a residence is not located within TCPD jurisdiction, the SRO shall cooperate and refer such case to a law enforcement agency that has jurisdiction to investigate the matter.

Provide traffic control at schools for the safety and protection of students and the general public.

Section II: Employment and Assignment of School Resource Officers

TCPD agrees to employ one SRO during the term of this agreement. The SRO shall be an employee of the TCPD and shall be subject to the administration, supervision and control of the TCPD and City of Truth or Consequences, except as such administration, supervision and control is subject to the terms and conditions of this Agreement.

The SRO shall be subject to all other personnel policies and practices of the TCPD and the City of Truth or Consequences. TCPD and the City of Truth or Consequences, in its sole discretion, shall have the power and authority to hire, discharge and discipline SRO. The TCPD shall hold the TCMS free, harmless and indemnified from and against any and all claims, suits or causes of action arising out of allegations of unfair or unlawful employment practices brought by SRO.

In the event an SRO is absent from work for less than one school day, the SRO shall notify their supervisor in the TCPD and TCMS agrees that on-duty patrol officers will handle calls for services arising from TCMS while the SRO is absent. TCPD agrees to assign another police officer to substitute as a SRO only when the SRO is absent from the school more than one school day. TCPD agrees to notify the superintendent when a SRO is absent from the school for a period exceeding one school day.

SRO will provide each school principal and superintendent with his or her working schedule and phone number contact information. TCMS agrees that the SRO may have occasions during a school work day where he or she may be not physically present at the schools such as but not limited to: attendance at court ordered hearings, attendance at department meetings and/or trainings, attendance at prosecution meetings, assistance to on-duty patrol officers/detective, or conducting traffic safety enforcement operations near or around school zones.

Section III: Compensation

For and in consideration of the TCPD providing the SRO Program as described herein, the TCMS agrees to reimburse the City of Truth or Consequences fifty-nine thousand dollars (\$59,000) per school twelve-month period, subject to approval by the Truth or Consequences City Commission and Truth or Consequences Municipal Schools School Board. The said compensation shall occur in twelve equal monthly installments on or about the first day of each calendar month by the TCMS to the City of Truth or Consequences. Any SRO incurred overtime compensation (any hours after the 84th hour per city pay period) related to TCMS SRO duties shall be billed to TCMS at the end of the month and due payable to the City of Truth or Consequences by the 10th day of the following month.

Section IV: Duty Hours

The maximum number of hours that a SRO officer shall be on duty in a work week shall be 42 hours and the minimum shall be 40 hours. Specific SRO duty hours are 7:30 a.m. to 3:30 p.m. during school in session days. Prior SRO schedule change arrangements can be made when there is an agreement between TCMS and the assigned SRO to include allowing the SRO to change the above specified duty hours on particular days (i.e., flex Fridays) to other days/times, so that the SRO can attend extracurricular activities to include any school sponsored meetings, events, functions including athletic events on regular work time oppose to overtime.

TCMS agrees to provide TCPD a schedule or reasonable notice of extracurricular activities to include any school sponsored meetings, events, functions including athletic events, which the SRO presence is requested. TCMS agrees to compensate TCPD for any overtime hours (any hours after the 84th hour per city pay period) worked by the SRO at their request. When school is not in session, the SRO shall preform regular law enforcement duties within the city at the direction of TCPD.

It is understood and agreed that time spent by SRO attending court juvenile, criminal cases and/or any other official matter arising from and/or out their assignment as an SRO shall be considered as hours worked under this Agreement. TCMS agrees that in the event of an emergency the SRO is ordered by the TCPD to leave their school duty station during normal duty hours as described above and to perform other services for the TCPD, the time spent shall not be considered hours worked under this agreement, but the SRO shall make up those hours in the current or upcoming pay period.

Section V: Basic Qualifications of School Resource Officers (SROs)

To be a SRO, an officer must first meet all of the following basic qualifications:

Shall be a commissioned law enforcement officer;

Shall possess a sufficient knowledge of the applicable Federal and State laws, City ordinances, and Board of Education polices and regulations;

Shall be capable of conducting criminal investigations;

Shall possess even temperament and set a good example for students; and

Shall possess communication skills which would enable the officer to function effectively within the school environment.

Section VI: Duties of School Resource Officers

To protect lives and property for community residents, school employees, students and visitors;

To provide traffic control at schools for the safety and protection of students and the general public

To enforce Federal, State and Local criminal laws and ordinances, and to assist school officials with the enforcement of Board of Education Policies and Administrative Regulations;

To investigate criminal activity committed on or adjacent to school property or in school facilities or transportation vehicles within city limits;

To answer questions that students may have about State, Federal, or Local laws;

To assist other law enforcement officers with outside investigations concerning students attending the school(s) to which the SRO is assigned;

To provide security for special school events or functions, such as school meetings, at the request of the principal; and

Section VII: Chain of Command

As employees of the TCPD, the SRO shall follow the chain of command as set forth by TCPD leadership. In the performance of their duties, the SRO shall coordinate and communicate with the principal or the principals' designee.

Section VIII: Training/Briefing

The SRO shall be required by the TCPD to attend training and/or briefing sessions. These sessions will be held at the direction of the TCPD and any time spent in these sessions shall be considered time worked under this agreement.

Training sessions will be conducted to provide the SRO with appropriate in-service training as required by law. The TCMS also may provide training to the SRO on Board of Education policies, regulations and procedures.

Section IX: Dress Code, Supplies and Equipment

TCPD shall provide the SRO uniforms/equipment/department assigned vehicle. In addition, the TCPD agrees to:

Maintain the vehicles assigned to SROs; pay for gasoline, oil, replacement tires and other expenses associated with the operation of the said vehicles; and purchase and maintain comprehensive general auto liability insurance on the said vehicles.

TCPD agrees to provide the standard issue pistol and rounds of ammunition for each SRO. TCMS agrees to provide the SRO with the usual and customary office supplies at each school site as needed in the performance of their duties.

Section X: Transporting Students

It is agreed that the SRO shall not transport students in their vehicles except when the students are victims of a crime, under arrest, or some other emergency circumstances exist; and when students are suspended/expelled and sent home from school pursuant to school disciplinary actions if the student's parent or guardian has refused to pick-up the child within a reasonable time period and the student is disruptive/disorderly and his/her continued presence on campus is a threat to the safety and welfare of other students and school personnel.

In cases where the parents refuse to pick up the student, the SRO shall contact the Children, Youth and Families Department to inform them of the situation and arrange proper care for the student. If the student to be transported off campus is not under arrest, a victim of a crime, or violent or disruptive, the TCMS school administration shall provide transportation for the student and the SRO may accompany a school official in transporting a student.

If feasible and when able to, the SRO shall notify the school principal or appropriate school official about a student needed to or being removed from campus.

Section XI: Investigation, Interrogation, Search and Arrest Procedures

The SRO shall adhere to the standard operating procedures (SOP) for the investigation of crimes and interrogation, search and arrest of students as written by TCPD policies, procedures, and state law.

Section XII: Search Procedures

If the school official has reasonable grounds for suspecting that a search of a student or a student's possessions will uncover evidence that the student has violated or is violating either the law or the rules of the school, the school official may search the student and the student's pockets, pocketbook, book bag, desk, locker, vehicle or any other similar location within the student's control. If the search uncovers evidence of criminal misconduct, the evidence shall be turned over to the SRO. SRO may search a student or the student's possession including a vehicle only when probable cause to apply and obtain a search warrant, obtaining owner consent, and/or other exceptions to the search warrant rule such as but not limited to plain view doctrine, search incident to arrest, or exigent circumstances.

Section XIII: Controlled Substances

School officials shall notify the SRO in all cases involving the possession, sale or distribution of controlled substances at school or school activities. Any controlled substances or suspected controlled substances confiscated by school officials shall be turned over to the SRO for further investigation and custody.

Section XIV: Access to Education Records

School officials shall allow SROs to inspect and copy demographic records (i.e.; name, date of birth, address, phone number, parental information, grade, school photograph) as maintained by the school. However, law enforcement officials may not inspect and/or copy confidential student education records except in emergency situations.

If some information in a student's cumulative record is needed in an emergency to protect the health or safety of the student or other individuals, school officials may disclose to the SRO that information which is needed to respond to the emergency situation based on the seriousness of the threat to someone's health or safety; the need of the information to meet the emergency situation and the extent to which time is of the essence.

If confidential student records information is needed, but no emergency situation exists, the information may be released only upon the issuance of a search warrant or subpoena to produce the records.

Section XV: Term of Agreement

The term of this agreement is one year from the day and year first written above. The Agreement shall be renewed and extended annually for additional and successive one-year terms unless notice of nonrenewal is given by either party, in writing, with at least a 60 day notice.

Section XVI: Insurance and Indemnification

Each party agrees that it shall be responsible for liability arising from personal injury or damage to property occasioned by its own agents or employees in the performance of this agreement, subject in all cases to the immunities and limitation of the New Mexico Tort Claims Act (NMSA 1978, Section 41-4-1, et seq.) and any amendments thereto. This section is intended only to define the liabilities between the parties hereto and it is no intended to modify, in any way, the parties' liabilities as governed by common law or the New Mexico Tort Claims Act. The parties and their "public employees," as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, and do not waive any defense or limitations of liability pursuant to law. No provision in this agreement modified and/or waives any provision of the New Mexico Tort Claims Act.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the date noted below:

APPROVED AS TO LEGAL
FORM AND SUFFICIENCY:

TRUTH OR CONSEQUENCES
MUNICIPAL SCHOOLS BOARD

School Attorney

School Board President

ATTEST:

Date: _____

APPROVED AS TO LEGAL
FORM AND SUFFICIENCY:

Superintendent

TRUTH OR CONSEQUENCES
CITY COMMISSION

City Attorney

Mayor

ATTEST:

Date: _____

City Clerk

City Manager