

Sandra Whitehead
Mayor

Brendan Tolley
Mayor Pro-Tem

Amanda Forrister
Commissioner



Paul Baca
Commissioner

Randall Aragon
Commissioner

Morris Madrid
City Manager

505 Sims St.
Truth or Consequences, New Mexico 87901
P: 575-894-6673 x301 ♦ F: 575-894-7767
www.torcnm.org

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 24, 2020; TO START AT 9:00 A.M.

A. CALL TO ORDER

B. INTRODUCTION

1. ROLL CALL

Hon. Sandra Whitehead, Mayor
Hon. Brendan Tolley, Mayor Pro-Tem
Hon. Paul Baca, Commissioner
Hon. Randall Aragon, Commissioner
Hon. Amanda Forrister, Commissioner

2. SILENT MEDITATION

3. PLEDGE OF ALLEGIANCE

4. APPROVAL OF AGENDA

C. PUBLIC COMMENT (3 Minute Rule Applies)

D. RESPONSE TO PUBLIC COMMENT

E. CONSENT CALENDAR

1. City Commission Regular Minutes, June 10, 2020
2. Acknowledge Regular Public Utility Advisory Board Minutes, March 16, 2020

F. PUBLIC HEARINGS

1. Public Hearing/Discussion/Action: Final Adoption of Ordinance No. 714 authorizing the City of Truth or Consequences to opt in to the Regular Local Election Act, pursuant to NMSA 1978 Section 1-22-3.1(2018), and consideration of an Alternative Ordinance. City Manager Madrid

G. ORDINANCES/RESOLUTIONS/ZONING

1. Discussion/Action: Consideration of amendments to Resolution 33 19/20 pertaining to a back to work plan for the City of Truth or Consequences. City Manager Madrid
2. Discussion/Action: Resolution No. 39 19/20 Budget Adjustments. City Manager Madrid
3. Discussion/Action: Resolution No. 40 19/20 Budget Adjustment/Cash Transfers. City Manager Madrid

H. NEW BUSINESS

1. Discussion/Action: Approval of contracts for Steven Sage and Gibson Law Office LLC as the appointed Attorneys for the Municipal Court. City Manager Madrid
2. Discussion/Action: Approval of amendment to Tower Lease Agreement between the City of Truth or Consequences and CommNet Cellular Inc., dba Verizon Wireless. City Manager Madrid
3. Discussion/Action: Approve the following agreements:
 - a. Approve Agreement between Children, Youth, and Families Division (CYFD) and the City of Truth or Consequences for the Juvenile Justice Advisory Council (JJAC). City Manager Madrid
 - b. Approve the Sub-Contractor Agreement with Truth or Consequences Municipal School District. City Manager Madrid
4. Discussion/Action: Appointment of two members to serve as City Representatives on the Sierra Vista Hospital Governing Board. City Manager Madrid
5. Discussion/Action: Consider the appointment of Jeff Dornbusch and Ron Pacourek to the Public Utility Advisory Board. City Manager Madrid
6. Discussion/Action: Appointment of Mayor Pro-Tem Brendan Tolley to serve as a Board Member on the Sierra County Recreation & Tourism Advisory Board. City Manager Madrid

I. REPORTS

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

J. EXECUTIVE SESSION

1. Threatened & Pending Litigation (current & possible Litigation) *pursuant to 10-15-1(H.7)*
2. Real Property (various properties) Pursuant to 10-15-1(H.8)

K. ADJOURNMENT

Submission for public input shall be submitted by email to torcpubliccomment@torcnm.org, by fax at (575) 894-6690, or a hard copy can be dropped off at the City Clerk's Office at 505 Sims Street, Truth or Consequences, NM. Please submit any input you may have by Monday, June 22, 2020.

There will be a limited amount of in-person attendance allowed in the Chambers based on Covid safe practices.

The meeting will be broadcast live through KCHS on 101.9 FM. You may also access the meeting using the information listed below:

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NEXT REGULAR CITY COMMISSION MEETING JULY 8, 2020



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: June 24, 2020

Agenda Item #: E.1

SUBJECT: City Commission Regular Meeting Minutes for June 10, 2020
DEPARTMENT: City Clerk's Office
DATE SUBMITTED: June 18, 2020
SUBMITTED BY: Angela A. Torres, Clerk-Treasurer
WHO WILL PRESENT THE ITEM: City Manager Madrid

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 6-24-2020

**CITY COMMISSION MEETING MINUTES
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
CITY COMMISSION CHAMBERS, 405 W. 3RD St.
WEDNESDAY, JUNE 10, 2020**

A. CALL TO ORDER

The meeting was called to order by Mayor Sandra Whitehead 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. Sandra Whitehead, Mayor
Hon. Brendan Tolley, Mayor Pro-Tem
Hon. Paul Baca, Commissioner
Hon. Randall Aragon, Commissioner
Hon. Amanda Forrister, Commissioner

Also Present: Morris Madrid, City Manager
Angela A. Torres, City Clerk-Treasurer

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

2. SILENT MEDITATION:

Mayor Whitehead called for fifteen seconds of silent meditation.

3. PLEDGE OF ALLEGIANCE:

Mayor Whitehead called for Commissioner Baca to lead the Pledge of Allegiance.

4. APPROVAL OF AGENDA:

**Commissioner Forrister moved to approve the agenda as submitted.
Mayor Pro-Tem Tolley seconded the motion. Motion carried unanimously.**

C. COMMENTS FROM THE PUBLIC

Sophia Peron addressed the Commission related to a letter submitted by Leroy Henderson in regards to Republicans and Democrats. (Complete copy attached hereto and made part hereof.)

City Manager Madrid read comments from Isaac Eastvold related to Item G2 (Riverwalk). (Complete copy attached hereto and made part hereof.)

Hans Townsend addressed the Commission related to a tourist being harassed.

D. RESPONSE TO PUBLIC COMMENTS:

Commissioner Aragon responded to Sophia Peron's comments by saying there are new things coming to our town, and he feels that we are moving ahead.

Commissioner Aragon also addressed Mr. Townsend's comments by saying that Mr. Townsend calls him at least once a week regarding several issues including the Park, which was cleared up by City Manager Madrid.

E. CONSENT CALENDAR:

- 1. City Commission Special Meeting Minutes, May 27, 2020**
- 2. Accounts Payable, May 2020:**

Mayor Pro-Tem Tolley reviewed some information he felt should have been included in the minutes regarding Ordinance 705. On page 4 of the minutes, he asked that the loan re-payment schedule be included in the minutes. He also pointed out that his appointment to the Sierra County Recreation Board should have been for a Board Member rather than an Alternate Member.

Mayor Whitehead asked that the appointment to the Sierra County Recreation Board be added to the next agenda so the motion can be amended.

Commissioner Aragon also pointed out a typo in the minutes which read "service monkey" instead of "survey monkey".

Mayor Pro-Tem Tolley moved to approve consent calendar as noted with the amended changes to the Minutes. Commissioner Forrister seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

F. ORDINANCES/RESOLUTIONS/ZONING:

- 1. Discussion/Action: Consideration of amendments to Resolution 33 19/20 pertaining to a back to work plan for the City of Truth or Consequences:**

City Manager Madrid stated that it may be a good idea to see what the next phase looks like before any amendments are made to this Resolution.

Comments read by Sophia Peron on June 10, 2020

Public Comment, June 10, 2020

From LeRoy Henderson, Cuchillo, N.M.

Our community, our county, has become politically toxic, with Democrats becoming prey for extreme right wing wackos.... I don't know how many of you are Republicans or Democrats, but to me this has become a place for hate speech, and fear!!!

I recently chided a local progressive Democrat for not competing or even showing up for the current election cycle. I called them weak, exclusionary and alienating... they are, but more than that, I now see, they are frightened by scenes like we see on Ron Sullivan's fence, and exhibited by law enforcement, and at ungodly churches... and what has been done about this hate and threats of violence??? Well, from our theoretical political leaders: turn a blind eye, snicker, and agree with the violent rhetoric!!! Allowance of lying, and non action is what has created the protests against racism and violence against blacks, Hispanics, and other minorities in our country...now, local Democrats have to be looking over their shoulder, and have to be careful how they speak for fear they may be face to face with some of these extremists!!! Local Law Enforcement is not at all apolitical, so Democrats cannot be assured of protection from extremists!!!

And that old bull shit about "they didn't really mean it", or "it's just politics talk", are no longer acceptable!!! Don't believe me??? take a look at the national news and the pulse of the nation!!! Grow a spine, and stand up for America as it was envisioned by our Founding Fathers!!! Equality for all, truth justice and the American way, as Superman and the Lone Ranger would say!!! Stop the Ron Sullivan hate speech which is so boldly displayed in our community!!! These Hate Mongers do not represent me, nor do they represent America, the land of the free!!! Stop allowing lies... if you cannot win without lying, you are a loser!!! If you are silent about these threats and hate, you are complicit!!!

T or C Public Comment

From: Isaac Eastvold <eastvolds@aol.com>
Sent: Tuesday, June 09, 2020 1:53 PM
To: T or C Public Comment
Cc: Sharon Eastvold; Torres, Angela; szigdog@gmail.com
Subject: Comment on Agenda Item G.2, "Riverwalk Economic Feasibility Grant"

Dear City Clerk Angela Torres:

Attached are my brief comments on Agenda Item G.2, "Riverwalk Economic Feasibility Grant". This is the soonest I could respond to the pdf of the grant application you forwarded to me and I received yesterday. Please be so kind as to bring these comments to the attention of the Commission. Thanks, Ike Eastvold

=====

Honorable Mayor and Members of the TorC City Commission:
RE: Agenda Item G.2, comments submitted 6/9/20

The commitment of \$10,000 of MGRT attached to this application for a \$50,000 grant indicates that TorC may be required to commit additional unspecified funds, some of which may be substantial, for later stages of the Riverwalk Project. It appears that the City's contribution will fund involvement at the application phase of the Wilson consulting firm. Part or all of the \$50,000 grant may also go to Wilson. The City's skimpy application lacks sufficient detail to evaluate its full impacts on future budgets.

There should be a full public hearing on the whole of the project. The entire scope of what will be involved should be made transparent. Otherwise, this initial expenditure constitutes piecemealing of approval for a much larger set of project expenditures, part or all of which may be taken out of City MGRT receipts. Will these funds also be tapped for future expenses? What would those expenses be? And how much? Is this fiscally responsible over the long term of several budget cycles? The City's present budget shortfalls require a much closer look at expenditure commitments like this one which have an obvious potential to cause future budgets to inflate.

The City should reveal maps and other hard data gathered to date by parties who have been working on this project and are the movers behind this grant application. What trail route(s) have been considered? What are the estimated costs of acquiring easements and titles to private land? What land uses would be allowed among different users? Would mountain bikes, ATVs or other motorized ORVs be included as users, as well as equestrian and pedestrian users? How would conflicts between different users be mitigated? How would adjacent private lands be protected from trespass? What would projected environmental impacts be on wildlife, scenic values, soils, air quality, water quality, noise, etc.

If the National Park Service has been a partner on the early stages of this project, they should be asked to participate in the public hearing and share their data. Other groups and individuals should be similarly involved so that the public can see as much as possible of the project scope.

The full scope, including all costs, of this project cry out for transparency before the Commission decides to commit MGRT or other taxpayer monies to its launch.

Sincerely,
Isaac and Sharon Eastvold
1301 N. Silver, T or C 87901
(505) 255-7679

Commissioner Forrister made a motion affirming Resolution 33 19/20 pertaining to a back to work plan for the City of Truth or Consequences. Commissioner Aragon seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

2. Discussion/Action: Request to extend Resolution 32 19/20 Declaration of Health Emergency for the City of Truth or Consequences:

City Manager Madrid explained that this action was taken prior to three of our Commissioners taking office. This was put into place in order to grant the City Manager emergency powers for anything that may have to do with the Health Emergency that had been declared by the Governor. This declaration will expire at the end of June. Therefore, we are requesting an extension in the event that anything else might come up. He then explained a few things he has used this authority for such as a hold on the water rate increase that was scheduled for April 1st, waivers of fees for businesses that were forced to close temporarily and did not use our Solid Waste Services, postponement of utility cut offs, and the assessment of fees and penalties during this pandemic. He continued by saying we also used it to purchase personal protective equipment. The measures he has taken under this declaration have not been very drastic, and have only been for the benefit of our community. The total amount of the expenditures has been less than \$15,000 and he does not see a lot of things that would fall under this in the future since we have largely avoided a real pandemic here in our area. He is however requesting that this be extended an additional 90 days just in case it is needed.

Mayor Pro-Tem Tolley was concerned with the necessity of extending the declaration since the Governor has relaxed the restrictions on public gatherings.

City Manager Madrid agreed that it may not be necessary at this minute. However, he is unsure of what the future brings. For the most part, he has the authority that he needs to deal with just about anything, but the examples he gave for the benefit of the community are the things that he normally would not have the authority to do on his own.

City Attorney Rubin explained that things are not completely back to normal and we still have a lot of restrictions. He thinks it is a good idea to keep this in place, and if in a month from now you feel it is no longer needed, then we can bring it back at that time. He does however recommend that we add a clause that states this will expire in 90 days unless terminated sooner by the City Commission.

**Hon. Brendan Tolley, Mayor Pro-Tem voted nay.
Hon. Sandra Whitehead, Mayor voted aye.
Hon. Paul Baca, Commissioner voted aye.
Hon. Randall Aragon, Commissioner voted aye.**

Hon. Amanda Forrister, Commissioner voted aye.

Commissioner Forrister made a motion to extend Resolution 32 19/20 Declaration of Health Emergency for the City of Truth or Consequences until September 2020 unless terminated sooner by the City Commission. Commissioner Aragon seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried with a 4-1 vote.

3. Discussion/Action: Resolution 38 19/20 Authorizing acceptance of Water Trust Board (WTB) Project No. 5089-WPF funding offer; Conveyance and Delivery Project – Booster Station Improvements from New Mexico Finance Authority (NMFA):

City Manager Madrid stated, you have seen and will continue to see funding like this with different types of projects. Our priority has been, and will continue to be infrastructure and this has to do with our water system. The approved funding structure will consist of a 40% Loan in the amount of \$256,000 and a 60% Grant in the amount of \$384,000. He also explained that this is a standard practice throughout governments, and the loan portion of Water Trust Board funding is frequently forgiven. This is also important because we have had a redundancy in pump failures. We have had to spend over \$10,000 in the last 2 months for an emergency temporary pump because we don't have this in some of our infrastructures so this is a very important thing to have.

Alfredo Holguin, Wilson & Co. added that this funding will specifically cover some improvements at the Morgan Street Booster Station which is a very critical pump station.

Grant/Projects Coordinator & Designated Zoning Official Alvarez explained, back in September, the previous City Commission approved a Resolution for submission of a Water Trust Board Application. This is one of many applications that we are submitting, and will continue to submit in hopes of getting many awards to address our failing water infrastructure.

Mayor Pro-Tem Tolley stated that he understands that this is crucial for our infrastructure, but he has concerns about increasing city debt. He urges that we exercise caution when considering taking on any further debt on the city budget.

City Manager Madrid explained that a burden on the tax payer is valid. However, this debt service is funded through an Enterprise Fund not a General Tax levy. The ones who will have the burden of paying this back are the higher consumer customers. This won't create an additional burden without additional usage.

Mayor Pro-Tem Tolley moved to approve Resolution 38 19/20 authorizing acceptance of Water Trust Board (WTB) Project No. 5089-WPF funding offer; Conveyance and Delivery Project – Booster Station Improvements from New

Mexico Finance Authority (NMFA). Commissioner Baca seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

G. NEW BUSINESS:

- 1. Discussion/Action: Authorize and approve acceptance of NMFA Local Government Planning Fund Grant Award No. PG-5239 for Sewer Asset Management Plan:**

City Manager Madrid explained that this is a 100% Grant, and there is no leveraging or matching involved. This is for an Asset Management Plan for our Sewer System. We are already going through a Preliminary Engineering Report similar plan for the Water Department.

Commissioner Forrister made a motion to authorize and approve acceptance of NMFA Local Government Planning Fund Grant Award No. PG-5239 for Sewer Asset Management Plan. Commissioner Aragon seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

- 2. Authorize and Approve acceptance of NMFA Local Government Planning Fund Grant Award No. 5240 Economic Development Feasibility Study for the City's River Walk Project:**

City Manager Madrid explained that this is a 100% Grant for the Economic Development Feasibility Study for the City's River Walk Project. He further explained that this entire concept was developed because of community involvement. There was a group that was formed who went to the National Park Service and then to him and the Mayor to see if they would support this type of project. The answer was yes, and this is a result of that effort. There are no plans or construction. All we currently have is an idea. This will help us develop a plan to find out whether it is feasible to undertake this project, and if so, what would the different items be within that project. This is a good thing from the community, and we ask that you approve it for the community.

Commissioner Forrister explained that the community is concerned that the city will have to contribute more money as this project moves forward.

City Manager Madrid responded by saying he hopes the city does have to commit more funds to this project, because that would mean that it would be a successful project.

Commissioner Forrister made a motion to authorize and approve acceptance of NMFA Local Government Planning Fund Grant Award No. 5240 Economic Development Feasibility Study for the City's River Walk Project. Commissioner Aragon seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

H. REPORTS:

City Manager Madrid reported the following:

- We are continuing to collect data on the swimming pool. They are letting the water level of the pool drop to see if we can find the correlation between that and the leak. We will also be proceeding with the ground penetrating radar no matter where the leak is, but we want to determine whether the leak is in the infrastructure or in the pipe system itself.
- They are in the process of planning the schedule for the irrigation system, sidewalks, and sod at the Ralph Edwards Park. The gazebo may not be installed by the fall because they are going to almost double the size of it. They will also be installing a large fence around the project to keep access restricted 100% for everyone's safety.
- The increase of the water rates will take place on July 1st. We will probably allow the entire month of July for people to make arrangements so they will have plenty of notice and time to catch up if they are behind on their bills.

City Commission Reports:

Commissioner Aragon reported the following:

- There has received questions on the upkeep of the Rotary Park. He asked that the city help in the maintenance of the park.

City Manager Madrid explained that the city is researching the boundaries and things like that. It looks like it might have been a gentleman's agreement, and that relationship has seemed to have deteriorated a little bit in the maintenance of the park, but the city is committed to taking care of that.

Commissioner Forrister reported the following:

- She asked about the proposed parking lot along the river at Ralph Edwards Park.

City Manager Madrid explained that we will have some parking by the river, but the primary parking will be on the east side of the park.

She also asked how the board advertisements were coming along, and how many applications have been received.

City Clerk Torres explained that she published the advertisement, and she also announced it over the radio. We have not yet received any applications.

Mayor Whitehead reported the following:

- We have gone back to a soft opening, and all of our city offices are opening. She extended a big thank you to everyone for all their hard work during these unforeseen times. She also gave kudos to all of the city employees, and

extended a big thank you to our City Police Department because without them she does not think we would be as safe as we are.

I. EXECUTIVE SESSION:

- 1. Threatened & Pending Litigation (current & possible Litigation) pursuant to 10-15-1(H.7) and Real Property (various properties) Pursuant to 10-15-1(H.8):**

Commissioner Baca moved to approve going into executive session at 10:07 a.m. to discuss Threatened & Pending Litigation (current & possible Litigation) pursuant to 10-15-1(H.7) and Real Property (various properties) Pursuant to 10-15-1(H.8) Commissioner Forrister seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

Mayor Whitehead reconvened the meeting in open session at 10:42 a.m.

Mayor Pro-Tem Tolley certified that only matters pertaining to Threatened & Pending Litigation (current & possible Litigation) pursuant to 10-15-1(H.7) and Real Property (various properties) Pursuant to 10-15-1(H.8) was discussed in Executive Session and no action was taken.

A. ADJOURNMENT:

Mayor Pro-Tem Tolley moved to adjourn at 10:43 a.m. Mayor Whitehead seconded the motion. Motion carried unanimously.

Passed and approved this 24th day of June, 2020.

Sandra Whitehead, Mayor

ATTEST:

Angela A. Torres, CMC, City Clerk



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: June 24, 2020

Agenda Item #: E.2

SUBJECT: Acknowledge Regular Public Utility Advisory Board Minutes for March 16, 2020.

DEPARTMENT: City Clerk's Office

DATE SUBMITTED: June 18, 2020

SUBMITTED BY: Angela A. Torres, City Clerk-Treasurer

WHO WILL PRESENT THE ITEM: City Manager Madrid

Summary/Background:

Acknowledge Minutes

Recommendation:

Acknowledge minutes.

Attachments:

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 6-24-2020

**CITY OF TRUTH OR CONSEQUENCES
PUBLIC UTILITY ADVISORY BOARD
MINUTES
MONDAY, MARCH 16, 2020**

REGULAR MEETING

Regular meeting of the Public Utility Advisory Board of the City of Truth or Consequences, New Mexico held in the City Commission Chambers, 405 W. 3rd Street, at 5:30 p.m. on Monday, March 16, 2020.

INTRODUCTION:

ROLL CALL:

Ed Williams, Vice-Chairman
Ron Pacourek, Member
Gil Avelar, Member

ABSENT:

Jeff Dornbusch, Chairman
Don Armijo, Member

ALSO PRESENT:

Morris Madrid, City Manager
Electric Department Director Easley
Angela A. Torres, City Clerk

APPROVAL OF AGENDA:

Vice Chairman Williams called for approval of the agenda.

Member Pacourek moved to approve the agenda as submitted. Member Avelar seconded the motion. Motion carried unanimously.

APPROVAL OF MINUTES:

Vice Chairman Williams called for approval of the minutes of Regular Monday, February 24, 2020.

Member Pacourek moved to approve the minutes of the Regular meeting of Monday, February 24, 2020. Member Avelar seconded the motion. Motion carried unanimously.

COMMENTS FROM THE PUBLIC:

Ariel Dougherty approached the board with comments regarding the topic of the AMI Smart Meters and the option for customers to opt-out.

March 16, 2020 Regular Public Utility Advisory Board Minutes

Ron Fenn approached the board with comments regarding the topic of the AMI Smart Meters and the option for customers to opt-out.

RESPONSE TO COMMENTS FROM THE PUBLIC:

There were no responses to public comment.

OLD BUSINESS:

Discussion/Action: Review of Renewable Energy Ordinance 664. Ariel Dougherty:

Ariel Dougherty presented her assessment of the total kWh supplied to the City by Sierra Electric Coop in 2019 in regards to the Renewable Energy Ordinance 664.

Member Pacourek felt that a 12-24 month average would work best for the customers. He also recommended that the bill be reconciled once a year at the discretion of the customer.

Member Avelar agrees with the average of 12-24 months.

Electric Department Director Easley explained that they currently go off the previous 12 month usage before solar can be installed.

Vice-Chairman Williams asked that they postpone this item until the next meeting so that the city can bring back further information.

Discussion/Action: Discussion related to AMI Smart Meters and option for customer to opt-out.

Chairman Dornbusch:

Member Pacourek explained that this item was previously brought up by former Chairman George Szigeti.

The board and city staff briefly discussed various opt-out options which included:

- Citizens reading their own meters.
- Post cards for those who read their own meter if that option was adopted.
- Penalty options for those who do not send in their cards.
- Citizens reading their own meters.

City Manager Madrid explained having the meters read by the customer is not a good internal control and therefore could be an audit finding. He also recommended that anyone who would want to opt-out should contact the Utility Office for billing purposes. He then explained that a fee of \$20 a month is close to the ideal quote if it is done efficiently and there should be a set-up fee.

Vice Chairman Williams asked that this item be postponed until the next meeting.

March 16, 2020 Regular Public Utility Advisory Board Minutes

COMMENTS FROM THE BOARD:

Member Pacourek commented on the 5% sewer and trash rate increase. He also asked that the 5% rate increase for Wastewater and Solid Waste be brought back as separate items for the board to discuss.


COMMENTS FROM STAFF:

City Manager Madrid stated that we will try to locate funding documents from USDA to see whether or not the 5% increase for Wastewater and Solid Waste is a condition of funding.

ADJOURNMENT:

There being no further business to come before the Public Utility Advisory Board, Ed Williams, Vice-Chairman, declared the meeting adjourned.

PASSED AND APPROVED this 15th day of June, 2020.



Jeff Dornbusch, Chairman
Public Utility Advisory Board



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: June 24, 2020

Agenda Item #: F.1

SUBJECT: Public Hearing and Final Adoption of Ordinance No. 714 authorizing the City of Truth or Consequences to opt in to the Regular Local Election Act, pursuant to NMSA 1978 Section 1-22-3.1(2018), and consideration of an Alternative Ordinance.

DEPARTMENT: City Clerk's Office

DATE SUBMITTED: June 18, 2020

SUBMITTED BY: Angela A. Torres, Clerk-Treasurer

WHO WILL PRESENT THE ITEM: City Manager Madrid

Summary/Background:

Publication of proposed Ordinance 714 to allow the City of Truth or Consequences to opt in to the Regular Local Election Act, pursuant to NMSA 1978 Section 1-22-3.1(2018) was approved on May 27, 2020. Upon further reflection of Section NMSA 1978 Section 1-22-3.1, it was discovered that the terms of municipal office holders can also be shortened. Therefore, an alternative Ordinance is being presented for publication should the Commission wish to shorten their terms rather than adopt the Ordinance with extended terms that was presented on May 27, 2020.

Recommendation:

Staff is presenting two options to the Commission for approval.

- Final adoption of Ordinance No. 714
- Publication of Ordinance 715

Attachments:

- Proposed Ordinance 714 approved for publication on 5/27/20.
- Proposed Ordinance 715

Fiscal Impact (Finance): N/A

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 6-24-2020

1-22-3. Regular local elections; special local elections; ballot questions; qualifications of candidates.

A. A regular local election shall be held on the first Tuesday after the first Monday in November of each odd-numbered year. A regular local election shall be held to elect qualified persons to membership on a local governing body and, where applicable, to elective municipal executive office and to municipal judicial office.

B. A regular local election shall be a nonpartisan election, and the names of all candidates shall be listed on the ballot with no party or slate designation. No person shall become a candidate in a regular local election unless the person physically resides within the boundaries of the district or districted area in which the person desires to be elected or to represent and the person's record of voter registration shows that the person is both a qualified elector of the state and was registered to vote in the area to be elected to represent on the date the proclamation calling a local election is filed in the office of the secretary of state.

C. A local government may propose a ballot question to be considered by the voters of the local government:

(1) at a regular local election or a general election as provided by Subsection B of Section 1-16-3 NMSA 1978; or

(2) at a special local election called, conducted and canvassed as provided in the Special Election Act [Chapter 1, Article 24 NMSA 1978].

D. Except as otherwise provided in the Local Election Act, local elections shall be called, conducted and canvassed as provided in the Election Code.

History: 1978 Comp., § 1-22-3, enacted by Laws 1985, ch. 168, § 5; 1997, ch. 252, § 1; 2015, ch. 145, § 80; repealed and reenacted by Laws 2018, ch. 79, § 18; 2019, ch. 212, § 142.

1-22-3.1. Municipal officer election day; procedures; exceptions.

A. All municipalities shall elect their municipal officers pursuant to this section on the municipal officer election day, which is the first Tuesday in March of even-numbered years, unless the municipality has opted in to the election of its municipal officers at the regular local election.

B. Except as provided in Subsection C of this section, any municipality may by ordinance opt in to the election of its municipal officers in the regular local election if the municipality passes an ordinance and files the ordinance with the secretary of state no later than June 30 of the year in which the next regular local election is scheduled. The ordinance shall also determine if the terms of office for current office holders will be lengthened or shortened to correspond with the new election date. Following the second regular local election at which its municipal officers are elected at the regular local election, a municipality that has passed an ordinance pursuant to this subsection may rescind the ordinance opting in to the election of its municipal officers in the regular local election and file the rescission with the secretary of state no later than June 30 of the year in which the next regular local election is scheduled.

C. A home rule municipality that pursuant to its charter is implementing a form of required voter identification that supersedes the provisions of Section 1-1-24 NMSA 1978 shall not elect its municipal officers at the regular local election.

D. For municipalities that elect their officers on municipal officer election day:

(1) all provisions of the Local Election Act as supplemented by the Election Code apply, except as provided in this section;

(2) for a municipal officer election, when the Local Election Act or the Election Code references a process or procedure to be conducted by the county clerk in the administration of a regular

City of Truth or Consequences, New Mexico
LOCAL ELECTION ACT

ORDINANCE NO. 714

AN ORDINANCE OF THE CITY OF TRUTH OR CONSEQUENCES OPTING INTO THE REGULAR LOCAL ELECTION FOR THE ELECTION OF MUNICIPAL OFFICERS, PURSUANT TO THE OPT IN REQUIREMENT OF NMSA 1978, SECTION 1-22-3.1 (2018).

WHEREAS, on July 1, 2018 the Local Election Act went into effect as Chapter 1, Article 22, NMSA 1978 establishing the Regular Local Election, a consolidated election day for non-partisan local government bodies on the first Tuesday after the first Monday in November of each off-numbered year; *and*

WHEREAS, the Local Election Act also established the Municipal Officer Election Day on the first Tuesday of March of even-numbered years; *and*

WHEREAS, the Local Election Act provides the option for each municipality to determine if its elective officers shall be elected on the Municipal Officer Election Day or at the Regular Local Election; *and*

WHEREAS, the City of Truth or Consequences has considered the issues related to opting in, including uniformity of procedure and convenience for the voters.

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

SECTION 1. MUNICIPAL OFFICERS TO BE ELECTED AT THE REGULAR LOCAL ELECTION

Pursuant to Subsection B of Section 1-22-3.1 NMSA 1978, the City of Truth or Consequences opts into the election of its municipal officers on the Regular Local Election Day, the first Tuesday of November of odd numbered years.

SECTION 2. ADJUSTMENT OF TERMS TO CORRESPOND WITH NEW ELECTION DATE

Pursuant to the statutory municipal option to choose how to adjust the terms of the terms of municipal office holders for opting into the Regular Local Election Act, the terms of elected officers are adjusted by lengthening the terms as follows:

- (A) Municipal officers elected or appointed to a term ending in 2022 shall serve until December 31, 2023, the new term of the position shall be elected at the regular local election in November 2023, and the new term shall commence January 1, 2024; and
- (B) Municipal officers elected or appointed to a term ending in 2024 shall serve until December 31, 2025, the new term of the position shall be elected at the regular local election in November 2025, and the new term shall commence January 1, 2026.

SECTION 3. FILING WITH SECRETARY OF STATE

Following approval of this ordinance, the Municipal Clerk shall file a copy of the ordinance with the secretary of state no later than June 30, 2021.

PASSED, ADOPTED, AND APPROVED on this 24th day of June, 2020.

Sandra Whitehead, Mayor

ATTEST:

Angela A. Torres, City Clerk-Treasurer

City of Truth or Consequences, New Mexico
LOCAL ELECTION ACT

ORDINANCE NO. 715

AN ORDINANCE OF THE CITY OF TRUTH OR CONSEQUENCES OPTING INTO THE REGULAR LOCAL ELECTION FOR THE ELECTION OF MUNICIPAL OFFICERS, PURSUANT TO THE OPT IN REQUIREMENT OF NMSA 1978, SECTION 1-22-3.1 (2018).

WHEREAS, on July 1, 2018 the Local Election Act went into effect as Chapter 1, Article 22, NMSA 1978 establishing the Regular Local Election, a consolidated election day for non-partisan local government bodies on the first Tuesday after the first Monday in November of each off-numbered year; *and*

WHEREAS, the Local Election Act also established the Municipal Officer Election Day on the first Tuesday of March of even-numbered years; *and*

WHEREAS, the Local Election Act provides the option for each municipality to determine if its elective officers shall be elected on the Municipal Officer Election Day or at the Regular Local Election; *and*

WHEREAS, the City of Truth or Consequences has considered the issues related to opting in, including uniformity of procedure and convenience for the voters.

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

SECTION 1. MUNICIPAL OFFICERS TO BE ELECTED AT THE REGULAR LOCAL ELECTION

Pursuant to Subsection B of Section 1-22-3.1 NMSA 1978, the City of Truth or Consequences opts into the election of its municipal officers on the Regular Local Election Day, the first Tuesday of November of odd numbered years.

SECTION 2. ADJUSTMENT OF TERMS TO CORRESPOND WITH NEW ELECTION DATE

Pursuant to the statutory municipal option to choose how to adjust the terms of the terms of municipal office holders for opting into the Regular Local Election Act, the terms of elected officers are adjusted by lengthening the terms as follows:

- (A) Municipal officers elected or appointed to a term ending in 2022 shall serve until December 31, 2021. The new term of the position shall be elected at the regular local election in November 2021, and the new term shall commence January 1, 2022; and
- (B) Municipal officers elected or appointed to a term ending in 2024 shall serve until December 31, 2023. The new term of the position shall be elected at the regular local election in November 2023, and the new term shall commence January 1, 2024.

SECTION 3. FILING WITH SECRETARY OF STATE

Following approval of this ordinance, the Municipal Clerk shall file a copy of the ordinance with the secretary of state no later than June 30, 2021.

PASSED, ADOPTED, AND APPROVED on this 24th day of June, 2020.

Sandra Whitehead, Mayor

ATTEST:

Angela A. Torres, City Clerk-Treasurer



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: June 24, 2020

Agenda Item #: G.1

SUBJECT: Discussion/Action: Consideration of Amendments to Resolution 33 19/20 pertaining to a back to work plan for the City of Truth or Consequences.

DEPARTMENT: City Clerk's Office

DATE SUBMITTED: June 18, 2020

SUBMITTED BY: Angela A. Torres, City Clerk-Treasurer

WHO WILL PRESENT THE ITEM: City Manager Madrid

Summary/Background:

This is a re-occurring item that will be presented at each meeting during the COVID-19 Pandemic.

Recommendation:

Review of Resolution 33 19/20.

Attachments:

Resolution 33 19/20

Fiscal Impact (Finance): TBD

Legal Review (City Attorney): N/A

Approved For Submittal By: ☐ Department Director

Reviewed by: ☒ City Clerk ☐ Finance ☒ Legal ☐ Other: -

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 6-24-2020



RESOLUTION NO. 33 19/20

A RESOLUTION ADOPTING A GET BACK TO WORK PLAN

WHEREAS, the City of Truth or Consequences City Commission met upon notice of meeting duly published on May 27, 2020, at 5:30 P.M. in the City Commission Chambers, 405 W. 3rd Street, Truth or Consequences, New Mexico 87901 via teleconference; and

WHEREAS, on March 11, 2020, the Governor of New Mexico issued Executive Order 2020-04, in response to an outbreak of a novel coronavirus identified as COVID-19, declaring a state of public health emergency under the Public Health Emergency Response Act and invoking powers under the All Hazards Emergency Management Act and the Emergency Licensing Act; and

WHEREAS, pursuant to the declaration of a public health emergency, the Secretary of the New Mexico Department of Health has issued several Public Health Emergency Orders, including the Order of March 23, 2020, in which the Secretary defined essential business and ordered that all “non-essential” businesses, including non-profits, reduce their in-person workforce by 100%; and

WHEREAS, on April 6, 2020 the Secretary amended the March 23, 2020, Order and ordered that all “non-essential” businesses, including non-profits, close “office spaces, retail spaces, or other public spaces” of the businesses; and

WHEREAS, on April 6, 2020, the Governor of New Mexico issued Executive Order 2020, which among other actions, extended the declaration of a public health emergency until May 1, 2020, unless rescinded or extended; and

WHEREAS, the Governor of New Mexico amended Executive Order 2020 on May 15, 2020, effective until rescinded or amended; and

WHEREAS, in rural areas, small businesses are the primary, and sometimes the sole, provider of essential goods and services; and

WHEREAS, the blanket closure of small businesses deemed “non-essential” has had a significant impact on those businesses and continues to have, and the local economy in general; and

WHEREAS, data related to COVID-19 shows that the virus has impacted different areas in New Mexico; and

WHEREAS, Sierra County currently has a low number of confirmed cases; and

WHEREAS, The City of Truth or Consequences acknowledges that the best safe health practices are a shared responsibility of all its citizens and visitors; and

WHEREAS, the City of Truth or Consequences appears to be positioned to allow businesses to re-open in progressive degrees and timing; and

WHEREAS, the City of Truth or Consequences supports maximum testing and requests maximum support from the State of New Mexico; and

WHEREAS, data related to Covid-19 shows that the virus has impacted different areas in New Mexico, and continues to be a serious health risk; and

NOW, THEREFORE BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF TRUTH OR CONSEQUENCES, THAT IT IS HEREBY ADOPTING THE FOLLOWING AS ITS GET BACK TO WORK PLAN:

The following safe practices shall be followed as appropriate:

1. Continue social distancing of six feet while working, shopping, and all other times possible.
2. Employees of business establishments shall wear masks. Businesses have the right to require customers to wear masks.
3. Gatherings of 10 persons or more are prohibited.
4. Sanitation supplies and/or facilities shall be available at all businesses.
5. Vulnerable individuals should continue to stay at home.
6. Travel shall be reduced as much as possible.

Specifically:

- a. Previously closed Bars, Restaurants and Lodging may operate at Fifty percent (50%) of capacity as designated by the New Mexico State Fire Marshal. Distances between tables/barstools less than six feet is prohibited.
- b. Previously closed Retail Stores may operate at Fifty percent (50%) of capacity as designated by the New Mexico State Fire Marshal.
- c. Medical facilities may operate at full (100%) capacity while maintaining safe distancing and sanitizing requirements.
- d. Close contact businesses such as Cosmetologists, Barbers, Manicurists, etc. may service customers on a one to one basis. No waiting areas will be permitted.
- e. Recreational facilities may open at 50% capacity if they are able to follow safe distancing requirements.

The Civic Center May be used for essential meetings at the discretion of the City Manager. This Resolution shall go into effect commencing May 27, 2020 unless otherwise superseded by an Executive Order from State Authority.

This Resolution may be amended by the City Commission in its discretion.

PASSED, APPROVED, and ADOPTED this 27th day of May, 2020.



Angela A. Torres, City Clerk-Treasurer

Sandra Whitehead, Mayor



City of Truth or Consequences

AGENDA REQUEST FORM

MEETING DATE: June 24, 2020

Agenda Item #: G.2

SUBJECT: Resolution No. 39 19/20 Budget Adjustments.
DEPARTMENT: Finance Department
DATE SUBMITTED: June 18, 2020
SUBMITTED BY: Carol Kirkpatrick, Finance Director
WHO WILL PRESENT THE ITEM: Carol Kirkpatrick, Finance Director

Summary/Background:

Budget adjustment request for the 2019-20 fiscal year

Recommendation:

Recommend approval

Attachments:

- BAR June 2020 Resolution 39 19/20
- .

Fiscal Impact (Finance): Yes

Increases and decreases to various fund revenues and expenditures

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. 39 19/20 Ordinance No. .

Continued To: . Referred To: .

☐ Approved ☐ Denied ☐ Other: .

File Name: CC Agendas 6-24-20



RESOLUTION NO. 39 19/20

A RESOLUTION REQUESTING BUDGET ADJUSTMENTS IN THE REVENUE AND EXPENDITURE BUDGET FOR FISCAL YEAR 2019-2020.

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 2019-2020; 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 24^h day of June, 2020.

Sandra Whitehead, Mayor

ATTEST:

Angela 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: <u>City of Truth or Consequences</u> FISCAL YEAR: <u>2019 / 2020</u> DFA Resolution Number: <u>39 19/20 BUDGET ADJUSTMENT</u>									
(A) RESOLUTION NUMBER 39 19/20	(B) FUND	(C) DEPARTMENT	(D) OBJECT CODE	(E) DESCRIPTION	(F) REVENUE, CASH, EXPENDITURE, TRANSFER (TO or FROM)	(G) APPROVED BUDGET	(H) ADJUSTMENT	(I) ADJUSTED BUDGET	(J) PURPOSE
101 GENERAL FUND									
To budget Gross Receipts Tax at 100% as per DFA requirement and increases and decreases in other revenues									
	101	1099	30312	Gross Receipts Hospital	Revenue	252,000	15,000	267,000	Increase revenues to 100% rather than net
	101	1099	30313	Gross Receipts Infrastructure	Revenue	165,000	13,000	178,000	Increase revenues to 100% rather than net
	101	1099	30314	Gross Receipts Mun. Gen	Revenue	930,000	215,000	1,145,000	Increase revenues to 100% rather than net
	101	1099	30315	Gross Receipts HB 6	Revenue	-	59,434	59,434	Increase revenues to 100% rather than net
	101	1099	30316	1/4% Muni GRT Police	Revenue	300,000	57,000	357,000	Increase revenues to 100% rather than net
	101	1099	30325	Gross Receipts Mun Dist	Revenue	1,450,000	333,000	1,783,000	Increase revenues to 100% rather than net
	101	1099	30318	Property-Current	Revenue	160,800	3,000	163,800	Increase revenues to 100% rather than net
	101	1099	32380	JJAC Grant	Revenue	50,140	27,727	77,867	Prior year's revenue/reimbursement
	101	1099	32381	NM Clean & Beautiful Grant	Revenue	55,000	5,842	60,842	PY Reimb 12,182 - unspent CY 6,340
	101	1099	33331	Animal Licenses	Revenue	3,000	(1,800)	1,200	Decrease in anticipated revenues
	101	1099	33338	Other Licenses & Permits	Revenue	2,000	380	2,380	Increased revenues received
	101	1099	34343	Animal Pound Fees	Revenue	12,000	51,000	63,000	Increase due to contracts with other entities
	101	1099	34346	Printing and Copying	Revenue	700	800	1,500	Increased revenues received
	101	1099	34348	Rent of Public Facilities	Revenue	40,000	15,418	55,418	Increased revenues received
	101	1099	34355	Other Charges for Service	Revenue	4,000	3,620	7,620	Increased revenues received
	101	1099	38372	Insurance Recoveries	Revenue	-	5,023	5,023	Increased revenues received
	101	1099	37374	Surplus Auction Proceeds	Revenue	3,000	(3,000)	-	Revenues not received
	101	1099	37390	Property Sales	Revenue	-	36,013	36,013	Increase due to Sale of property
	101	1099	37380	Misc. Revenue	Revenue	1,000	924	1,924	Increased revenues received
	101	1099	32385	Main street Grant	Revenue	-	25,000	25,000	Received revenue for grant
	101	1099	32392	Small Cities Assistance	Revenue	400,000	74,203	474,203	Received additional revenues
	101	1099	33334	Business License/Regis	Revenue	17,000	465	17,465	Received additional revenues
	101	1099	32387	OBD/DWI Saturation	Revenue	2,930	3,230	6,160	Received additional revenues
Total Revenue/Cash							940,279		
To budget increases and decreases in expenditures including administrative fees and loan intercepts for Gross Receipts Tax									
Department:									
Utilities & Insurance	101	1018	43998	Intercepts for GRT	Expenditure	-	304,057	304,057	Budget for loan intercepts from Gross Receipts Tax (GRT)
Utilities & Insurance	101	1018	43999	Operating Cost	Expenditure	-	36,000	36,000	Budget for administrative fees from GRT
Utilities & Insurance	101	1018	43999	Operating Cost	Expenditure	-	3,000	3,000	Budget for 1% administrative fees from Residential Tax Revenue
Utilities & Insurance	101	1018	43780	Utilities	Expenditure	150,000	70,000	220,000	Increase budget to meet expenditures
Utilities & Insurance	101	1018	46732	General Liability Insurance	Expenditure	19,278	4,000	23,278	Increase budget to meet expenditures
Utilities & Insurance	101	1018	46733	Vehicle Insurance	Expenditure	11,950	40	11,990	Increase budget to meet expenditures
Hospital GRT	101	1017	43999	Operating Cost	Expenditure	-	5,000	5,000	Budget for administrative fees from GRT (Hospital)
City Manager	101	1003	60781	NM Clean and Beautiful Grant	Expenditure	55,000	(6,340)	48,660	Decrease expenses for unused grant award
Police Department	101	1007	40125	Overtime Wages -PD	Expenditure	62,200	3,230	65,430	To budget for OBD/DWI Saturation
Parks & Recreation	101	1009	44607	Field Supplies	Expenditure	10,000	47,530	57,530	Increase budget to meet expenditures

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

(A) RESOLUTION NUMBER 39 19/20	(B) FUND	(C) DEPARTMENT	(D) OBJECT CODE	(E) DESCRIPTION	(F) REVENUE, CASH, EXPENDITURE, TRANSFER (TO or FROM)	(G) APPROVED BUDGET	(H) ADJUSTMENT	(I) ADJUSTED BUDGET	(J) PURPOSE
Parks & Recreation	101	1009	47415	Maintenance-Grounds	Expenditure	-	20,000	20,000	Increase budget to meet expenditures
Parks & Recreation	101	1009	80845	Capital Improvements	Expenditure	86,428	8,000	94,428	Increase budget to meet expenditures
Governing Body	101	1000	43597	Attorney Fees	Expenditure	50,000	10,000	60,000	Increase budget to meet expenditures
Governing Body	101	1000	44613	Non Capital items	Expenditure	-	7,000	7,000	Increase budget to meet expenditures
Governing Body	101	1000	60430	Emergency Funds	Expenditure	-	12,000	12,000	Increase budget to meet expenditures
Governing Body	101	1000	60725	Grants to Sub Recipients	Expenditure	73,000	600	73,600	Increase budget to meet expenditures
Total Expenditures							524,117		
Difference will go to ending cash balance (Revenues - Expenditures)							416,162		
Recap									
Revenues	940,279								
		940,279							
Expenditures	524,117								
Ending Cash Balance	416,162								
		940,279							
201 CORRECTIONS									
To adjust revenues and expenditures									
	201	1903	35361	Local Correction Fee	Revenue	10,000	(5,921)	4,079	Reduced budgeted revenues not planned to receive
	201	1903	35363	Judicial Education Fees	Revenue	1,500	(903)	597	Reduced budgeted revenues not planned to receive
	201	903	35365	Court Automation Fees	Revenue	2,500	(1,316)	1,184	Reduced budgeted revenues not planned to receive
	201	1903	35362	DWI Prevention Fees	Revenue	40	51	91	Increase additional revenues received
	201	1903	35365	Laboratory Fees	Revenue	75	39	114	Increase additional revenues received
Total Revenue/Cash							(8,050)		
	201	1903	44805	Auto/Lab/DWI	Expenditure	4,200	(1,636)	2,564	Reduce budget
	201	1903	48710	Care of Prisoners	Expenditure	38,000	(6,414)	31,586	Reduce budget
Total Expenditures							(8,050)		
211 LAW ENFORCEMENT									
To budget ending cash balance 2019-20 for 2018-19 carryover									
	211	2003	10107	Cash	Asset	-	4,626		
Total Revenue/Cash							4,626		To budget beginning cash \$4625.38 (PY cash that has to be spent)
	211	2003	44613	Non Capital Equipment	Expenditure	2,596	4,626	7,222	To budget beginning cash \$4625.38 (PY cash that has to be spent)
Total Expenditures							4,626		

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

(A) RESOLUTION NUMBER 39 19/20	(B) FUND	(C) DEPARTMENT	(D) OBJECT CODE	(E) DESCRIPTION	(F) REVENUE, CASH, EXPENDITURE, TRANSFER (TO or FROM)	(G) APPROVED BUDGET	(H) ADJUSTMENT	(I) ADJUSTED BUDGET	(J) PURPOSE
216 STREET FUND									
To budget Gross Receipts Tax at 100% as per DFA requirement and to budget loan intercepts and administrative fees.									
	216	4503	30313	GRT 20% Street Fund	Revenue	174,000	185,000	359,000	Increase revenues to 100% rather than net and account for larger proceeds
Total Revenue/Cash							185,000		
	216	4503	43998	Operating Cost	Expenditure	-	6,500	6,500	Budget for administrative fees from GRT
	216	4503	43999	Intercepts for GRT	Expenditure	-	150,636	150,636	Budget for loan intercepts from Gross Receipts Tax (GRT)
Total Expenditures							157,136		
Difference will go to ending cash balance (Revenues - Expenditures)							27,864		
Recap/Reconciliation									
Revenues	185,000								
		185,000							
Expenditures	157,136								
Ending Cash Balance	27,864								
		185,000							
293 VET WALL PREP									
To budget revenue and expenditures for 2019-20									
	293	5103	37388	Columbarium Revenues	Revenue	-	775	775	To budget revenue received 2019-20
Total Revenue/Cash							775		
	293	5103	44810	Columbarium Expenses	Expenditure	-	775	775	To budget expenditures
Total Expenditures							775		
294 STATE LIBRARY									
To budget end of year cash carryover \$7,219									
	294	5003	10122	Cash	Asset	-	7,220		To budget beginning of year cash carryover \$7,219.37
Total Revenue/Cash							7,220		
	294	5003	43775	Telephone	Expenditure	1,200	280	1,480	To budget beginning of year cash carryover \$7,219.37
	294	5003	48830	Library Acquisition	Expenditure	11,670	6,940	18,610	To budget beginning of year cash carryover \$7,219.37
Total Expenditures							7,220		
296 PD GRT									
To budget revenue and expenditures for 2019-20									
	296	2403	31375	Federal Grants/Loans	Revenue	-	97,876	97,876	To budget revenue received 2019-20
Total Revenue/Cash							97,876		
	296	2403	48599	Other Contractual Service	Expenditure	-	29,971	29,971	To increase expenditures
	296	2403	80845	Other Capital Purchases	Expenditure	102,877	67,905	170,782	To increase expenditures
Total Expenditures							97,876		

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

(A) RESOLUTION NUMBER 39 19/20	(B) FUND	(C) DEPARTMENT	(D) OBJECT CODE	(E) DESCRIPTION	(F) REVENUE, CASH, EXPENDITURE, TRANSFER (TO or FROM)	(G) APPROVED BUDGET	(H) ADJUSTMENT	(I) ADJUSTED BUDGET	(J) PURPOSE
298 PD DONATIONS									
To remove 2019-20 budget and cash. Transferred to 297 PD Confidential									
Total Revenue/Cash	298	2103	37394	PD Donations	Revenue	10,000	(9,700)	300	To remove budgeted revenues
							(9,700)		
Total Expenditures	298	2103	44607	Field Supplies	Expenditure	10,000	(9,700)	300	To remove budgeted expenditures
							(9,700)		
Transfer Out	298	2103	49930	Transfer Out	Cash		11,215	11,215	To transfer cash out to 297 PD Confidential
297 PD CONFIDENTIAL									
To budget cash transfer in from 298 PD									
Total Revenue/Ca	297	2203	39935	Transfer In	Cash	-	11,215	11,215	To transfer cash in from 297 PD Confidential
Total Expenditures	297	2203	45607	Misc. Exp	Expenditure	-	11,215	11,215	To budget expenditures from cash transfer in
303 VET WALL									
To budget partial ending cash balance 2019-20 \$41,752									
Total Revenue/Cash	303	4703	10119	Cash	Asset	-	13,300		To budget partial ending cash balance 2019-20 \$41,752
							13,300		
	303	4703	43775	Telephone	Expenditure	1,600	300	1,900	To budget partial ending cash balance 2019-20 \$41,752
Total Expenditures	303	4703	60840	Construction Costs	Expenditure	15,700	13,000	28,700	To budget partial ending cash balance 2019-20 \$41,752
							13,300		
304 SENIOR GRANTS									
To budget donation from SJOA for meal truck									
Total Revenue/Cash	304	4903	32314	Equipment Vehicle	Revenue	90,000	9,076	99,076	To budget donation from SJOA for meal truck
							9,076		
Total	304	4903	80810	Equipment Vehicle	Expenditure	90,000	9,076	99,076	To budget donation from SJOA for meal truck
							9,076		
505 SOLID WASTE DEPARTMENT									
To budget Gross Receipts Tax at 100% as per DFA requirement and to budget loan intercepts and administrative fees.									
Total Revenue/Cash	505	3904	30312	Environmental	Revenue	79,300	8,400	87,700	Increase revenues to 100% rather than net
							8,400		
	505	3904	43999	Operating Cost	Expenditure	-	2,300	2,300	Budget for administrative fees from GRT
Total Expenditures	505	3904	43780	Utilities	Expenditure	14,224	6,100	20,324	Increase budget to meet expenditures
							8,400		

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

(A) RESOLUTION NUMBER 39 19/20	(B) FUND	(C) DEPARTMENT	(D) OBJECT CODE	(E) DESCRIPTION	(F) REVENUE, CASH, EXPENDITURE, TRANSFER (TO or FROM)	(G) APPROVED BUDGET	(H) ADJUSTMENT	(I) ADJUSTED BUDGET	(J) PURPOSE
508 GOLF COURSE									
To increase revenue received and reduced budgeted revenue									
	508	4303	30315	Govt Gross Receipts Tax	Revenue	-	1,600	1,600	Budget revenues received
	508	4303	36373	Interest Income	Revenue	-	17	17	Budget revenues received
	508	4303	37316	Misc. Income	Revenue	177,000	(145,000)	32,000	Reduced budgeted revenues not planned to receive
	508	4303	37356	Expansion Improvement Fees	Revenue	8,000	(3,500)	4,500	Reduced budgeted revenues not planned to receive
Total Revenue/Cash							(146,883)		
	508	4303	40115	Part Time Wages	Expenditure	24,640	(4,316)	20,324	Decrease expenditures
	508	4303	41225	Health Insurance	Expenditure	10,650	(10,600)	50	Decrease expenditures
	508	4303	41235	Unemployment Insurance	Expenditure	163	(148)	15	Decrease expenditures
	508	4303	43403	Regular Building Maint	Expenditure	5,000	(4,585)	415	Decrease expenditures
	508	4303	43465	Rent of Equipment	Expenditure	15,450	(1,534)	13,916	Decrease expenditures
	508	4303	43775	Telephone	Expenditure	3,000	(1,754)	1,246	Decrease expenditures
	508	4303	44607	Field Supplies	Expenditure	20,000	(16,863)	3,137	Decrease expenditures
Total Expenditures							(39,800)		
Beginning and Ending Budget for Golf Course									
	Beginning Cash	Revenues	Net Cash Transfers	Budgeted Expenses	Estimated Ending Cash Balance				
Original Budget	42,657	185,000	55,000	227,069	55,588				
Budget Adjustments		(146,883)	65,000	(39,800)					
Revised Budget	42,657	38,117	120,000	187,269	13,505				
509 AIRPORT ENTERPRISE									
To increase additional revenue received and reduce budgeted revenue that won't be received									
	509	4403	34414	Aviation Fuel Sales	Revenue	50,000	10,000	60,000	Budget additional revenues received
	509	4403	34416	Jet Fuel Sales	Revenue	80,000	5,000	85,000	Budget additional revenues received
	509	4403	34411	T Hangar Rent	Revenue	500	1,395	1,895	Budget additional revenues received
	509	4403	30420	Governmental tax	Revenue	4,500	950	5,450	Budget additional revenues received
	509	4403	34348	Hangar Rentals	Revenue	33,000	(5,974)	27,026	Reduced budgeted revenues not planned to receive
	509	4403	34349	Lease Agreement	Revenue	2,500	(2,020)	480	Reduced budgeted revenues not planned to receive
	509	4403	34375	Rents/Royalties	Revenue	9,000	(7,725)	1,275	Reduced budgeted revenues not planned to receive
Total Revenue/Cash							1,626		
	509	4403	34318	Jet Fuel	Expenditure	58,000	23,000	81,000	Increase budget
	509	4403	34319	AV Gas	Expenditure	45,000	18,000	63,000	Increase budget
	509	4403	40110	Full Time Wages	Expenditure	74,755	7,351	82,106	Increase budget
	509	4403	41226	Retiree Insurance	Expenditure	2,290	116	2,406	Increase budget
	509	4403	44613	Non Capital Items	Expenditure	3,250	15,688	18,938	Increase budget
	509	4403	47420	Maintenance Vehicle/Equip	Expenditure	2,250	10,400	12,650	Increase budget
Total Expenditures							74,555		
Beginning and Ending Budget for Airport Enterprise									
	Beginning Cash	Revenues	Net Cash Transfers	Budgeted Expenses	Estimated Ending Cash Balance				
Original Budget	17,919	179,500	112,708	297,197	12,930				
Budget Adjustments		1,626	65,000	74,555					
Revised Budget	17,919	181,126	177,708	371,752	5,001				

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

(A) RESOLUTION NUMBER 39 19/20	(B) FUND	(C) DEPARTMENT	(D) OBJECT CODE	(E) DESCRIPTION	(F) REVENUE, CASH, EXPENDITURE, TRANSFER (TO or FROM)	(G) APPROVED BUDGET	(H) ADJUSTMENT	(I) ADJUSTED BUDGET	(J) PURPOSE
320 USDA WATER SYSTEM IMPROVEMENTS									
To establish initial budget for the USDA Water System Improvement Proj									
	320	6603	31375	Loan Proceeds	Revenue	-	1,148,676	1,148,676	Loan proceeds on USDA WaterSystem Improvements
Total Revenue/Cash							1,148,676		
	320	6603	80805	Capital Building & Structures	Expenditure	-	1,148,676	1,148,676	Architect fees
Total Expenditures							1,148,676		Note: Total project has been funded with a loan for \$5,487,000 and a Grant \$3,930,000. Payment will not be made until July 2020. This is just to establish budget authority
316 EMERGENCY RESERVES									
To increase budget for emergency repairs in the Water Department									
	316	\$ 9,103	10137	Cash	Asset		41,989	41,989	Increase budget for emergency repairs using partial beginning cash balance of \$197,598
Total Revenue/Cash							41,989		
	316	9103	47425	System Repair & Maint	Expenditure	55,000	41,989	96,989	Increase budget for emergency repairs using partial beginning cash balance of \$197,598
Total Expenditures							41,989		
317 WASTE WATER REPAIR RESERVES									
To establish budget for emergency repairs in the Waste Water Department									
	317	\$ 9,203	10138	Cash	Asset	-	60,000	60,000	Establish budget for emergency repairs using partial beginning cash balance of \$241,573
Total Revenue/Cash							60,000		
	317	9203	47425	System Repair & Maint	Expenditure	-	60,000	60,000	Establish budget for emergency repairs using partial beginning cash balance of \$241,573
Total Expenditures							60,000		
403 PLEDGE STATE									
To budget revenue and expenses									
	403	1203	32385	Loan Proceeds	Revenue	-	2,976,665	2,976,665	To budget proceeds from loan refinance TorC6 and TorC13
	403	1203	32386	GRT Intercepted	Revenue	364,249	79,526	443,775	To increase anticipated revenue
Total Revenue/Cash							3,056,191		
	403	1203	90905	Debt Service Principal	Expenditure	350,671	1,905,902	2,256,573	To record expenses for loan refinance TorC6 and TorC13
	403	1203	90930	Cost of Debt Issuance	Expenditure	-	127,709	127,709	To budget additional expenditures
Total Expenditures							2,033,611		
Remaining will roll into cash balance to pay off future debt							1,022,580		

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

(A) RESOLUTION NUMBER 39 19/20	(B) FUND	(C) DEPARTMENT	(D) OBJECT CODE	(E) DESCRIPTION	(F) REVENUE, CASH, EXPENDITURE, TRANSFER (TO or FROM)	(G) APPROVED BUDGET	(H) ADJUSTMENT	(I) ADJUSTED BUDGET	(J) PURPOSE
309 USDA WWTP									
To budget revenue and expenses									
	309	6403	31375	USDA LOAN	Revenue	-	897,232	897,232	To record loan proceeds
	309	6403	31376	USDA GRANT	Revenue	6,031,000	(206,522)	5,824,478	To reduce grant proceeds
Total Revenue/Cash							690,710		
	309	6403	60806	USDA LOAN	Expenditure	30,000	690,710	720,710	To budget additional expenses for payment on CoBank Loan
Total Expenditures							690,710		
ATTEST: _____									
Angela Torres, Clerk-Treasurer				(Date)			Sandra Whitehead, Mayor		
							(Date)		



City of Truth or Consequences

AGENDA REQUEST FORM

MEETING DATE: June 24, 2020

Agenda Item #: G.3

SUBJECT: Resolution No. 40 19/20 Budget Adjustment/Cash Transfers

DEPARTMENT: Finance Department

DATE SUBMITTED: June 18, 2020

SUBMITTED BY: Carol Kirkpatrick, Finance Director

WHO WILL PRESENT THE ITEM: Carol Kirkpatrick, Finance Director

Summary/Background:

Budget adjustment request for cash transfers for the 2019-20 fiscal year

Recommendation:

Recommend approval

Attachments:

- BAR June 2020 Resolution 40 19/20
- .

Fiscal Impact (Finance): Yes

Increases and decreases to various fund cash

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. 40 19/20 Ordinance No. .

Continued To: . Referred To: .

☐ Approved ☐ Denied ☐ Other: .

File Name: CC Agendas 6-24-2020



RESOLUTION NO. 40 19/20

A RESOLUTION REQUESTING BUDGET ADJUSTMENTS IN THE BUDGETED CASH TRANSFERS IN AND OUT FOR FISCAL YEAR 2019-2020.

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 2019-2020; 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 24^h day of June, 2020.

Sandra Whitehead, Mayor

ATTEST:

Angela Torres, City Clerk-Treasurer

[illegible]

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

(A) RESOLUTION NUMBER 39 19/20	(B) FUND	(C) DEPARTMENT	(D) OBJECT CODE	(E) DESCRIPTION	(F) REVENUE, CASH, EXPENDITURE, TRANSFER (TO or FROM)	(G) APPROVED BUDGET	(H) ADJUSTMENT	(I) ADJUSTED BUDGET	(J) PURPOSE
503 ELECTRIC DEPARTMENT									
To close 302 Electrical Construction Account and transfer to 503 Electric Department									
Electrical Const	302	4603	10100	Transfer Out	Cash	-	76,589	76,589	To close 302 Electrical Construction Account and transfer to 503 Electric Department. Refinanced TORC 6 loan with Loan NMFA PPRF-4967
to									
Electric Department	503	3703	39935	Transfer In	Cash	-	76,589	76,589	To close 302 Electrical Construction Account and transfer to 503 Electric Department. Refinanced TORC 6 loan with Loan NMFA PPRF-4967
To transfer cash from Electric to 403 Debt Service for Loan Payment									
Electric Department	503		10100	Transfer Out	Cash	-	90,428	90,428	To transfer cash from Electric to 403 Debt Service for Loan Payment
to									
403 Pledged Debt	403		39935	Transfer In	Cash		90,428	90,428	To transfer cash from Electric to 403 Debt Service for Loan Payment
504 WATER									
To move ending cash balance from 314 CDBG to 504 Water									
CDBG	314	8603	49930	Transfer Out	Cash	-	0.45		To close out 314 CDBG Fund
to									
Water	504	3803	39935	Transfer In	Cash		0.45		To close out 314 CDBG Fund
505 SANITATION									
To move ending cash balance from 507 Transfer Station to 505 Sanitation Department									
Transfer Station	507	4203	49930	Transfer Out	Cash	-	386,968.78		To close out 507 Transfer Station with Est Interest for 6/30/20. Fund merged with 505 Sanitation in 19-20
to									
Sanitation	505	3904	39935	Transfer In	Cash		386,968.78		To close out 507 Transfer Station with Est Interest for 6/30/20. Fund merged with 505 Sanitation in 19-20
ATTEST:									
Angela Torres, Clerk-Treasurer				(Date)			Sandra Whitehead, Mayor		
							(Date)		



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: June 24, 2020

Agenda Item #: H.1

SUBJECT: Approval of contracts for Steven Sage and Gibson Law Office LLC as the appointed Attorneys for the Municipal Court.

DEPARTMENT: Municipal Court

DATE SUBMITTED: June 18, 2020

SUBMITTED BY: Municipal Court

WHO WILL PRESENT THE ITEM: City Manager Madrid

Summary/Background:

These are annual Public Defender Contracts for Services for indigent defendants.

Recommendation:

Approval of Contracts.

Attachments:

- Contract with Steven Sage
- Contract with Gibson Law Office LLC

-

Fiscal Impact (Finance): Choose an item.

.

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 6-24-2020

CITY OF TRUTH OR CONSEQUENCES
505 Sims
Truth or Consequences, New Mexico 87901
Attention: MORRIS MADRID, City Manager

NAME: STEVEN SAGE, Attorney (hereinafter called "Contractor")

ADDRESS: _____

CITY: _____ **STATE:** _____ **ZIP:** _____

FEDERAL / EMPLOYEE ID NUMBER: _____

STATE ID: _____

BUSINESS LICENSE NUMBER: _____

PHONE: _____ **CELL:** _____ **EMAIL:** _____ **FAX:** _____

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.

APPROVALS

City:

_____, Mayor _____ **Date** _____

ATTEST: ANGELA TORRES, City Clerk _____ **Date** _____

CONTRACTOR

_____, Attorney _____ **Date** _____

_____ **J. RUBIN, City Attorney** _____ **Date** _____

City of Truth or Consequences
Contract for services
2020-2021

Part I

THIS agreement for services by and between the City of Truth or Consequences (hereinafter called "City ") and Steven Sage, Attorney (hereinafter called "Contractor").

WHEREAS the City wishes to engage the services of an Attorney to represent and serve as Counsel in cases requiring an Attorney before the Municipal Court.

NOW THEREFORE the parties do mutually agree as follows:

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.

TIME OF PERFORMANCE

The services of the Contractor shall commence on **July 1, 2020** and be completed on **June 30, 2021**. The Contractor represents that he/she are in good standing with the **New Mexico State Bar**.

Such services shall be continued in such sequence as to assure their relevance to the purposes of this agreement. This contract may be extended on an annual basis for an additional three (3) years commencing on July 1 of the next fiscal year. In no event shall the original term of this contract, together with all extensions exceed four (4) years.

ACCESS TO INFORMATION

It is agreed that all information, data, report, records, maps, etc. as are existing available and necessary for the carrying out of work outlined in the agreement, shall be furnished to the contractor by the City at no charge.

COMPENSATION AND METHOD OF PAYMENT

The maximum amount of compensation and reimbursement to be paid hereunder **shall not exceed Six Hundred Fifty and No/100 (\$650.00) per case. Applicable** gross receipts taxes, services including travel, per diem, and other expenses of the contractor or its subcontractors shall be the Contractors' responsibility. Total compensation to be paid under the agreement shall not exceed \$26,000 in total. If compensation paid under this contract exceeds \$600.00 the City will issue IRS Form 1099 on calendar year basis.

CLAIMS

The Contractor shall save and hold the City free from claims that may arise in connection with work the Contractor will perform under the 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 Contractors' involvement in this assignment, whether subpoenaed by the City or any other group.

BRIBES AND GRATUITIES

It is illegal in New Mexico for any public employee to solicit or accept anything of value in connection with award of the Agreement and for any person to offer or pay anything of value to any such public employee (30-24-1 through 30-24-2 NMSA 1978)

EXHIBIT A

SCOPE OF WORK

Representation of the defendants who are eligible for appointment of counsel or are determined to be indigent and are facing charges filed in the Municipal Court of Truth or Consequences, New Mexico. The Municipal Court Judge determines eligibility for indigent counsel services, applicability of the right to counsel and has assigned Contractor to provide legal representation to said defendant; such representation shall continue until defendant has been sentenced by the court, acquitted of all charges or the charges have been dismissed by the prosecution or the Court on motion or Sua Sponte.

The Contractor will follow the Municipal Court of Truth or Consequences Policy and Rules of Procedure. (Copy to be provided)

CITY OF TRUTH OR CONSEQUENCES
505 Sims
Truth or Consequences, New Mexico 87901
Attention: MORRIS MADRID, City Manager

NAME: ANNE GIBSON, Attorney (hereinafter called "Contractor")

ADDRESS: 1502 N. DATE ST. STE. A

CITY: T. OF C. **STATE:** N. M. **ZIP:** 87901

FEDERAL / EMPLOYEE ID NUMBER: [REDACTED]

STATE ID: [REDACTED]

BUSINESS LICENSE NUMBER: 165068

PHONE: (575) 894-0550 **CELL:** (505) 506-4464 **EMAIL:** AGIBSONLAW@YAHOO.COM **FAX:** (575) 952-2314
& PARALEGAL, AEGIBSONLAW@YAHOO.COM

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.

APPROVALS

City:

_____, Mayor _____ Date _____

ATTEST: ANGELA TORRES, City Clerk _____ Date _____

CONTRACTOR

[Signature], Attorney

Date 6/17/2020

J. RUBIN, City Attorney _____ Date _____

City of Truth or Consequences
Contract for services
2020-2021

Part I

THIS agreement for services by and between the City of Truth or Consequences (hereinafter called "City ") and GIBSON LAW OFFICE L.L.C. , Attorney (hereinafter called "Contractor").
ANNE GIBSON

WHEREAS the City wishes to engage the services of an Attorney to represent and serve as Counsel in cases requiring an Attorney before the Municipal Court.

NOW THEREFORE the parties do mutually agree as follows:

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.

TIME OF PERFORMANCE

The services of the Contractor shall commence on **July 1, 2020** and be completed on **June 30, 2021**. The Contractor represents that he/she are in good standing with the **New Mexico State Bar**.

Such services shall be continued in such sequence as to assure their relevance to the purposes of this agreement. This contract may be extended on an annual basis for an additional three (3) years commencing on July 1 of the next fiscal year. In no event shall the original term of this contract, together with all extensions exceed four (4) years.

ACCESS TO INFORMATION

It is agreed that all information, data, report, records, maps, etc. as are existing available and necessary for the carrying out of work outlined in the agreement, shall be furnished to the contractor by the City at no charge.

COMPENSATION AND METHOD OF PAYMENT

The maximum amount of compensation and reimbursement to be paid hereunder **shall not exceed Six Hundred Fifty and No/100 (\$650.00) per case. Applicable** gross receipts taxes, services including travel, per diem, and other expenses of the contractor or its subcontractors shall be the Contractors' responsibility. Total compensation to be paid under the agreement shall not exceed \$26,000 in total. If compensation paid under this contract exceeds \$600.00 the City will issue IRS Form 1099 on calendar year basis.

CLAIMS

The Contractor shall save and hold the City free from claims that may arise in connection with work the Contractor will perform under the 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 Contractors' involvement in this assignment, whether subpoenaed by the City or any other group.

BRIBES AND GRATUITIES

It is illegal in New Mexico for any public employee to solicit or accept anything of value in connection with award of the Agreement and for any person to offer or pay anything of value to any such public employee (30-24-1 through 30-24-2 NMSA 1978)

EXHIBIT A

SCOPE OF WORK

Representation of the defendants who are eligible for appointment of counsel or are determined to be indigent and are facing charges filed in the Municipal Court of Truth or Consequences, New Mexico. The Municipal Court Judge determines eligibility for indigent counsel services, applicability of the right to counsel and has assigned Contractor to provide legal representation to said defendant; such representation shall continue until defendant has been sentenced by the court, acquitted of all charges or the charges have been dismissed by the prosecution or the Court on motion or Sua Sponte.

The Contractor will follow the Municipal Court of Truth or Consequences Policy and Rules of Procedure. (Copy to be provided)



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: June 24, 2020

Agenda Item #: H.2

SUBJECT: Approval of amendment to Tower Lease Agreement between the City of Truth or Consequences and CommNet Cellular Inc., dba Verizon Wireless.

DEPARTMENT: City Clerk's Office

DATE SUBMITTED: June 18, 2020

SUBMITTED BY: Angela A. Torres, Clerk Treasurer

WHO WILL PRESENT THE ITEM: City Manager Madrid

Summary/Background:

Original lease agreement was entered into on May 23, 2003.

Recommendation:

Staff recommends the approval of the draft amendment Tower lease between the City of Truth or Consequences and CommNet Cellular Inc., dba Verizon Wireless.

Attachments:

- Draft Agreement

Fiscal Impact (Finance): Choose an item.

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 6-24-2020

THE FIRST AMENDMENT TO THE OPTION AND LEASE AGREEMENT

This First Amendment to the Option and Lease Agreement (this "**Amendment**") is made effective as of the latter signature date hereof (the "**Effective Date**") by and between the **City of Truth or Consequences, New Mexico, a municipal corporation ("Landlord")** and **CommNet Cellular Inc. d/b/a Verizon Wireless ("Tenant")** (Landlord and Tenant being collectively referred to herein as the "**Parties**").

RECITALS

WHEREAS, Landlord owns the real property described on **Exhibit A** attached hereto and by this reference made a part hereof (the "**Parent Parcel**"); and

WHEREAS, Landlord (or its predecessor-in-interest) and Tenant (or its predecessor-in-interest) entered into that certain Option and Lease Agreement dated May 23, 2003 (as the same may have been amended, collectively, the "**Lease**"), pursuant to which the Tenant leases a portion of the Parent Parcel and is the beneficiary of certain easements for access and public utilities, all as more particularly described in the Lease (such portion of the Parent Parcel so leased along with such portion of the Parent Parcel so affected, collectively, the "**Leased Premises**"), which Leased Premises are also described on **Exhibit A**; and

WHEREAS, Tenant, Verizon Communications Inc., a Delaware corporation, and other parties identified therein, entered into a Management Agreement and a Master Prepaid Lease, both with an effective date of March 27, 2015 and both with ATC Sequoia LLC, a Delaware limited liability company ("**American Tower**"), pursuant to which American Tower subleases, manages, operates and maintains, as applicable, the Leased Premises, all as more particularly described therein; and

WHEREAS, Tenant has granted American Tower a limited power of attorney (the "**POA**") to, among other things, prepare, negotiate, execute, deliver, record and/or file certain documents on behalf of Tenant, all as more particularly set forth in the POA; and

WHEREAS, Landlord and Tenant desire to amend the terms of the Lease to extend the term thereof and to otherwise modify the Lease as expressly provided herein.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual covenants set forth herein and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Lease Term Extended.** Notwithstanding anything to the contrary contained in the Lease or this Amendment, the Parties agree the Lease originally commenced on June 1, 2003 and, without giving effect to the terms of this Amendment but assuming the exercise by Tenant of all remaining renewal options contained in the Lease (each an "**Existing Renewal Term**" and, collectively, the "**Existing Renewal Terms**"), the Lease is otherwise scheduled to expire on May 31, 2028. In addition to any Existing Renewal Term(s), the Lease is hereby amended to provide Tenant with the option to extend the Lease for each of six (6) additional five (5) year renewal terms (each a "**New Renewal Term**" and, collectively, the "**New Renewal Terms**"). Notwithstanding anything to the contrary contained in the Lease, as modified by this Amendment, (a) all Existing Renewal Terms and New Renewal Terms shall automatically renew unless Tenant notifies Landlord that Tenant elects not to renew the Lease at least sixty (60) days prior to the commencement of the next Renewal Term (as defined below) and (b) Landlord shall be able to terminate the Lease only in the event of a material default by Tenant, which default is not cured within sixty (60) days of Tenant's receipt of written notice thereof, provided, however, in the event that Tenant has diligently commenced to cure a material default within sixty (60) days of Tenant's actual receipt of notice thereof and reasonably requires additional time beyond the sixty (60) day cure period described herein to effect such cure, Tenant shall have such additional time as is necessary (beyond the sixty [60] day cure period) to effect the cure. References in this Amendment to

"Renewal Term" shall refer, collectively, to the Existing Renewal Term(s) and the New Renewal Term(s). The Landlord hereby agrees to execute and return to Tenant an original Memorandum of Lease in the form and of the substance attached hereto as **Exhibit B** and by this reference made a part hereof (the **"Memorandum"**) executed by Landlord, together with any applicable forms needed to record the Memorandum, which forms shall be supplied by Tenant to Landlord.

2. **Rent and Escalation.** Commencing with the first rental payment due following the Effective Date, the rent payable from Tenant to Landlord under the Lease is hereby increased to **One Thousand Seven Hundred and No/100 Dollars (\$1,700.00)** per month (the **"Rent"**). Commencing on June 1, 2023 and on the beginning of each Renewal Term thereafter, Rent due under the Lease, as modified by this Amendment, shall increase by an amount equal to fifteen percent (15%) of the then current Rent. In the event of any overpayment of Rent prior to or after the Effective Date, Tenant shall have the right to deduct from any future Rent payments an amount equal to the overpayment amount. Notwithstanding anything to the contrary contained in the Lease, all Rent and any other payments expressly required to be paid by Tenant to Landlord under the Lease and this Amendment shall be paid to TRUTH OR CONSEQUENCES CITY OF. The escalations in this Section shall be the only escalations to the Rent and any/all rental escalations otherwise contained in the Lease are hereby null and void and are of no further force and effect.
3. **Landlord and Tenant Acknowledgments.** Except as modified herein, the Lease and all provisions contained therein remain in full force and effect and are hereby ratified and affirmed. In the event there is a conflict between the Lease and this Amendment, this Amendment shall control. The Parties hereby agree that no defaults exist under the Lease. To the extent Tenant needed consent and/or approval from Landlord for any of Tenant's activities at and uses of the site prior to the Effective Date, including subleasing to American Tower, Landlord's execution of this Amendment is and shall be considered consent to and approval of all such activities and uses and confirmation that no additional consideration is owed to Landlord for such activities and uses. Tenant and Tenant's sublessees and customers shall have vehicular (specifically including truck) and pedestrian access to the Leased Premises from a public right of way on a 24 hours per day, 7 days per week basis, together with utilities services to the Leased Premises from a public right of way. Upon request by Tenant and at Tenant's sole cost and expense and for no additional consideration to Landlord, Landlord hereby agrees to promptly execute and return to Tenant building permits, zoning applications and other forms and documents, including a memorandum of lease, as required for the use of the Leased Premises by Tenant and/or Tenant's customers, licensees, and sublessees. Landlord hereby appoints Tenant as Landlord's attorney-in-fact coupled with an interest to prepare, execute and deliver land use and zoning and building permit applications that concern the Leased Premises, on behalf of Landlord with federal, state and local governmental authorities, provided that such applications shall be limited strictly to the use of the Leased Premises as a wireless telecommunications facility and that such attorney-in-fact shall not allow Tenant to re-zone or otherwise reclassify the Leased Premises or the Parent Parcel. The terms, provisions, and conditions of this Section shall survive the execution and delivery of this Amendment.
4. **Non-Compete.** During the original term, any Existing Renewal Terms, and/or any New Renewal Terms of the Lease, as modified by this Amendment, Landlord shall not sell, transfer, grant, convey, lease, and/or license by deed, easement, lease, license or other legal instrument, an interest in and to, or the right to use or occupy any portion of the Parent Parcel or Landlord's contiguous, adjacent, adjoining or surrounding property to any person or entity directly or indirectly engaged in the business of owning, acquiring, operating, managing, investing in or leasing wireless telecommunications infrastructure (any such person or entity, a **"Third Party Competitor"**) without the prior written consent of Tenant, which may be withheld, conditioned, and/or delayed in Tenant's sole, reasonable discretion.

5. **Limited Right of First Refusal.** The Parties acknowledge and agree that Section 13 of the Lease is hereby deleted in its entirety and is of no further force and effect. From and after the Effective Date the obligations of the Parties with respect to Tenant's right of first refusal shall be controlled by this Section of this Amendment. Notwithstanding anything to the contrary contained herein, this paragraph shall not apply to any fee simple sale of the Parent Parcel from Landlord to any prospective purchaser that is not a Third Party Competitor or to American Tower. If Landlord receives an offer or desires to offer to: (i) sell or convey any interest (including, but not limited to, leaseholds or easements) in any real property of which the Leased Premises is a part to a Third Party Competitor or (ii) assign all or any portion of Landlord's interest in the Lease to a Third Party Competitor (any such offer, the "***Offer***"), Tenant shall have the right of first refusal to purchase the real property or other interest being offered by Landlord in connection with the Offer on the same terms and conditions. If Tenant elects, in its sole and absolute discretion, to exercise its right of first refusal as provided herein, Tenant must provide Landlord with notice of its election not later than forty-five (45) days after Tenant receives written notice from Landlord of the Offer. If Tenant elects not to exercise Tenant's right of first refusal with respect to an Offer as provided herein, Landlord may complete the transaction contemplated in the Offer with the Third Party Competitor on the stated terms and price but with the express condition that such sale is made subject to the terms of the Lease, as modified by this Amendment. Landlord hereby acknowledges and agrees that any sale or conveyance by Landlord in violation of this Section is and shall be deemed to be null and void and of no force and effect. The terms, provisions, and conditions of this Section shall survive the execution and delivery of this Amendment. For the avoidance of doubt, American Tower, its affiliates and subsidiaries, shall not be considered a Third Party Competitor and this provision shall not apply to future transactions with American Tower, its affiliates and subsidiaries.
6. **Landlord Statements.** Landlord hereby represents and warrants to Tenant that: (i) to the extent applicable, Landlord is duly organized, validly existing, and in good standing in the jurisdiction in which Landlord was organized, formed, or incorporated, as applicable, and is otherwise in good standing and authorized to transact business in each other jurisdiction in which such qualifications are required; (ii) Landlord has the full power and authority to enter into and perform its obligations under this Amendment, and, to the extent applicable, the person(s) executing this Amendment on behalf of Landlord, have the authority to enter into and deliver this Amendment on behalf of Landlord; (iii) no consent, authorization, order, or approval of, or filing or registration with, any governmental authority or other person or entity is required for the execution and delivery by Landlord of this Amendment; (iv) Landlord is the sole owner of the Leased Premises and all other portions of the Parent Parcel; (v) to the best of Landlord's knowledge, there are no agreements, liens, encumbrances, claims, claims of lien, proceedings, or other matters (whether filed or recorded in the applicable public records or not) related to, encumbering, asserted against, threatened against, and/or pending with respect to the Leased Premises or any other portion of the Parent Parcel which do or could (now or any time in the future) adversely impact, limit, and/or impair Tenant's rights under the Lease, as amended and modified by this Amendment; (vi) so long as Tenant performs its obligations under the Lease, Tenant shall peaceably and quietly have, hold and enjoy the Leased Premises, and Landlord shall not act or permit any third person to act in any manner which would interfere with or disrupt Tenant's business or frustrate Tenant or Tenant's customers' use of the Leased Premises and (vii) the square footage of the Leased Premises is the greater of Tenant's existing improvements on the Parent Parcel or the land area conveyed to Tenant under the Lease. The representations and warranties of Landlord made in this Section shall survive the execution and delivery of this Amendment. Landlord hereby does and agrees to indemnify Tenant for any damages, losses, costs, fees, expenses, or charges of any kind sustained or incurred by Tenant as a result of the breach of the representations and warranties made herein or if any of the representations and warranties made herein prove to be untrue. The aforementioned indemnification shall survive the execution and delivery of this Amendment.

7. **Confidentiality.** Notwithstanding anything to the contrary contained in the Lease or in this Amendment, Landlord agrees and acknowledges that all the terms of this Amendment and the Lease and any information furnished to Landlord by Tenant or American Tower in connection therewith shall be and remain confidential. Except with Landlord's family, attorney, accountant, broker, lender, a prospective fee simple purchaser of the Parent Parcel, or if otherwise required by law, Landlord shall not disclose any such terms or information without the prior written consent of Tenant. The terms and provisions of this Section shall survive the execution and delivery of this Amendment.
8. **Notices.** The Parties acknowledge and agree that Section 20 of the Lease is hereby deleted in its entirety and is of no further force and effect. From and after the Effective Date the notice address and requirements of the Lease, as modified by this Amendment, shall be controlled by this Section of this Amendment. All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, or by First Class United States Mail, certified, return receipt requested to the addresses set forth herein: to Landlord at: 505 Sims, Truth or Consequences, New Mexico 87901; to Tenant at: Verizon Wireless, Attn.: Network Real Estate, 180 Washington Valley Road, Bedminster, NJ 07921; with copy to: American Tower, Attn.: Land Management, 10 Presidential Way, Woburn, MA 01801; and also with copy to: Attn.: Legal Dept. 116 Huntington Avenue, Boston, MA 02116. Any of the Parties, by thirty (30) days prior written notice to the others in the manner provided herein, may designate one or more different notice addresses from those set forth above. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address for which no notice was given as required herein, shall be deemed to be receipt of any such notice.
9. **Counterparts.** This Amendment may be executed in several counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument, even though all Parties are not signatories to the original or the same counterpart. Furthermore, the Parties may execute and deliver this Amendment by electronic means such as .pdf or similar format. Each of the Parties agrees that the delivery of the Amendment by electronic means will have the same force and effect as delivery of original signatures and that each of the Parties may use such electronic signatures as evidence of the execution and delivery of the Amendment by all Parties to the same extent as an original signature.
10. **Governing Law.** The Parties acknowledge and agree that Section 18 of the Lease is hereby deleted in its entirety and is of no further force and effect. From and after the Effective Date and notwithstanding anything to the contrary contained in the Lease and in this Amendment, the Lease and this Amendment shall be governed by and construed in all respects in accordance with the laws of the State or Commonwealth in which the Leased Premises is situated, without regard to the conflicts of laws provisions of such State or Commonwealth.
11. **Waiver.** Notwithstanding anything to the contrary contained herein, in no event shall Landlord or Tenant be liable to the other for, and Landlord and Tenant hereby waive, to the fullest extent permitted under applicable law, the right to recover incidental, consequential (including, without limitation, lost profits, loss of use or loss of business opportunity), punitive, exemplary and similar damages.
12. **Tenant's Securitization Rights; Estoppel.** Landlord hereby consents to the granting by Tenant and/or American Tower of one or more leasehold mortgages, collateral assignments, liens, and/or other security interests (collectively, a "***Security Interest***") in Tenant's (or American Tower's) interest in the Lease, as amended, and all of Tenant's (or American Tower's) property and fixtures attached to and lying within the Leased Premises and further consents to the exercise by Tenant's (or American Tower's) mortgagee ("***Tenant's Mortgagee***") of its rights to exercise its remedies, including without limitation foreclosure, with respect to any such Security Interest. Landlord shall recognize the holder of any such Security

Interest of which Landlord is given prior written notice (any such holder, a "**Holder**") as "Tenant" hereunder in the event a Holder succeeds to the interest of Tenant and/or American Tower hereunder by the exercise of such remedies. Landlord further agrees to execute a written estoppel certificate within thirty (30) days of written request of the same by Tenant, American Tower or Holder.

13. **Taxes.** During the term of the Lease, as modified by this Amendment, Landlord shall pay when due all real property, personal property, and other taxes, fees and assessments attributable to the Parent Parcel, including the Leased Premises. Tenant hereby agrees to reimburse Landlord for any personal property taxes in addition to any increase in real property taxes levied against the Parent Parcel, to the extent both are directly attributable to Tenant's improvements on the Leased Premises (but not, however, taxes or other assessments attributable to periods prior to the Effective Date), provided, however, that Landlord must furnish written documentation (the substance and form of which shall be reasonably satisfactory to Tenant) of such personal property taxes or real property tax increase to Tenant along with proof of payment of same by Landlord. Anything to the contrary notwithstanding, Tenant shall not be obligated to reimburse Landlord for any applicable taxes unless Landlord requests such reimbursement within one (1) year after the date such taxes became due. Landlord shall submit requests for reimbursement in writing to: *American Tower Corporation, Attn: Landlord Relations, 10 Presidential Way, Woburn, MA 01801* unless otherwise directed by Tenant from time to time. Subject to the requirements set forth in this Section, Tenant shall make such reimbursement payment within forty-five (45) days of receipt of a written reimbursement request from Landlord. Tenant shall pay applicable personal property taxes directly to the local taxing authority to the extent such taxes are billed and sent directly by the taxing authority to Tenant. If Landlord fails to pay when due any taxes affecting the Parent Parcel as required herein, Tenant shall have the right, but not the obligation, to pay such taxes on Landlord's behalf and: (i) deduct the full amount of any such taxes paid by Tenant on Landlord's behalf from any future payments required to be made by Tenant to Landlord hereunder; (ii) demand reimbursement from Landlord, which reimbursement payment Landlord shall make within thirty (30) days of such demand by Tenant; and/or (iii) collect from Landlord any such tax payments made by Tenant on Landlord's behalf by any lawful means.
14. **Conflict/Capitalized Terms.** The Parties hereby acknowledge and agree that in the event of a conflict between the terms and provisions of this Amendment and those contained in the Lease, the terms and provisions of this Amendment shall control. Except as otherwise defined or expressly provided in this Amendment, all capitalized terms used in this Amendment shall have the meanings or definitions ascribed to them in the Lease. To the extent of any inconsistency in or conflict between the meaning, definition, or usage of any capitalized terms in this Amendment and the meaning, definition, or usage of any such capitalized terms or similar or analogous terms in the Lease, the meaning, definition, or usage of any such capitalized terms in this Amendment shall control.
15. **Indemnification.** Tenant shall and hereby does indemnify and hold Landlord harmless from all demands, claims, actions, causes of action, assessments, expenses, costs, damages, losses, and liabilities (including reasonable attorney's fees and costs) actually incurred, asserted, and/or suffered (collectively, the "**Losses**"), whether to persons or property, arising directly from Tenant's use of the Leased Premises and the use of the Leased Premises by Tenant's employees, agents, contractors, guests, licensees, or invitees; provided, in all events, the aforementioned indemnification shall not apply if and to the extent that the Losses relate to, or arise as the result of, the negligence, gross negligence, or willful misconduct of Landlord or any of Landlord's employees, agents, contractors, and/or invitees. Landlord shall and hereby does indemnify and hold Tenant harmless from all Losses, whether to persons or property, arising directly from Landlord's use of the Parent Parcel and the use of the Parent Parcel by Landlord's employees, agents, contractors, guests, licensees, or invitees; provided, in all events, the aforementioned indemnification shall not apply if and to the extent that the Losses relate to, or arise as the result of, the

negligence, gross negligence, or willful misconduct of Tenant or any of Tenant's employees, agents, contractors, and/or invitees.

16. **Compliance with Laws.** Tenant shall at all times use the Leased Premises in a lawful manner and comply with all governmental laws, rules, regulations and orders applicable to Lessee's use of the Leased Premises.
17. **Termination and Removal.** The Parties acknowledge and agree that Section 12 of the Lease is hereby deleted in its entirety and is of no further force and effect. From and after the Effective Date the holdover, termination, and removal requirements of the Lease, as modified by this Amendment, shall be controlled by this Section of this Amendment. Within 120 days of the expiration or termination of the Lease, Tenant shall remove all of its communications equipment and other personal property from the Leased Premises, including the removal of any foundation to six (6) inches below grade, but not including underground utilities, if any, and restore the Leased Premises to its original condition, reasonable wear and tear excepted.
18. **Maintenance.** The Parties agree that Tenant shall maintain the Leased Premises in a commercially reasonable manner.
19. **Utilities.** Tenant will be responsible for paying on a monthly or quarterly basis all utilities charges for electricity, telephone service or any other utility used or consumed by Tenant on the Premises.
20. **Interference.** Tenant warrants that its use of the Premises will not interfere with those existing radio frequency uses on the Leased Premises at the Effective Date of this Amendment.

[SIGNATURES COMMENCE ON FOLLOWING PAGE]

LANDLORD:

**The City of Truth or Consequences, New Mexico,
a municipal corporation**

Signature: _____

Print Name: _____

Title: _____

Date: _____

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

TENANT:

CommNet Cellular Inc. d/b/a Verizon Wireless

By: ATC Sequoia LLC, a Delaware limited liability company

Title: Attorney-in-Fact

Signature: _____

Print Name: _____

Title: _____

Date: _____

EXHIBIT A

This Exhibit A may be replaced at Tenant's option as described below.

PARENT PARCEL

Tenant shall have the right to replace this description with a description obtained from Landlord's deed (or deeds) that include the land area encompassed by the Lease and Tenant's improvements thereon.

The Parent Parcel consists of the entire legal taxable lot owned by Landlord as described in a deed (or deeds) to Landlord of which the Leased Premises is a part thereof with such Parent Parcel being described below:

Being situated in the County of Sierra, State of New Mexico, and being known as
Sierra County APN:

LEASED PREMISES

Tenant shall have the right to replace this description with a description obtained from the Lease or from a description obtained from an as-built survey conducted by Tenant.

The Leased Premises consists of that portion of the Parent Parcel as defined in the Lease which shall include access and utilities easements. The square footage of the Leased Premises shall be the greater of: (i) the land area conveyed to Tenant in the Lease; (ii) Tenant's (and Tenant's customers) existing improvements on the Parent Parcel; or (iii) the legal description or depiction below (if any).

The Lease Area is approximately 2,062.5 square feet, more or less, located in the County of Sierra, State of New Mexico, within the following described property:

Beginning at a concrete monument set for the Southeast corner of this tract at a point on the West right of way of Interstate Highway No. 25 [N.M.P. I-025-2(8)88] whence a Highway right of way rail marked Station 757+00 bears S.48°16'30" W. a distance of 213.55 feet and whence the West one Quarter Corner of Section 28, Township 13 South, Range 4 W, bears N.54°54'30" W. a distance of 1792.63 feet;

thence N.89°07'30" W. 466.78 feet;

thence N.81°59' W 668.88 feet to a concrete monument at the Southwest corner of this tract;

thence N.0°10' W. 1034.90 ft. to the Northwest corner marked by a concrete monument;

thence N.64°34' E. 995.60 feet to the Northeast corner of this tract marked by a concrete monument;

thence S.24°24' E. 208.62 feet;

thence South 342.32 feet;

thence East 155.28 feet;

thence S.24°24' E. 87.98 feet to a point of curvature;

thence around the arc of a curve to the left having a radius of 350 feet, through a central angle of 65°49' an arc length of 402.05 feet and whose long chord bears S.57°18'30" E, 380.31 feet to a point of tangency;

thence N.89°47'E. 92.45 feet to a point of a curve;

thence around the arc of a curve to the left having a radius of 230 feet through a central angle of 21°26'58", an arc length of 86.10 feet and whose long chord bears S. 13°40'31" E. 85.60 feet to a point of tangency;

thence S. 24°24' E. 53.58 feet to a point of curvature;

thence around the arc of a curve to the right having a radius 399.44 feet, through a central angle of 20°21'31", an arc length of 141.93 feet and whose long chord bears S. 14°13'15" E. 141.19 feet to the West right of way of Interstate Highway No. 25 marked by a concrete monument;

thence along the right of way S. 48°16'30" W 718.02 feet to the place of beginning.

Parcel ID# 3022077439295

For reference see Memorandum of Option and Lease Agreement recorded on 8/21/2003 in Book 99, Page 1548, as Reception# 200302771.

ACCESS AND UTILITIES

The access and utility easements include all easements of record as well that portion of the Parent Parcel currently utilized by Tenant (and Tenant's customers) for ingress, egress and utility purposes from the Leased Premises to and from a public right of way including but not limited to:

EXHIBIT B

FORM OF MEMORANDUM OF LEASE

Prepared by and Return to:

American Tower

10 Presidential Way

Woburn, MA 01801

Attn: Land Management/Anthony G. DePasquale, Esq.

ATC Site No: 413074

ATC Site Name: City of Consequences NM

Assessor's Parcel No(s):

Prior Recorded Lease Reference:

Book _____, Page _____

Document No: _____

State of New Mexico

County of Seirra

MEMORANDUM OF LEASE

This Memorandum of Lease (the "**Memorandum**") is entered into as of the latter signature date hereof, by and between the City of Truth or Consequences, New Mexico, a municipal corporation ("**Landlord**") and CommNet Cellular Inc. d/b/a Verizon Wireless ("**Tenant**").

NOTICE is hereby given of the Lease (as defined and described below) for the purpose of recording and giving notice of the existence of said Lease. To the extent that notice of such Lease has previously been recorded, then this Memorandum shall constitute an amendment of any such prior recorded notice(s).

1. **Parent Parcel and Lease.** Landlord is the owner of certain real property being described in **Exhibit A** attached hereto and by this reference made a part hereof (the "**Parent Parcel**"). Landlord (or its predecessor-in-interest) and Tenant (or its predecessor-in-interest) entered into that certain Option and Lease Agreement dated May 23, 2003 (as the same may have been amended from time to time, collectively, the "**Lease**"), pursuant to which the Tenant leases a portion of the Parent Parcel and is the beneficiary of certain easements for access and public utilities, all as more particularly described in the Lease (such portion of the Parent Parcel so leased along with such portion of the Parent Parcel so affected, collectively, the "**Leased Premises**"), which Leased Premises is also described on **Exhibit A**.
2. **American Tower.** Tenant, Verizon Communications Inc., a Delaware corporation, and other parties identified therein, entered into a Management Agreement and a Master Prepaid Lease, both with an effective date of March 27, 2015 and both with ATC Sequoia LLC, a Delaware limited liability company ("**American Tower**"), pursuant to which American Tower subleases, manages, operates and maintains, as applicable, the Leased Premises, all as more particularly described therein. In connection with these responsibilities, Tenant has also granted American Tower a limited power of attorney (the "**POA**") to, among other things, prepare, negotiate, execute, deliver, record and/or file certain documents on behalf of Tenant, all as more particularly set forth in the POA.
3. **Expiration Date.** Subject to the terms, provisions, and conditions of the Lease, and assuming the exercise by Tenant of all renewal options contained in the Lease, the final expiration date of the Lease would be May 31, 2058. Notwithstanding the foregoing, in no event shall Tenant be required to exercise any option to renew the term of the Lease.

4. **Leased Premises Description.** Tenant shall have the right, exercisable by Tenant at any time during the original or renewal terms of the Lease, to cause an as-built survey of the Leased Premises to be prepared and, thereafter, to replace, in whole or in part, the description(s) of the Leased Premises set forth on **Exhibit A** with a legal description or legal descriptions based upon such as-built survey. Upon Tenant's request, Landlord shall execute and deliver any documents reasonably necessary to effectuate such replacement, including, without limitation, amendments to this Memorandum and to the Lease.
5. **Right of First Refusal.** There is a right of first refusal in the Lease.
6. **Effect/Miscellaneous.** This Memorandum is not a complete summary of the terms, provisions and conditions contained in the Lease. In the event of a conflict between this Memorandum and the Lease, the Lease shall control. Landlord hereby grants the right to Tenant to complete and execute on behalf of Landlord any government or transfer tax forms necessary for the recording of this Memorandum. This right shall terminate upon recording of this Memorandum.
7. **Notices.** All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, or by First Class United States Mail, certified, return receipt requested to the addresses set forth herein: to Landlord at: 505 Sims, Truth or Consequences, New Mexico 87901; to Tenant at: Verizon Wireless, Attn.: Network Real Estate, 180 Washington Valley Road, Bedminster, NJ 07921; with copy to: American Tower, Attn.: Land Management, 10 Presidential Way, Woburn, MA 01801, and also with copy to: Attn.: Legal Dept. 116 Huntington Avenue, Boston, MA 02116. Any of the parties hereto, by thirty (30) days prior written notice to the other in the manner provided herein, may designate one or more different notice addresses from those set forth above. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address for which no notice was given as required herein, shall be deemed to be receipt of any such notice.
8. **Counterparts.** This Memorandum may be executed in multiple counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.
9. **Governing Law.** This Memorandum shall be governed by and construed in all respects in accordance with the laws of the State or Commonwealth in which the Leased Premises is situated, without regard to the conflicts of laws provisions of such State or Commonwealth.

[SIGNATURES COMMENCE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Landlord and Tenant have each executed this Memorandum as of the day and year set forth below.

LANDLORD

2 WITNESSES

**The City of Truth or Consequences, New Mexico,
a municipal corporation**

Signature: _____
Print Name: _____
Title: _____
Date: _____

Signature: _____
Print Name: _____

Signature: _____
Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

State/Commonwealth of _____

County of _____

On this ____ day of _____, 201____, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public
Print Name: _____
My commission expires: _____

[SEAL]

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

TENANT

WITNESS

CommNet Cellular Inc. d/b/a Verizon Wireless

By: ATC Sequoia LLC,
a Delaware limited liability company
Title: Attorney-in-Fact

Signature: _____
Print Name: _____

Signature: _____
Print Name: _____
Title: _____
Date: _____

Signature: _____
Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

Commonwealth of Massachusetts

County of Middlesex

On this ____ day of _____, 201____, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public
Print Name: _____
My commission expires: _____

[SEAL]

EXHIBIT A

This Exhibit A may be replaced at Tenant's option as described below.

PARENT PARCEL

Tenant shall have the right to replace this description with a description obtained from Landlord's deed (or deeds) that include the land area encompassed by the Lease and Tenant's improvements thereon.

The Parent Parcel consists of the entire legal taxable lot owned by Landlord as described in a deed (or deeds) to Landlord of which the Leased Premises is a part thereof with such Parent Parcel being described below:

Being situated in the County of Sierra, State of New Mexico, and being known as
Sierra County APN:

LEASED PREMISES

Tenant shall have the right to replace this description with a description obtained from the Lease or from a description obtained from an as-built survey conducted by Tenant.

The Leased Premises consists of that portion of the Parent Parcel as defined in the Lease which shall include access and utilities easements. The square footage of the Leased Premises shall be the greater of: (i) the land area conveyed to Tenant in the Lease; (ii) Tenant's (and Tenant's customers) existing improvements on the Parent Parcel; or (iii) the legal description or depiction below (if any).

The Lease Area is approximately 2,062.5 square feet, more or less, located in the County of Sierra, State of New Mexico, within the following described property:

Beginning at a concrete monument set for the Southeast corner of this tract at a point on the West right of way of Interstate Highway No. 25 [N.M.P. I-025-2(8)68] whence a Highway right of way rail marked Station 757+00 bears S.48°16'30" W. a distance of 213.55 feet and whence the West one Quarter Corner of Section 28, Township 13 South, Range 4 W, bears N.54°54'30" W. a distance of 1792.63 feet;

thence N.89°07'30" W. 466.78 feet;

thence N.81°59' W. 668.88 feet to a concrete monument at the Southwest corner of this tract;

thence N.0°10' W. 1034.90 feet to the Northwest corner marked by a concrete monument;

thence N.64°34' E. 995.60 feet to the Northeast corner of this tract marked by a concrete monument;

thence S.24°24' E. 208.62 feet;

thence South 342.32 feet;

thence East 155.28 feet;

thence S.24°24' E. 87.98 feet to a point of curvature;

thence around the arc of a curve to the left having a radius of 350 feet, through a central angle of 65°49' an arc length of 402.05 feet and whose long chord bears S.57°18'30" E. 380.31 feet to a point of tangency;

thence N.89°47' E. 92.45 feet to a point of a curve;

thence around the arc of a curve to the left having a radius of 230 feet through a central angle of 21°26'58", an arc length of 86.10 feet and whose long chord bears S. 13°40'31" E. 85.60 feet to a point of tangency;

thence S. 24°24' E. 53.58 feet to a point of curvature;

thence around the arc of a curve to the right having a radius 399.44 feet, through a central angle of 20°21'31", an arc length of 141.93 feet and whose long chord bears S. 14°13'15" E. 141.19 feet to the West right of way of Interstate Highway No. 25 marked by a concrete monument;

thence along the right of way S. 48°16'30" W. 716.02 feet to the place of beginning.

Parcel ID# 3022077439295

For reference see Memorandum of Option and Lease Agreement recorded on 8/21/2003 in Book 99, Page 1548, as Reception# 200302771.

ACCESS AND UTILITIES

The access and utility easements include all easements of record as well that portion of the Parent Parcel currently utilized by Tenant (and Tenant's customers) for ingress, egress and utility purposes from the Leased Premises to and from a public right of way including but not limited to:

Instructions for completing the Resolution and Consent Affidavit

****IMPORTANT INFORMATION BELOW****

In order to avoid delays in the completion of this transaction, the Resolution and Consent Affidavit must be signed by **ALL** Members, Partners, Directors, Shareholders, Officers or Trustees of the organization. Section 6 of this form allows for the organization to appoint one person to sign the remaining documents but **ONE HUNDRED PERCENT (100%)** of the ownership or voting interest of the organization must sign this first. Failure to comply with these instructions or properly indicate the percentage of ownership and/or voting interest will result in delays and could require the documents to be re-executed. If you have any questions, please contact your land lease representative.

Prepared by and Return to:

American Tower

Attn: Land Management/Anthony G. DePasquale, Esq.

10 Presidential Way

Woburn, MA 01801

Assessor's Parcel No(s):

RESOLUTION AND CONSENT AFFIDAVIT

The City of Truth or Consequences, New Mexico, a municipal corporation

Be it known that, under the pains and penalties of perjury, the undersigned Members, Partners, Directors, Shareholders, Officers or Trustees, as applicable (collectively, the "**Affiants**") of the above referenced entity (the "**Landlord**"), hereby declare and resolve the following:

1. Landlord (or its predecessor-in-interest) has leased or subleased a portion of land to **CommNet Cellular Inc. d/b/a Verizon Wireless** (the "**Tenant**") pursuant to that certain Option and Lease Agreement dated May 23, 2003 (as the same may have been amended from time to time, collectively, the "**Lease**").
2. Landlord and Tenant desire to enter into an amendment of the Lease (the "**Amendment**") in order to extend the term thereof and to further amend the Lease as more particularly set forth in the Amendment.
3. Landlord is duly organized, validly existing, and in good standing in the jurisdiction of its formation, organization, and/or incorporation, as applicable, and is otherwise authorized to transact business and in good standing in any other jurisdictions where such qualifications are required. Landlord has full power and authority to enter into and perform Landlord's obligations under the Amendment and the other Transaction Documents (as hereinafter defined), and the Amendment and the other Transaction Documents have been duly executed and delivered by Landlord. The Affiants listed below are the only legal and equitable owners of Landlord and are the only members, partners, directors, shareholders, officers and/or trustees, as applicable, of Landlord.
4. The Affiants hereby approve of the Transaction Documents and all of the terms and provisions contained therein and declare, resolve and/or affirm, as applicable, that Landlord is hereby authorized to enter into the Transaction Documents with Tenant and effect the transactions contemplated therein. The Affiants hereby declare and affirm that any other corporate and shareholder, member, partner, and/or trustee actions required to effectuate the transactions contemplated in the Amendment and other Transaction Documents have been completed.
5. The Affiants also declare that they have full legal authority to bind Landlord under the laws of the State or Commonwealth in which the Leased Premises (as defined in the Amendment) is located, and Affiants have the full authority to execute any and all of the Transaction Documents on behalf of

ATC Site No: 413074

VZW Site No: 144257

Site Name: City of Consequences NM

Landlord and to nominate individuals to act on Landlord's behalf.

6. The Affiants hereby nominate the below listed individual (the “**Nominee**”) as attorney-in-fact to execute and deliver the Amendment, together with any other documents and agreements, including, without limitation, the Memorandum (as defined in the Amendment), required to be executed and delivered pursuant to the terms and provisions of the Amendment (the Amendment and all of such other aforementioned agreements and documents, collectively, the “Transaction Documents”), on behalf of Affiants and Landlord. The Nominee shall have full power and authority to act on behalf of Affiants and on behalf of Landlord for purposes of executing and delivering the Transaction Documents and ensuring that Landlord fulfills its obligations thereunder. Additionally, the Nominee shall have full authority to direct the manner in which all payments made by Tenant pursuant to the Amendment are to be made to Landlord, including, without limitation, identifying which bank account(s) to transfer funds to in the event a wire payment is made by Tenant.

NOMINEE: (Print Name) _____
(Address) _____

7. This Resolution and Consent Affidavit shall become effective as of the date of the last notarized signature of the Affiants listed below.
8. Affiants hereby acknowledge and agree that Tenant, its lenders, and its title insurance company are relying upon, and are entitled to rely upon, this Resolution and Consent Affidavit and the contents hereof as a material inducement to entering into the Amendment and other Transaction Documents. Tenant, its lenders, and its title insurance company may rely upon a faxed, scanned or otherwise electronically reproduced fully-executed copy of this document as if it were an original.
9. This document can only be amended or modified by addendum or an amendment that is fully executed and notarized by all Affiants listed hereunder.

[SIGNATURES COMMENCE ON FOLLOWING PAGE]

EXECUTED UNDER THE PAINS AND PENALTIES OF PERJURY ON THE DATE WRITTEN BELOW

AFFIANT NO. 1

2 WITNESSES

Signature: _____

Print Name: _____

Date: _____

Title: (*circle one*) Member, Partner, Director,
Shareholder, Officer, Trustee

Percentage Ownership or Voting Interest:
_____ %

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

State/Commonwealth of _____

County of _____

On this ____ day of _____, 201____, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

Print Name: _____

My commission expires: _____

[SEAL]

EXECUTED UNDER THE PAINS AND PENALTIES OF PERJURY ON THE DATE WRITTEN BELOW

AFFIANT NO. 2

2 WITNESSES

Signature: _____

Print Name: _____

Date: _____

Title: (circle one) Member, Partner, Director,
Shareholder, Officer, Trustee

Percentage Ownership or Voting Interest:
_____ %

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

State/Commonwealth of _____

County of _____

On this ____ day of _____, 201____, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

Print Name: _____

My commission expires: _____

[SEAL]

EXECUTED UNDER THE PAINS AND PENALTIES OF PERJURY ON THE DATE WRITTEN BELOW

AFFIANT NO. 3

2 WITNESSES

Signature: _____

Print Name: _____

Date: _____

Title: (circle one) Member, Partner, Director,
Shareholder, Officer, Trustee

Percentage Ownership or Voting Interest:
_____ %

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

State/Commonwealth of _____

County of _____

On this ____ day of _____, 201____, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

Print Name: _____

My commission expires: _____

[SEAL]

EXECUTED UNDER THE PAINS AND PENALTIES OF PERJURY ON THE DATE WRITTEN BELOW

AFFIANT NO. 4

2 WITNESSES

Signature: _____

Print Name: _____

Date: _____

Title: (circle one) Member, Partner, Director,
Shareholder, Officer, Trustee

Percentage Ownership or Voting Interest:
_____ %

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

State/Commonwealth of _____

County of _____

On this ____ day of _____, 201____, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

Print Name: _____

My commission expires: _____

[SEAL]

EXECUTED UNDER THE PAINS AND PENALTIES OF PERJURY ON THE DATE WRITTEN BELOW

AFFIANT NO. 5

2 WITNESSES

Signature: _____

Print Name: _____

Date: _____

Title: (circle one) Member, Partner, Director,
Shareholder, Officer, Trustee

Percentage Ownership or Voting Interest:
_____ %

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

State/Commonwealth of _____

County of _____

On this ____ day of _____, 201____, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

Print Name: _____

My commission expires: _____

[SEAL]

EXECUTED UNDER THE PAINS AND PENALTIES OF PERJURY ON THE DATE WRITTEN BELOW

AFFIANT NO. 6

2 WITNESSES

Signature: _____

Print Name: _____

Date: _____

Title: (circle one) Member, Partner, Director,
Shareholder, Officer, Trustee

Percentage Ownership or Voting Interest:
_____ %

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

State/Commonwealth of _____

County of _____

On this ____ day of _____, 201____, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

Print Name: _____

My commission expires: _____

[SEAL]



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: June 24, 2020

Agenda Item #: H.3 (a)

SUBJECT: Approve Agreement between Children, Youth, and Families Division (CYFD) and the City of Truth or Consequences for the Juvenile Justice Advisory Council (JJAC).

DEPARTMENT: City Clerk's Office

DATE SUBMITTED: June 18, 2020

SUBMITTED BY: Angela A. Torres, Clerk Treasurer

WHO WILL PRESENT THE ITEM: City Manager Madrid

Summary/Background:

This is an agreement between Children, Youth, and Families Division (CYFD) and the City of Truth or Consequences for the Juvenile Justice Advisory Council (JJAC). The agreement shall terminate on June 30, 2025 unless terminated pursuant to Article VI (Termination of Agreement) or Article XXIII (Appropriations).

Recommendation:

.

Attachments:

Agreement.

-

Fiscal Impact (Finance): Choose an item.

.

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 6-24-2020

STATE OF NEW MEXICO
CHILDREN, YOUTH AND FAMILIES DEPARTMENT
Continuum of Graduated Sanctions
AGREEMENT No. 21-690-3200-20820

THIS AGREEMENT is made and entered into by and between the State of New Mexico, **CHILDREN, YOUTH AND FAMILIES DEPARTMENT**, hereinafter referred to as the "Agency," and **City of Truth or Consequences** hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Agency.

WHEREAS, the Agency is the State agency designated to receive and administer federal funds and desires to engage and the contractor is willing to provide the services outlined pursuant to Article II - Scope of Work.

NOW THEREFORE, the Agency and the Contractor in consideration of mutual covenants and agreements herein contained, do hereby agree as follows:

ARTICLE I. Term of Agreement

THIS AGREEMENT SHALL BECOME EFFECTIVE ON THE DATE UPON WHICH IT IS EXECUTED BY THE AGENCY SECRETARY OR DESIGNEE. This Agreement shall terminate on **June 30, 2025** unless terminated pursuant to Article VI (Termination of Agreement), or Article XXIII (Appropriations).

ARTICLE II. Scope of Work

The Contractor shall provide the program of services as set forth in the scope of work which is attached hereto as "**Attachment 1 – Scope of Work**" and incorporated herein by reference, unless amended or terminated pursuant to Article VI (Termination of Agreement), or Article XXIII (Appropriations), infra. In consideration for the provision of those services, the Agency agrees to purchase and the Contractor agrees to perform the services identified in the Scope of Work.

If applicable to the performance of the scope of work herein (direct service delivery to a child or other care recipient by staff and employees of child-care facilities, including every facility or program having primary custody of children for twenty hours or more per week, juvenile treatment facilities, and direct provider of care for children in the following settings: Children's behavioral health services and licensed and registered child care, including shelter care), or if the performance of the scope of work places Contractor in the position of coming into contact with client data, Contractor and its staff and employees, and other prospective subcontractors are required to obtain a Background Check (a screen of the Children, Youth and Families Department's information databases, state and federal criminal records and any other reasonably reliable information about an applicant) in accordance with 8.8.3.2 NMAC - Rp, 8.8.3.2 NMAC, 03/31/06.

ARTICLE III. Limitation of Cost

The Agency shall pay to the Contractor for services satisfactorily performed as outlined in the budget which is made part of this Agreement as **Attachment 2 – Budget**. The total amount of the monies payable to the Contractor under this Agreement shall not exceed **Three Hundred Twenty One Thousand One Hundred Sixteen Dollars and Zero Cents (\$321,116.00)**. The annual budget is attached hereto as "**Attachment 2 – Budget**" and incorporated herein by reference.

ARTICLE IV. Payment

The Agency shall make monthly payments to the Contractor for services and costs specified in **Attachment 2 - Budget**. The Contractor shall submit certified and documented invoices and vouchers monthly for actual work performed and expenses incurred to the Agency. The Contractor's failure to submit such payment vouchers, invoices, and supporting documentation within fifteen (15) days after they are due may result in the non-availability of funds for payment and/or the denial of payment by the Agency.

ARTICLE V. Return of Funds

Upon termination of this Agreement, or after the services provided for herein have been rendered, surplus money, if any, shall be returned by the Contractor to the Agency.

ARTICLE VI. Termination of Agreement

A. Grounds. The Agency may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the Agency's uncured, material breach of this Agreement.

B. Notice; Agency Opportunity to Cure.

1. Except as otherwise provided in Article (VI)(B)(3), the Agency shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

2. Contractor shall give Agency written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the Agency's material breaches of this Agreement upon which the termination is based and (ii) state what the Agency must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the Agency does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the Agency does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

3. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the Agency; (ii) if, during the term of this Agreement, the Contractor is suspended or debarred by the State Purchasing Agent; or (iii) the Agreement is terminated pursuant to Article XXIII, "Appropriations", of this Agreement.

C. Liability. Except as otherwise expressly allowed or provided under this Agreement, the Agency's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; 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. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE AGENCY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

D. Termination Management. If this agreement is terminated pursuant to its provisions, or if the parties mutually agree to discontinue their contractual relationship, or upon expiration of the term of the AGREEMENT, immediately upon expiration or 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, except as provided in part (4) of this paragraph, below; 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, and 4) if providing health services or client support as part of the scope of work of this agreement, continue to provide essential services and supports to ensure the health and safety of individual clients as directed by the Agency during the period of termination management. This requirement is not avoided by an inadvertent expiration of term for the agreement. In this event the Agency may temporarily extend the term, enter into a new short-term agreement or otherwise enter into an agreement, consistent with the New Mexico Procurement Code until all transition of services are completed. As of the date of termination of this agreement, the Contractor shall furnish to the Agency: (a) a complete detailed inventory of nonexpendable Agency property or equipment provided to or purchased by the Contractor with agreement funds as defined in Article 31 (Property) of this agreement, and (b) a final closing of the financial records and books of accounts which were required to be kept by the Contractor under the provisions of this agreement regarding financial records. Any non-expendable personal property or equipment provided to or purchased by the Contractor with agreement funds shall become property of the Agency upon termination and shall be submitted to the agency as soon as practicable.

ARTICLE VII. Funds Accountability

The parties shall provide for strict accountability of all monies made subject to this Agreement. The Contractor shall maintain fiscal records, follow generally accepted accounting principles, and account for all receipts and disbursements of funds transferred to the Contractor pursuant to this Agreement. The Contractor will include all monies made subject to this Agreement in the annual audit and will provide the Agency with a copy of the annual audit.

ARTICLE VIII. Maintenance of Records

A. 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 Agency, the Department of Finance and Administration and the State Auditor. The Agency shall have the right to audit billings both before and after payment. Payment under this agreement shall not foreclose the right of the Agency to recover excessive or illegal payments.

B. If Contractor receiving state or federal funds from the Agency shall comply, if applicable, with auditing requirements under the Single Audit Act (31 U.S.C. §7501, et seq.) and the New Mexico State Auditor's rules and regulations. If the Contractor is determined to be a sub recipient and not a vendor under the federal Single Audit Act, the Contractor shall comply with the audit requirements of the Single Audit Act. This includes the Contractor retaining its financial records for a period five years after the time the audit was released.

C. If the Contractor receives more than \$250,000 in federal funding, or more than \$750,000 from the Agency, in any single fiscal year, the Contractor shall prepare annual financial statements and obtain an audit of, or an opinion on, the financial statements from an external Certified Public Accountant.

D. The Contractor shall maintain the financial statements for a period of no less than six years and shall make the financial statements and the CPA's audit or opinion available to the Agency upon request.

E. Applicable annual financial reports shall be submitted to the Agency no later than six months following the close of the Contractor's fiscal year.

F. To ensure proper delivery and receipt, the Contractor shall submit their annual audit report, or financial reports (if no audit was required to):

Children, Youth and Families Department
Contract Audit Unit
1120 Paseo de Peralta, Room
103 Santa Fe, New Mexico
87501

G. The Agency may take corrective action as deemed necessary for Contractor's failure to comply with 19-A through 19-F above. Corrective action may include, but is not limited to, termination of agreement and preclusion from engaging Contractor in the future.

ARTICLE IX. 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 Agency.

The Contractor shall maintain complete confidential records for the benefit of clients, sufficient to fulfill the provisions of the Scope of Work, and to document the services rendered under the Scope of Work. All records maintained pursuant to this provision shall be available for inspection by the Agency. The Contractor shall comply with the Federal Health Insurance Portability and Accountability Act (HIPAA) of 1996, the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH Act) and applicable regulations and all other state and federal rules, regulations and laws protecting the confidentiality of information. If the Contractor may reasonably be expected to have access to Agency's Protected Health Information (PHI) and will perform business associate functions as defined by HIPAA, Contractor shall execute the HIPAA/HITECH Business Associate Agreement as a separately executed mandatory agreement which is hereby incorporated by reference into and made part of this agreement. Failure to execute the HIPAA/HITECH Business Associate Agreement when required by the Agency shall constitute grounds for termination of this agreement in accordance with Article 4 (Termination) of this agreement.

ARTICLE X. Amendments

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 VI herein, or to agree to the reduced funding.

ARTICLE XI. 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 Agency.

ARTICLE XII. Applicable Law

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 exclusive 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.

ARTICLE XIII. Acquisition of Property

The parties agree that neither party shall acquire any property as the result of this Agreement, unless approved by the Agency or defined in the scope of work.

ARTICLE XIV. Liability

Each party shall be solely responsible for fiscal or other sanctions occasioned as a result of its own violation or alleged violation or requirements applicable to the performance of the Agreement. Each party shall be liable for its actions according to this Agreement subject to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1, et. seq., NMSA 1978, as amended.

ARTICLE XV. Execution of Documents

The Agency and the Contractor agree to execute any document(s) necessary to implement the terms of this Agreement.

ARTICLE XVI. Sub-Contracts

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval by the Agency Secretary or Designee. No such subcontract shall relieve the primary Contractor from any obligations and liabilities under this Agreement, nor shall subcontract obligate direct payment from the Agency. Contractor must notify subcontractors that they are subject to Article VIII - Maintenance of Records of this agreement.

ARTICLE XVII. Equal Opportunity Compliance

The Contractor agrees to 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 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.

ARTICLE XVIII. 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 Agency.

ARTICLE XIX. Lobbying Certification

The Contractor, by signing below, certifies to the best of his/her knowledge and belief, that:

No federal appropriated funds have been paid or will be paid by or on the behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than Federal appropriated funds have been

paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit a Standard Form LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions. The undersigned shall require that the language of this certification be included in the award document for sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of facts upon which reliance is placed when this transaction is made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C. (United States Code). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

ARTICLE XX. New Mexico Employees Health Coverage
(Governmental entities are excluded from this provision)

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 agrees to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010 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 of New Mexico.

C. Contractor agrees to advise all employees of the availability of State publicly financed health care coverage programs.

ARTICLE XXI. Background Checks

Agency contractors that have or could have primary custody of children for at least twenty hours per week are required to comply with NMAC 8.8.3 et. seq. requiring background checks on any employee, staff, volunteer or student intern, that has direct care responsibilities or potential unsupervised physical access to clients. Additionally, all Information Technology (IT) contractors are required to have a background check. The contractor must submit to Agency Background Check Unit fingerprint cards and the appropriate fee for such employees, volunteers or staff required to have background checks. The Agency Background Check Unit will conduct nationwide, state and abuse and neglect background checks on required staff or volunteers in accordance with NMAC 8.8.3 standards. An Agency eligibility letter must be in the employee, volunteer or staff member's personnel file prior to that individual having any unsupervised direct contact or unsupervised potential access to clients.

ARTICLE XXII. 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.

B. Client information developed under this agreement may not be used by the Contractor or be transferred to a third party in any form, including aggregate data, without the express written permission of the Agency, except to fulfill the provisions of the Scope of Work under this agreement.

ARTICLE XXIII. Appropriations

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.

ARTICLE XXIV. Property

A. Title to all property furnished by the Agency shall remain in the Agency. Title to all property acquired by the Contractor, including acquisition through lease-purchase agreement, for the cost of which the Contractor is to be reimbursed as a direct item of cost under this agreement shall immediately vest in the Agency upon delivery of such property to the Contractor. Title to other property, the costs of which is to be reimbursed to the Contractor under this agreement, shall immediately vest in the Agency upon 1) issuance for use of such property in the performance of this agreement or 2) use of such property in the performance of this agreement or 3) reimbursement of the cost thereof by the Agency, whichever first occurs.

B. Title to the Agency property shall not be affected or lose its identity by reason of affixation to any realty or attachment at law.

C. The Contractor shall maintain a property inventory and administer a program of maintenance, repair, and protection of Agency property so as to assure its full availability and usefulness for performance under this agreement. In the event the Contractor is indemnified, reimbursed, or otherwise compensated for any loss or destruction of, or damage to Agency property during the period of this agreement, it shall use the proceeds to repair or replace the Agency property.

ARTICLE XXV. Licensure

If required for the performance of the Scope of Work herein, the Contractor agrees to retain professional licensure, accreditation, credentialing or continuing education required to perform the scope of professional services provided for the Agency. The Contractor agrees to make evidence of licensure or other regulatory requirements for the scope of professional services available to the Agency if requested in writing.

ARTICLE XXVI. Federal Grant or Other Federally Funded Agreements.

A. Lobbying. The Contractor shall not use any funds provided under this agreement, either directly or indirectly, for the purpose of conducting lobbying activities or hiring a lobbyist or lobbyists on its behalf at the federal, state, or local government level, as defined in the Lobbyist Regulation Act, NMSA 1978, Sections 2-11-1, *et. seq.*, and applicable federal law. No federal

appropriated funds can be paid or will be paid, by or on behalf of the Contractor, or any person for influencing or attempting to influence an officer or employee of any Department, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal agreement, or the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any federal agreement, grant, loan, or cooperative agreement. If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any Department, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection of any applicable federal agreement, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

B. Suspension and Debarment. For agreements that involve the expenditure of federal funds, each party represents that neither it, nor any of its management or any other employees or independent contractors who will have any involvement in the services or products supplied under this agreement, have been excluded from participation in any government healthcare program, debarred from or under any other federal program (including but not limited to debarment under the Generic Drug Enforcement Act), or convicted of any offense defined in 42 U.S.C. Section 1320a-7, and that it, its employees, and independent contractors are not otherwise ineligible for participation in federal healthcare or education programs. Further, each party represents that it is not aware of any such pending action(s) (including criminal actions) against it or its employees or independent contractors. Each party shall notify the other party immediately upon becoming aware of any pending or final action in any of these areas.

C. Fiscal and Administrative Standards. Contractors shall adhere to all local, state and federal regulations as applicable to their operations. For Agreements that involve the expenditure of federal funds, Contractors shall adhere to fiscal and administrative standards in accordance with:

- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)
- <https://www.federalregister.gov/articles/2013/12/26/2013-30465/uniform-administrative-requirements-cost-principles-and-audit-requirements-for-federal-awards>
- State of New Mexico Manual of Model Accounting Practices (MAP's) issued by the New Mexico Department of Finance and Administration-Financial Control Division
- <http://www.nmdfa.state.nm.us/Manuals.aspx>
- The State of New Mexico State Auditor, State Audit Rule
- http://www.saonm.org/state_auditor_rule
- Title 2 CFR, Chapter 1, Part 170, Reporting Sub-award and Executive Compensation Information.
- Title 2 Grants and -Agreements Subtitle A Chapter II Part 200,
- FASB and AICPA Statements and Professional Pronouncements.
- U.S. General Accounting Office, Government Auditing Standards, (The Yellow Book, current revision).
- FASB and AICPA Statements and Professional Pronouncements.

D. Political Activity. No funds hereunder shall be used for any partisan political activity or to further the election or defeat of any candidate for public office.

E. Grantor and Contractor Information.

1. If applicable, funding under this agreement is from the Catalog of Federal Domestic Assistance (CFDA) Program:
 - i. CFDA Number -XXX_____. OR N/A
 - ii. Program Title -XXX_____. OR N/A
 - iii. AGENCY/OFFICE -XXX_____. OR N/A
 - iv. GRANT NUMBER -XXX_____. OR N/A
2. CONTRACTOR'S Dun and Bradstreet Data Universal Numbering System Number (DUNS Number) is XXX_____. OR N/A

F. Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Sept. 2013) [Federal Grant funded projects only].

3. This agreement and employees working on this agreement will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908.
4. The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.
5. The Contractor shall insert the substance of this clause, including this paragraph (3), in all subcontracts over the simplified acquisition threshold.

G. For agreements and subgrants that involve the expenditure of federal funds for amounts in excess of \$150,000, requires the Contractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

H. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) — For agreements that involve the expenditure of federal funds, Contractors that apply or bid for an agreement exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal agreement, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.

I. For agreements that involve the expenditure of federal funds, Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

IN WITNESS WHEREOF, the Agency and the Contractor have caused this Agreement to be executed, said Agreement to become effective as of the date set forth below upon which it is executed by Agency Secretary or Designee.

Contractor – City of Truth or Consequences

Authorized Signatory

Date: _____

Printed Title of Authorized Signatory

Legal Counsel, Contractor

Date: _____

Agency – New Mexico Children, Youth and Families Department

Secretary or Designee, CYFD

Date: _____

Chief Financial Officer, CYFD

Date: _____

Approved as to legal form and sufficiency.

Office of General Counsel, CYFD

Date: _____

Attachment 1 – Scope of Work
City of Truth or Consequences

Goal:

To improve the Juvenile Justice System and decrease the incidences of juvenile delinquency in the community while increasing the emphasis on prevention and early intervention in juvenile justice services.

Objective:

To provide a continuum of cost effective services and temporary, non-secure alternatives to detention for youth who have been arrested or referred to the juvenile probation office or are at risk of such referral.

Activities:

The Contractor shall:

- A. Develop and maintain a juvenile justice advisory board, herein referred to as the “Community Advisory Board (CAB)”, as required by statute under the Juvenile Continuum Act and the New Mexico Administrative Code 8.14.13.7(E). The Contractor, through the Juvenile Justice Continuum Coordinator (refer to paragraph B), will organize and coordinate regular meetings of the CAB.

The CAB will:

1. Develop and improve the “Comprehensive Strategic Plan” for juvenile justice and detention reform in Sierra County to be updated a minimum of once per year;
 2. Set policy for the Comprehensive Strategic Plan and the activities supported under this Agreement;
 3. Determine the duties and responsibilities of the Juvenile Justice Continuum Coordinator, in accordance with the Scope of Work;
 4. Provide oversight for the programs/service identified in the Scope of Work;
 5. Continue to collaborate with the City and County to ensure improvements in the operational collaboration of local resources and service providers; and
 6. Maintain a plan for sustainability of the programs/services implemented by the CAB.
 7. Comply with, plan and implement strategies to address racial and ethnic disparities among youth who come into contact with the juvenile justice system, to assure equal treatment for all of the State’s youth; and
 8. Help jurisdictions through, Juvenile Detention Alternatives Initiative, establish more effective and efficient systems, so youth involved in the juvenile justice system will have opportunities to develop into healthy adults.
- B. Contract with or hire a Juvenile Justice Continuum Coordinator who will:
1. Organize, coordinate and provide staff support for the CAB; this will include board development activities in conjunction with the CAB chair;
 2. Inform the Agency’s Program Manager of the date of each meeting and submit a copy of the written minutes of each meeting, within thirty (30) days of the meeting;

Attachment
1

3. Coordinate/oversee the programmatic delivery of subcontract requirements of local Continuum service providers;
 4. Submit to the Agency's Program Manager monthly requests for reimbursement. Such requests will be submitted on Agency Program Invoice and Expenditure Report forms, signed and dated by an authorized agent of the Contractor, to ensure that requests for reimbursement are submitted by the due date of the fifteenth (15) day of the following month, unless otherwise approved by the Agency's Program Manager, in advance;
 5. Provide data reports as required by the federal government, corresponding to the activities described in this Scope of Work. The Agency's Program Manager will provide the data report format. Programmatic data reports will be submitted monthly to the Agency and must accompany the monthly invoice. Failure to submit such programmatic data and financial reports may result in notice to the Contractor of non-availability of funds and/or the denial of payment by the Agency.
 6. Provide the Agency standardized progress reports monthly;
 7. Submit to the Agency a written "Final Report" no later than 15 days after the termination of this Agreement and such other reports deemed necessary by the Agency. The Final Report shall contain at a minimum, but not be restricted to:
 - a. accomplishments/milestones achieved during this Agreement period;
 - b. reporting on program specific performance measures and related outcomes;
 - c. statements regarding obstacles and progress made;
 - d. continuing development and improvement of the Comprehensive Strategic Plan for the continuum programs and services; and
 - e. provide plan for sustainability of programs/services.
 8. Attend meetings as required by the Agency.
- C. The Contractor, based upon their application for the Juvenile Justice Continuum Grant and Title II Formula, Grant, submitted for state fiscal year 2021, and incorporated herein by reference, agrees to contract with or hire to provide the following services as detailed in the aforementioned grant application which has been incorporated by reference, to youth, referred by the required partners or that are at risk of receiving such a referral, reimbursed based upon the fixed prices and number of youth to be served listed in Attachment 2 – Budget:
1. Diversion Program; and
 2. Learning Lab.

Duties and Responsibilities:

The Contractor shall:

- A. Ensure that the CAB meets all goals and objectives and completes activities as specified in this contract and in compliance with all applicable state and federal laws.
- B. The Contractor agrees that funds received under this award will not be used to supplant state or local funds, but will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for program activities.

- C. The Contractor understands that the Agency reserves the right to conduct periodic on-site monitoring visits upon reasonable notice to the Contractor and sub-contractors prior to each visit.
- D. The Contractor understands that it will be subject to additional financial and programmatic on-site monitoring, which may be on short notice, and agrees that it will cooperate with any such monitoring.
- E. Attend meetings and trainings as required by the Agency.
- F. Provide copies of the CAB's meeting minutes within thirty (30) days of the meeting.
- G. The Contractor agrees to demonstrate an emphasis on effective, evidence-based strategies.
- H. Ensure that all programs must commence and be operational within ninety (90) days of the last signatory executing this Agreement. If the Contractor's program has not commenced or is not operational within that timeframe, the Contractor must report in writing to the Agency the steps taken to initiate the program, the reasons for the delay, and the expected starting date prior to the end of the ninety (90) days. If this justification is not received prior to the end of the ninety (90) days, the Contractor's program, at the Agency's discretion, may be terminated and the funds allocated to that program redistributed to other sites or programs.
- I. Submit reimbursement invoices to the Agency no later than fifteen (15) days after the end of each month. At a minimum, invoice documentation must include:
 - 1. The approved Agency's Program Invoice and Expenditure Report forms; and
 - 2. Any supporting documentation the Agency requires to verify the expense. This includes, but is not limited to invoices, receipts, time sheets, payroll registers, general ledger account reports, and proof of payment.
- J. Submit monthly programmatic data reports no later than fifteen (15) days after the end of each month. The submission of all reports are to be in the Agency provided form and format and is unacceptable in any other formats or hand written.
- K. Submit a final closeout report outlining all accomplishments, measurement of goals and objectives, and barriers to successful implementation or completion of this program within fifteen (15) days of the termination date of this Agreement. The submission of all reports are to be in the Agency provided form and format and is unacceptable in any other formats or hand written.
- L. The Contractor agrees to comply with any and all additional reporting requirements or informational requests imposed by the Agency, Department of Justice, Office of Justice Programs, or the New Mexico Legislature. The Agency will notify the Contractor of any additional reporting requirements as they are imposed.

M. Through the Budget Adjustment Request (BAR) form, submit to the Agency any amendments by the Contractor to request changes and/or corrections for any programmatic, administrative, or financial element associated with this Agreement. The Agency, by written notice, has the right to deny any amendment request. All final BAR forms must be submitted to the Agency no later than forty-five (45) days prior to the end of the fiscal year. Requests submitted after that date may not be accepted or approved. Upon BAR approval the line items in Attachment 2-Budget will be updated. A contract amendment will be processed in the event that the total compensation is increased or decreased.

N. Communication and details concerning this Agreement shall be directed to the following representative:

Agency

Cindy Varela
Grant Management Unit Manager
Children, Youth and Families Department
P.O. Drawer 5160, Room 540B
Santa Fe, NM 87502
(P) 505-629-3223

Contractor

Pat A. Wood
Chief Procurement Officer
City of Truth or Consequences
505 Sims Street
Truth or Consequences, NM 87901
(P) 575-894-6673 Ext 312

O. The Contractor's obligation to the Agency shall not end until all close out requirements are completed. Activities during this period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, program income balances, and accounts receivable to the Agency), performance measurement reports and determining the custodianship of records.

P. The Contractor shall obtain written approval from the Agency for any travel outside the State of New Mexico with funds provided under this Agreement. Per Diem and mileage, and other miscellaneous expense, will be paid in accordance with the Department of Finance and Administration (DFA) Rule 2.42.2 NMAC. The request will be in the Agency provided form and format.

Q. The Contractor will include all applicable provisions of this Agreement in every sub-contract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own sub-contractors.

R. The Contractor, as well as all sub-contractors, is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.

S. The Contractor agrees to comply with applicable restrictions on sub-contracts that do not acquire and provide a Data Universal Numbering System (DUNS) number. This special condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

- T. The Contractor agrees that award funds may not be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography.

This restriction does not apply to the use of funds for any federal, state, tribal or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities. Any such activity funded under this Agreement must be reported to the Agency immediately.

- U. The Contractor is encouraged to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this contract, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers, as pursuant to Executive Order 13513. "Federal Leadership on Reducing Text Messaging While Driving", 74 Fed. Reg. 51225 (October 1, 2009).

- V. The Contractor understand and agrees that any training or training materials developed or delivered with funding provided under this contract must adhere to the Office of Justice Programs Training Guiding Principles for Grantee and Subgrantees, available at <http://www.ojp.usdoj.gov/funding/ojptrainingguidingprinciples.htm>.

- W. Mandatory Reporting Information: Under New Mexico law, all persons are mandatory reporters of suspected abuse or neglect of children. If the contractor suspects abuse or neglect in the audited facilities, the contractor must contact the New Mexico Statewide Central Intake Hotline (SCI) at 1-855-333-SAFE or #SAFE from a cellphone.

The Agency shall:

- A. Reimburse Contractor for verified services provided and incurred costs as stated in Attachment 2 – Budget.
- B. Provide information and/or make referrals for training and technical assistance.
- C. Based on periodic program and fiscal reviews, the Agency retains the sole discretion to reduce the budget of Contractors who do not provide sufficient services, do not submit the required programmatic and financial reports as required, or do not expend funds under this Agreement in a timely manner. The Agency retains the sole discretion to reduce contract amount and reallocate the resulting funds to a Contractor that is able to provide the required services during the contract period. Additionally, any funds not used per the budget as stated in Attachment 2 – Budget shall revert unless otherwise allowed by the Agency in writing.
- D. The Agency will review:
1. Sub-contracts and programs for accomplishment of Outcomes and Performance Measures as set forth in this Agreement.

2. The Community Advisory Board activities and member participation in periodic meetings of the CAB, including minutes of each Board meeting to be provided to the Agency.
3. Any additional funding received by the Contractor for the specific activities and programs included in this Agreement, including efforts by the Contractor to sustain and enhance funding for these programs. The Agency also retains the sole discretion to adjust amounts received under this Agreement if funds are received by the Contractor from other sources for the same services and activities to be performed under this Agreement.

Data Collection:

As a condition of funding, the Contractor agrees to report, at minimum, the following demographics, core measures and performance measurements.

Demographics:

- A. City, State and Zip Code for each youth served;
- B. Race/Ethnicity;
- C. Population Served:
 1. At-Risk Youth;
 2. First Time Offender;
 3. Repeat Offender;
 4. Sex Offender;
 5. Status Offender; and
 6. Violent Offender.
- D. Youth Currently in Detention;
- E. Gender:
 1. Male;
 2. Female; or
 3. Transgender.
- F. Month and Year of Birth;
- G. Geographic Location:
 1. Urban;
 2. Tribal;
 3. Rural; or
 4. Frontier.
- H. Other Population Information:
 1. Mental Health;
 2. Substance Abuse;
 3. Truant/Dropout; or
 4. Pregnant.

Core Measures:

- A. New youth admissions during this reporting period;
- B. Number of program youth carried over from previous reporting period;
- C. Total number of youth in the program;
- D. Total number of youth who exited the program during the reporting period;

- E. Number of youth who exited the program having completed the program requirements during the reporting period;
- F. Percent of youth who successfully completed the program;
- G. How many youth is your program designed to serve;
- H. Number of current program youth who had an arrest during the reporting period;
- I. Number of current program youth who were committed to a juvenile facility during the reporting period;
- J. Number of program youth who had a re-arrest during the reporting period;
- K. Number of program youth who were re-committed during the reporting period;
- L. Number of program youth who were re-sentenced/received a subsequent consequence during the reporting period;
- M. Number of program youth with gang activity;
- N. Number of program youth who reported being satisfied with the program;

Program Specific Performance Measures:

- A. Diversion Program:
 - 1. 15 % reduction in recidivism; and
 - 2. 3% increase in attitude and ability to change behaviors around violence, possession of substance, school attendance, shop lifting, and property damage.
- B. Learning Lab:
 - 1. 5% decrease in substance use;
 - 2. 20% decrease in violent behavior;
 - 3. 5% decrease in sexual activity;
 - 4. 41% decrease in bullying behaviors;
 - 5. 5% increase in academic performance;
 - 6. 5% increase in school attendance; and
 - 7. Youth enrolled in the program will progress to the next grade level or graduate on time.

Local Site-Specific Performance Measures:

- A. Diversion Program:
 - 1. Measure pre and post participation performance; in family, in handling difficult feelings, in individual change plan, in relationships and communication, in responsible behavior, in substance using behaviors, in victim impact and what got me here.
- B. Learning Lab:
 - 1. Consistency of referrals will be measured.
 - 2. Increase in social-emotional and problem solving skills;
 - 3. Increase in critical thinking abilities; and
 - 4. Increase in making responsible choices throughout while avoiding harmful choices.

**Attachment 2 – Budget
City of Truth or Consequences**

A. <u>Continuum and Board Activities:</u>			
Continuum Coordinator	\$22 x 1040 Hours =		\$22,880
Travel	=		476
Youth Committee Members	=		300
5% Program Support	=		<u>3,823</u>
			\$27,479
B. <u>Sierra County Diversion Program:</u>			
Based on serving 75 youth			
Group Session	\$165 x 120 Sessions=		\$19,800
Individual Session	\$20 x 50 Hours =		<u>1,000</u>
			\$20,800
C. <u>Learning Lab:</u>			
Based on serving 100 youth			
Learning Lab	\$200 x 160 Days =		<u>\$32,000</u>
Total Grant Award not to exceed:			<u>\$80,279</u>

The Contractor shall be required to source a minimum of forty-percent (40%) of the total budgeted grant amount with local matching funds. The local matching funds may consist of money, land, equipment or in-kind services. Matching funds should be expended at the same rate as the grant funds and must be reported on the monthly invoices.

Budgeted and contracted Grant Amount	\$80,279
40% Minimum Match Liability for City of Truth or Consequences	<u>32,112</u>
Projected Budgeted Amount	\$112,391

*Per Diem and Mileage rates based upon the Administration (DFA) Rule 2.42.2.

FUNDING INFORMATION:

Juvenile Continuum Grant Fund (State General Fund)

FOR THE PERIOD OF FY21: July 1, 2020 through June 30, 2021:

The total amount of the contract for FY21 shall not exceed \$80,279

State General Fund: FY21: <u>\$80,279.00</u>
State General Fund: FY22: <u>\$80,279.00</u>
State General Fund: FY23: <u>\$80,279.00</u>
State General Fund: FY24: <u>\$80,279.00</u>
Total = <u>\$321,116.00</u>



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: June 24, 2020

Agenda Item #: H.3 (6)

SUBJECT: Approve the Sub-Contractor Agreement with Truth or Consequences Municipal School District.

DEPARTMENT: City Clerk's Office

DATE SUBMITTED: June 18, 2020

SUBMITTED BY: Angela A. Torres, Clerk Treasurer

WHO WILL PRESENT THE ITEM: City Manager Madrid

Summary/Background:

This sub-contractor agreement is between the Truth or Consequences Municipal School District and the City of Truth or Consequences. The contractor has an existing agreement with the State of New Mexico CYFD. This contract with the schools ties into the Contractor's CYFD contract.

Recommendation:

Staff recommends the approval of said sub-contract.

Attachments:

- Sub-Contract

Fiscal Impact (Finance): Choose an item.

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 6-24-2020

SUB-CONTRACT

THIS AGREEMENT is made and entered into by and between the Truth or Consequences Municipal School District hereinafter referred to as "Schools", and The City of Truth or Consequences, hereafter referred to as the "Contractor", and is effective as of the date set forth below upon which it is executed. The Schools will be acting as a subcontractor as described below.

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work.

The Contractor has an existing Agreement with the State of New Mexico, ex rel. Children Youth and Families Department, whereby the Contractor in this Agreement is also designated as "Contractor" in the aforesaid CYFD Agreement. This contract with the Schools ties into the Contractor's CYFD contract. Attached hereto as **Attachment A** is a true and correct copy of said contract. The Contractor through the Schools, shall perform the work outlined in the Scope of Work (SOW) attached hereto as **Attachment 1** and incorporated herein by reference. In this regard, the Contractor is acting merely as a fiscal agent. The Schools will work under the direction of Rebecca Dow, JJAC Co-chair. The Contractor will implement the requirements of the program as described in the SOW.

2. Payment.

A. The Contractor shall make monthly payments to the Schools for services and costs specified in the contract. The Schools shall provide data reports as required by the federal government, corresponding to the activities described in the Scope of Work. The Agency's Program Manager will provide the data format. Programmatic data records, must accompany the monthly invoice and be submitted by the 5th of each month to the Contractor. The Schools failure to timely submit such payment vouchers, invoices and supporting documentation may result in the non-availability of funds for payment and/or denial of payment by the Contractor. Invoices must reflect actual work performed, and cannot be lump sum or draw down of funds. The Contractor shall review all requests for reimbursement from the Schools and audit supporting documentation and forward the same to CYFD.

3. Compensation.

The total amount to be paid under this contract shall not exceed \$ _____. The Contractor will pay the Schools in full for services satisfactorily completed, up to \$ _____ upon timely documentation of performance of the services for each month is received in accordance with the Statement of Work and payment has been received by the Contractor from the State of New Mexico. Invoices must be received by the Contractor no later than the 5th of the month following the month that the services were provided. All final reimbursements are subject to approval by the Contractor and the Children's, Youth and Families Department.

4. **Match Requirements.**

Attached hereto as **Attachment B**, is a letter dated _____ from the Schools. Said letter sets forth the Schools in-kind match requirements. The Schools will provide adequate detail to the Contractor for CYFD, to support the Match amount identified in Attachment C.

5. **Termination.**

Termination. This Agreement may be terminated by either party hereto upon written notice delivered it to the Party at least thirty (30) days prior to the intended date of termination. In such event, the Parties mutual obligations and duties shall only be through the 30 day termination period.

6. **Confidentiality.**

Any confidential information provided to or developed by the Schools in the performance of the Agreement shall be kept confidential and shall not be made available to any individual or organization by the Schools without the prior written approval of the Contractor.

7. **Workers Compensation.**

The Parties agree to comply with state laws and rules applicable to workers compensation benefits for its employees. If either Party fails to comply with the Workers Compensation Act and applicable rules when required to do so this Agreement may be terminated by the other Party.

8. **Data Collection, Records and Financial Audit.**

The Schools 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 Contractor, the Department of Finance and Administration, CYFD and the State Auditor. The Contractor and CYFD shall have the right to audit billing both before and after payment. The Schools shall provide the Agency standardized progress reports monthly. Annual final closeout reports such as; Youth Registry, Diversion Program, Mentoring Data and Monthly Invoices, must be received by July 5th of every month to keep in the same throughout. Payment under this agreement shall not foreclose the right of the Contractor to recover excessive or illegal payments. The Schools agree to comply with the requirements and regulations set forth in **Attachment C** Administration and Fiscal Standards, unless the Schools effectively demonstrate in writing, with written approval from CYFD, that any specific Standard is inapplicable to such School.

As a condition of funding, the Schools agree to report, at minimum, the data, financial records and audits as required by the SOW.

9. Confidentiality.

Any Confidential information provided to or developed by either party in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by either party without prior written approval of the other party.

10. Liability

Each party shall be solely responsible for fiscal or other sanctions occasioned as a result of its own violation or requirements applicable to the performance of the Agreement. Each party shall be liable for its actions according to this Agreement subject to the immunities as limitations of the New Mexico Tort Claims Act, Sections 41-4-1, et. seq., NMSA 1978, as amended. Further, each party further agrees there will be no transfer of liability whereby either party can seek contribution from CYFD from an alleged violation of this Agreement.

11. Records and Financial Audit.

The Schools 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 Department of Finance and Administration, CYFD and the State Auditor. The Contractor and CYFD shall have the right to audit billings both before and after payment.

To: Contractor:

The City of Truth or Consequences

Attention: Morris Madrid, City Manager

505 Sims Street

Truth or Consequences, NM 87901

To: Schools:

Truth or Consequences Municipal School District

122 N Broadway

Truth or Consequences, NM 87901

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature below:

Contractor Signature:

**Morris Madrid, City Manager for
The City of Truth or Consequences**

Date: _____

Schools Signature:

Truth or Consequences Municipal School District

Date: _____



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: June 24, 2020

Agenda Item #: H.4

SUBJECT: Appointment of two members to serve as City Representatives on the Sierra Vista Hospital Governing Board.

DEPARTMENT: City Clerk's Office

DATE SUBMITTED: June 18, 2020

SUBMITTED BY: Angela A. Torres, Clerk-Treasurer

WHO WILL PRESENT THE ITEM: City Manager Madrid

Summary/Background:

We are seeking two members to represent the City of Truth or Consequences on the Sierra Vista Hospital Governing Board.

Recommendation:

Appoint two City Representatives to serve on the Sierra Vista Hospital Governing Board. The vacancies were broadcast through KCHS and advertised in the Sierra County Sentinel on Friday, June 5, 2020.

Attachments:

- Kathy Clark Application
- Bruce Swingle letter of interest
- Rolf Hechler Application

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: -

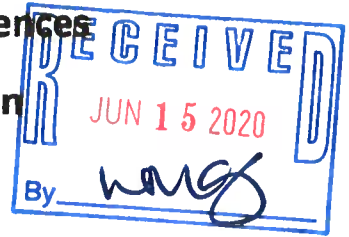
☐ Approved ☐ Denied ☐ Other: -

File Name: CC Agendas 6-24-2020



City of Truth or Consequences

City Board Application



Name: Kathleen Clark

Address: 601 N. Broadway
TorC 87901

Phone: 575 7400602

Email: torccClark601@gmail.com

I am interested in serving as a member of Hospital Governing Board.

My qualifications are:

- 1) familiar w/ hospital issues having served 3 years as a City Commissioner on the Hospital JPC Board,
- 2) MBA education with extensive experience analyzing financial statements
- 3) Unpleasantly familiar with being ill and grateful for medical help.

Reason why I am interested in serving on this board:

- 1) Because I was asked
- 2) I ask questions having done my homework
- 3) The hospital may be in financial trouble soon, maybe I can help

Additional comments: _____

We cannot lose our rural hospital

Signature: Kathleen Clark

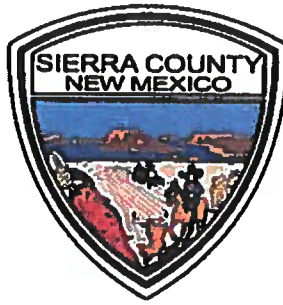
State of New Mexico

Shelly Trujillo
County Clerk
575-894-2840

Terri Copsin
County Treasurer
575-894-3524

Michael Huston
County Assessor
575-894-2389

Thomas Pestak
Probate Judge
575-894-2840



855 Van Patten
Truth or Consequences, New Mexico 87901
Bruce Swingle
County Manager
575-894-6215, 575-894-9548 fax

County of Sierra

James E. Paxson
Chair
575-894-6215

Travis L. Day
Vice-Chair
575-894-6215

Frances L. Luna
Commissioner
575-894-6215

Glenn Hamilton
Sheriff
575-894-9150

April 6, 2020

Sandy Whitehead, Mayor
City of Truth or Consequences
505 Sims St.
Truth or Consequences, NM 87901

Dear Mayor Whitehead:

As you know, I am one of three members appointed by the City of Truth or Consequences to serve on Sierra Vista Hospital's Governing Board. My term on the board expires in June 2020. I served as an appointee for three years and believe I have been a valuable asset to the board and community, and would be delighted to continue serving on the board, if the city so desires.

Regardless of your decision, thank you for the opportunity to serve on the board, I appreciate the support and confidence the city bestowed in me.

Sincerely,

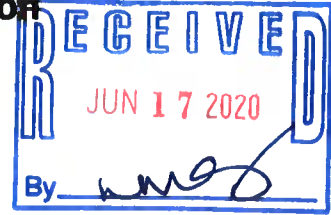
A handwritten signature in black ink, appearing to read "Bruce Swingle", is written over a horizontal line.

Bruce Swingle
County Manager



City of Truth or Consequences

City Board Application



Name: Rolf M. Hechler

Address: 2020 Kopra St., P.O. Box 4134
Truth or Consequences, N.M. 87901

Phone: 575-744-0048

Email: rkhechler@icloud.com

I am interested in serving as a member of SUT Governing Board Board.

My qualifications are:

Former City Commissioner. Served in several hi-profile positions including Superintendent of Elephant Butte State Park, SW Regional Manager for N.M. State Parks, and most recently as Program Manager for Security, Fire and Medical @ Spaceport America.

Reason why I am interested in serving on this board:

As a former Joint Powers Committee member I am familiar w/ Sierra Vista Hospital and feel my experience will be valuable to assist this Board.

Additional comments: I have been a resident since 1987, chose to retire in T or C and wish to continue to serve the community where I make my home.

Thank you!

Signature: Rolf M. Hechler



City of Truth or Consequences

AGENDA REQUEST FORM

MEETING DATE: June 24, 2020

Agenda Item #: H.5

SUBJECT: Consider the appointment of Jeff Dornbusch and Ron Pacourek to the Public Utility Advisory Board.

DEPARTMENT: Clerk's Office

DATE SUBMITTED: June 18, 2020

SUBMITTED BY: Angela A. Torres, Clerk-Treasurer

WHO WILL PRESENT THE ITEM: City Manager Madrid

Summary/Background:

On June 15, 2020, the Public Utility Advisory Board unanimously voted to appoint Jeff Dornbusch and Ron Pacourek to serve a two year term on the Public Utility Advisory Board.

Recommendation:

Appointment of Jeff Dornbusch, and Ron Pacourek to the Public Utility Advisory Board.

Attachments:

- Jeff Dornbusch Application
- Ron Pacourek Application

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 6-24-2020

6-2-00



City of Truth or Consequences

City Board Application

Name: RON PACOUREK

Address: PO BOX 3246
TUC, NM. 87901

Phone: 575-740-4747

Email: ronp603c@ajabb.com

I am interested in serving as a member of PUAB + IMPACT FEA Board.

My qualifications are:

THIS WILL BE MY THIRD TERM!

Reason why I am interested in serving on this board:

MY RESPONSABILITY IS TO REPRESENT THE UTILITY
DEPT'S AND THE CUSTOMERS TO HELP MAKE GOOD
RECOMMATIONS TO THE CITY COMISSMANNERS SO IT'S A
WIN/WIN FOR BOTH PARTYS

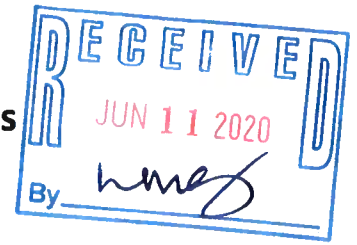
Additional comments: _____

Signature: Ron Pacouruk



City of Truth or Consequences

City Board Application



Name: Jeff Dornbusch

Address: 1122 W. 8th Ave
Torol. NM
87901

Phone: 575 740 2144

Email: jd5cats@gmail.com

I am interested in serving as a member of Puab Board.

My qualifications are:

Current chair of the
Puab Background in water & wastewater
treatment

Reason why I am interested in serving on this board:

To serve the city of Torol
with advise on issues pertaining
to utilities.

Additional comments: _____

Signature:  6/10/2020



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: June 24, 2020

Agenda Item #: H.6

SUBJECT: Appointment of Mayor Pro-Tem Brendan Tolley to serve as a Board Member on the Sierra County Recreation & Tourism Advisory Board.

DEPARTMENT: City Clerk's Office

DATE SUBMITTED: June 18, 2020

SUBMITTED BY: Angela A. Torres, Clerk-Treasurer

WHO WILL PRESENT THE ITEM: City Manager Madrid

Summary/Background:

On May 27, 2020 the City Commission voted to appoint Mayor Pro-Tem Brendan Tolley to serve as an Alternate Member on the Sierra County Recreation & Tourism Advisory Board. The vacant position calls for the appointment of a Board Member rather than an Alternate Member. This item is being brought back to amend the appointment from an Alternate Member to a Board Member.

Recommendation:

Appoint Mayor Pro-Tem Brendan Tolley as a Board Member to fill the vacant position on the Sierra County Recreation & Tourism Advisory Board.

Attachments:

- None.

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 6-24-2020