

Steven Green
Mayor

Sandra Whitehead
Mayor Pro-Tem

Kathy Clark
Commissioner



Rolf Hechler
Commissioner

Joshua Frankel
Commissioner

Juan A. Fuentes
City Manager

505 Sims St.
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REGULAR MEETING

THE REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO, IS TO BE HELD IN THE COMMISSION CHAMBERS, 405 W. 3RD ST., ON TUESDAY, SEPTEMBER 27, 2016; TO START AT 9:00 A.M.

A. CALL TO ORDER

B. INTRODUCTION

1. ROLL CALL

Hon. Steve Green, Mayor
Hon. Sandra Whitehead, Mayor Pro-Tem
Hon. Rolf Hechler, Commissioner
Hon. Kathy Clark, Commissioner
Hon. Joshua Frankel, Commissioner

2. SILENT MEDITATION

3. PLEDGE OF ALLEGIANCE

4. APPROVAL OF AGENDA

C. COMMENTS FROM THE PUBLIC (3 Minute Rule Applies)

D. RESPONSE TO PUBLIC COMMENTS

E. PRESENTATIONS

1. Presentation of the New Sierra County Film website. Cary "Jagger" Gustin, Film Liaison

F. CONSENT CALENDAR

1. City Commission Regular Minutes, September 13, 2016
2. Public Utility Advisory Board Minutes, August 15, 2016
3. Golf Course Advisory Board Minutes, July 6, 2016
4. Termination of Agreement and Lease for Hot Springs Falls, Inc.

CONSENT CALENDAR *(Continued)*

5. Cooperative Agreement with the Boys & Girls Club of Sierra County for Fiscal Agent Services related to the Juvenile Justice Advisory Council.

G. ORDINANCES/RESOLUTIONS/ZONING

1. Discussion/Action: For publication Ordinance No. 674 2016/2017 change proposed by the Public Utility Advisory Board for Discounted Utility Rates for large businesses. Renee Cantin, City Clerk-Treasurer
2. Discussion/Action: Resolution No. 07 16/17 for Parks Fees adding the Healing Waters Plaza. Renee Cantin, City Clerk-Treasurer and Don Armijo, Public Works Director
3. Discussion/Action: Resolution No. 08 16/17 related to the Elephant Butte Lake Minimum Pool. Juan Fuentes, City Manager
4. Discussion/Action: Resolution No. 09 16/17 authorizing and approving the submission of a completed application to the New Mexico Finance Authority Water Trust Board for Cook Street Water Treatment Facility Improvements. Traci Burnette, Grant Projects Coordinator
5. Discussion/Action: Resolution No. 10 16/17 Approving the Finance Policies and Procedures. Melissa Torres, Finance Director
6. Discussion/Action: Resolution No. 11 16/17 and Resolution No. 11-A 16/17 approving the required Community Development Block Grant (CDBG) Annual Certifications and Commitments and Fair Housing Policy. Traci Burnette, Grant Projects Coordinator
7. Discussion/Action: Resolution No. 12 16/17 authorizing submission of an application for Airport Aid to the Federal Aviation Administration (FAA) and Obligation of Sponsor Matching Funds, and Authorization to accept the resulting Grant Offer. Juan Fuentes, City Manager

H. NEW BUSINESS

1. Discussion/Action: Agreement with South Central Council of Governments (SCCOG) for Community Development Block Grant services (CDBG). Traci Burnette, Grant Projects Coordinator
2. Discussion/Action: Extension of Lease for Follow the Sun (FTS) Tours. Juan Fuentes, City Manager

I. REPORTS

1. City Manager
2. City Commission

J. EXECUTIVE SESSION

1. Purchase, Acquisition, or Disposal of Real Property (613 Gold St.), *Pursuant to NMSA 1978. 10-15-1(H.8)*

K. ADJOURNMENT

NEXT CITY COMMISSION MEETING OCTOBER 11, 2016



E.1

**CITY OF TRUTH OR CONSEQUENCES
COMMISSION ACTION FORM**

ITEM:

Presentation of the New Sierra County Film website. Cary "Jagger" Gustin, Film Liaison

BACKGROUND:

Attached is the letter requesting to give this presentation.

STAFF RECOMMENDATION:

None. Presentation only.

Submitted by: Renee Cantin, City Clerk

Meeting date: 09/27/2016

September 13th, 2016

Honorable Steve Green, Mayor
City of Truth or Consequences
505 Sims Street
Truth or Consequences, NM 87901

RE: City Commission Meeting Sept 27th, 2016

Dear Mayor Green:

I am requesting approximately 8 to 10 minutes of Agenda time on your September 27th meeting date. I would like to showcase and explain the features of our new area film website: www.filmsierracounty.com. The website puts our city and community in a great light. Film producers, location scouts and the film industry as a whole can see firsthand what Truth or Consequences and Sierra County has to offer for film possibilities. Thank you in advance for the opportunity to show the City Commission this new film tool.

Sincerely,



Cary "Jagger" Gustin
Film Liaison to Truth or Consequences, NM
State of New Mexico Film Office

cc: Juan Fuentes
Renee Cantin



F.1

CITY OF TRUTH OR CONSEQUENCES
COMMISSION ACTION FORM

ITEM:

Approve the minutes of the September 13, 2016 Regular Meeting.

BACKGROUND:

None.

STAFF RECOMMENDATION:

Approve the minutes.

Submitted by: Renee Cantin, City Clerk

Meeting date: 09/27/2016

**CITY COMMISSION MEETING MINUTES
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
CITY COMMISSION CHAMBERS, 405 W. 3RD St.
TUESDAY, SEPTEMBER 13, 2016**

**CLOSED EXECUTIVE SESSION
8:00 a.m.**

A. CALL TO ORDER

Mayor Green called the meeting to order at 8:00 a.m.

B. ROLL CALL

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

Hon. Steve Green, Mayor
Hon. Sandra Whitehead, Mayor Pro-Tem
Hon. Rolf Hechler, Commissioner
Hon. Kathy Clark, Commissioner
Hon. Joshua Frankel, Commissioner

Also Present: Juan Fuentes, City Manager
Renee Cantin, City Clerk-Treasurer

City Clerk Cantin announced we have a quorum.

C. EXECUTIVE SESSION

1. Limited Personnel Matters (City Manager Contract) *Pursuant to NMSA 1978, 10-15-1(H.8).*

Commissioner Clark moved to approve going into Executive Session at 8:01 a.m. to discuss Limited Personnel Matters (City Manager Contract) pursuant to NMSA 1978, 10-15-1(H)8. Commissioner Frankel seconded the motion. Roll call vote was taken by the Clerk. Motion carried unanimously.

Mayor Green stated that the Commission was now in Open Session at 8:56 a.m.

Mayor Green certified that only matters pertaining to discuss Limited Personnel Matters (City Manager Contract) pursuant to NMSA 1978, 10-15-1(H)8 was discussed in Executive Session and no action was taken.

D. ADJOURNMENT

The meeting was adjourned at 8:57 a.m.

**CITY COMMISSION MEETING MINUTES
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
CITY COMMISSION CHAMBERS, 405 W. 3RD St.
TUESDAY, SEPTEMBER 13, 2016**

**REGULAR MEETING
9:00 a.m.**

A. CALL TO ORDER

The meeting was called to order by Mayor Steve Green at 9:04 a.m., who presided and Renee Cantin, 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. Steve Green, Mayor
Hon. Sandra Whitehead, Mayor Pro-Tem
Hon. Kathy Clark, Commissioner
Hon. Rolf Hechler, Commissioner
Hon. Joshua Frankel, Commissioner

Also Present: Juan Fuentes, City Manager
Renee Cantin, City Clerk-Treasurer

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

2. SILENT MEDITATION

Mayor Green called for fifteen seconds of Silent Meditation

3. PLEDGE OF ALLEGIANCE

Mayor Green lead the Pledge of Allegiance.

4. APPROVAL OF AGENDA

Commissioner Frankel moved to approve the agenda. Commissioner Clark seconded the motion. Motion carried unanimously.

C. COMMENTS FROM THE PUBLIC (3 Minute Rule Applies)

CITY COMMISSION SEPTEMBER 13, 2016 REGULAR MEETING MINUTES

Mayor Green called for Public Comment, noting those wishing to comment would get three minutes, may only approach the podium once, and any material for the Commission was to be left in the black box by the podium.

Ron Fenn, 316 N. Foch addressed the Commission related to:

- 1) He came here hoping to see the City Manager gone. He thanked them for not giving him their attention. He stated "Unfortunately, the Commission has disappointed him again."
- 2) He is equally dismayed that three weeks ago he presented evidentiary information about the fraudulent contract to extend the FTS lease at the Rec. Center. No one in this Commission or this city has bothered to explain or say you didn't know. So if you didn't know, then he assumes they are all complacent in this fraudulent contract. You defrauded the people of Truth or Consequences out of monies they were due from this ridiculous Business Man who has proven himself to be untrustworthy and therefore by association, you also.
- 3) Secondly, he was appalled at reading the newspaper account of the Contract signed for a study of the meter reading based on savings of accuracy readings and the cost of accuracy readings. Who in this world pays people to make mistakes and then pays them to make them again and again to the tune of apparently \$120,000 to \$340,000 a year? Instead of training them or firing them if they can't read a meter properly. This town is operated by that man whose sole responsibility, and of course, the Commission is responsible for him. So it all comes down on your heads. This is ridiculous. It's no wonder the City of Truth or Consequences is the sixth poorest city in the United States. And unless we are shooting for Number 1, you guys are going about it the wrong way. He really is appalled that, the Commission, supposed representatives of the people, cannot answer a citizen's written evidence and complaint and get back to them. It the sign of the kind of leadership and operation of a city that we have right here. It's pathetic, but he's not leaving.

Audon Trujillo addressed the Commission related to:

- 1) He sent an email addressed to the Commission. The 30th of this month the Lee Belle Johnson Center lease will be up. He doesn't think it's been on as an agenda item but he thinks it needs to be and the Commission should get a feel from the community on what they want to do with that building. He emailed a survey which is very simple, four questions. The Commission didn't survey us in what we wanted to do with it the first time. Yes, we had a vote which was kind of a nasty thing. But the Commission really ought to get a handle on what that center should be utilized for. It's being leased for \$950 a month which is not really Fair Market Value. There are businesses interested in renting the building. He knows for a fact a restaurant in front of it leases for \$850 a month and it's much, much smaller. He has addressed the Commission on a number of different issues and he's bringing a couple of them up that he feels are really important.
- 2) Personnel matters and hiring practices is important for the Commission to address. He sent emails to three Commissioner's and none of them replied to him. He wanted to get that as an agenda item and it's not an agenda item. He's extremely disappointed, these things are very important and you don't even reply on stuff. He tries to make his

comments as intelligent as possible, and he's not angry. He's trying to direct the Commission in a certain area where he thinks the city would grow better if we address these issues. And there's not even a comment.

3) He's really disappointed, in three years you haven't come up with Work Objectives for the City Manager. Hopefully, you've done so this year. I'm surprised you didn't come out of the Executive Session and address what had happened during the session this morning. He thought that was what was required. But you all seem to not follow ordinances or protocol whenever you all deem you don't need to. He has pointed this out in letters and the email he sent last night. He would welcome a comment when they read it, it will take you five minutes. He thanked the Commission.

Linda DeMarino on behalf of MainStreet Truth or Consequences addressed the Commission related to:

1) She just came from a Business Breakfast about Cyber Security. We have attendees there learning how to keep their businesses safe. It's part of their Business Development Series that is going really well. The reception from the business owners has been really great. This is from the grant they got from the USDA and they have had business owners asked them to keep doing this. So they are excited to have been able to be a part of that.

2) Applied for the Great Blocks on MainStreet Grant and they didn't receive it because of cuts in funding. We are now working with the City Manager to look at alternate routes because we do think it's a really worthwhile project. The specific ways we are doing that are looking for a planning grant and to tie the drainage in with the project. It also ties right into the storm water harvesting that the city is looking into. While we didn't get the grant the process was really helpful and helped us brainstorm ideas about how to get the project done.

3) She met with Bob Hupp yesterday to work on getting pictures for the website. The problem they are having right now is, she has thousands of pictures in her phone. But we are going through the pictures and they are all on location and those locations are businesses. We don't really have a policy on businesses and what can be on the website. If we are going to showcase our assets here then we need to know if we are ok in putting pictures of businesses. So it would be helpful if you guys could think about that.

D. RESPONSE TO PUBLIC COMMENTS

Commissioner Clark addresses Mrs. DeMarino's comment about showcasing businesses with pictures. With the Tourism Board, one of the problems she has had is picking specific businesses and showing them. What they have tried to do is not indicate the business or show the name of the business. Or to have a long view of all of Main Street or all of Broadway Street, for example. And she thinks that was a mandate from the state also, where you can't focus on one or two businesses. Because showcasing a specific business might not be a good idea.

Mayor Green responded and wanted the record to show his concerns on one point Mr. Trujillo made. He would like the record to show that on some of his requests and

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concerns, he did not answer by email but he picked up the phone and called Mr. Trujillo. And they have met on numerous occasions for a cup of coffee and he even asked Commissioner Hechler to join him one time. And there were two times, Mr. Trujillo stood him up, but he doesn't even care, it makes no difference. So the fact that it falls on deaf ears is not necessarily a complete statement.

Commissioner Clark agrees she has done the same thing. To have an email response after last night when the City Manager discussion was on the agenda. She has an issue with that.

Mayor Green remembers going to a conference in Santa Fe and hearing what excites people is seeing people doing things. You can shoot the inside of a store with someone admiring a piece of work or art or whatever it might be. And you can even shoot the outside of the store, just don't include the name. And empty store doesn't tell the story, but for example a crowded restaurant does.

E. PRESENTATIONS

- a. Presentation of new book bags from the Friends of the Library. Renee Cantin, City Clerk.

City Clerk Cantin presented the new book bags fundraiser from the Friends of the Library. They have three colors and will be sold for \$10 each and the funds will be used for Children's Programs and other Library needs.

Mayor Green asked if the board plans to go to some of the retail stores to carry it as a service to the business to bring people in to the businesses. He is thinking of a couple of stores where it would fit in to their product line. Where if they do it at their businesses it will bring people in as well. City Clerk Cantin said she is not a member of the board but will be sure to pass along that message.

F. CONSENT CALENDAR

1. City Commission Regular Minutes, August 9, 2016
2. City Commission Regular Minutes, August 23, 2016
3. Golf Course Advisory Board Minutes, June 1, 2016
4. Accounts Payable, August 2016
5. Amendment to Golf Course Management Agreement with Terry Taylor to Terry Taylor, LLC

Mayor Pro-Tem Whitehead moved to approve the consent calendar including the City Commission Regular Minutes for August 9 and August 23, 2016; Golf Course Advisory Board Minutes for June 1, 2016; Accounts Payable for August 2016; and Amendment to Golf Course Management Agreement with Terry Taylor to Terry Taylor, LLC. Commissioner Hechler seconded the motion.

Mayor Green pointed out on the accounts payable with the attorney fees at \$13,513 for August. Last year the City Manager came to us with a budget adjustment of \$30,000 to

cover the expenses. In July, we were already at 42% into the year's usage of the allocated line item. He believes this should give us pause for thought and we might want to think of bringing this back up.

Commissioner Clark asked if he remembers when the current contract for legal services was up. Mayor Green believes it was in the fall. With that being said she added maybe we should reconsider. Mayor Green added at this rate, we could put a Full-Time Lawyer on staff. Commissioner Clark added we have that ability based on our Rules & Regulations, we can hire somebody.

Mayor Green called for a vote. Motion carried unanimously.

G. UNFINISHED BUSINESS

1. Discussion/Action: City Manager Contract. Steve Green, Mayor

Mayor Green stated the Commission went into Executive Session and discussed a contract that they felt would be fair and appropriate. They asked City Manager Fuentes to join them for discussion and went through the basic contract that was last years. The one thing he would like to bring out which is important before they put this contract to a vote is that he asked City Manager Fuentes if he would be looking for a salary increase and he said he would feel uncomfortable if he received an increase and staff did not. So there is no increase in this salary and he appreciates that attitude by Manager Fuentes.

Mayor Green moved to approve the three year Contract for City Manager Juan Fuentes. Commissioner Clark seconded the motion.

Commissioner Clark added there were some adjustments in the draft. The first was in the termination and Severance Pay section where we went from 9/6/3 to 6/6/6 with an exception that there will be no termination payment if the City Manager were convicted on illegal activity that was determined by court. The other adjustment was to Section VII for Vacation, Sick and Other Leave where we added that there would be a designated person to be in charge while City Manager Fuentes was on Vacation or Sick Leave, etc. with the exception of an emergency that would be defined by something only the City Manager would be able to handle.

Mayor Green added attached to the contract are the Goals & Objectives they felt are important to the community. These are what they want the Manager to focus on the really the important issues. These goals will be attached to the contract. They are not particularly numbered as to importance. These goals will be discussed at a half year review and again at the end of the year for contract renewal. We will talk about the goals we feel are important as we move forward and no one should be in the dark as we move forward.

Commissioner Clark said so these goals that we set up may change and we need to give ourselves the option to be revised within a certain period of time. Commissioner Hechler clarified it should be reviewed at the time of the annual evaluation. And we can

review at that point in time. **Commissioner Clark would like to include in the motion to review the Goals & Objectives on an annual evaluation.** Mayor Green stated the motion is just on the contract and we can change the attachment of the Goals. **Motion carried by a vote of 4-0-1. Mayor Pro-Tem Whitehead abstained.**

2. Discussion/Action: Authorizing staff to work on a Policy for late application submittals and quarterly reports for Subrecipient Grants & Lodger's Tax awards. Steve Green, Mayor

Mayor Green commented on the deadlines for some other state agencies where they stick to the deadlines that are given. If you miss the date then you wait until next year. We have a situation where organizations do not comply with the application process or the application that they sign which require reports to be in by a certain date. Or organizations for whatever reason, miss the deadline for applying. He personally doesn't think it's fair to staff. He knows it's not fair to this Commission, because once you break ranks, you have to follow suit. And we have broken ranks five times in the last two years. Once you bend, and he's not saying there wasn't a good reason for the bends. Death is a horrible thing and he understands what happened with Matthew 25. And you have to have compassion, but we have to have something where staff will know, this is the way it's going to be without any exceptions. With that he brought some examples from a board he serves on (Southwest Area Workforce Development Board). With them, if you don't get your application in, they will see you next year. He doesn't know if we want to be that hard. They have dates the reports must be submitted and if you're late there are options including: Withholding a future payment; Denial of payments; or Termination of Agreement. This is a Semi-Quasi State Agency. He is not denying our organizations really perform an incredible valuable service. He would like to hear the will of the Commission as to what we can do to support staff and let the organizations know there is a structure in place and they will be held accountable. Remember, we don't go to them and say would you like to take this money. They come to us to ask for the money for services and for marketing and advertising our community.

Commissioner Clark stated she has also bent a couple of times when they came to the Commission. She agrees it's unfair to put that on staff and we do have a contract we have with people. Those who have run businesses have deadlines they have to meet with the state, etc. They get a penalty for it or sometimes they give a weekly exception. She referred to Matthew 25 and who knew the deadlines and what to do with that. They came to the Commission and we awarded it to them. She likes deadlines but sometimes there are situations out of their control. She thinks we should take it off of the hands of staff and have them bring it directly to the Commission to determine the outcome. She believes if we become so dictatorial and not show our humanity under certain circumstances then we are not a good Commission.

Mayor Pro-Tem Whitehead asked if we could set a date the applications are due and give a grace period with proper notification saying they missed the deadline and ask for additional time to give them some kind of option instead of cutting them completely off.

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Commissioner Clark said for example workers comp gives you eight days to comply before you're penalized. Some places don't, but that might not be a bad idea. Then whoever misses the deadline date is notified and they had better hustle to get it in. Mayor Pro-Tem Whitehead added if they do have that extra 8 or 10 days, whatever we designate, then they wouldn't have to wait until next year or the next time for applications.

Mayor Green is not sure what the time frame is after they are notified of the due date for applications. You might have new people on board and they're floundering. He doesn't know if there is a formula for subrecipient grants that on May 1st the applications go out, but maybe giving them more lee time before it's due. He likes the grace period and asked what happens if they miss the deadline and we give them a grace period. Commissioner Clark responded if they can't follow that grace period then they can either be cut off or cut for the quarter. She feels if you're given notice and can't comply with that, then why would we give money to that outfit. Maybe we can write the grace period into the agreement.

Mayor Green agrees and he caved five times. Mayor Pro-Tem Whitehead suggested to give them the benefit of the doubt and give them an extension if they comply with it. We would need to watch their process and the way they submit reports for further submittals.

Commissioner Hechler said his general observation is the way we have it now works. He commends the Commission for bending for Matthew 25, he thinks that was the appropriate call and we did the right thing. If you recall, there was another situation where we didn't bend, and that was the right call as well. He feels we have a mechanism in place now and if we extend a date or have a grace period, people may have more of a tendency to miss the deadlines. As long as we are acting within our guidelines, he doesn't see why we should handle it any differently. We have the ability to make that decision as it is now.

Mayor Green asked if he is hearing from Commissioner Hechler that we should move forward as we have in the past where we will take it on a case by case basis. Where there is no penalty. He agrees he doesn't want to play hardball, he wants to create a livable structure that makes it easy for staff and the Commission. Commissioner Hechler feels as long as we have a good and trustworthy Commission and we do things for the right reasons, then we are okay. And so far that's what he's seen.

Commissioner Frankel sees that we have so few Subrecipient and Lodger's Tax applicants. We are talking about 15-25 entities. Communication and clarity is the key to things. So with Matthew 25, where we ran into the situation where they lost their leader and they fell by the wayside. To have these groups have a clear point of contact, as well as, and alternative who we can reach out to would be important. This way we can reach out to them before it becomes an issue. Sometimes just checking in to make sure they comply. Mayor Green added the other side of that is it puts more responsibility on staff

and it should be the recipients of the money. We are a small community and we spend \$43,000 for Subrecipients and \$46,000 for Lodger's Tax applicants for marketing and advertising. The city couldn't touch that for a Million Dollars. We couldn't run those organizations so he appreciates the value they bring to this community that impacts young and old alike. He added whatever the will of the Commission is, if you want to play it on a case by case basis, or lateness by lateness. That's one way to go. Another way he likes is Mayor Pro-Tem's idea to come up with a structure time when that information is released, and that should be accompanied by an article in both newspapers, so the community at large can be notified. Because we don't want to appear to be favoring just the select group of organizations. He thinks it's about communication, and the public, and letting them know. Maybe we extend the period a little longer and add a grace period and wing it, if they miss that grace period.

Commissioner Clark thinks the grace period could be given to the group by the Commission. The second is having a second contact on the application to contact. She likes Commissioner Hechler's idea that these come before the Commission.

Commissioner Clark moved to approve from here on out the contracts that are given to the subrecipients and other groups have a dual signature on them. Mayor Green asked if she would consider extending that motion to give more notification time to the public. Commissioner Clark agreed to amend it for more notification being given to the public. The new motion being to approve from here on out the contracts that are given to the subrecipients and other groups have a dual signature on them and to include more notification to be given to the public. Mayor Pro-Tem Whitehead seconded the motion. Mayor Green thinks City Manager Fuentes has heard this conversation and he requested a draft to be brought back to the Commission in a timely fashion so we can make sure we have covered all of the basis. Motion carried unanimously.

H. NEW BUSINESS

1. Discussion/Action: ITB: 16-17-001 – Bid Award to Construct Aviation Fuel Farm. Pat Wood, CPO

Central Purchasing Officer Wood presented two bids were opened on August 6th at 2:00 p.m. and a recommendation has been made by Delta Construction to reject all of the bids because they came in too high. FAA said they would not fund this project as high as they were.

Mayor Green asked if we were going to change the structure of what we asked to be accomplished. Central Purchasing Officer Wood said we already went out and reopened bids yesterday.

City Manager Fuentes said this request is just to reject the bids. There was a little confusion as to how the advertisement was put out. As Pat stated, the bids came in a lot higher than there is funding available. So Delta has made the recommendation to reject all of the bids and put it out again. The project was rebid, and they came back and have

been reevaluated, but because this was issued out as a bid, we need to follow the formal process and reject the other bids. Delta is reviewing the new bids and a recommendation will be forthcoming at a later Commission meeting.

Commissioner Hechler moved to reject all of the bids for the Aviation Fuel Farm as presented. Commissioner Clark seconded the motion.

Commissioner Frankel asked the price range we are rejecting. Central Purchasing Officer Wood said they had three different schedules. One was the Earthwork, one was the second tank, and the third one was for all of it. The document was in their packet.

Mayor Green wanted the record to show he spoke to City Manager Fuentes about this and asked if this delay hurts the ability of the Airport to sell fuel and the answer was no.

Motion carried unanimously.

2. Discussion/Action: Flood Remediation Plan for downtown Hot Springs District. Steve Green, Mayor

Mayor Green said this has been an ongoing problem since day one. When John Mulcahy was Mayor he contracted out to a man by the name of Van Clothier out of Silver City who owns a company called Stream Dynamics to come here and take a look at our flooding situation. We have ponding downtown because we have dips in the road and we've lost the crown. We don't have runways on the sides of the roads to get that water further south. We also have water that comes off the hills in the North part on Foch and some of those streets that add to the funding of downtown. So when he heard that Manager Fuentes was working with MainStreet to see if there might be money identified to do a real study, so we could be shovel ready, he thought this would be a natural time. So we did this in 2013. At the Hot Springs Festival, Van Clothier was one of the presenters talking about this water mitigation. Mayor Pro-Tem Whitehead when we were going over our ICIP, reminded us to include the downtown flooding to be on it. This Stream Dynamics costed us about \$1,800 to \$2,000 to get. His thoughts are, we can do something or we can do nothing. Because we are not going to be tearing up Broadway and Main Street anytime soon, that's for sure. He says let's do something to ameliorate these flooding problems. What he would like to see happen is to have a volunteer from this Commission to run with this.

He gave some duties and his ideas of ways to get this done.

- 1) Keep City Manager Fuentes current with updates and timely reports to the Commission.
- 2) Get with Van Clothier to determine costs
- 3) Find out if Stream Dynamics is on the State's Preapproved Vendor List. Which if we decide to use them, we don't have to go out for bid if they are preapproved.
- 4) Identify grants from NMENRD, Ecivis,
- 5) Get with Flood Control Director in the County
- 6) Visit identified properties and see if owners would be willing to work with the city.
- 7) Have City Manager Fuentes check with legal to see if we can donate trees to people to build holding ponds on their property so the water stays on their

property. And we could use those river rocks at the old Wastewater Treatment Plant along the river to line those.

- 8) To identify what can be done by city staff.
- 9) Since this impacts the MainStreet area. Check with them to find out if there is any money for this stand-alone project.
- 10) Invite Van Clothier and his wife to come over for a weekend visit. Hotel and Soaking will be provided, he has taken care of that already.
- 11) And the last thing is Do Not commit the City to anything. We might have to go out for RFP on the cost of the project. What can be leveraged if money becomes available, we don't know. But we've got to do all of our homework to see what funds we can use otherwise to get this project started because it's not going to go away.

He is looking for someone who can take this and work with MainStreet to take care of this.

Commissioner Frankel said it would be an honor to take this project on. He is a member of MainStreet and has worked hand in hand with their flooding project and with ours. He has a little background in Geology and Hydrology and did attend the Van Clothier presentation and feels he has easy ways to address big issues. And he would be willing to take on this project.

Commissioner Clark said he is going to say yes. Mayor Green thanked Commissioner Frankel. And just because he likes to think positive, he gave him his report which is an observation and not specific enough to get funding with. This is a great project that can benefit our community. He thanked Commissioner Frankel and also for not letting it slip through our ICIP. He asked the Commission is there was any other guidance as to where we can start this project.

Commissioner Clark offered to help Commissioner Frankel also. He will get his notes to Commissioner Frankel. And if you decide you want to do it another way, when you report to Manager Fuentes, feel free to. This was just some of his suggestions for this idea. And also, we did receive an email from a citizen that had the amount wrong on this survey, it wasn't \$30,000, it was \$1,800 to \$2,000. But if we're going to spend money to start a process then it should be ongoing.

Mayor Pro-Tem Whitehead also suggested that once a month he bring an update as to the progress to the Commission. Commissioner Frankel thanked her and can do that. Mayor Green said hopefully by that time we will have isolated funding sources and Manager Fuentes and our Director of Finance can brilliantly find the money we can use as a match. This is the foundation we will build the remediation process on.

Mayor Green moved to accept Commissioner Frankel's offer to spearhead this flood remediation plan, working in consort with Manager Fuentes and MainStreet. Mayor Pro-Tem Whitehead seconded the motion. Motion carried unanimously.

I. REPORTS

a. City Manager

City Manager Fuentes thanked the Commission for the extension of the contract and the confidence in him. He is looking forward to the next three years in working with the Commission and staff. We have some wonderful employees on board that are helping to move the city forward. He certainly appreciates the comments they have given him in the evaluation process. There is always room for improvement and he acknowledges that and appreciates the opportunity to be able to move forward and improve.

He reported, we will be seeing some contractors in the Plaza, they will also be cutting the area where the bricks would not fit properly. He, Robbie Travis, and Ray Chavez will be attending the Zoning Officials Meeting this week. One of the discussions they will have is on liens and the proper process. It will give us an opportunity to visit with other municipalities and Network to find out what the best practices are and how to proceed forward in the best manner with Code Enforcement.

b. City Commission

Commissioner Frankel wanted to talk about the Art Park Project. There are a few PVC pipes which will be story poles. He encouraged anyone with comments on the project to contact MainStreet. They want to ensure everyone this piece of art will be a kinetic/moving piece of art, but not a noise producing art. He assured them the feature that causes the chiming will be removed before the installation occurs.

Mayor Green owes Commissioner Clark an apology publicly. It appears that when she announced she would be missing a few meetings, but she would attempt to call in. He did not make that part of the formal record, and he should have done that for every meeting they knew she would not be in attendance personally, or could not phone wise. He was remiss in not doing that on a regular basis. If there has been any grief or emails that has come her way, he apologizes and takes absolute full responsibility in not doing his homework better, and going through the Rules of Procedure. The same thing he should have done for Commissioner Frankel's absence when he was in the hospital, and he apologized to him as well. Hopefully there will be no more misses, but if there are, he will make sure the public knows the reason for the absence and it is added as part of the record.

He congratulated City Manager Fuentes. The Commission is happy to have him for another three years. He has great expectations and he'd better wear some thick soles because they will be holding his feet to the fire. He also congratulated City Manager Juan Fuentes because he understands he has been elected as the President of the New Mexico City Manager's Association for 2016-2017.

He read about some information received from Gina Kelly on an AirBnB issue with Lodger's Tax. We have 12-14 homes that are registered on AirBnB. If you rent out your room or home for less than 15 days a year, you don't have to report that income to the

Internal Revenue. But if these folks are going into competition, with our established businesses and using their homes as a revenue producer, he has absolutely no problem with that. He would like to see Lodger's Tax collected on that. And he would like therefore, City Manager Juan Fuentes to put this on the next agenda for the next Lodger's Tax meeting to see about collecting on this. Commissioner Clark inquired if that was not on the state laws, because everything else is on there. Mayor Green responded we have to adopt it for our own Lodgers Tax. The state says between 3%-5%. Commissioner Clark added there is also wiggle room if you have less than three rooms.

He also mentioned an incident that happened at City Hall yesterday, and he expressed his sincere disappointment about a citizen who threw a bullet and a metal canister of CO₂ at a city staff member in the Clerk's Office. We all get frustrated and he understands that. Staff works for the citizens of this community. That doesn't mean that citizens can take it upon themselves in that manner ever. If it were under his jurisdiction, he would go after that person and sue them. That is not acceptable to any human being and it's certainly not acceptable for staff to be treated that way. He is sorry the incident happened and maybe he overreacted a little bit, but he believes it is this Commission's responsibility as well to protect staff.

Commissioner Clark asked Police Chief Alirez a question. Police Chief Alirez said this is the first he is hearing of this, he agrees the safety of our employees is paramount. There are very frustrated individuals that come down especially in the last few months. His colleagues and coworkers do a great job maintaining composure and attitudes in customer service. If somebody brought a bullet or CO₂ container, he asked if the PD was even notified yesterday.

City Clerk Cantin clarified the situation and Police Chief Alirez agreed the clarification changed the dynamics of the situation. However, if somebody came and conducted themselves in that manner, or any rude or threatening combative type. That is something they definitely want to be aware of. Even if it doesn't reach the realm of criminal conduct, there are still some other issues that need to be addressed. Maybe the person could be in a personal crisis, do they need some mental health assistance. He gets it in this case, he was returning some found property, but in any regards that is something they would take note of. They frequently go to people's homes when some of the businesses or the counseling centers have somebody doing something abnormal. He added they will make a visit to make sure they do not pose an appropriate threat and if they do, they take appropriate action. This is something they frequently deal with.

J. EXECUTIVE SESSION

1. Purchase, Acquisition, or Disposal of Real Property, *Pursuant to NMSA 1978. 10-15-1(H.8)*
 - a. 1310 Nickel St.
 - b. 613 Gold St.
 - c. Sunshine St.

Mayor Pro-Tem Whitehead moved to approve going into Executive Session at 10:20 a.m. to discuss Purchase, Acquisition or Disposal of Real Property pursuant to 10-15-1 (H)(8) for (1310 Nickel; 613 Gold St.; and Sunshine Ave.). Commissioner Clark seconded the motion. Roll call vote was taken by the Clerk. Motion carried unanimously.

Mayor Green stated that the Commission was now in Open Session at 11:04 p.m.

Mayor Pro-Tem Whitehead certified that only matters pertaining to Purchase, Acquisition or Disposal of Real Property (1310 Nickel; 613 Gold St.; and Sunshine Ave.) pursuant to 10-15-1 (H)(8) was discussed in Executive Session and no action was taken.

Mayor Pro-Tem Whitehead moved to approve the authorization to proceed with the current appraisal on 1310 Nickel; to authorize staff to meet with the property owner for Sunshine and to notify them how we are going to move forward; and no action on 613 Gold St. Commissioner Clark seconded the motion. Motion carried unanimously.

2. ADJOURNMENT

The meeting was adjourned at 11:06 p.m.

Passed and Approved this ____ day of _____, 2016.

Steven Green, Mayor

ATTEST:

Reneé L. Cantin, CMC, City Clerk



F.2

CITY OF TRUTH OR CONSEQUENCES
COMMISSION ACTION FORM

ITEM:

Approve the Public Utility Advisory Board minutes for the August 15, 2016 Meeting.

BACKGROUND:

None.

STAFF RECOMMENDATION:

Approve the minutes.

Submitted by: Renee Cantin, City Clerk

Meeting date: 09/27/2016

**CITY OF TRUTH OR CONSEQUENCES
PUBLIC UTILITY ADVISORY BOARD
MONDAY, AUGUST 15, 2016**

ACTION MINUTES

REGULAR MEETING

Regular meeting of the Public Utility Advisory Board of the City of Truth or Consequences, New Mexico to be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico, on Monday, August 15, 2016 at 5:30 P.M.

INTRODUCTION:

PRESENT:

George Szigeti, Chairman
Jeff Dornbusch, Vice-Chairman
Grant Montgomery Member
Ron Pacourek, Member

ALSO PRESENT:

Juan Fuentes, City Manager
Traci Burnette, Grants Project Coordinator
Christina Bruch, Electric Division Administrative Aide
Bo Easley, Electric Department Director
Andy Alvarez, Sanitation Director

APPROVAL OF AGENDA:

Chairman Szigeti stated he wanted to switch item K with item A on the agenda to allow the applicants to go first.

Member Pacourek moved to approve the agenda along with the changes Chairman George Szigeti suggested of switching item K with item A.

Member Dornbusch seconded the motion. Motion carried unanimously.

APPROVAL OF MINUTES - REGULAR MEETING HELD MONDAY, JUNE 20, 2016:

Member Ron Pacourek moved to approve the June 20, 2016 minutes.

Member Dornbusch seconded the motion. Motion carried unanimously.

COMMENTS FROM THE PUBLIC:

Klaus Wittern came before the Board with comments regarding the YESCO Project, and the City ICIP Project. He believes that it is essential that the ICIP reflect the replacement of all meters. Mr. Wittern also noted that he would like to see a study to integrate the flood mitigation, which has not been performed to date.

NEW BUSINESS:

Discussion/Action: Recommendation to fill vacancy on the Public Utility Advisory Board. Applicants are Gil Avelar & Randall Ashbaugh:

The Board reviewed Mr. Gil Avelar and Mr. Randall Ashbaugh's application(s) to serve on the Public Utility Advisory Board. Brief discussion ensued.

Member Ron Pacourek nominated Randall Ashbaugh to sit as a member on the Board.

Vice Chairman Jeff Dornbusch noted that he feels the current Board lacks experience about electricity. He feels that Mr. Ashbaugh would fit perfect into the Impact Fee portion of the Board. However, Mr. Avelar would be the best candidate for the Public Utility Board.

Vice Chairman Jeff Dornbusch then moved to nominate Mr. Gil Avelar to sit as a member on the Public Utility Advisory Board.

Member Montgomery seconded the motion. Motion carried 3 against 1.

Mr. Ashbaugh thanked the Board for their consideration.

Discussion/Update: Solar Array and Walmart Solar Usage- Christina Bruch, Electric Division Amin. Assistant:

Ms. Bruch provided the Board with a chart of the Solar Array and Walmart Solar usage. She briefly reviewed the rate savings from June 2015 thru June 2016.

Discussion/Update: American Electrical Testing Report- Bo Easley, Electric Division Director:

Boaz Easley, Electric Division Director noted that American Electrical Testing Company performed tests a few months back at the substation. The scope of work included: Repair, replace, and provide items for

the two (2) transformer Hi side bushings (H1, 2, 3) C2 taps. Resample transformer SN 19090100 Main tank oil and compare results from last results. Replace two (2) trip coil springs in circuit breakers. Replace Amp-meter with calibration. Supply reconditioned 15-VHK-600, 1200 amps, and perform inspection, assessment on circuit breaker grounding cart.

Discussion/Update: ICIP Project- Bo Easley, Electric Division Director:

Boaz Easley, Electric Division Director noted that one of the items that the ICIP called for was the replacement of a Steel Pole on Cedar and Riverside. That task has already been completed. Additional items on the ICIP included:

Testing and Maintenance of existing equipment which is the substation, New and upgraded circuits, battery enclosure at the substation, replacement at the sub-station, underground feeder, electrical and main feeder upgrade, Capacitor Upgrades Cedar/Riverside Steel Pole, Testing & Maintenance of Existing Equipment, New and Upgraded Circuit Switches, Maintenance/Upgrades, Electrical Main Feeders Upgrade, Pole Replacement Program, and Corona & Camino De Cielo underground upgrades.

Discussion/Update: Pole Replacement- Bo Easley, Electric Division Director Replacement:

Boaz Easley, Electric Division Director reviewed the replacement of Electric Poles by the State Police Office, and one on Iron Street by the Punk Greer Rodeo Arena.

Discussion/Update: Electric Department – Bo Easley, Electric Division Director:

Boaz Easley, Electric Division Director reported on Christina Bruch, Electric Division Admin Assistant, attending Grant Writing School and an update regarding the Electric Pole located at 1500 N Silver Street.

Discussion/Action: OSE Approved Water Conservation Plan- Traci Burnette, Grant Project Coordinator:

Traci Burnette, Grant Project Coordinator briefly reviewed the OSE Approved Water Conservation Plan noting that the data for 2015 was removed and will be added to the next Water Conservation Plan with will be available 5 years from now. They were advised to make a few changes to the Water Conservation Plan which included re-arranging goals, and including the City Ordinance which explains our water rates.

No action was taken on this item.

Discussion/Update: Water/Wastewater Department - Jesus Salayandia, Water/Wastewater Director:

Traci Burnette, Grant Project Coordinator gave an update regarding the construction at the Plant which is going great. We have hired a few locals for the department and the USDA application has been submitted for Phase 2B.

Discussion/Update: Solid Waste Department – Andy Alvarez, Sanitation Director:

Sanitation Director Alvarez reported that the seeding at the TorC Landfill has been completed and the Landfill has been covered. On December 6th-9th we will be holding a Recycling Certification Course at the Truth or Consequences Civic Center. Mr. Alvarez also reported that we will start trash services for the Village of Williamsburg starting October 1st.

Discussion/Action: Discount Utility Rates – George Szigeti, Chairman:

Member Dornbusch moved to send the Discount Utility Rates to the commission for approval.

Member Montgomery seconded the motion. Motion carried unanimously.

Discussion/Action: Sewer Calculation and Timing – Ron Pacourek:

Manager Fuentes recommended that customers go discuss their bills with Sonya Williams, rather than taking action and going backwards.

COMMENTS FROM THE BOARD:

Vice chairman Dornbusch asked if sewer averages will be showing on future Utility Bills.

City Manager Fuentes responded that Sonya Williams and Melissa Torres have looked into adding that additional information to the bills, since they are now processed in house.

Ron Pacourek had comments on changes regarding Renewable Energy, and issues regarding the disposal of Prescription Pills into the sewer system and trash facility.

Chairman Szigeti responded that he read in the local newspaper, that you can take your Prescription Pills to the Sheriff's Department during office hours and they will properly dispose of them. You can also take them to the Truth or Consequences Police Department for disposal.

Ron Pacourek recommended that the City start a "Suggestion Program" for the Utility Department(s) to show appreciation for the employees.

COMMENTS FROM STAFF:

City Manager Fuentes responded to Mr. Wittern's Public Comment regarding YESCO.

ADJOURNMENT:

There being no further business to come before the Public Utility Advisory Board, George Szigeti, Chairman, declared the meeting adjourned.

APPROVAL:

PASSED AND APPROVED this 19 day of September, 2016,
on motion duly made by George Szigeti, seconded
by: Jeff Dernbusch, and carried.


George Szigeti, Chairman
Public Utility Advisory Board



F.3

CITY OF TRUTH OR CONSEQUENCES
COMMISSION ACTION FORM

ITEM:

Approve the Golf Course Advisory Board minutes for July 6, 2016 Meeting.

BACKGROUND:

None.

STAFF RECOMMENDATION:

Approve the minutes.

Submitted by: Renee Cantin, City Clerk

Meeting date: 09/27/2016

TRUTH OR CONSEQUENCES GOLF COURSE
ADVISORY BOARD MEETING JULY 6, 2016 2 PM.
T OR C MUNICIPAL GOLF COURSE

Meeting was called to order by Les Dufour at 2:06 PM.

Present was Les Dufour, Mary Ann Weaver, Leroy Bierner and Vivian Bonner. Absent was Linda Hale.

Motion was made by Leroy Bierner to approve of the agenda and was seconded by Mary Ann Weaver. Motion Passed.

No Guest attended and there were no comments from the public.

Approval of the Minutes from the June meeting: Leroy Bierner made a motion to accept the minutes as read and Mary Ann Weaver seconded. Motion passed.

Committee Reports began with the Status of the \$1 fund. Leroy Bierner has been in contact with the City of T or C and is requesting an improved update. Les Dufour would like the past way implemented. Les Dufour expressed that it was a more complete document.

Long Range Planning was tabled in the absence of Linda Hale.

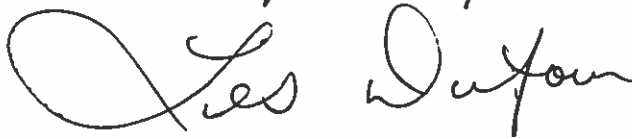
Old Business which was the course condition was discussed by Leroy Bierner in the absence of Terry Taylor. It was decided we would wait and discuss concerns about equipment and Daily Fees when Terry Taylor was present.

The work was continuing on obtaining the Liquor License. No definite date as to when a license would be approved.

Les Dufour was confident that Board Member Terms began at the time of the 14/15 resolution and lasted 2 years. He had not obtained a document as to the status of Board Member Terms.

Les Dufour called for the meeting to adjourn and Leroy Bierner seconded. Meeting was adjourned.

Next Meeting is August 3, at 5PM.

Approved: Sept. 7, 2016

Chairperson



F.4

CITY OF TRUTH OR CONSEQUENCES
COMMISSION ACTION FORM

ITEM:

Termination of Agreement and Lease for Hot Springs Falls, Inc.

BACKGROUND:

At the May 10th, 2016 Commission Meeting the Commission approved to Consider cancelling the current agreement so they can deed the land to the Geronimo Springs Museum. The Minutes from that meeting are attached.

This Agreement was prepared by them and has been sent to John Appel for review. His recommendations were included and he has approved the attached agreement.

Although, I believe the intent of the Commission was to approve the termination of the agreement, the Motion states, "**To consider** cancelling the current agreement..."

The attached agreement will finalize the Termination of the Lease and Agreement with Hot Springs Falls.

STAFF RECOMMENDATION:

Approve the Termination of Lease Agreement.

CITY COMMISSION MAY 10, 2016 REGULAR MEETING MINUTES

noon using a backhoe to smash up a stone wall and ripped the metal roof to pieces. They should have gone to the OSHA meeting, it might have helped them a bit. They were destroying our public property without our permission. That is not right.

3) She complemented Commissioner Frankel for bringing up the Historical Building at the last meeting; Commissioner Clark for bringing up the Copper Mines. She wanted to say bringing Water & Wastewater across the river is insane.

4) She spoke about Cleaning Up the town and Commissioner Hechler's proposals. She suggested using the Realtor's and the other city employees who ride around town all day.

5) We need a new dump. People don't want to come here and pay to export their garbage. It was a cleaner town when we had a dump. Our Town is falling apart from neglect. Forget the Spaceport, we need to get out and help our neighbors and elderly people and keep cleaning up.

D. RESPONSE TO PUBLIC COMMENTS

None.

E. PRESENTATIONS

1. Proclamation May Poppy Month

Mayor Green read presented the Proclamation for May Poppy Month.

2. Proclamation for Municipal Clerks Week

Mayor Green read the proclamation and presented it to City Clerk Cantin, Deputy Clerk Angela Torres, and Sonya Williams for Municipal Clerk's Week.

F. CONSENT CALENDAR

1. City Commission Regular Minutes, April 26, 2016
2. Public Utility Advisory Board Minutes, March 21, 2016
3. Golf Course Advisory Board Minutes, March 2, 2016
4. Lodger's Tax Board Minutes, January 28, 2016
5. Accounts Payable for April 2016

Commissioner Hechler moved to approve the consent calendar as listed. Commissioner Frankel seconded the motion. Motion carried unanimously.

G. NEW BUSINESS

1. Discussion/Action: Request by Hot Springs Falls, Inc. to consider cancelling the current agreement so they can deed the land to the Geronimo Springs Museum. Stephen Janos, Secretary/Treasurer for Hot Springs Falls, Inc.

Mr. Janos addressed the Commission and added in 2003 Jerry Stagner was the driving force behind the Hot Springs Falls. The idea was to make a walking trail or Hot Springs

CITY COMMISSION MAY 10, 2016 REGULAR MEETING MINUTES

Falls. Mr. Stagner has since left the community and we have done nothing with it. They are a 501c3 Corporation, which when disposing of property should give to another Non Profit and that's why they are choosing the Museum because the property is adjacent to this property.

Mayor Green pointed out, to move this to another organization might open up other funding avenues for development of that property.

Commissioner Clark joined the meeting at 9:33 a.m.

Commissioner Clark asked if the Office of the State Engineer turned down that water because of evaporation that could occur from that water falling down the hill. Mr. Janos said he basically did the bookwork and the filings and Jerry Stagner was the driving force behind all of this. Commissioner Clark said it was a ridiculous response from OSE but she was just checking it.

Commissioner Clark moved to approve the request by Hot Springs Falls, Inc. to consider cancelling the current agreement so they can deed the land to the Geronimo Springs Museum. Commissioner Hechler seconded the motion. Motion carried unanimously.

2. Discussion/Action: City Utility Services, water and sewer across the river. Robbie Travis, Building Inspector

Building Inspector Travis presented this item to start the process to see what kind of funds we can find or raise to get water to the other side of the river, sewer is a little more difficult.

Mr. Mark Thornton thanked the Commission for doing their civic duty. He is concerned they have lived on the other side of the River for 19 years and they have their own water well. But if they have a fire and the electricity goes out, they don't have any water. He hopes the city will look into getting them water. All of his neighbors have water and he thinks he is the only one who doesn't have water.

Mayor Green asked about the electricity and he responded he is on city electric. He asked why they don't have water if the other homes do. Mr. Thornton said they are not in close proximity to the houses that have city water.

Building Inspector Travis responded there are three people who have water that are privately owned. The meter is on the Riverside Drive side. Two of them go over the walk bridge to the properties there. Where Mr. Thornton lives there is the Vega's home that is next door, it was supplied by Steve Vega and they split the land and they don't have water any more. Steve Vega has water coming under the river where they dredged through there 10-15 years ago. That's the only water the City supplies, but it's all privately run. Our concern is we don't want everyone to cross water however they want to. We have a developer in the area who had some ideas even with FEMA

Termination of Agreement and Lease

This instrument, made this ____ day of _____, 2016 entered into by the City of Truth or Consequences, a Municipal corporation, 505 Sims Street, Truth or Consequences, New Mexico, 87901, hereinafter called "City".

Recitals:

1. On October 14, 2003 the City and Hot Springs Falls, Inc. entered into an Agreement leasing certain Real Property in the City of Truth or Consequences, a copy of the Agreement, hereinafter called "Agreement", is attached hereto as Exhibit "A".
2. Neither the City nor Hot Springs Falls, Inc., have taken significant further action to put into effect the uses of the leased premises that were contemplated in the Agreement, and the City has not invested significant public funds to improve the leased premises.
3. Stephen Janos, Secretary/Treasurer of Hot Springs Falls, Inc. requested the City at its Commission Meeting held on May 10, 2016 to consider canceling the Agreement so that Hot Springs Falls, Inc. can deed the land to the Geronimo Springs Museum. Stephen Janos further stated the Corporation was a 501c3 Corporation and when disposing of property, it should be given to another non-profit and that is why the museum was chosen, because the property is adjacent to the Museum.
4. The Motion to approve this request was carried unanimously, and this Instrument is intended to carry out the request made by Hot Springs Falls, Inc.

NOW THEREFORE, the City hereby cancels the Agreement, a copy of which is attached as Exhibit "A", and the lease containing the said Agreement is hereby terminated.

Witness the hand and seal of the City the date first appearing above.

City of Truth or Consequences:

Steve Green, Mayor

Attest:

Renee L. Cantin, City Clerk-Treasurer

Reviewed as to Legal Sufficiency:


John L. Appel, Coppler Law Firm, P.C.

AGREEMENT

This Agreement made this 14th day of October, 2003 by and between the City of Truth or Consequences, a Municipal Corporation, 505 Sims Street, Truth or Consequences, New Mexico 87901 and Hot Spring Falls Inc., a New Mexico Non-Profit Corporation, Jerry Stagner, President, 210 Main Street, Truth or Consequences, New Mexico 87901. Hot Spring Falls, Inc., hereinafter referred to as the "Lessor" and the City of Truth or Consequences hereinafter referred to as the "Lessee." Both the Lessor and Lessee are hereinafter referred to as the "Parties."

Lessor in consideration of an annual rental payment of one dollar (\$1.00) per year, hereby agrees to lease the following described property to the City of Truth or Consequences, New Mexico beginning October 15, 2003 and ending October 15, 2033.

Original Townsite:

Block 80 -

Lots 14, 15, 18, 19, 20, 21

Block 90 -

Lots 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and a part of Lot 4

Block 91 -

Lot 5

Hot Spring Falls, Inc. Agrees:

1. To prepare an overall plan of development for a proposed waterfall park on the aforescribed property at no cost to the City of Truth or Consequences.
2. To apply for grant funds for all development and construction costs and to complete construction within a reasonable time after receipt of such funds. This Agreement and Lease is subject to Hot Spring Falls, Inc. obtaining grant funds for development.
3. Submit all plans and construction specifications to the City for approval prior to beginning any construction.

The City of Truth or Consequences Agrees:

1. To pay Hot Spring Falls, Inc. an annual lease of one dollar (\$1.00) cash in hand, on the fifteenth day of October each year.
2. To execute a Service Agreement with Sierra County Historical Society, a non-profit corporation, to collect all admission fees from visitors to the Waterfall Park.
3. Establish a special account for deposit of all revenue from the Park.
4. Those parts of Lincoln Avenue, Diaz and Haig Streets and the alley between Lincoln Avenue and Main Street that lie within the Park will be dedicated for development and operation of the Hot Spring Falls Park.

The Parties Agree:

1. The Lessee will utilize revenue generated from operation of the Waterfall Park only in the following manner:
 - A. One half of revenue will be paid to Geronimo Springs Museum for their participation and for collecting admission fees.
 - B. One half of revenue will be utilized by Lessee for maintenance of the Waterfall Park.
2. The Waterfall Park will become a part of the City's Parks system and will be maintained and insured by the City of Truth or Consequences. In the construction and operation phase of the Park, Hot Spring Falls, Inc. and Sierra County Historical Society will be acting under the direction and control of the City which agrees to assume all liability for loss or injury resulting from construction and operation of the Park.

3. The City will hold Hot Springs Falls, Inc. and Sierra County Historical Society free and harmless from any claim for injury or loss arising out of any negligent act committed by the City.

City of Truth or Consequences

Hot Spring Falls, Inc.


Jimmy L. Rainey, Mayor


Jerry Stagner, President

ATTEST:


Mary Penner, City Clerk

Reviewed as to legal sufficiency:


Jay Rubin, City Attorney

10/15/03
Date

F5



CITY OF TRUTH OR CONSEQUENCES

COMMISSION ACTION FORM

ITEM:

COOPERATIVE AGREEMENT BETWEEN THE CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO AND THE BOYS AND GIRLS CLUB OF SIERRA COUNTY.

BACKGROUND:

The City Commission approved authorization to act as the fiscal agent for the Juvenile Justice Advisory Council, JJAC, program. The objective of the program is 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.

The agreement with the State of New Mexico Children, Youth and Families Department grants \$72,002 for the development of the following items:

1. Develop and improve the "Comprehensive Strategic Plan" for juvenile justice and detention reform in City of Truth or Consequences 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.

In addition to the items above, the program is required to meet requirements specified in the Scope of Work.

CYFD is requesting the entities to enter into a cooperative agreement whereby the City serves as the fiscal agent and pays for the services rendered by the Boys & Girls Club of Sierra County.

STAFF RECOMMENDATION:

- Approval of the cooperative agreement with BGCSC.

SUPPORT INFORMATION:

- Agreement between the City and BGCSC.

Reviewed by: Juan A. Fuentes	Department: City Manager	E-mail: jafuentes@torcnm.org
Meeting: 06-14-16		

**COOPERATIVE AGREEMENT
BETWEEN
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
AND THE
BOYS AND GIRLS CLUB OF SIERRA COUNTY**

THIS AGREEMENT is made and entered into by and between the Boys and Girls Club of Sierra County, hereinafter referred to as the "Contractor" and the City of Truth or Consequences, hereinafter referred to as the "City", and is effective as of the date set forth below upon which it is executed.

IT IS AGREED BETWEEN THE PARTIES:

1. Subcontract.

The City desires to subcontract the services to the Contractor pursuant to Article XVI of the Children, Youth and Families Department (CYFD) Agreement No. 17-690-19787 attached hereto as **Attachment 1**, incorporated herein by reference, as summarized in Exhibit A. The City desires that the Contractor to serve as a subcontractor to CYFD and the City serve as the fiscal agent.

2. Scope of Work.

The Contractor shall provide services pursuant to the terms and conditions of the Children, Youth and Families Department Agreement No. 17-690-19787 attached hereto as **Attachment 1**, incorporated herein by reference, as summarized in Exhibit A. The Contractor will work under the direction of Rebecca Dow, JJAC coordinator. The Contractor will implement the requirements of the program as described in the attached agreement.

3. Compensation.

A. The City shall pay to the Contractor in full payment for services satisfactorily, after documentation of performance of the services from the previous month are received in compliance with the required scope of work as described in Exhibit A.

4. Term.

This Agreement is will begin on July 1st, 2016 and will renew automatically each year that funding is provided by the State of New Mexico.

5. Termination.

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the

intended date of termination. Except as otherwise allowed or provided under this Agreement, the Contractor sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the City is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the City or if, during the term of this agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of government funds or due to the appropriations paragraph herein.

6. Confidentiality.

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

7. Workers Compensation.

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

8. Records and Financial Audit.

The City and Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the City, the Department of Finance and Administration, and the Children, Youth and Families Department. The City shall have the right to audit billings both before and after payment.

9. Notice Provisions and Designated Representative

The Contractor and City hereby designate the persons listed below as their official representative concerning all matter related to this Agreement.

Contractor: The Boys and Girls Club of Sierra County
Name: Rebecca Dow
Title: JJAC Chair

Address: P.O. Box 3262, Truth or Consequences, NM 87901
Email: rebecca.dow@appletreeeducation.org
Telephone: 575-894-5646
Fax: 575-894-0132

City: City of Truth or Consequences
Name: Juan A. Fuentes
Title: City Manager
Address: 505 Sims Street, Truth or Consequences, NM 87901
Email: jafuentes@torcnm.org
Telephone: 575-894-6673 Ext. 320
Fax: 575-894-6690

10. Assignment.

The Contractor shall not assign or transfer any interest in the Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the City.

11. Bonding.

The Contractor shall provide, at the time of execution of this agreement, evidence satisfactory to the City that all of Contractor personnel handling funds or authorizing payment of funds under this agreement are covered by fidelity bond.

12. 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 in the Seventh Judicial District Court of Sierra County, New Mexico.

PASSED AND APPROVED by the City Commission of the City of Truth or Consequences on this 27th day of September, 2016.

Juan A. Fuentes
City Manager

Rebecca Dow
Boys & Girls Club of Sierra County

EXHIBIT A

SCOPE OF SERVICES

The CONTRACTOR shall perform the following work:

- **Oversee and implement the Sierra JJAC Program**
- **Ensure positive outcomes and compliance with grant(s) scope of work requirements**
- **Coordinate with courts, law enforcement, schools, and child protective services to comply with JJAC program related functions around prevention, early intervention, and immediate interventions.**
- **Coordinate JJAC program activities with magistrate, municipal and district courts, health care providers, law enforcement agencies and schools**
- **Complete and provide electronic version of the JJAC Data Collection Sheets as required by SOW and provide them to the City of TorC monthly.**
- **Maintain backup documentation through a general ledger or itemized receipts for expenditures.**

Under the direction of Rebecca Dow, JJAC Coordinator



G.1

**CITY OF TRUTH OR CONSEQUENCES
COMMISSION ACTION FORM**

ITEM:

Discussion/Action: For publication Ordinance No. 674 for Discounted Utility Rates for large businesses. Juan Fuentes, City Manager

BACKGROUND:

The Public Utility Advisory Board approved a proposal which came to the City Commission for action at the August 23, 2016 meeting. The Commission Action was to "authorize staff to proceed with formatting the ordinance and taking it to legal and bringing it back to the Commission in a timely manner with amending the hours to 400 hours per week."

Attached is the proposed ordinance for approval and the minutes from the previous discussion.

STAFF RECOMMENDATION:

Approve Ordinance No. 674 for publication.

Submitted by: Juan Fuentes, City Manager

Meeting date: 09/27/2016

ORDINANCE NO. 674

AN ORDINANCE OF THE CITY OF TRUTH OR CONSEQUENCES, AMENDING SECTION 14-52 OF THE CODE OF ORDINANCES RELATED TO THE DISCOUNT OF UTILITIES FOR LARGE BUSINESSES.

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

Section 1. That section 14-52 of the Code of Ordinances of the City of Truth or Consequences, be amended in its entirety as follows:

Sec. 14-52. Discounted utility rates.

1. Definitions. The definitions of the following terms are given as used within this section.

eligible large business – Any manufacturing, industrial or large retail business that employs 8 or more full-time employees or employs sufficient full- and part-time employees such that total payroll hours exceed 400 hours per week.

Owner/proprietor – The owner of a business who also serves as its full-time, on-site manager.

Utilities – All city owned utilities, electric, water, waste water, and solid waste.

2. Applicability.

a. Any new eligible businesses opening within the city limits are eligible for discounted utility rates, as described below, for 18 months after opening. The discount will be applied to the first 18 utility bills after the business opens. The discount is applied to the base utility bill prior to taxes.

b. The business must remain within the city limits for 36 months after the opening date, and maintain the required level of employment through that period, or the discounted utility payments must be paid back to the City Utility Department.

c. The eligible business must contact the City Utility Office prior to opening and submit a written request for the discounted utility rates. The agreement will be formalized via an addendum to the customer's contract for City utility services.

3. Discounted rates.

a. Large Business Discount. Any new eligible large business will receive a 20% discount on utility payments for the first 18 months after opening.

Section 2. All Ordinances or Resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This Repealer shall not be construed to revive any Ordinance or Resolution, or part thereof, heretofore repealed.

Section 3. This Ordinance shall take effect on the ____ day of _____, 2016.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2016.

CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO

Seal

BY: _____
Steven L. Green, Mayor

ATTEST:

Reneé L. Cantin, City Clerk-Treasurer

CITY COMMISSION AUGUST 23, 2016 REGULAR MEETING MINUTES

would be a source of water for the Golf Course. City Manager Juan Fuentes responded it would be an additional source for the Golf Course.

Mayor Green suggested:

Project Year 2020

- 1 Capacitor Upgrades
- 2 Water Tank Repair
- 3 Water Well North
- 4 ADA Restrooms for Armijo Park
- 5 Senior Citizen's Complex

Commissioner's agreed with that order for 2020.

Project Year 2021

- 1 New & Upgraded Circuit Switches
- 2 Battery/Enclosure Replacement @ Substation upgrades
- 3 Effluent Water to Cemetery

Project Year 2022

- 1 Corona & Camino Del Cielo Underground Upgrades
- 2 South Broadway Sidewalk & ADA Curbs – Expansion and continuation of what we are doing now.
- 3 Library Expansion

Commissioner's agreed.

City Manager Fuentes added the priorities that have been listed and the years they are listed under does not mean we can't move on those projects. If an opportunity presents itself we will move on it quicker.

Mayor Green said if everyone is comfortable, whoever makes the motion make it as agreed upon by the Commission.

Mayor Green moved to approve Resolution No. 06 16/17 adopting the 2018-22 Infrastructure Capital Improvement Plan (ICIP) as agreed upon in discussion. Commissioner Frankel seconded the motion. Roll call vote was taken by the Clerk. Motion carried unanimously.

- 2. Discussion/Action:** For publication ordinance change proposed by the Public Utility Advisory Board for Discounted Utility Rates for large businesses. George Szigeti, PUAB Chairman

PUAB Chairman Szigeti said they have been working on this issue for a number of months. In the current ordinances there is a provision to provide a discounted utility rate for large businesses. From the time that was actually adopted our rates have increased and instead of updating that rate we figured using a percentage value for the

discount would be more appropriate. This way we wouldn't have to continually update it. The other issue was the discount only applied to a business who have ten or more employees. With the current practice of reducing the number of full time employees and replacing them with part time employees, we figured that might be a more difficult goal to achieve. So they did two things, they changed the number of full time employees to 8 or we added a provision where any combination of full time and part time employees where the total weekly payroll is more than 500 hours, that gives them more flexibility to qualify for these rates. They are also looking at discounted rates for small businesses. However that issue has become quite contentious and they are still knocking that around. They would like to go ahead and get the large businesses in place before they continue. The discount would be 20% of the total utility bill for the business. They wanted to make it something that was substantial enough to be attractive but not so large that it would be hurting our utilities. So that's the reason they put in the 20%. This would apply for the first 18 months that the business is in operation and it would also require the business to stay in the city limits for 36 months to qualify. If for some reason they closed the shop or move, they would have to refund the discounted utilities. Since they brought this forward, Mr. Wittern brought up an issue that this may conflict with some of the rulings with the bond ordinances that may not allow us to provide a discount. We may need to look at the rulings for that to make sure it's not a conflict. But if we can't discount the utility rates, we could reword this so we could refund the 20% to clear that hurdle if that becomes a problem.

Mayor Green asked under definitions Eligible Large Businesses it states: *Any manufacturing, industrial or large retail business that employs 8 or more full-time employees or employs sufficient full- and part-time employees such that total payroll hours exceed 500 hours per week.* He said if you have an employee working 40 hours and you have 8 full-time employees, which is not 500 hours. He asked how they came up with the number of 500 hours. They wanted to make the number higher than the total of 8 full time employees which is 320. Originally, they had the requirement of 10 full-time employees and they set the 500 number of hours. When they reduced to 8 full-time employees, they should have reduced that number also to something like 400. Mayor Green said in his opinion does this have to go back to the board for their approval. Mr. Szigeti said that is not necessary, this is the board recommendation and if the Commission would like to put in something more likeable, they are not going to argue about that.

Commissioner Hechler asked if it's possible they may have 4-5 Full-Time and may hire a few Part-time employees. Mr. Szigeti said when they started out it would have been 100 more payroll hours for and equivalent of 10 full-time employees so that would have been a little higher. Commissioner Frankel said with small businesses they pay their employees and hardly pay themselves when they are the hardest workers. He feels we need to make sure the Owners of the small businesses are counted as part of the full-time employees. Mr. Szigeti said particularly the retail businesses, the Managers are sometimes the only full time employees. Commissioner Hechler also asked how this is presented to the business. Is it in the form of a contract? Mr. Szigeti said he believes

that is in the ordinance on paragraph 2.c where the agreement will be formalized via addendum to the customer's contract for the city utility services.

Mayor Green moved to authorize staff to proceed with formatting the ordinance and taking it to legal and bringing it back to the Commission in a timely manner with amending the hours to 400 hours per week. Commissioner Frankel seconded the motion. Motion carried unanimously.

H. UNFINISHED BUSINESS

1. Discussion/Action: To accept and approve the Water Conservation Plan. Traci Burnette, Grant Projects Coordinator and Sarah Garduño, Engineers, Inc.

Grants Projects Coordinator Burnette presented the item. Before you, you have the brief timeline on the Commission Action Form. The Water Conservation Plan was started because 1) we do need one for the city and 2) it is required by multiple funding sources such as the Water Trust Board. They came before the Commission as a public hearing twice, they met briefly with a Water Conservation Board that was put together. All of the suggestions were included in the plan. The draft copy was sent to OSE in March for their approval. They have since approved it with the changes and they made some recommendations that are in your packet as well. Sarah from Engineer's Inc. is here if you have any additional questions otherwise they are here for approval as it stands.

Commissioner Hechler moved to approve the Water Conservation Plan. Mayor Green seconded the motion. Motion carried unanimously.

2. Discussion/Action: Acceptance of donation of property to the city by Catherine and Marcia Burford and authorization to pay the outstanding taxes. Juan Fuentes, City Manager

City Manager Fuentes presented the item. At the august 9th meeting, the Commission asked what the property value is. The Sierra County website shows the full value of the land at \$61,587 with the taxable net value at \$20,529. Our Legal Counsel estimates it will take about \$3,000-\$6,000 for a quiet title lawsuit. Taking into account the expenses and staff time we have already put in and value of property, he feels we would come out on top if we can get at least 70% of the appraised value. This is money the can be used towards honoring their late husband's name with a memorial and can be used for improvements of our parks. This can go a long ways if we can accomplish that.

Mayor Green said we could also turn that into a park and sell it to upgrade other parks.

Commissioner Hechler moved to approve acceptance of donation of property to the city by Catherine and Marcia Burford and authorize to pay the outstanding taxes and honor the memorial as requested by the Burford's. Commissioner Frankel seconded the motion. Motion carried unanimously.



G. 2

**CITY OF TRUTH OR CONSEQUENCES
COMMISSION ACTION FORM**

ITEM:

Resolution No. 07 16/17 for Parks Fees adding the Healing Waters Plaza.

BACKGROUND:

During a previous Commission Meeting it was suggested to come up with a Policy or Application for the use of the Healing Waters Plaza. Upon the research of our current City Park Fees Resolution, we discovered it already incorporated the fee structure for the use of city parks. So with that in mind the Rental Application in the Clerk's Office was amended to add the Healing Waters Plaza. Another change was to add some wording about the Placement of Memorials.

After further discussion with the Clerk's Office Staff, Public Works Director, and Parks Staff, we determined the current fees for Facility use were not user friendly to the customers who may want to reserve the parks for use.

After a review of the Utilities that are spent on the City Parks and the Parks Staff time that is put into the upkeep of these parks, we have prepared the attached resolution that should be more user friendly for those who wish to reserve the parks in the future.

The fee changes are basically for those who wish to have exclusive use of a park or area of a park. If there is no rental contract in place then the park will be open to the public for free.

City Clerk Cantin will present the changes and Public Works Director Armijo will be here to answer any questions you may have.

The draft revision of the Rental Agreement is attached, as well as, a new document for the Placement of a Memorial.

STAFF RECOMMENDATION:

Approve the Resolution.

Submitted by: Renee Cantin, City Clerk

Meeting date: 09/27/2016

RESOLUTION NO. 07 16/17**A RESOLUTION OF THE CITY OF TRUTH OR CONSEQUENCES CITY COMMISSION ADOPTING A RESOLUTION FOR FEES, DEPOSITS AND REGULATIONS FOR USE OF THE CITY PARKS.**

WHEREAS, the City of Truth or Consequences operates and maintains the City Parks including the Rodeo Arena, Playgrounds, etc., and;

WHEREAS, the City of Truth or Consequences operates and maintains the City Parks for the ~~free~~ enjoyment of the public, and;

WHEREAS, the City Parks are sometimes used by the public for commercial purposes, and;

~~**WHEREAS**, the City Parks were not intended for private persons or corporations to charge a fee or donation (defined as a commercial purpose) to use a park that is a free City service, and;~~

WHEREAS, the City of Truth or Consequences finds it necessary to collect fees, and deposits in order to assure the continued maintenance of the City Parks ~~when used for commercial purposes~~, as follows:

The following are the fees and deposits created for use of the City Parks:

FACILITY USE	\$15/hr. up to \$100.00 (24 8 hr. period or more)
WITH ELECTRICITY	\$20/hr. up to \$160.00 (8 hr. period or more)
USE OF FIELD LIGHTS	\$5/hr. or \$50/per season use.
TENNIS COURTS	\$10 per day – \$10 Key Check out fee (\$20 Key Replacement)
RODEO ARENA	\$15 per animal per day & \$100 per event
YOUTH ACTIVITIES	\$50 Deposit only
CLEANING/DAMAGE DEPOSIT	\$100.00 50.00*

* The cleaning/damage deposit will be deposited in a City account and will be refunded if the facility is cleaned after the event and the facility has not been damaged to the satisfaction of the City. If the amount of deposit is greater than the cost of cleaning or damage, the difference will be refunded. If the cost of cleaning or damage is greater than the amount of deposit the renter will be charged accordingly.

Note: Set-up and tear-down will be the responsibility of the renter.

NON-PROFIT ORGANIZATIONS:

Non-profits will receive a 50% reduction in fees, however, cleaning and security deposits will be paid in the same manner as other organizations, individuals or groups. Any Non-Profit holding

an event that requires at least two consecutive days rent will be eligible for 100% reduction on fees.

NON-PROFIT CRITERIA:

- The organization must be a registered non-profit organization.
- The organization must be either located in the City or their work must benefit the City and/or its residents.
- The organization must state the purpose of the event and how the revenue will benefit the citizens of Truth or Consequences.
- An application supplied by the City must be submitted to the City **Manager** Clerk prior to the date of the event.

Note: The City Manager or his/her designee may impose other use regulations as he/she may deem necessary as long as those regulations do not subvert the intent of this policy. Any complaints for public affray may effect your ability to use City Parks.

MEMORIALS can be placed in City Parks and those who wish to place them are required to submit a request to the City Clerk's Office. Memorials will be allowed to be placed for up to 30 days and city staff has the right to dispose of or distribute items after 30 days.

NOW THEREFORE, BE IT RESOLVED by the City of Truth or Consequences Governing Body, that the fees, deposits and regulations described herein are hereby enacted.

BE IT FURTHER RESOLVED that nothing in the Resolution shall prohibit the use or access of City Parks by the public at large for free.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2016.

CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO

By: _____
Steve Green, Mayor

ATTEST:

Reneé L. Cantin, City Clerk-Treasurer

City of Truth or Consequences

Ralph Edwards Park
Louis Armijo Park
Punk Greer Rodeo Arena
Healing Waters Plaza

RENTAL AGREEMENT
(When used for Commercial Purposes)

For booking info. Call: (575) 894-6673

Client's Name (Printed): _____

Name of Organization: _____

Client Phone #: _____

Client Email: _____

Client Address:

Street/PO Box City State/Zip

Date(s) of Event: _____ Time – From: _____ AM/PM To: _____ AM/PM

Date(s) of Event: _____ Time – From: _____ AM/PM To: _____ AM/PM

Date(s) of Event: _____ Time – From: _____ AM/PM To: _____ AM/PM

Additional Dates or Time Frame: _____

Estimate of how many people will be attending: _____

NOTE: This includes set up and tear down time.

CITY PARK RATES

(Non-Profits will receive a 50% reduction in rates and pay Cleaning Deposit in Full)

_____ FACILITY USE	\$15/hr. up to \$100.00 (24 8 hr. period or more)
_____ WITH ELECTRICITY	\$20/hr. up to \$160.00 (8 hr. period or more)
_____ USE OF FIELD LIGHTS	\$5/hr. or \$50 per season use.
_____ TENNIS COURTS	\$10 per day –
	\$10 Key Check out fee (\$20 Key Replacement)
_____ RODEO ARENA	\$15 per animal per day & \$100 per event
_____ YOUTH ACTIVITIES	\$50 Deposit only.
_____ CLEANING/DAMAGE DEPOSIT	\$ 100.00 50.00**

***The cleaning/damage deposit will be deposited in a City account and will be refunded if the City Park/Arena is cleaned after the event and has not been damaged to the satisfaction of the City. If the amount of deposit is greater than the cost of cleaning or damage, the difference will be refunded. If the cost of cleaning or damage is greater than the amount of deposit the renter will be charged accordingly.*

Rental Fee: \$ _____

Cleaning/Damage Deposit \$ _____

****This Rental Agreement shall not prohibit the use or access of City Parks by the public at large.**

PAYMENT AND DEPOSIT: To reserve a City Park the amount of the cleaning/damage deposit is due at the time the Rental Agreement is issued. Payment in full is due 30 days prior to the scheduled rental. If the Park is reserved with less than 30 days notice, payment in full is due at the time the Rental Agreement is issued.

ALCOHOL IS NOT PERMITTED IN CITY PARKS:

HOLD HARMLESS AGREEMENT: Organization/Client agrees to hold harmless the City of Truth or Consequences for any and all damages, including theft and disappearance of any and all equipment by the above named Organization/Client. The City of Truth or Consequences does not assume any responsibility for damages or loss of any personal property.

I have read and understand all of the terms and conditions in this rental agreement and will abide by them:

Client's signature: _____ Date: _____

City Staff Signature Date

**** Leagues or those who use Parks for the season **MUST** provide a Schedule to the Clerk's office for Parks with Days & Hours.**

For use by City Clerk's Office & Staff ONLY.

Date Received: _____

____ Provided Schedule (if applicable)

____ Checked out Keys

____ Dumpster needed for event. Requested on: _____; Pick up date: _____

Distributed to Police Department and Parks Department on: _____

Parks Employees ONLY

Approved for Deposit Refund: _____

Damage (if any): _____

Clerk's Office refund sent or distributed: _____

Placing Memorials in City Parks

MEMORIALS can be placed in City Parks and those who wish to place them are required to submit a request to the City Clerk's Office. Memorials will be allowed to be placed for up to 30 days and city staff has the right to dispose of or distribute items after 30 days.

Name of requestor: _____

Address: _____

Phone #: _____

Email: _____

Event or Reason for Memorial: _____

Location/Park for Memorial: _____

Requestor

Date

For use by City Clerk's Office ONLY.

Date Received: _____

Distributed to Police Department and Parks Department on: _____

30 Day deadline for removal: _____

G.3



CITY OF TRUTH OR CONSEQUENCES
COMMISSION ACTION FORM

ITEM:

A RESOLUTION REQUESTING THE ESTABLISHMENT OF A MINIMUM POOL AT ELEPHANT BUTTE LAKE

BACKGROUND:

Our major industry for the City of Truth or Consequences and surrounding communities is tourism. In addition to the natural hot springs we also rely on the tourism from the Elephant Butte Lake State Park. The lake provides numerous recreational activities such as fishing, boating and wildlife viewing that are vital to the public and economic interest of the City of Elephant Butte, City of Truth or Consequences, Village of Williamsburg and the County of Sierra. In order to maintain the quality of these activities, a minimum pool must be established to ensure the continued vitality of the environment and of our community.

The proposed resolution calls upon the Bureau of Reclamation to establish a minimum pool at Elephant Butte Lake. A similar resolution has already been adopted by the other Sierra County governmental entities.

SUPPORT INFORMATION:

- Resolution No. 08-16/17.

Name of Drafter: Juan A. Fuentes	Department: City Manager	Mtg: 09/27/16
E-mail: jafuentes@lorcnm.org	Phone: 575-894-6673 Ext. 320	



CITY OF TRUTH OR CONSEQUENCES

RESOLUTION NO. 08 16/17

A RESOLUTION REQUESTING THE ESTABLISHMENT OF A MINIMUM POOL AT ELEPHANT BUTTE LAKE

WHEREAS, Elephant Butte Dam was established in 1916 as part of the Rio Grande Project to not only tame the flood waters of the Rio Grande but also to store water that could be used by farmers for irrigation of their crops during the dry seasons; and,

WHEREAS, Elephant Butte Lake is 40 miles long and has over 200 miles of shoreline; and,

WHEREAS, Elephant Butte Lake's waters supports a diverse fishery of record-breaking bass, walleye, catfish, crappie, white and black bass, stripers, and numerous other species;

WHEREAS, numerous bird species, including the American white pelicans, thousands of western and Clark's grebes, terns, and unusual gulls, and shorebirds inhabit the Elephant Butte Lake area primarily because of the abundant availability of fish; and,

WHEREAS, depletion of the lake has a significant adverse effect on wildlife and,

WHEREAS, fishing, boating and wildlife viewing are recreational activities vital to the public and economic interest of the City of Elephant Butte, City of Truth or Consequences, Village of Williamsburg and the County of Sierra; and,

WHEREAS, a minimum pool is crucial to the public's enjoyment and critical to the financial success of the marinas and the local economy.

NOW THEREFORE BE IT RESOLVED by the City Commission of the City of Truth or Consequences that it calls upon the Bureau of Reclamation to lead efforts to establish a minimum pool at Elephant Butte lake to ensure the continued vitality of the environment and of our community.

PASSED, APPROVED AND ADOPTED by the City Commission of the City of Truth or Consequences on this 27th day of September, 2016.

ATTEST:

BY:

Steve Green, Mayor

Reneé L. Cantin, City Clerk-Treasurer



G.4

**CITY OF TRUTH OR CONSEQUENCES
COMMISSION ACTION FORM**

ITEM:

RESOLUTION NO. 09 16/17 AUTHORIZING AND APPROVING SUBMISSION OF A COMPLETED APPLICATION FOR FINANCIAL ASSISTANCE AND PROJECT APPROVAL TO THE NEW MEXICO FINANCE AUTHORITY WATER TRUST BOARD FOR COOK STREET WATER TREATMENT FACILITY IMPROVEMENTS.

BACKGROUND:

The Commission adopted the City water system Preliminary Engineering Report (PER) and Asset Management Plan (AMP) prepared by Smith Engineering. This project was funded in part by the New Mexico Finance Authority Water Trust Board. The PER identified the highest priority water system projects to be a new 300,000 gallon water storage tank at Cook Street and a new gas-chlorination disinfection system, and the replacement of water distribution lines in the downtown district. This application will address Phase 1 which consists of a new 300,000 gallon water storage tank and new gas-chlorination disinfection system and includes upgrades to the existing SCADA system.

Water Trust Board projects are funded as a grant and loan plus a local cash match. The loan portion will be no less than 10% and no more than 40% based on the community Median Household Income. Interest on the loan portion is 0% with a .25% administrative fee.

The Water Trust Board opened the Notice of Intent to file an application for financial assistance for water projects in August 2016. Project Applications are due October 3, 2016. Expected Water Trust Board decisions will be May 2017. This resolution is a required document for the application.

STAFF RECOMMENDATION:

- To approve Resolution No. 09 16/17 authorizing and approving submission of a completed application for financial assistance and project approval to the New Mexico Finance Authority Water Trust Board for Cook Street Water Treatment Facility Improvements.

SUPPORT INFORMATION:

- Resolution 09 16/17

Name of Drafter: Traci Burnette	Department: Grant Projects Coordinator	Meeting date: 9-27-2016
E-mail: tburnette@torcnm.org	Phone: 575-894-6673 ext. 353	



RESOLUTION NO. 09 16/17

**AUTHORIZING AND APPROVING SUBMISSION OF A COMPLETED
APPLICATION FOR FINANCIAL ASSISTANCE AND PROJECT APPROVAL TO
THE NEW MEXICO FINANCE AUTHORITY WATER TRUST BOARD FOR COOK STREET
WATER TREATMENT FACILITY IMPROVEMENTS**

WHEREAS, the City of Truth or Consequences ("City") is a qualified entity under the New Mexico Finance Authority Act, Sections 6-21-1 through 6-21-31, NMSA 1978 ("Act"), and the City Commission is authorized to borrow funds and/or issue bonds for financing of public projects for the benefit of the City; and

WHEREAS, the New Mexico Finance Authority ("Authority") has instituted a program for financing of projects from the Water Trust Board (WTB) fund created under the Act and has developed an application procedure whereby the City may submit an application ("Application") for financial assistance from the Authority; and

WHEREAS, the City intends to undertake design, construction and improvements of the City Water System for the benefit of the City and its citizens; and

WHEREAS, this resolution approving submission of the completed Application to the Authority for its consideration and review is required as part of the Application; and

WHEREAS, the City is committing the required cash match obligation for the proposed project in addition to any loan component that may be required.

NOW THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF TRUTH OR CONSEQUENCES;

That the filing of an Application to the New Mexico Water Trust Board for funding in the 2017 Water Project Fund funding cycle is hereby authorized. The project type falls under Water Storage, Conveyance, and Delivery and proposes to plan, design and construct water system improvements to the Cook Street Treatment Facility. The financial assistance requested is in the amount of \$1,490,000.

BE IT FURTHER RESOLVED, that City Manager Juan Fuentes is hereby designated as the City's representative on behalf of this application.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2016.

Steve Green, Mayor

ATTEST:

Renee Cantin, City Clerk



G.5

**CITY OF TRUTH OR CONSEQUENCES
COMMISSION ACTION FORM**

ITEM: Resolution No. 10 16/17 Approving the Finance Policies and Procedures

BACKGROUND: Finance Procedures & Policies were adopted on April 26, 2016 Commission action. Funding agencies require the Procedures and Policies to be formally adopted by resolution.

- Finance Department Operational Procedures & Policies is an *Internal Accounting Control* which comprises those methods and measures adopted by the Commission of the City of Truth or Consequences to safeguard its assets, secure the accuracy and reliability of its accounting data, and promote operational efficiency.
 - *Internal Accounting Control* extends beyond internal checking (interlocking and checking accounts routines), internal audit, and other matters relating directly to the accounting functions. It may also include delegated authority, budgetary procedures and control, training programs, screening procedures of prospective employees, and safe work practices.

STAFF RECOMMENDATION: Approve Resolution No. 10 16/17 Approving the Finance Policies and Procedures

SUPPORT INFORMATION: Finance Department Operational Procedures & Policies Manual

Submitted by: Melissa Torres

Department: Finance Director

Meeting date: September 27, 2016



RESOLUTION NO. 10 16/17

APPROVING THE FINANCE POLICIES AND PROCEDURES FOR THE CITY OF TRUTH OR CONSEQUENCES.

WHEREAS, the Finance Policies and Procedures were adopted on April 26, 2016; and

WHEREAS, in the interest of sound financial management principles, the Finance Director has established procedures for the handling of Municipal Funds; and

WHEREAS, Some funding agencies require the Procedures and Policies to be formally adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Truth or Consequences that the attached Finance Policies and Procedures are hereby adopted.

PASSED, ADOPTED AND APPROVED this ____ day of _____, 2016.

Steve Green, Mayor

ATTEST:

Reneé L. Cantin, City Clerk-Treasurer

THE CITY OF TRUTH OR CONSEQUENCES

Financial policies and procedures are the backbone for operations of any business. These operational procedures are the directional controls for all financial transactions for the City.

*Finance
Department
Operational
Procedures &
Policies-
(updated 3/2016)*

1. Introduction

- 1.1 Internal Accounting Control comprises those methods and measures adopted by the Commission of the City of Truth or Consequences to safeguard its assets and secure the accuracy and reliability of its accounting data and promote operational efficiency.
- 1.2 Internal Accounting Control extends beyond internal checking (interlocking and checking accounts routines), internal audit and other matters relating directly to the accounting functions. It may also include delegated authority, budgetary procedures and control, training programs, screening procedures of prospective employees and safe work practices.
- 1.3 It is City policy:
 - 1.3.1 To have in place an adequate system of internal controls, which promote a high level of compliance with City policies and procedures.
 - 1.3.2 To implement and maintain this system of control to assist the City in carrying out its activities in an efficient and orderly manner, ensure adherence to management policies, safeguard the City's assets, and secure the accuracy and reliability of its records.
- 1.4 COSO Operations: The City utilizes the "Committee of Sponsoring Organizations (COSO) framework and tools for operations within the City. More importantly, it follows the five critical elements in achievement of objectives for the City. In particular: 1) The Control Environment; 2) Risk Assessment; 3) Control Activities; 4) Information & Communication; and 5) Monitoring Activities. Each area is discussed in more detail in this section.
 - 1.4.1: Control Environment: The City utilizes a set of standards, processes and structures as the basis for internal control of city operations. The City Commission sets the tone for staff to operate by and expects staff to operate according to ethical standards and values. The City Commission is charged with ultimate oversight activities and delegate authority to the City Manager to carry out these operations by directives to departmental staff. The City Manager is charged with obtaining highly competent staff at all levels of the organizations and tasks the department managers with maintaining this highly effective group of employees. Overall control of operations is maintained at all levels of the City no matter where the department is located within the City confines. These controls are in place for, at a minimum: purchasing, inventory control, asset management, and payroll accountability, to name a few.
 - 1.4.2: Risk Assessment: Risk is defined as the possibility that an event will occur and adversely affect the achievement of objectives for the City. Risk tolerances are developed through an interactive process between the City Manager and the

Department Managers. A cost-benefit analysis tool is utilized to advise the City Commission on all activities affecting the City. This tool shows potential benefits or potential risks of a particular project/operation. Through interactive operations, the City Commission, the City Manager and Department Managers have tools to alleviate issues or potential issues that may come from change in organizational processes.

1.4.3: Control Activities: Control activities are those particular actions that have been established by policies and procedures that assist departmental managers in achieving goals and objectives and mitigating risks associated therewith. The City has built in control activities related to purchasing, accounting, cashiering, payroll processing, etc. The computer operating system has tiered approvals and input limitations for all levels of the organization that reduce the opportunity for fraud, abuse, waste and other inappropriate activities. In addition, segregation of duties allows the City to operate in a control environment wherein multiple levels of approvals is required for processing of documentation related to the operations of the City.

1.4.4: Information & Communication: The City operations can be highly complicated in regard to operations of its' utility functions, waste water requirements, airport operations, etc. The City utilizes expert opinions and documentation before proceeding with any major project undertaking for the City. Information is communicated via the City Commission (staff attend regularly to present and receive information), via the City Manager (the Manager meets on a routine basis with all managers regarding projects and operations), via informal meetings as called by the Department Managers or the City Manager. By utilizing both internal and external expert opinions, the City Manager is able to report to the City Commission on needed operational activities of the City. This information is then brought back to the Department Manager who directs staff to proceed as needed.

1.4.5: Monitoring Activities: Projects are monitored in the City by Departmental Managers and/or the City Manager. Evaluations are done on these projects at various intervals by the respective manager ensuring that control processes are in place and operational. Grants are monitored for compliance by the Finance Department through the respective department. External auditors review all materials of the City ensuring that activities completed are appropriate to ensure that internal control is occurring at all levels of the City.

See COSO Internal Control – Integrated Framework Principles chart attached hereto.

1.5: This document brings together those policies and procedures that relate to the accounting activities of the City of Truth or Consequences.

2. Finance Department

- 2.1 Responsible for the planning, organization, coordination, and control of all financial and accounting activities for the City of Truth or Consequences. The Finance Department is responsible for the following:
- 2.2 Accounting functions:
 - (1) General Ledger
 - (2) Payroll
 - (3) Accounts Payable
 - (4) Purchasing
 - (5) Cost Allocation
 - (6) Year-End Closing of Books
 - (7) Annual Audit
 - (8) Maintenance of Fixed Assets Records
- 2.3 Prepares monthly budget and financial reports for the City Manager, Mayor, Commissioners, and departments as requested.
- 2.4 Prepares and publishes the Comprehensive Annual Budget Report. Compiles "Cost Benefit Analyses" for Commissioners upon request for contemplated projects under review.
- 2.5 Compiles and provides government reports and all special financial reports for project evaluations throughout the year.
- 2.6 Bank account management for all funds.
- 2.7 Balancing of all checking accounts on a monthly basis.
- 2.8 Debt Management for the City's revenues.
- 2.9 General ledger maintenance conforming with the approved budget. Internal audit of various procedures including receipts and purchases. Journal entries are processed on a routine basis and verified by the Finance Director or their designee as being correct and proper. There is a clear segregation of duties in the Finance Department ensuring the individual making the entry cannot approve their own entries.
- 2.10 Department Managers are responsible for maintaining their grant files for their individual departments; however, the Finance Department maintains all auditable Federal and State grants project folders and prepares appropriate paperwork for reimbursements when requested. The Finance Department keeps records of all expenditures on grants and reimbursements to proper General Ledger accounts ensuring compliance with all regulations related thereto.

- 2.11 Prepares payment requests on all loans.
- 2.12 Reviews and keeps a file on all General Ledger entries.
- 2.13 Compiles all paperwork for annual audit.
- 2.14 Prepares GRT and GGRT reports for various departments, upon request, and completes electronic payment transfers to State of New Mexico.
- 2.15 Works with all Department Heads, City Manager and Commissioners during the year on budget adjustments and control.
- 2.16 Signs off either in hard copy form or electronically, and monitors purchase orders (per policy) written by the Purchasing Department before giving to the City Manager.
- 2.17 Posts all checks to the System.
- 2.18 The Accounting Officer tracks all VOIDED checks and STALE-DATED checks via an excel spreadsheet that is updated monthly after each bank reconciliation. They report annually to the New Mexico Taxation and Revenue Department submitting payments for the same to that Department

3. General Financial Transactions

3.1 Accounting/Bookkeeping

- 3.1.1 The City accounting records shall be maintained on a full cash basis using the double entry system of bookkeeping and using up to date methods of electronic data processing.
- 3.1.2 The following accounting records shall be maintained:
 - (1) Record of cash receipts and payments.
 - (2) General Journal
 - (3) General Ledger
 - (4) Subsidiary Receivable/Payable Ledgers.
- 3.1.3 Maintains all other records necessary to fully document and explain the financial transactions of the City as required to comply with Laws and Regulations in relation to other financially expressed obligations, (for example, budgeting and annual reporting).
- 3.1.4 Subsidiary ledgers shall be reconciled with the general ledger at least monthly. Cash balances are monitored monthly to ensure that budget

balances are appropriate and that needed budget transfers are done accordingly to balance.

- 3.1.5 There will be adequate and appropriate supervision of employees with sufficient employee backup to ensure that accounts and ledgers are adequately maintained.
- 3.1.6 Those employees working within the accounting function must have the capabilities and training, commensurate with their responsibilities.

3.2 Monies Received

- 3.2.1 All money received shall be recorded by an entry for each individual transaction.
- 3.2.2 The payer is issued a receipt from the appropriate department receiving payment, i.e., City Clerk's office, Utility Office, Sanitation/Recycling Center, etc.
- 3.2.3 The receipt and cash receipt record indicate the mode of payment, i.e., check, cash, electronic funds transfers, etc.
- 3.2.4 All monies received are receipted and deposited in the appropriate accounts within a timely fashion.
- 3.2.5 Receipts are issued in numerical sequence.
- 3.2.6 Details of each receipt shall be retained for the period set down by the State of New Mexico – Local Government Division.
- 3.2.7 All mail will be opened centrally in the presence of at least two (2) employees.
- 3.2.8 All checks received in the mail will be check stamped by records staff and any cash received will be recorded in the electronic diary of the Records Management Officer (City Clerk)
- 3.2.9 All checks and cash received through the mail will be transmitted to the cashier for banking and receipting.

3.3 Banking

- 3.3.1 All money received by an officer or employee of the City must be deposited into a City bank account.

- 3.3.2 Money received by or on behalf of City must be banked on or before the next regular business day after receipt.
- 3.3.3 Detailed records of the City's banking activities must be kept.
- 3.3.4 Banking shall be reconciled with receipts.
- 3.3.5 All City banking will be collected and delivered to the bank within 24 hours.
- 3.3.6 In the intervening period, all banking will be deposited in the overnight safe in the strong room.
- 3.3.7 During peak rate periods, if necessary, banking will be carried out on a daily basis to ensure that cash held on the premises is limited.
- 3.3.8 Cash held overnight should not exceed \$10,000.

3.4 Banking and Investment Accounts

- 3.4.1 Bank accounts will be operated as required. Elected members and officers authorized as signatories to operate bank accounts are to be approved by the City Commission. Two signatures are required.
- 3.4.2 Those presently approved are:
 - (1) Mayor
 - (2) Mayor Pro-tem
 - (3) City Clerk
 - (4) Deputy City Clerk
 - (5) Finance Director (as needed for Investments only)

4. Purchasing

- 4.1 The Purchasing Office shall be responsible for the control of procurement for the City and shall perform the duties required by the *Procurement Code of the State of New Mexico*. The Purchasing Office shall also cooperate and coordinate with the State Purchasing Agent, City Manager, Finance Manager, Commissioners, Mayor and all Department heads to maximize the benefits to the City from such joint and cooperative efforts.

- 4.2 All goods and services will be obtained by use of a *pre-numbered/purchase* requisition/quotation form via the electronic accounting system. Requisitions for services (i.e., dues/subs renewals, gas purchases, etc.) are done on the paper-based system, as no PO must be generated for direct pay items. Only items not needing a PO will be done on paper (see 4.5 below).

4.3 Purchasing Process:

Purchase Requisitions:

Requestor:

1. A purchase requisition is completed by the requestor.
2. After completion, it is submitted electronically to the supervisor for approval or rejection.
3. If a paper-based requisition is used, it is completed and submitted to the supervisor for approval or rejection.

Supervisor:

1. Supervisor will review the Purchase Requisition electronically and will either approve or reject the request.
2. If a paper-based requisition is generated, it will be approved or rejected.
3. If rejected, the document will be sent back electronically or on paper to the requestor with the reason for the rejection; or
4. If approved, the document will be forwarded electronically or via paper to the Chief Procurement Officer (CPO).

Chief Purchasing Officer (CPO):

1. The CPO or their designee will receive all Purchase Requisitions and review for compliance with the procurement guidelines.
2. If rejected, the Purchase Requisition is either sent electronically or on paper, back to the requestor with directions for compliance needed for approval

Purchase Orders:

1. After the CPO, or their designee, receives a valid, approved Purchase Requisition, they will either process the Purchase Order (if purchase is under \$1,500.00) or refer for additional approval needed.
 - a. (Purchases under \$1,500.00 do not require additional approval, therefore, after the CPO approves the Purchase Requisition, they can issue the Purchase Document for processing.)
2. Purchases over \$1,500.00 require additional approval from the Finance Director, or their designee, and the City Manager, or their designee. The

electronic accounting system will automatically generate this referral from the CPO, or their designee.

3. If rejected the document is sent back electronically to the requestor with the reason for the rejection.
4. If approved, it is sent back electronically to the CPO, or their designee, for processing.

- 4.4 Documents are electronically signed through the Accounting system.
- 4.5 Service rendered on contracts, or monthly services (i.e. phone bills, utility payments) only require the purchase requisition/quotation form and approval signatures as required. No purchase order is required.
- 4.6 Purchase Orders are processed, as needed, upon receipt on a daily basis Monday-Friday, except holidays.
- 4.7 Once goods and services are received, and an invoice or packing slip has been signed off on, a disbursement will be prepared.
- 4.8 Prepares and distributes Invitation for Bid (IFB) and request for Proposal (RFP) documents when needed.
- 4.9 Maintains contracts for City Hall telephones, copy and facsimile equipment including related supplies, maintenance and support; Maintains contracts for all contract labor vendors.

5. Disbursements

- 5.1 Payments made on the behalf of the City must be made on a check drawn on the City's Revolving fund Bank Account, or in some cases by Electronic Funds Transfer (EFT). The Revolving Fund is then reimbursed by the fund the payment came out of. Hand checks are then typed by the Payroll Department and posted to the system by the Finance Department to reimburse the Revolving Fund. Checks on all City bank accounts shall only be signed by the persons indicated at 3.4.2.
- 5.2 Accounts payable is done weekly.
- 5.3 All checks are on pre-printed City checks and issued in numerical sequence. The Procurement Officer puts the last check number used in the computer and the appropriate number is ~~them~~ then printed on the check. The hand typed checks are numbered by the electronic system.
- 5.4 Checks may be processed for goods or services that are needed immediately (per diem/travel expenses/school registration, etc.), for checks that need to come out on other days, besides the designated processing day (loan payments, contract labor), and for transfers from one bank account to another.

- 5.7 A weekly and monthly report is done by the Chief Procurement Officer showing all payments from the City's Funds. These reports are kept in the Purchasing Department and Finance Department. The monthly report is approved by the Commission on the first Commission Meeting each month.

6. Procurement Methods

6.1 Tangible Personal Property and Construction

<u>Total Cost of the Procurement</u>	<u>Method of Procurement</u>
Less than(<) \$500	Direct purchase order based upon the best obtainable price
<i>Between \$500 and \$2,500</i>	<i>Oral, telephone written quote</i>
<i>Between \$2,500 and \$10,000</i>	<i>Written quotes or bids from no fewer than three businesses</i>
Less than \$10,000	Local small purchase regulations
Greater than \$10,000	Competitive sealed bids (Invitation for Bids (IFB))

Exceptions

Sole source procurement
Emergency procurement
Existing contracts
Purchasing from antipoverty programs

6.2 Services

<u>Total Cost of the Procurement</u>	<u>Method of Procurement</u>
Less than (<) \$500	Direct purchase order based upon the best obtainable price
<i>Between \$500 and \$2,500</i>	<i>Oral, telephone written quote</i>
<i>Between \$2,500 and \$10,000</i>	<i>Written quotes or bid from no fewer than three businesses</i>
Less than \$10,000	Local small purchase regulations
Greater than \$10,000	Competitive sealed proposals (Request for Proposals (RFP))

Exceptions

Professional Services
Sole source procurement
Emergency procurement
Existing procurement
Existing contracts
Purchases from antipoverty programs

6.3 Professional Services

<u>Total Cost of Procurement</u>	<u>Method of Procurement</u>
Less than (<) \$500	Direct purchase order based upon the best obtainable price
<i>Between \$500 and \$2,500</i>	<i>Oral, telephone written quote</i>
<i>Between \$2,500 and \$20,000</i>	<i>Written quotes on bids for no fewer Than three businesses</i>
Less than \$20,000	Local small purchase regulations
Greater than \$20,000	Competitive sealed proposals (Request for Proposals (RFP))

Exceptions

Architects, landscape architects, engineers, surveyors, or consultants for local public works projects
Sole source procurement
Emergency procurement
Existing contracts
Purchases from antipoverty programs

7. Travel Advances and Reimbursement Requests

- 7.1 All requests for any travel advance must be submitted at least five (5) days prior to departure time to guarantee the availability of an advance check. Requests received later than this time will NOT be guaranteed of being processed prior to departure.
- 7.2 All travel balances due upon trip return and out-of-pocket reimbursements will not be processed with hand typed checks. Such reimbursements will go on the regular accounts payable cycle. These checks are usually paid out by the second and fourth weeks of each month.
- 7.3 Travel advances will NOT be given on trips that involve no overnight lodging. These will be on a reimbursement basis only.

- 7.4 To be processed, all travel advances requested must contain back-up documentation. A meeting schedule, agenda, itinerary, etc. must be provided. Failure to provide such will result in the request not being processed.
- 7.5 All registration costs must be documented with a Requisition Form and appropriate backup and should be turned in prior to the request for travel advance.
- 7.6 For mileage reimbursement, **map miles** will be utilized. If additional mileage is being requested, justification and odometer readings will be required or reimbursement will not be made.
- 7.7 Employees are encouraged to use city vehicles for travel. Personally owned vehicles (POV) may be used and reimbursed mileage for when City vehicles are not available. When multiple days or nights are required for meetings or trainings, the City Manager may deem it appropriate for the employee to use their POV in order to have City vehicles available for regular business operations.
- 7.8 Per diem will be paid using current rates as established by the City. If actual costs are requested to be reimbursed, the traveler must submit all receipts for the same. If receipts cannot be produced, the traveler will receive reimbursement based on established set rates.

8. Salaries and Wages

8.1 Payroll

- 8.1.1 Records will be maintained in respect of each and every employee of the City showing:
 - (1) Hours worked and rate of pay
 - (2) Gross salary or wages
 - (3) Tax and details of all other payments and deductions
 - (4) Sick, annual and any other leave available and taken
- 8.1.2 Salaries and wages will be paid on the basis of hours of attendance recorded on an approved time sheet.
- 8.1.3 The time sheet will be submitted electronically on at least a bi-weekly basis by the employee to their immediate supervisor for authorization.
- 8.1.4 Each every employee will electronically sign his/her time sheet.

- 8.1.5 All claims for payment of overtime must be approved by the department supervisor and City Manager before being paid - Except during situations that result from standby duties, or other emergencies that concern the health, safety and welfare of local citizens.
- 8.1.6 Hours of work will be paid in accordance with the City of Truth or Consequences Administrative Manual.
- 8.1.7 The payroll officer shall certify that the electronic pay sheets for payments of salaries and wages for each period are correct. The Finance Director, or their designee, will audit all timesheets and the payroll register for accuracy prior to approving payment for the same via the electronic accounting system.
- 8.1.8 No payments of cash advances against salaries or wages will be paid.
- 8.1.9 The employment procedures outlined in the City of Truth or Consequences Administrative Manual will be used before new employees are entered into the City's payroll.
- 8.1.10 Payroll deductions on behalf of employees will be limited to:
- (1) Taxation liabilities
 - (2) Insurance
 - (3) P.E.R.A.
 - (4) F.I.T.
 - (5) F.I.C.A.
 - (6) Medicare
 - (7) S.I.T.
 - (8) Worker's Compensation
 - (9) Court ordered Child Support/Garnishment
 - (10) Legal Plan
 - (11) Credit Union
- 8.1.11 Employee Payroll Taxes (941) are paid electronically to the IRS by the payroll officer on the Wednesday before payroll is issued. This is verified by another person in the finance department. The bank statement showing the monies taken out is given to payroll every month for backup.
- 8.1.12 Payroll is also responsible for issuing checks to the various agencies involved with payroll (i.e. insurance companies, PERA, etc). They are also responsible for the typing of all checks to transfer the funds from the various accounts to cover the checks in the Revolving Fund. All payments must be made timely to keep in good standing with each of the

agencies receiving payment. Payments are processed at each payroll date.

- 8.1.13 Employee pay checks are issued every other Thursday through the City's Clerk's Office. They are signed for by the Division Head/Supervisor or the employee when received. No payroll check will be given to any other party unless there are instructions to do so on file. Should the employee have direct deposit, the Notice of Deposit (NOD) will be emailed to the employee at an email address of their choice.

9. Asset & Inventory Management

9.1 Fixed Assets

- 9.1.1 Accurate records will be maintained of all fixed assets including assets acquired for no monetary consideration on the Fixed Asset Depreciation listing.

All Department Managers are responsible for keeping a current, up to date listing of all assets located within their department. Department Managers are responsible for notifying the Finance Office when items are disposed of through proper channels.

All assets over \$5,000.00 will be tagged accordingly upon receipt.

All assets over \$250.00 but under \$5,000.00 will be tagged with an internal tag reflecting it as an asset that is to be tracked, but not eligible for the Fixed Asset Depreciation schedule. For example: software, computers, calculators, etc. Exceptions: Some tools are less than \$250.00 and should be tagged to account for said asset.

- 9.1.2 Detailed registers of all fixed assets should be maintained by a responsible employee who will periodically, check fixed assets on hand compared with the fixed asset registers.
- 9.1.3 City owned buildings, equipment and vehicles are to be depreciated annually at the following:

- | | | |
|-----|--------------------------|-------------|
| (1) | Buildings | 40-50 years |
| (2) | Equipment: | |
| | a. Computers and Copiers | 5 years |
| | b. Heavy Equipment | 6 years |
| | c. Small Equipment | 5 years |

- | | | |
|-----|-------------------------------|----------|
| (3) | Office Furniture and Fixtures | 10 years |
| (4) | Police Vehicles | 3 years |
| (5) | Automobiles | 5 years |

9.1.4 The Finance Department shall be responsible for maintaining all fixed assets in in the Fixed Asset Depreciation listing.

9.2 Inventory Management

9.2.1 All departments are required to track all inventory received by their department. Tracking includes signing in and signing out inventory and reconciliation of the same on a minimum of a yearly basis, prior to the end of each fiscal year.

9.2.2 Inventory tracking includes an excel spreadsheet that is used by all departments. All calculated cells will be protected to ensure no calculable errors are completed. Spreadsheets will be utilized until all departments are operational in the electronic accounting system.

9.2.3 Inventory received should be entered into the spreadsheet upon receipt; inventory used should be deducted from the spreadsheet upon issuance and use. The Department Manager is responsible for assigning this process to an employee in their department.

9.2.4 Department Managers will test the spreadsheet randomly throughout the year to ensure compliance, reporting any discrepancies to the Finance Director and City Manager.

9.2.5 The Finance Department will audit inventory levels on a yearly basis.

9.2.6 All departments will be given access in the electronic accounting system to track and review inventories.

10. Computing/Electronic Accounting

10.1 Electronic Accounting System:

10.1.1 City uses an electronic accounting, asset/inventory and payroll software system running on a Microsoft Operating System.

10.2 Security

10.2.1 Security of the accounting and payroll system is implemented at both the hardware and software levels. Initial access to the system is restricted

by individual used code and password validation. Access to data files is restricted by system access routines.

10.2.2 Access to application programs in the accounting and payroll system is restricted by individual program security codes.

10.2.3 The relevant securities for specific modules are known by employees working in the specific accounting areas of accounts payable, payroll, general ledger, receipting and finance. Employees in the above areas have full access to the respective module's programs and perform inquiry, maintenance and updating of financial records.

10.2.4 Other records outside the specific financial areas are restricted to inquiry only access.

10.3 Systems Integrity

10.3.1 Systems integrity is maintained through the extensive use electronic tracking logs, which track all changes to data in specific modules. In addition a comprehensive system of data and system backups mean recovery from either a system failure or potential disaster situation can always be performed.

10.4 System Backup

10.4.1 Backup of electronic data entries and documents occurs every night. Write Folder in Finance is backed up everyday at noon. This includes all Excel Spread Sheets from Finance Department. The backup is then stored in another city building off-site.

11. Stale Dated Checks

11.1 The Finance Department keeps a ledger of all stale-dated checks (all checks over 180 days). A letter is sent to the specific vendor requesting information on why the check has not been cashed. If necessary staff will void the old check and issue new one. If the City has made every reasonable effort to locate the vendor with no results, the check will then be voided from the system and placed in a special account. After one (1) year any monies over \$50.00 must be returned to the State Taxation and Revenue Office with the appropriate backup paperwork.

12. Loans and Borrowing

12.1 All loans obtained by the City will be separately accounted for and identifiable in the accounting records.

12.2 A register of loans obtained by the City will be maintained by the Finance Department.

- 12.3 All borrowings will be through the New Mexico Finance Authority or any Government Entity. City may not borrow from any local bank or private individuals.

13. Insurance

- 13.1 All identified insurable risks will be covered with a policy of insurance issued by a recognized insurance company. Coverage will be equivalent of full replacement value of the asset.

- 13.2 The extent of coverage, both risk and sum insured, shall be reviewed at least annually by a responsible officer.~~by a responsible officer.~~

- 13.3 Coverage will include as appropriate:

- (1) Vehicle Insurance
- (2) General Liability
- (3) Property Insurance
- (4) Worker's Compensation



G.6

**CITY OF TRUTH OR CONSEQUENCES
COMMISSION ACTION FORM**

ITEM:

Discussion/Action: Resolution No. 11 16/17 and Resolution No. 11-A 16/17 approving the required Community Development Block Grant (CDBG) Annual Certifications and Commitments and Fair Housing Policy.

BACKGROUND:

The City of T or C was awarded and accepted a grant in the amount of \$500,000.00 from CDBG for Wastewater System Improvements for replacement and rehabilitation of City Manholes; CDBG requires the adoption of Annual Certifications and Commitments Resolution for the following:

- Citizen Participation Plan
- Fair Housing Resolution
- Residential Anti Displacement and Relocation Assistance Plan
- Section 3 Plan
- Procurement Plan

SUPPORT INFORMATION:

- Citizen Participation Plan
- Fair Housing Resolution
- Residential Anti Displacement and Relocation Assistance Plan
- Section 3 Plan
- Procurement Plan

STAFF RECOMMENDATION:

To approve and sign the CDBG required resolutions and plans.

Name of Drafter: Traci Burnette	Department: Grant Project Coordinator	Meeting date: 9-27-16
E-mail: tburnette@torcnm.org	Phone: 575-894-6673 Ext. 353	

Grantee Name: City of Truth or Consequences

CDBG Project Number: 15-C-NR-I-01-G-06

RESOLUTION # _____

**ADOPTION OF REQUIRED
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)
ANNUAL CERTIFICATIONS AND COMMITMENTS**

WHEREAS, municipalities, counties or other entities that accept Community Development Block Grant (CDBG) funds must adopt certain required federal regulations; and

WHEREAS, the City of Truth or Consequences (hereinafter referred to as the Grantee) wishes to ensure compliance with federal regulations by adopting the following required certifications and commitments:

Citizen Participation	certifies its commitment to citizen participation by preparing and adopting a Citizen Participation Plan that includes ways to encourage public input using various methods to reach the public and assures that citizens are provided reasonable notice and timely access to local meetings, per the Open Meetings Act (NMSA 1978, Chapter 10, Article 15)
Fair Housing	certifies its commitment to the Fair Housing Act of 1968 to affirmatively further fair housing, which prohibits discrimination in the sale, rental, leasing and financing of housing or land to be used for the construction of housing on the basis of race, color, religion, sex, disability, familial status, or national origin
Residential Anti-Displacement & Relocation Assistance	certifies its compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, whose purpose is to provide uniform, fair, and equitable treatment for persons whose real property is acquired or for persons displaced as a result of a CDBG-funded project or activity
Section 3	certifies its commitment to Section 3, a provision of the Housing and Urban Development (HUD) Act of 1968, which requires recipients of certain HUD financial assistance, to the greatest extent feasible, provide job training, employment, and contracting opportunities for low and very low income residents in connection with projects and activities in their community
Procurement	certifies its compliance with federal procurement code (24 CFR Part 85.36) and New Mexico Procurement Code (§13-1-120 NMSA 1978) by adopting a procurement policy annually for CDBG projects

NOW, THEREFORE, BE IT RESOLVED, that the Grantee adopts the above CDBG certifications and commitments that must be adopted annually.

PASSED, APPROVED, SIGNED, AND ADOPTED at a duly called and convened regular meeting of the governing body of the City of Truth or Consequences this _____ day of _____, 20____.

SIGNED: _____
Steve Green , Chief Elected Official

ATTEST:

(Name and Title) Renee Cantin, City Clerk

EXHIBIT 1-P

CITIZEN PARTICIPATION PLAN WITH REQUIRED ELEMENTS

Introduction

In accordance with the 1987 revisions to the Housing and Community Development Act and in an effort to further encourage citizen participation, The City of T or C has prepared and adopted this Citizen Participation Plan.

Objective A

 The City of T or C will provide for and encourage citizen participation within its area of jurisdiction, with particular emphasis on participation by persons of low and moderate income. *Action items:*

1. *Adopt and circulate an Open Meetings Resolution which provides citizens with reasonable notice of county/municipality upcoming meetings, actions and functions.*
2. *Develop press releases on county/municipality meetings, actions and hearings, and circulate to newspapers, radio and television media.*
3. *Develop and maintain listing of groups and representative of low and moderate income persons, and include on mailing lists of announcements, notices, press releases, etc.*

Objective B

 The City of T or C will provide citizens with reasonable and timely access to local meetings, information and records relating to the proposed and actual use of CDBG funds. *Action items:*

1. *Public notices, press releases, etc., should allow for a maximum length of notice to citizens.*
2. *Appropriate information and records relating to the proposed and actual use of CDBG funds must be available upon request to all citizens. Personnel and income records may be exempted from these requirements.*
3. *Meetings, hearing, etc., should be conducted at times and locations conducive to public attendance, e.g., evenings, Saturdays.*

Objective C

 The City of T or C will provide technical assistance to groups and representatives of low and moderate income persons that request assistance in developing proposals. *Note: the level and type of assistance is to be determined by the county/municipality. Action items:*

1. *Low and moderate income groups should be advised that technical assistance, particularly in the area of community development, is available from the county/municipality upon request.*
2. *Document technical assistance provided to such groups and has documentation available for review.*

Objective D

 The City of T or C will provide a minimum of two public hearings to obtain citizen participation and respond to proposals and questions at all stages of the Community Development Block Grant Program. *Action items:*

1. *Advise citizens of the CDBG program objectives, range of activities that can be applied for and other pertinent information.*
2. *Conduct a minimum of two public hearings:*
 - a. *One public hearing will be held to advise citizens of the program objectives and range of activities that can be applied for, and to obtain the citizen's views on community development and housing needs, to include the needs of low and moderate income people. This hearing will take place prior to the selection of the project to be submitted to the state for CDBG funding assistance.*
 - b. *A second public hearing will be held to review program performances, past use of funds and make available to the public its community development and housing needs, including the needs of low and moderate income families, and the activities to be undertaken to meet such needs.*
3. *Publish public hearing notices in the non-legal section of newspapers or in other local media. Evidence of compliance with these regulations will be provided with each CDBG application, i.e., hearing notice minutes of public meetings, list of needs and activities to be undertaken, etc. Amendments to goals, objectives and applications are also subject to public participation.*

Objective E

 The City of T or C will provide timely written answers to written complaints and grievances within 15 working days where practical. *Action items:*

1. *Adopt complaint handling procedures or policies to insure that complaints or grievances are responded to within 15 days, if possible.*
2. *Allow for appeal of a decision to a neutral authority.*
3. *File a detailed record of all complaints or grievances and responses in one central location with easy public access.*

Objective F

 The City of T or C will identify how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of residents can be reasonably expected to participate. *Action items:*

1. *Identify areas where large majorities of non-English speaking persons reside and make appropriate provisions when issues affecting these areas are to be discussed at public meetings, hearings, etc. Appropriate provisions will include having interpreters available at the meeting and having briefing material available in the appropriate language.*
2. *Maintain records/rosters of public hearing attendees and proceedings to verify compliance with this objective.*

Exhibit 1-O
FAIR HOUSING RESOLUTION WITH REQUIRED ELEMENTS

A resolution of the City Commission of the City
of T or C, adopting a fair housing policy, making known its commitment to the
principle of fair housing, and describing actions it shall undertake to affirmatively further fair housing.

WHEREAS; the Housing and Community Development act of 1974 as amended requires that all
applicant for Community Development Block Grants funds certify that they shall affirmatively further
fair housing; and

WHEREAS; the Civil Rights Act of 1968 (commonly known as the Federal Fair Housing Act) and
the Fair Housing Amendments Act of 1988 declare a national policy to prohibit discrimination in the sale,
rental, leasing and financing of housing or land to be used for the construction of housing or in the
provision of brokerage services, on the basis of race, color, religion, sex, disability, familial status or
national origin; and

WHEREAS; fairness is the foundation of the American system and reflects traditional American
values; and

WHEREAS; discriminatory housing practices undermine the strength and vitality of America and
its people;

NOW, THEREFORE, BE RESOLVED THAT the City Commission of the City
of T or C hereby wish all persons living, working, doing business in or traveling
through this City to know that: discrimination in the sale, rental, leasing, and
financing of housing or land to be used for construction of housing, or in the provision of brokerage
services on the basis of race, color, religion, sex, handicap, familial status or national origin is prohibited
by Title VIII of the Fair Housing Act Amendments of 1988; and that it is the policy of the City
of T or C to implement programs, within the constraints of its resources, to ensure equal
opportunity in housing for all persons regardless of race, color, religion, sex, handicap, familial status or
national origin; and within available resources the City of T or C will
assist all persons who feel they have been discriminated against in housing issues on the basis of race,
color, religion, sex, handicap, familial status or national origin to seek equality under existing federal
and state laws to file a complaint with the New Mexico Attorney General's Office or the U.S.
Department of Housing and Urban Development; and that the City of T or C
shall publicize this Resolution and thereby encouraging owners of rental properties, developers, builders
and others involved with housing to become aware of their respective responsibilities and rights under
the Fair Housing Amendments Act of 1988 and any applicable state or local laws or ordinances; and that
the City of T or C shall undertake the following actions to affirmatively
further fair housing:

(List all such actions to include: mailing copies of this resolution to the real estate community, banks, developers, community organizations and local media; posting copies of this resolution at identified locations; distributing flyers; sponsoring schools)

Such actions to include: mailing copies of this resolution to the real estate community, banks, developers, community organizations and local media.

PASSED AND ADOPTED BY THE _____ City Commission _____ of the _____ City
of _____ T or C _____ on this _____ day of _____.

ATTEST:

APPROVED AS TO FOR:

City Clerk

City Attorney

Exhibit 1-R
RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE
PLAN WITH REQUIRED ELEMENTS

Residential Anti-Displacement and Relocation Assistance Plan

I. Background/Introduction

Section 104(d) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5304(d)(4)), Section 105(b)(16) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)(16)), and implementing regulations at 24 CFR Part 42, specify that a grantee under the Community Development Block Grant (CDBG) must certify that it has in effect and is following a "residential Anti-displacement and relocation assistance plan" (Plan). As a CDBG grantee, The City of T or C must certify to State of New Mexico Department of Finance and Administration Local Government Division that it has and is following such a Plan.

The Plan must include three components: 1) one-for-one replacement requirements for lower-income housing units, 2) relocation assistance, and 3) a description of the steps The City of T or C will take to minimize displacement.

II. Activities Covered by the Plan

All activities involving the use of CDBG funds that cause displacement as a direct result of demolition or conversion of a lower-income dwelling are subject to the requirements specified in the Plan. Activities for which funds are first obligated on or after September 30, 1988 are subject to the requirements specified in the Plan, without regard to the source year of the funds.

III. Uniform Relocation Act

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) govern displacement that directly results from acquisition, rehabilitation, or demolition of real property when federal funds are used. The City of T or C's Residential Anti-displacement and Relocation Assistance Plan is in no way intended to supersede the URA. CDBG assisted activities may still be subject to the requirements of the URA.

IV. One-for-One Replacement Units

All occupied and vacant occupiable lower-income dwelling units that are demolished or converted to a use other than as lower-income dwelling units in connection with an assisted activity must be replaced with comparable lower-income units. Replacement lower-income dwelling units may be provided by any governmental agency or private developer and must meet the following requirements:

- A. The units must be located within The City of T or C to the extent feasible, the units shall be located within the same neighborhood as the units replaced

- B. The units must be sufficient in number and size to house no fewer than the number of occupants who could have been housed in the units that are demolished or converted. The number of occupants who could have been housed in the units shall be in accordance with applicable local housing occupancy codes. The units may not be replaced with smaller units (e.g., a 2-bedroom unit with two 1-bedroom units), unless The City of T or C has provided information demonstrating that such a proposed replacement is consistent with the needs assessment contained State of New Mexico Department of Finance and Administration Local Government Division HUD-approved Consolidated Plan.
- C. The units must be in standard condition and must at a minimum meet Section 8 Program Housing Quality Standards. Replacement lower-income units may include units brought from a substandard condition to standard condition if: 1) no person was displaced from the unit; and 2) the unit was vacant for at least 3 months before execution of the agreement between The City of T or C and the property owner.
- D. The units must initially be made available for occupancy at any time during the period beginning 1 year before the recipient makes public the information required under Section F below and ending 3 years after the commencement of the demolition or rehabilitation related to the conversion.
- E. The units must be designed to remain lower-income dwelling units for at least 10 years from the date of initial occupancy. Replacement lower-income dwelling units may include, but are not limited to, public housing or existing housing receiving Section 8 project-based assistance
- F. Before The City of T or C enters into a contract committing it to provide CDBG funds for any activity that will directly result in the demolition of lower-income dwelling units or the conversion of lower-income dwelling units to another use, The City of T or C must make public and submit in writing to State of New Mexico Department of Finance and Administration Local Government Division the following information:
- 1 A description of the proposed assisted activity;
 - 2 The location on a map and number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than for lower-income dwelling units as a direct result of the assisted activity;
 - 3 A time schedule for the commencement and completion of the demolition or conversion;
 - 4 The location on a map and the number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units. If such data is not available at the time of the submission to State of New Mexico Department of Finance and Administration Local Government Division, the submission shall identify the general location on an area map and the approximate number of dwelling units by size, and information identifying the specific location and number of dwellings units by size shall be submitted and disclosed to the public as soon as it is available;
 - 5 The source of funding and time schedule for the provision of replacement dwelling units;
 - 6 The basis for concluding that each replacement unit will remain a lower-income dwelling unit for at least 10 years from the date of initial occupancy; and
 - 7 Information demonstrating that any proposed replacement of dwelling units with smaller dwelling units is consistent with the needs assessment contained in

the State of New Mexico Department of Finance and Administration Local
Government Division Consolidated Plan.

- G. The one-for-one replacement requirements may not apply if HUD determines, based on objective data, that there is an adequate supply of vacant lower-income dwelling units in standard condition available on a non-discriminatory basis within The City of T or C. In making such a determination, State of New Mexico Department of Finance and Administration Local Government Division will consider such factors as vacancy rates, numbers of lower-income units in The City of T or C and the number of eligible families on the Section 8 waiting list.

V. Relocation Assistance

Each lower-income person who is displaced as a direct result of CDBG assisted demolition or conversion of a lower-income dwelling shall be provided with relocation assistance.

Relocation assistance includes advisory services and reimbursement for moving expenses, security deposits, credit checks, other moving expenses, including certain interim living costs, and certain replacement housing assistance.

Displaced persons have the right to elect, as an alternative to the benefits described in this Plan, to receive benefits under the URA, if they determine that it is in their best interest to do so. The following relocation assistance shall be available to lower-income displacement persons:

- A. Displaced lower-income persons will receive the relocation assistance required under 49 CFR 24, Subpart C (General Relocation Requirements) and Subpart D (Payment for Moving and Related Expenses) whether the person elects to receive assistance under the URA or the assistance required by CDBG regulations. Relocation notices must be distributed to the affected persons in accordance with 49 CFR 24.203 of the URA;
- B. The reasonable and necessary cost of any security deposit required to rent the replacement dwelling unit and for credit checks required to rent or purchase the replacement dwelling unit;
- C. Actual reasonable out-of-pocket costs incurred in connection with temporary relocation, including moving expenses and increased housing costs, if:
 - 1. The person must relocate temporarily because continued occupancy of the dwelling unit constitutes a substantial danger to the health or safety of the person or the public; or
 - 2. The person is displaced from a lower-income dwelling unit, none of the comparable replacement units to which the person has been referred qualifies as a lower-income dwelling unit, and a suitable lower-income dwelling unit is scheduled to become available through one-for-one replacement requirements
- D. Replacement Housing Assistance. Displaced persons are eligible to receive one of the following two forms of replacement housing assistance:
 - 1. Each person shall be offered rental assistance equal to 60 times the amount necessary to reduce the monthly rent and estimated average monthly cost of

utilities for a replacement dwelling to the "Total Tenant Payment", as determined under 24 CFR 813.107. All or a portion of this assistance may be offered through a certificate or housing voucher for rental assistance under the Section 8 program. Where Section 8 assistance is provided to the displaced person,

The City of T or C must provide the person with referrals to comparable units whose owners are willing to participate in Section 8 program to the extent that cash assistance is provided, it will be provided in installments.

2. In lieu of the housing voucher, certificate or cash assistance described above, the person may elect to receive a lump sum payment allowing them to secure participation in a housing cooperative or mutual housing association. This lump sum payment shall be equal to the capitalized value of 60 monthly installments of the amount that is obtained by subtracting the

"Total Tenant Payment", as determined under 24 CFR 813.107, from the monthly cost of rent and average monthly cost of utilities at a comparable replacement dwelling unit. To compute the capitalized value, the installments shall be discounted at the rate of interest paid on passbook savings in a federally insured financial institution conducting business within The City of T or C.

Displaced lower-income tenants shall be advised of their right to elect relocation assistance pursuant to the URA and the regulations at 49 CFR 24 as an alternative to the relocation assistance available under CDBG regulations.

VI. Eligibility for Relocation Assistance

A lower-income person is eligible for relocation assistance if they are considered to be a "displaced person" as defined in 24 CFR 42.305. A displaced person means a lower-income person who, in connection with an activity assisted under the CDBG program, permanently moves from real property or permanently moves personal property from real property as a direct result of demolition or conversion of a lower-income dwelling.

For purposes of this definition, a permanent move includes a move made permanently and:

- A. After notice by the owner to move from the property, if the move occurs on or after the date of the submission of a request to The City of T or C for CDBG assistance that is later approved for the requested activity; or
- B. After notice by the owner to move from the property, if the move occurs on or after the date of the initial official submission to HUD of the consolidated plan under 24 CFR Part 91 describing the assisted activity; or
- C. Before the dates described in A & B above, if The City of T or C or State of New Mexico Department of Finance and Administration Local Government Division determines that the displacement was a direct result of conversion or demolition in connection with a CDBG assisted activity; or
- D. By a tenant-occupant of a dwelling unit, if any one of the following three situations occurs:
 1. The tenant moves after execution of the CDBG agreement covering the acquisition, rehabilitation or demolition and the move occurs before the tenant is

provided written notice offering the tenant the opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building/complex upon completion of the project under reasonable terms and conditions, including a monthly rent and estimated average monthly utility costs that do not exceed the greater of the tenant's monthly rent before such agreement, or the total tenant payment as determined under 24 CFR 813.107 if the tenant is lower-income, or 30 percent of gross household income if the tenant is not lower-income.

2. The tenant is required to relocate temporarily, does not return to the building/complex, and either is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, or other conditions of the temporary relocation are not reasonable.
3. The tenant is required to move to another dwelling unit in the same building/complex but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move, or other conditions of the move are not reasonable.

If the displacement occurs on or after the appropriate date described in A & B above, the lower-income person is not eligible for relocation assistance if:

- A. The person is evicted for cause based upon a serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable federal, State or local law, or other good cause, and the The City of T or C determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;
- B. The person moved into the property on or after the date described in A & B above after receiving written notice of the expected displacement; or
- C. The City of T or C determines that the displacement was not a direct result of the CDBG assisted activity and the State of New Mexico Department of Finance and Administration Local Government Division concurs with this determination.

VII. Minimizing Displacement

The CDBG regulations regarding the demolition or conversion of lower-income dwelling units are designed to ensure that lower-income persons are provided with adequate, affordable replacement housing. Naturally, involuntary displacement should be discouraged whenever a reasonable alternative exists. Involuntary displacement is extremely disruptive and disturbing, especially to lower-income persons who do not have the means to locate alternative housing.

There are various ways that displacement can be minimized. The following are steps that will be taken to minimize the involuntary displacement of lower-income persons when CDBG funds are involved:

- A. **Screening of Applications** All CDBG applications will be reviewed to determine whether involuntary displacement is likely to occur. Those applications involving displacement will receive a lower priority recommendation for funding unless it can be shown that alternatives are not available.
- B. **Acquisition of Property** Applicants who apply for CDBG funds to acquire property for the

development of lower-income housing will be encouraged to purchase vacant land. In the case of in-fill and other projects where this is not feasible and the project involves potential displacement, the applicant shall agree to allow the displaced lower-income person(s) to occupy the new housing at an affordable rent.

Applicants who utilize CDBG funds to rehabilitate or convert a lower-income unit to a non-residential use will be required to supply replacement housing consistent with paragraph IV, as well as relocation assistance.

- C. **Cost of Relocation Assistance** The cost of any required relocation assistance and the provision of replacement housing will be borne by the applicant and may be paid for out of CDBG funds awarded to the project.

VIII. Definitions

- A. **"Comparable replacement dwelling unit"** means a dwelling unit that:
- 1 Meets the criteria of 49 CFR 24.2(d)(1) through (6); and
 - 2 Is available at a monthly cost for rent plus estimated average monthly utility costs that does not exceed the "Total Tenant Payment" determined under 24 CFR 813.107 after taking into account any rental assistance the household would receive.
- B. **"Lower-income dwelling unit"** means a dwelling unit with a market rental (including utility costs) that does not exceed the applicable Fair Market Rent (FMR) for existing housing and moderate rehabilitation established under 24 CFR Part 888.
- C. **"Standard condition"** means units that at a minimum meet the Existing Housing Quality Standards of the Section 8 rental subsidy program.
- D. **"Substandard condition suitable for rehabilitation"** means units with code violations that can be brought to Section 8 Housing Quality Standards within reasonable monetary amounts.
- E. **"Vacant occupiable dwelling unit"** means a dwelling unit that is in a standard condition; a vacant dwelling unit that is in substandard condition, but is suitable for rehabilitation; or a dwelling unit in any condition that has been occupied (except by a squatter) at any time within the period beginning 3 months before the date of execution of the agreement by The City of T or C covering the rehabilitation or demolition.

IX. Grievances

The The City of T or C will provide timely written answers to written complaints and grievances within 15 working days where practical. Action items:

- A. Adopt complaint handling procedures or policies to insure that complaints or grievances are responded to within 15 days, if possible.
- B. Allow for appeal of a decision to a neutral authority.

- ## **IX. Certification**

Plan Adoption Date: _____

Certified By: _____

Juan Fuentes

City Manager

Rev 6-16

EXHIBIT 1-T

SECTION 3 PLAN WITH REQUIRED ELEMENTS

The City of T or C is committed to comply with Section 3 of the Housing and Urban Development Act of 1968. This Act encourages the use of small local businesses and the hiring of low income residents of the community.

The City of T or C has appointed _____ as the Section 3 Coordinator, to advise and assist key personnel and staff on Section 3, to officially serve as focal point for Section 3 complaints, and as the on-site monitor of prime contractors and sub-contractors to insure the implementation and enforcement of their Section 3 plans. The approval or disapproval of the Section 3 plan is the ultimate responsibility of the City of T or C. Documentation of efforts will be retained on file for monitoring by the state.

Therefore, the City of T or C shall:

1. Hiring
 - a. Advertise for all City of T or C positions in local newspapers
 - b. List all City of T or C job opportunities with the State Employment Service
 - c. Give preference in hiring to lower income persons residing in the City of T or C. This means that if two equally qualified persons apply and one is a resident of the City of T or C and one is not, the resident will be hired
 - d. Maintain records of City of T or C hiring as specified on this form

City of T or C ANTICIPATED/ACTUAL HIRES			____ HIRING YEAR	
PLANNED			ACTUAL	
Job Classification	# of Positions to be Filled	# of Positions to be Filled by Lower Income City of T or C Residents	# of Positions Filled	Positions Filled by Lower Income City of T or C Residents
	See next page			

- Chart for Section 3 Plan **MUST** be filled out in its entirety.

City of T or C		ANTICIPATED/ACUTAL HIRES		JUNE 2015 – July 2016 Hiring year	
Job Classification	# of Positions To be filled	# of Positions to Be filed by Lower Income City or T or C	# of Positions Filled	Positions filled by Lower Income City of T or C	
		Residents		Residents	
Planned			Actual		
City Clerk	1		1		
Court Juvenile Program Cord (grant)	1		1		
Teen Court Intern (grant)	1		1		
Meter Reader	5		5		
Facility Tech	2		2		
Civic Center Maintenance	1		1		
Finance Director	1		1		
Mechanic	1		1		
Park Maintenance Worker	3		3		
Police Officer	5		5		
Administrative Assistant	1		1		
Lifeguard/Cashier	3		3		
Scale house Attendant	1		1		
SW Relief Driver	6		6		
Collector I	1		1		
General Labor	5		5		
Utility Clerk	4		4		
Line Repairman	2		2		

2. Contracting

- a. The City of T or C will compile a list of businesses, suppliers and contractors located in the City of T or C.
- b. These vendors will be contacted for bid or quotes whenever the City of T or C requires supplies, services or construction.
- c. Preference will be given to small local businesses. This means if identical bids/quotes are received from a small business located within the City of T or C and one from outside the City of T or C, the contract will be awarded to the business located within the community.

3. Training

The City of T or C shall maintain a list of all training programs operated by the City of T or C and its agencies and will direct them to give preference to City of T or C residents. The City of T or C will also direct all CDBG sponsored training to provide preference to City of T or C residents.

4. CDBG Contracts

All CDBG bid proposals and contracts shall include the following Section 3 language.

- a. The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that the greatest extent feasible, opportunities for training and employment be given lower income residents of the project areas, and contracts for work in connection with the project be awarded to business concerns residing in the project area.
- b. The parties to this contract will comply with the provision of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR and all applicable rules and orders of the Department issued there-under prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
- c. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under the Section 3 clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- d. The contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for, or recipient of federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the

subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135, and will not let any subcontract unless the subcontractor has first provided it with the requirements of these regulations.

- e. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders of the Department, issued thereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR 135.

The _____ City of T or C _____ shall require each contractor to prepare a written Section 3 plan as a part of their bids on all jobs exceeding \$100,000. All Section 3 plans shall be reviewed and approved by the City's Equal Opportunity Section 3 Compliance Officer and retained for monitoring by the state.

The _____ City of T or C _____ will maintain all necessary reports and will insure that all contractors and subcontractors submit required reports.

LOWER INCOME CLARIFICATION

A family who resides in _____ City of T or C _____ and whose income does not exceed the income limit for the size of family as per the attached Section 8 Income Limit for _____ City of T or C _____. Information contained in our Section 3 Plan reflects the status of the _____ City of T or C _____ employees regarding lower income considerations based on their salary paid by the _____ City of T or C _____.

Steve Green
Mayor of the City of Truth or Consequence

Date



G.7

CITY OF TRUTH OR CONSEQUENCES
COMMISSION ACTION FORM

ITEM:

A RESOLUTION AUTHORIZING SUBMISSION OF AN APPLICATION FOR AIRPORT AID TO THE FEDERAL AVIATION ADMINISTRATION (FAA) AND OBLIGATION OF SPONSOR MATCHING FUNDS, AND AUTHORIZATION TO ACCEPT THE RESULTING GRANT OFFER.

BACKGROUND:

The City of Truth or Consequences issued a request for proposals for the construction of the Fuel Farm. Current Project cost based on actual bids received and consultant Task Orders for construction administration services:

Actual Project Cost (Corresponds to FAA application amount)	\$ 697,237
Difference	\$ 451,337
FAA @ 90%	\$ 627,514
Non- Federal	\$ 69,724
State @ 5% (50% of non-Federal)	\$ 34,862
City @ 5% (50 % of non-Federal)	\$ 34,862
Original Aviation Division grant	\$ 12,295
Amended State grant amount	\$ 34,862

The application and agreement with the FAA will cover 90% of the Fuel Farm.

SUPPORT INFORMATION:

- Resolution No. 12-16/17.
- FAA Grant Agreement.

Name of Drafter: Juan A. Fuentes	Department: City Manager	Mtg: 09/27/16
E-mail: jafuentes@lorcnm.org	Phone: 575-894-6673 Ext. 320	



CITY OF TRUTH OR CONSEQUENCES

RESOLUTION NO. 12-16/17

A RESOLUTION AUTHORIZING SUBMISSION OF AN APPLICATION FOR AIRPORT AID TO THE FEDERAL AVIATION ADMINISTRATION (FAA) AND OBLIGATION OF SPONSOR MATCHING FUNDS, AND AUTHORIZATION TO ACCEPT THE RESULTING GRANT OFFER.

WHEREAS, the City Commission of the City of Truth or Consequences has applied to the Federal Aviation Administration for 90.0 % assistance toward the project through the Airport Improvement Program (AIP) which FAA commitment cannot be formally made until a grant offer is made and accepted, and has received 5 % assistance from the NMDOT – Aviation Division, and time is of the essence to secure the FAA funding, and

WHEREAS, the project is within the City jurisdiction, and is necessary for the public good and convenience and is to serve the users of the City of Truth or Consequences Municipal Airport, and

WHEREAS, the City of Truth or Consequences is committed to appropriating funds to match the is committed to appropriating funds to match the remaining 5% of the project cost in accordance and consistent with the regulations and policies governing the FAA- AIP program and the NMDOT – AV Division grant conditions.

NOW THEREFORE BE IT RESOLVED that the City Commission of the City of Truth or Consequences is hereby adopts and approves this resolution and authorizes Juan A. Fuentes, City Manager, to execute all documents related to the project to replace the fuel farm and directs staff to take actions necessary to implement and fund this resolution and project.

PASSED, APPROVED AND ADOPTED by the City Commission this 27th day of September 2016.

ATTEST:

Steve Green
Mayor

Renee Cantin
City Clerk-Treasurer



U.S. Department
of Transportation
Federal Aviation
Administration

**SPONSOR
COPY**

GRANT AGREEMENT

PART I – OFFER

Date of Offer September 16, 2016

Airport/Planning Area Truth Or Consequences Municipal

AIP Grant Number 3-35-0042-016-2016

DUNS Number 079342838

TO: City of Truth or Consequences
(herein called the "Sponsor")

FROM: The United States of America (acting through the Federal Aviation Administration, herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA a Project Application dated September 13, 2016, for a grant of Federal funds for a project at or associated with the Truth Or Consequences Municipal Airport, which is included as part of this Grant Agreement; and

WHEREAS, the FAA has approved a project for the Truth Or Consequences Municipal Airport (herein called the "Project") consisting of the following:

Construct Fuel Farm

which is more fully described in the Project Application.

NOW THEREFORE, According to the applicable provisions of the former Federal Aviation Act of 1958, as amended and recodified, 49 U.S.C. 40101, et seq., and the former Airport and Airway Improvement Act of 1982 (AAIA), as amended and recodified, 49 U.S.C. 47101, et seq., (herein the AAIA grant statute is referred to as "the Act"), the representations contained in the Project Application, and in consideration of (a) the Sponsor's adoption and ratification of the Grant Assurances dated March 2014, and the Sponsor's acceptance of this Offer, and (b) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the Grant Assurances and conditions as herein provided,

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay ninety (90) percent of the allowable costs incurred accomplishing the Project as the United States share of the Project.

This Offer is made on and SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

CONDITIONS

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is **\$627,514.00.00**

The following amounts represent a breakdown of the maximum obligation for the purpose of establishing allowable amounts for any future grant amendment, which may increase the foregoing maximum obligation of the United States under the provisions of 49 U.S.C. § 47108(b):

\$627,514.00 for airport development or noise program implementation

2. **Period of Performance.** The period of performance begins on the date the Sponsor formally accepts this agreement. Unless explicitly stated otherwise in an amendment from the FAA, the end date of the project period of performance is 4 years (1,460 calendar days) from the date of formal grant acceptance by the Sponsor.

The Sponsor may only charge allowable costs for obligations incurred prior to the end date of the period of performance (2 CFR § 200.309). Unless the FAA authorizes a written extension, the sponsor must submit all project closeout documentation and liquidate (pay off) all obligations incurred under this award no later than 90 calendar days after the end date of the period of performance (2 CFR § 200.343).

The period of performance end date does not relieve or reduce Sponsor obligations and assurances that extend beyond the closeout of a grant agreement.

3. **Ineligible or Unallowable Costs.** The Sponsor must not include any costs in the project that the FAA has determined to be ineligible or unallowable.
4. **Indirect Costs – Sponsor.** Sponsor may charge indirect costs under this award by applying the indirect cost rate identified in the project application and as accepted by the FAA to allowable costs for Sponsor direct salaries and wages.
5. **Determining the Final Federal Share of Costs.** The United States' share of allowable project costs will be made in accordance with the regulations, policies and procedures of the Secretary. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
6. **Completing the Project Without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the project without undue delays and in accordance with this agreement, and the regulations, policies and procedures of the Secretary. The Sponsor also agrees to comply with the assurances which are part of this agreement.
7. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
8. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before **September 21, 2016**, or such subsequent date as may be prescribed in writing by the FAA.
9. **Improper Use of Federal Funds.** The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner in any project upon which Federal funds have been expended. For the purposes of this grant agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor that were originally paid pursuant to this or any other Federal grant agreement. The Sponsor must obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The Sponsor must furnish to the Secretary, upon

request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.

10. United States Not Liable for Damage or Injury. The United States is not responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this grant agreement.

11. System for Award Management (SAM) Registration And Universal Identifier.

A. Requirement for System for Award Management (SAM): Unless the Sponsor is exempted from this requirement under 2 CFR 25.110, the Sponsor must maintain the currency of its information in the SAM until the Sponsor submits the final financial report required under this grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least annually after the initial registration and more frequently if required by changes in information or another award term. Additional information about registration procedures may be found at the SAM website (currently at <http://www.sam.gov>).

B. Requirement for Data Universal Numbering System (DUNS) Numbers

1. The Sponsor must notify potential subrecipient that it cannot receive a contract unless it has provided its DUNS number to the Sponsor. A subrecipient means a consultant, contractor, or other entity that enters into an agreement with the Sponsor to provide services or other work to further this project, and is accountable to the Sponsor for the use of the Federal funds provided by the agreement, which may be provided through any legal agreement, including a contract.
2. The Sponsor may not make an award to a subrecipient unless the subrecipient has provided its DUNS number to the Sponsor.
3. Data Universal Numbering System: DUNS number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D & B) to uniquely identify business entities. A DUNS number may be obtained from D & B by telephone (currently 866-705-5771) or on the web (currently at <http://fedgov.dnb.com/webform>).

12. Electronic Grant Payment(s). Unless otherwise directed by the FAA, the Sponsor must make each payment request under this agreement electronically via the Delphi invoicing System for Department of Transportation (DOT) Financial Assistance Awardees.

13. Informal Letter Amendment of AIP Projects. If, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000 or five percent (5%), whichever is greater, the FAA can issue a letter amendment to the Sponsor unilaterally reducing the maximum obligation.

The FAA can also issue a letter to the Sponsor increasing the maximum obligation if there is an overrun in the total actual eligible and allowable project costs to cover the amount of the overrun provided it will not exceed the statutory limitations for grant amendments. The FAA's authority to increase the maximum obligation does not apply to the "planning" component of condition No. 1.

The FAA can also issue an informal letter amendment that modifies the grant description to correct administrative errors or to delete work items if the FAA finds it advantageous and in the best interests of the United States.

An informal letter amendment has the same force and effect as a formal grant amendment.

14. Air and Water Quality. The Sponsor is required to comply with all applicable air and water quality standards for all projects in this grant. If the Sponsor fails to comply with this requirement, the FAA may

suspend, cancel, or terminate this grant.

15. **Financial Reporting and Payment Requirements.** The Sponsor will comply with all federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.
16. **Buy American.** Unless otherwise approved in advance by the FAA, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for which funds are provided under this grant. The Sponsor will include a provision implementing Buy American in every contract.
17. **Maximum Obligation Increase For Nonprimary Airports.** In accordance with 49 U.S.C. § 47108(b), as amended, the maximum obligation of the United States, as stated in Condition No. 1 of this Grant Offer:
 - A. May not be increased for a planning project;
 - B. May be increased by not more than 15 percent for development projects;
 - C. May be increased by not more than 15 percent or by an amount not to exceed 25 percent of the total increase in allowable costs attributable to the acquisition of land or interests in land, whichever is greater, based on current credible appraisals or a court award in a condemnation proceeding.
18. **Audits for Public Sponsors.** The Sponsor must provide for a Single Audit in accordance with 2 CFR Part 200. The Sponsor must submit the Single Audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse's Internet Data Entry System at <http://harvester.census.gov/facweb/>. The Sponsor must also provide one copy of the completed 2 CFR Part 200 audit to the Airports District Office.
19. **Suspension or Debarment.** When entering into a "covered transaction" as defined by 2 CFR § 180.200, the Sponsor must:
 - A. Verify the non-federal entity is eligible to participate in this Federal program by:
 1. Checking the excluded parties list system (EPLS) as maintained within the System for Award Management (SAM) to determine if non-federal entity is excluded or disqualified; or
 2. Collecting a certification statement from the non-federal entity attesting they are not excluded or disqualified from participating; or
 3. Adding a clause or condition to covered transactions attesting individual or firm are not excluded or disqualified from participating.
 - B. Require prime contractors to comply with 2 CFR § 180.330 when entering into lower-tier transactions (e.g. Sub-contracts).
 - C. Immediately disclose to the FAA whenever the Sponsor: (1) learns they have entered into a covered transaction with an ineligible entity or (2) suspends or debar a contractor, person, or entity.
20. **Ban on Texting While Driving.**
 - A. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:
 1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to a grant or subgrant.
 2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:

- a. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
 - b. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- B. The Sponsor must insert the substance of this clause on banning texting while driving in all subgrants, contracts and subcontracts.

21. Trafficking in Persons.

- A. Prohibitions: The prohibitions against trafficking in persons (Prohibitions) apply to any entity other than a State, local government, Indian tribe, or foreign public entity. This includes private Sponsors, public Sponsor employees, subrecipients of private or public Sponsors (private entity). Prohibitions include:
- 1. Engaging in severe forms of trafficking in persons during the period of time that the agreement is in effect;
 - 2. Procuring a commercial sex act during the period of time that the agreement is in effect; or
 - 3. Using forced labor in the performance of the agreement, including subcontracts or subagreements under the agreement.
- B. In addition to all other remedies for noncompliance that are available to the FAA, Section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), allows the FAA to unilaterally terminate this agreement, without penalty, if a private entity –
- 1. Is determined to have violated the Prohibitions; or
 - 2. Has an employee who the FAA determines has violated the Prohibitions through conduct that is either:
 - a. Associated with performance under this agreement; or
 - b. Imputed to the Sponsor or subrecipient using 2 CFR part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement)," as implemented by the FAA at 2 CFR part 1200.

22. AIP Funded Work Included in a PFC Application:

Within 90 days of acceptance of this award, Sponsor must submit to the Federal Aviation Administration an amendment to any approved Passenger Facility Charge (PFC) application that contains an approved PFC project also covered under this grant award. The airport sponsor may not make any expenditure under this award until project work addressed under this award is removed from an approved PFC application by amendment.

23. Exhibit "A" Property Map. The Exhibit "A" Property Map dated 09/2016, is incorporated herein by reference or is submitted with the project application and made part of this grant agreement.

24. DBE Plan. The Sponsor understands and agrees that the FAA will not make nor be obligated to make any payments on this grant until the Sponsor has received approval of its DBE Plan from the FAA Office of Civil Rights.

25. Plans and Specifications Prior to Bidding. The Sponsor agrees that it will submit plans and specifications for FAA review and approval prior to advertising for bids.

26. Plans and Specifications Approval Based Upon Certification. The FAA and the Sponsor agree that the FAA

approval of the Sponsor's Plans and Specification is based primarily upon the Sponsor's certification to carry out the project in accordance with policies, standards, and specifications approved by the FAA. The Sponsor understands that:

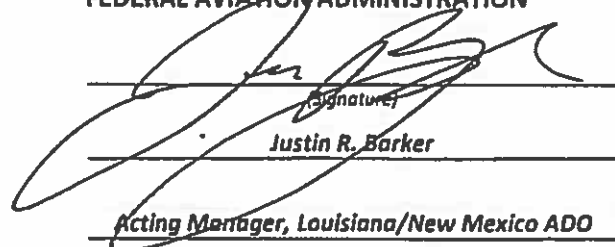
- A. The Sponsor's certification does not relieve the Sponsor of the requirement to obtain prior FAA approval for modifications to any AIP standards or to notify the FAA of any limitations to competition within the project;
- B. The FAA's acceptance of a Sponsor's certification does not limit the FAA from reviewing appropriate project documentation for the purpose of validating the certification statements;
- C. If the FAA determines that the Sponsor has not complied with their certification statements, the FAA will review the associated project costs to determine whether such costs are allowable under AIP.

27. Consultant Contract and Cost Analysis. The Sponsor understands and agrees that no reimbursement will be made on the consultant contract portion of this grant until the FAA has received the consultant contract, the Sponsor's analysis of costs, and the independent fee estimate.

28. Fueling System – Use and Operation Requirements. This project includes the installation of a new aviation fuel system. All revenue generated by this fueling system must be used for the operation and maintenance of the Airport in accordance with the grant assurances. The fueling system established under this grant, will be operated solely by the Sponsor and/or the Sponsor's employees. The Sponsor is further obligated to operate and maintain the fueling system for the 20-year grant expected life, including meeting all local, state, and federal regulations related to the fuel system.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, as provided by the Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the assurances and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION



(Signature)

Justin R. Barker

Acting Manager, Louisiana/New Mexico ADO

PART II - ACCEPTANCE

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer, and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Project Application.

I declare under penalty of perjury that the foregoing is true and correct.¹

Executed this _____ day of _____.

City of Truth or Consequences

(Name of Sponsor)

(Signature of Sponsor's Authorized Official)

By: _____

(Typed Name of Sponsor's Authorized Official)

Title: _____

(Title of Sponsor's Authorized Official)

CERTIFICATE OF SPONSOR'S ATTORNEY

I, _____, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of New Mexico. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the Act. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at _____ (location) this _____ day of _____.

By: _____

(Signature of Sponsor's Attorney)

¹ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.

Application for Federal Assistance SF-424

* 1. Type of Submission <input type="checkbox"/> Preapplication <input checked="" type="checkbox"/> Application <input type="checkbox"/> Changed/Corrected Application		* 2. Type of Application <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision		* If Revision, select appropriate letter(s): - Select One - * Other (Specify)
* 3. Date Received:		4. Application Identifier: TCS		
5a. Federal Entity Identifier: 3-35-0042		* 5b. Federal Award Identifier:		
State Use Only:				
6. Date Received by State:		7. State Application Identifier:		
8. APPLICANT INFORMATION:				
* a. Legal Name: City of Truth or Consequences				
* b. Employer/Taxpayer Identification Number (EIN/TIN): 85-6000144		* c. Organizational DUNS: 07-9342838		
d. Address:				
* Street1: 505 Sims Street Street 2: * City: Truth or Consequences County: Sierra * State: New Mexico Province: Country: United States * Zip/ Postal Code: 87901				
e. Organizational Unit:				
Department Name: Airport		Division Name: Airport		
f. Name and contact information of person to be contacted on matters involving this application:				
Prefix: Mr. Middle Name: * Last Name: Fuentes Suffix:		First Name: Juan		
Title: City Manager				
Organizational Affiliation:				
* Telephone Number: (575) 894-6673		Fax Number: (575) 894-0363		
* Email: jafuentes@lorcnm.org				

Sponsors Budget Analysis

LOCATION Truth or Consequences Municipal Airport

AIP PROJECT NUMBER 3-35-0042-016-2016

LAND ACQUISITION	\$ -
CONSTRUCTION	\$ 560,627
ENGINEERING	\$ -
ADMINISTRATIVE- Legal Ads	\$ 4,000
INSPECTION	\$ 131,610
TESTING	\$ -
EQUIPMENT	\$ -
OTHER(SPECIFY) ICE*	\$ 1,000
Program management (if applicable)	\$ -
TOTAL	\$ 697,237

REMARKS Replace Fuel Farm- Schedule One (1) Construct Initial Site for
Aviation Fuel Farm - Schedule Two (2) Alt 1 AVGAS
 CSW - SCHEDULE ONE/D&H - SCHEDULE TWO

PROJECT COSTS:	\$ 697,237
FAA share (90%)	\$ 627,514
STATE share (5%)	\$ 34,861.87
SPONSOR share (5%)	\$ 34,861.87

Application for Federal Assistance SF-424

16. Congressional Districts Of:

*a. Applicant: 03

*b. Program/Project: 03

Attach an additional list of Program/Project Congressional Districts if needed

17. Proposed Project:

*a. Start Date: 10/15/2016

*b. End Date: 10/15/2017

18. Estimated Funding (\$):

*a. Federal	627,514.00
*b. Applicant	34,861.00
*c. State	34,862.00
*d. Local	
*e. Other	
*f. Program Income	
*g. TOTAL	697,237.00

*19. Is Application Subject to Review By State Under Executive Order 12372 Process?

- ☐ a. This application was made available to the State under the Executive Order 12372 Process for review on _____
- ☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review.
- ☐ c. Program is not covered by E.O. 12372

*20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes", provide explanation on next page.)

☐ Yes ☐ No

21. *By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)

☒ ** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix: Mr.

*First Name: Juan

Middle Name:

*Last Name: Fuentes

Suffix:

*Title: City Manager

*Telephone Number: (575) 894-6673

Fax Number: (575) 894-0363

*Email: jafuentes@torcnm.org

*Signature of Authorized Representative:

*Date Signed:

9/13/16

Application for Federal Assistance SF-424

***9. Type of Applicant 1: Select Applicant Type:**

C. City or Township Government

Type of Applicant 2: Select Applicant Type:

- Select One -

Type of Applicant 3: Select Applicant Type:

- Select One -

*** Other (specify):**

*** 10. Name of Federal Agency:**

Federal Aviation Administration

11. Catalog of Federal Domestic Assistance Number:

20.106

CFDA Title:

Airport Improvement Program

***12. Funding Opportunity Number:**

Title:

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

Town or Consequences, Sierra County, New Mexico

*** 15. Descriptive Title of Applicant's Project:**

Replace Fuel Farm

Attach supporting documents as specified in agency instructions.

Application for Federal Assistance SF-424

***Applicant Federal Debt Delinquency Explanation**

The following field should contain an explanation if the Applicant organization is delinquent on any Federal Debt. Maximum number of characters that can be entered is 4,000. Try and avoid extra spaces and carriage returns to maximize the availability of space.

No Delinquencies

INSTRUCTIONS FOR THE SF-424

Public reporting burden for this collection of information is estimated to average 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This is a standard form (including the continuation sheet) required for use as a cover sheet for submission of preapplications and applications and related information under discretionary programs. Some of the items are required and some are optional at the discretion of the applicant or the Federal agency (agency). Required items are identified with an asterisk on the form and are specified in the instructions below. In addition to the instructions provided below, applicants must consult agency instructions to determine specific requirements.

Item	Entry
1.	Type of Submission: (Required) Select one type of submission in accordance with agency instructions. <ul style="list-style-type: none"> • Preapplication • Application • Changed/Corrected Application - If requested by the agency, check if this submission is to change or correct a previously submitted application. Unless requested by the agency, applicants may not use this to submit changes after the closing date.
2.	Type of Application: (Required) Select one type of application in accordance with agency instructions. <ul style="list-style-type: none"> • New - An application that is being submitted to an agency for the first time. • Continuation - An extension for an additional funding/budget period for a project with a projected completion date. This can include renewals. • Revision - Any change in the Federal Government's financial obligation or contingent liability from an existing obligation. If a revision, enter the appropriate letter(s). More than one may be selected. If "Other" is selected, please specify in text box provided. <ul style="list-style-type: none"> A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration E. Other (specify)
3.	Date Received: Leave this field blank. This date will be assigned by the Federal agency.
4.	Applicant Identifier: Enter the entity identifier assigned by the Federal agency, if any, or applicant's control number, if applicable.
5a.	Federal Entity Identifier: Enter the number assigned to your organization by the Federal Agency, if any.
5b.	Federal Award Identifier: For new applications leave blank. For a continuation or revision to an existing award, enter the previously assigned Federal award identifier number. If a changed/corrected application, enter the Federal Identifier in accordance with agency instructions.
6.	Date Received by State: Leave this field blank. This date will be assigned by the State, if applicable.
7.	State Application Identifier: Leave this field blank. This identifier will be assigned by the State, if applicable.
8.	Applicant Information: Enter the following in accordance with agency instructions: <ul style="list-style-type: none"> a. Legal Name: (Required) Enter the legal name of applicant that will undertake the assistance activity. This is the name that the organization has registered with the Central Contractor Registry. Information on registering with CCR may be obtained by visiting the Grants.gov website. b. Employer/Taxpayer Number (EIN/TIN): (Required): Enter the Employer or Taxpayer Identification Number (EIN or TIN) as assigned by the Internal Revenue Service. If your organization is not in the US, enter 44-4444444. c. Organizational DUNS: (Required) Enter the organization's DUNS or DUNS+4 number received from Dun and Bradstreet. Information on obtaining a DUNS number may be obtained by visiting the Grants.gov website. d. Address: Enter the complete address as follows: Street address (Line 1 required), City (Required), County, State (Required, if country is US), Province, Country (Required), Zip/Postal Code (Required, if country is US). e. Organizational Unit: Enter the name of the primary organizational unit (and department or division, if applicable) that will undertake the assistance activity, if applicable. f. Name and contact information of person to be contacted on matters involving this application: Enter the name (First and last name required), organizational affiliation (if affiliated with an organization other than the applicant organization), telephone number (Required), fax number, and email address (Required) of the person to contact on matters related to this application.
9.	Type of Applicant: (Required) Select up to three applicant type(s) in accordance with agency instructions: <ul style="list-style-type: none"> A. State Government B. County Government C. City or Township Government D. Special District Government E. Regional Organization F. U.S. Territory or Possession G. Independent School District H. Public/State Controlled Institution of Higher Education I. Indian/Native American Tribal Government (Federally Recognized) J. Indian/Native American Tribal Government (Other than Federally Recognized) K. Indian/Native American Tribal Designated Organization L. Public/Indian Housing Authority M. Nonprofit with 501C3 IRS Status (Other than Institution of Higher Education) N. Nonprofit without 501C3 IRS Status (Other than Institution of Higher Education) O. Private Institution of Higher Education P. Individual Q. For-Profit Organization (Other than Small Business) R. Small Business S. Hispanic-serving Institution

Item 3 – Indicate whether the Sponsor can complete the project without unreasonable delays. If applicable, provide listing of foreseeable events (winter shutdown, land acquisition issues, non-aeronautical events, etc.) that have potential to delay completion of the project. (49 USC § 47106(a))

Item 4 – Indicate whether the environmental review (i.e. environmental assessment, mitigated FONSI, etc.) identified impacts or effects on the environment that require mitigating measures that lessen the impact or effect on the environment. If yes, provide a summary listing of mitigating measures. (49 U.S.C. § 47106(c))

Item 5 – Indicate whether the project covered by this request is also covered by an approved Passenger Facility Charge (PFC) application or other Federal assistance program by selecting all applicable check boxes (49 U.S.C. § 40117(d) and 2 CFR § 200.403). If the approved PFC application only addresses the Sponsor's AIP matching share, select the appropriate check box.

If the project, or portions thereof, is covered by another Federal assistance program, identify the Federal assistance program by name and the Catalog of Federal Domestic Assistance (CFDA) number.

Item 6 – Indicate whether the Sponsor intends to seek reimbursement of Sponsor indirect costs as defined by 2 CFR §200.414 and 2 CFR Appendix VII to Part 200. This information request *does not* include the indirect costs claimed by a for-profit entity (e.g. consultant).

- The de minimis rate may only be used if the Sponsor has not previously received a negotiated Indirect Cost Rate (ICR) and does not exceed the limitations prescribed in Appendix VII to Part 200.
- A Sponsor with an existing approved negotiated ICR must identify the ICR value, the name of the cognizant agency that approved the ICR and the date of approval.

Limitations of use: Per policy, Sponsor's may only apply an approved ICR to allowable direct salary expenses that are reasonable and necessary to carry-out the project.

SECTION B. CERTIFICATION REGARDING LOBBYING

This section addresses the Sponsor's declaration regarding lobbying activities. The declaration made in the section are under signature of the authorized representative as identified in box 21 of form SF-424, to which this form is attached.

Title 31 U.S.C. § 1352 establishes that no appropriated funds may be expended by a recipient of a Federal grant to pay any person for influencing or attempting to influence an officer or employee of any agency, Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this covered Federal assistance action. Pursuant to 40 CFR part 20, this certification attests that the Sponsor has not made, and will not make, any payment prohibited payment by 31 U.S.C. § 1352.

SECTION C. REPRESENTATIONS AND CERTIFICATION

1. **Compatible Land Use (49 U.S.C. § 47107(a)(10))** – Identify actions the Sponsor has taken to assure land uses in close proximity to the airport are compatible with normal airport operations.
2. **Defaults** – Confirm that Sponsor is not in default on any obligation to the United States or any agency of the United States government.
3. **Possible Disabilities** – Confirm that Sponsor has no facts or circumstances (i.e. legal, financial or otherwise) that might adversely affect the Sponsor in completing the project and carrying out the provisions of the associated Grant Assurances.
4. **Consistency with Local Plans (49 U.S.C. § 47106(a))** – Confirm project is consistent with plans (existing at the time the project is approved) of public agencies authorized by the State in which the airport is located to plan.
5. **Consideration of Local Interests (49 U.S.C. § 47106(b))** – Confirm the Sponsor has given fair consideration to the community in and near the project.
6. **Consultation with Users (49 U.S.C. § 47105(a))** – Confirm the Sponsor has consulted with airport users that will be affected by the project.
7. **Public Hearings (49 U.S.C. § 47106(c))** – For projects involving the location of an airport, runway or major runway extension, confirm the Sponsor:
 - a. Provided an opportunity for a public hearing to consider economic, social and environmental effects of the project.
 - b. Has voting representation from the communities in which the project is located; or has advised the communities that they have the right to petition the Secretary about the proposed project.
8. **Air and Water Quality Standards** – Confirm Sponsor will comply with applicable air and water quality standards.
9. **Exclusive Rights (49 U.S.C. § 47107(a))** – Identify all instances of exclusive rights to conduct aeronautical services at the airport.
10. **Land (49 U.S.C. § 47106(b))** –
 - a. Identify property interests specific to the development project and/or land acquisition. The declaration of property interest is to be based upon a title opinion submitted by an attorney. When identifying the property interest, use the same parcel numbers as used to identify the property on the associated Exhibit A property map.
Example: "Sponsor maintains property interest as depicted within the property table on the Exhibit A property map dated __/__/__ originally filed with AIP Project ###."
 - b. Complete this subpart if the Sponsor proposes a project for which they have not yet obtained appropriate property interests. Note that the work may not commence until Sponsor obtains acceptable property interests. Identify such property by parcel number that corresponds to the associated Exhibit A property map.
 - c. Complete this subpart when acquiring property interests under the grant. Identify such property by parcel number that corresponds to the associated Exhibit A property map.

Application for Federal Assistance (Development and Equipment Projects)

PART II – PROJECT APPROVAL INFORMATION

Part II - SECTION A	
The term "Sponsor" refers to the applicant name provided in box 8 of the associated SF-424 form.	
Item 1. Does Sponsor maintain an active registration in the System for Award Management (www.SAM.gov)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Item 2. Can Sponsor commence the work identified in the application in the fiscal year the grant is made or within six months after the grant is made, whichever is later?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Item 3. Are there any foreseeable events that would delay completion of the project? If yes, provide attachment to this form that lists the events.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
Item 4. Will the project(s) covered by this request have impacts or effects on the environment that require mitigating measures? If yes, attach a summary listing of mitigating measures to this application and identify the name and date of the environmental document(s).	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
Item 5. Is the project covered by this request included in an approved Passenger Facility Charge (PFC) application or other Federal assistance program? If yes, please identify other funding sources by checking all applicable boxes.	
<input type="checkbox"/> The project is included in an approved PFC application. If included in an approved PFC application, does the application only address AIP matching share? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/> The project is included in another Federal Assistance program. Its CFDA number is below.	
Item 6. Will the requested Federal assistance include Sponsor indirect costs as described in 2 CFR Appendix VII to Part 200, States and Local Government and Indian Tribe Indirect Cost Proposals?	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A	
If the request for Federal assistance includes a claim for allowable indirect costs, select the applicable indirect cost rate the Sponsor proposes to apply:	
<input type="checkbox"/> De Minimis rate of 10% as permitted by 2 CFR § 200.414.	
<input type="checkbox"/> Negotiated Rate equal to	% as approved by _____ on _____ (Date) (2 CFR part 200, appendix VII). <div style="text-align: right;">(the Cognizant Agency)</div>
<i>Note: Refer to the instructions for limitations of application associated with claiming Sponsor indirect costs.</i>	

PART IV – Program Narrative

Prepare the program narrative statement in accordance with the following instructions for all new grant programs. Requests for supplemental assistance should be responsive to Item 5b only. Requests for continuation or refunding or other changes of an approved project should be responsive to Item 5c only.

1. OBJECTIVES AND NEED FOR THIS ASSISTANCE

Provide a short and concise description of the proposed improvement. Include a narrative on why this improvement is needed.

2. RESULTS OR BENEFITS EXPECTED

Identify results and benefits to be derived. For example, include a description of who will occupy the facility and show how the facility will be used. For land acquisition or development projects, explain how the project will benefit the public.

3. APPROACH

- a. Outline a plan of action pertaining to the scope and detail of how the Sponsor proposes to accomplish the work.
- b. Cite factors, which might accelerate or decelerate the work, and your reason for taking this approach as opposed to others. Describe any unusual features of the project such as construction approach, reductions in cost or time or extraordinary social and community involvements.
- c. Provide projections of project milestone dates. As a minimum, identify target dates for defining project costs (i.e. bid opening or completion of negotiations), anticipated issuance of notice-to-proceed and anticipated project completion date.
- d. Identify monitoring and oversight mechanisms the Sponsor proposes to implement.
- e. List key individuals and entities such as consultant, Sponsor personnel and contractor who will work on the project. Provide a short description of the nature of their effort or contribution.

4. GEOGRAPHIC LOCATION

Identify location of the project. This will typically be the name of the airport.

5. IF APPLICABLE, PROVIDE THE FOLLOWING INFORMATION:

- a. Describe the relationship between this project and other work planned, anticipated or underway under the Federal Assistance listed under Part II, Section A, Item 5.
- b. Explain the reason for all requests for supplemental assistance and justify the need for additional funding.
- c. If there have been significant changes in the project objectives, location, approach or time delays, explain and justify. For other requests for changes or amendments, explain the reason for the change(s). If the scope, budget, or objectives have changed or an extension of time is necessary, explain the circumstances and justify.

6. SPONSOR'S REPRESENTATIVE

Identify contact information of Sponsor's representative.

PART II - SECTION B

Certification Regarding Lobbying

The declarations made on this page are under the signature of the authorized representative as identified in box 21 of form SF-424, to which this form is attached. The term "Sponsor" refers to the applicant name provided in box 8 of the associated SF-424 form.

The Authorized Representative certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Sponsor, to any person for influencing or attempting to influence an officer or employee of an agency, 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 contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) 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 Authorized Representative shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The Authorized Representative shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was 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. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

PART II – SECTION C

The Sponsor hereby represents and certifies as follows:

1. Compatible Land Use – The Sponsor has taken the following actions to assure compatible usage of land adjacent to or in the vicinity of the airport:

Airspace zoning.

2. Defaults – The Sponsor is not in default on any obligation to the United States or any agency of the United States Government relative to the development, operation, or maintenance of any airport, except as stated herewith:

None

3. Possible Disabilities – There are no facts or circumstances (including the existence of effective or proposed leases, use agreements or other legal instruments affecting use of the Airport or the existence of pending litigation or other legal proceedings) which in reasonable probability might make it impossible for the Sponsor to carry out and complete the Project or carry out the provisions of the Grant Assurances, either by limiting its legal or financial ability or otherwise, except as follows:

None

4. Consistency with Local Plans – The project is reasonably consistent with plans existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

True

5. Consideration of Local Interest – It has given fair consideration to the interest of communities in or near where the project may be located.

True

6. Consultation with Users – In making a decision to undertake an airport development project under Title 49, United States Code, it has consulted with airport users that will potentially be affected by the project (§ 47105(a)(2)).

True

7. Public Hearings – In projects involving the location of an airport, an airport runway or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

N/A

8. Air and Water Quality Standards – In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.

N/A

PART II – SECTION C (Continued)

9. Exclusive Rights – There is no grant of an exclusive right for the conduct of any aeronautical activity at any airport owned or controlled by the Sponsor except as follows:

None

10. Land – (a) The sponsor holds the following property interest in the following areas of land, which are to be developed or used as part of or in connection with the Airport subject to the following exceptions, encumbrances, and adverse interests, all of which areas are identified on the aforementioned property map designated as Exhibit "A". [1]

True

The Sponsor further certifies that the above is based on a title examination by a qualified attorney or title company and that such attorney or title company has determined that the Sponsor holds the above property interests.

(b) The Sponsor will acquire within a reasonable time, but in any event prior to the start of any construction work under the Project, the following property interest in the following areas of land on which such construction work is to be performed, all of which areas are identified on the aforementioned property map designated as Exhibit "A". [1]

None

(c) The Sponsor will acquire within a reasonable time, and if feasible prior to the completion of all construction work under the Project, the following property interest in the following areas of land which are to be developed or used as part of or in connection with the Airport as it will be upon completion of the Project, all of which areas are identified on the aforementioned property map designated as Exhibit "A". [1]

None

¹ State the character of property interest in each area and list and identify for each all exceptions, encumbrances, and adverse interests of every kind and nature, including liens, easements, leases, etc. The separate areas of land need only be identified here by the area numbers shown on the property map.

PART III – BUDGET INFORMATION – CONSTRUCTION

SECTION A – GENERAL
1. Federal Domestic Assistance Catalog Number: 20.106
2. Functional or Other Breakout:

SECTION B – CALCULATION OF FEDERAL GRANT			
Cost Classification	Latest Approved Amount (Use only for revisions)	Adjustment + or (-) Amount (Use only for revisions)	Total Amount Required
1. Administration expense			\$ 5,000
2. Preliminary expense			
3. Land, structures, right-of-way			
4. Architectural engineering basic fees			131,610
5. Other Architectural engineering fees			
6. Project Inspection fees			
7. Land development			
8. Relocation Expenses			
9. Relocation payments to individuals and Businesses			
10. Demolition and removal			
11. Construction and project improvement			560,627
12. Equipment			
13. Miscellaneous			
14. Subtotal (Lines 1 through 13)			\$ 440,876
15. Estimated Income (if applicable)			
16. Net Project Amount (Line 14 minus 15)			
17. Less: Ineligible Exclusions (Section C, line 23 g.)			
18. Subtotal (Lines 16 through 17)			\$ 697,237
19. Federal Share requested of Line 18			627,514
20. Grantee share			34,862
21. Other shares			34,861
22. TOTAL PROJECT (Lines 19, 20 & 21)			\$ 697,237

SECTION C – EXCLUSIONS	
23. Classification (Description of non-participating work)	Amount Ineligible for Participation
a.	
b.	
c.	
d.	
e.	
f.	
g. Total	

SECTION D – PROPOSED METHOD OF FINANCING NON-FEDERAL SHARE	
24. Grantee Share – Fund Categories	Amount
a. Securities	
b. Mortgages	
c. Appropriations (by Applicant)	
d. Bonds	
e. Tax Levies	
f. Non-Cash	
g. Other (Explain):	
h. TOTAL - Grantee share	\$ 34,862
25. Other Shares	Amount
a. State	34,861
b. Other	
c. TOTAL - Other Shares	
26. TOTAL NON-FEDERAL FINANCING	

SECTION E – REMARKS (Attach sheets if additional space is required)

PART IV – PROGRAM NARRATIVE
(Suggested Format)

PROJECT: Replace Fuel Farm -Schedule 1 - Construct Site
AIRPORT: Truth or Consequences Municipal (TCS)
1. Objective: Construct Initial Site for Aviation Fuel Farm in order to replace the antiquated general aviation fuel dispensing facility with a secondary containment system and one (1) new 100LL AvGas 12,000-gallon tank with applicable dispensing system.
2. Benefits Anticipated: Comply with New Mexico Environment Department Petroleum Storage Tank regulations as set forth in (20.5 NMAC).
3. Approach: (See approved Scope of Work in Final Application) The project has been designed and will be constructed in accordance with current FAA construction specifications.
4. Geographic Location: Truth or Consequences Municipal Airport, Sierra County, New Mexico
5. If Applicable, Provide Additional Information:
6. Sponsor's Representative: (include address & telephone number) Juan Fuentes, City Manager 505 Sims Street Truth or Consequences, NM 87901 575-894-6673

ASSURANCES

AIRPORT SPONSORS

A. General.

- a. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
- b. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
- c. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this grant agreement.

B. Duration and Applicability.

1. Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.

The terms, conditions and assurances of this grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.

The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. Airport Planning Undertaken by a Sponsor.

Unless otherwise specified in this grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 25, 30, 32, 33, and 34 in Section C apply to planning projects. The terms, conditions, and assurances of this grant agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport.

C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

1. General Federal Requirements.

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

FEDERAL LEGISLATION

- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.¹
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act – 5 U.S.C. 1501, et seq.²
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.^{1,2}
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).¹
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.¹
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.¹
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968 - 42 U.S.C. 4151, et seq.¹
- s. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.¹
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.¹
- u. Copeland Anti-kickback Act - 18 U.S.C. 874.1
- v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.¹
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- x. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.²
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).

EXECUTIVE ORDERS

- a. Executive Order 11246 - Equal Employment Opportunity¹
- b. Executive Order 11990 - Protection of Wetlands
- c. Executive Order 11998 – Flood Plain Management

- d. Executive Order 12372 - Intergovernmental Review of Federal Programs
- e. Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction¹
- f. Executive Order 12898 - Environmental Justice

FEDERAL REGULATIONS

- a. 2 CFR Part 180 - OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. [OMB Circular A-87 Cost Principles Applicable to Grants and Contracts with State and Local Governments, and OMB Circular A-133 - Audits of States, Local Governments, and Non-Profit Organizations].^{4, 5, 6}
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment
- d. 14 CFR Part 13 - Investigative and Enforcement Procedures14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- e. 14 CFR Part 150 - Airport noise compatibility planning.
- f. 28 CFR Part 35- Discrimination on the Basis of Disability in State and Local Government Services.
- g. 28 CFR § 50.3 - U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964.
- h. 29 CFR Part 1 - Procedures for predetermination of wage rates.¹
- i. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.¹
- j. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).¹
- k. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).¹
- l. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.³
- m. 49 CFR Part 20 - New restrictions on lobbying.
- n. 49 CFR Part 21 – Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.
- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs.^{1, 2}
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.¹

- s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities conducted by the Department of Transportation.
- t. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
- u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)
- v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.

SPECIFIC ASSURANCES

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

FOOTNOTES TO ASSURANCE C.1.

- ¹ These laws do not apply to airport planning sponsors.
- ² These laws do not apply to private sponsors.
- ³ 49 CFR Part 18 and 2 CFR Part 200 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.
- ⁴ On December 26, 2013 at 78 FR 78590, the Office of Management and Budget (OMB) issued the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200. 2 CFR Part 200 replaces and combines the former Uniform Administrative Requirements for Grants (OMB Circular A-102 and Circular A-110 or 2 CFR Part 215 or Circular) as well as the Cost Principles (Circulars A-21 or 2 CFR part 220; Circular A-87 or 2 CFR part 225; and A-122, 2 CFR part 230). Additionally it replaces Circular A-133 guidance on the Single Annual Audit. In accordance with 2 CFR section 200.110, the standards set forth in Part 200 which affect administration of Federal awards issued by Federal agencies become effective once implemented by Federal agencies or when any future amendment to this Part becomes final. Federal agencies, including the Department of Transportation, must implement the policies and procedures applicable to Federal awards by promulgating a regulation to be effective by December 26, 2014 unless different provisions are required by statute or approved by OMB.
- ⁵ Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.
- ⁶ Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

2. Responsibility and Authority of the Sponsor.

a. Public Agency Sponsor:

It has legal authority to apply for this grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. Private Sponsor:

It has legal authority to apply for this grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Sponsor Fund Availability.

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this grant agreement which it will own or control.

4. Good Title.

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.
- b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.
- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.

- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in this grant agreement and shall insure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. Consistency with Local Plans.

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. Consideration of Local Interest.

It has given fair consideration to the interest of communities in or near where the project may be located.

8. Consultation with Users.

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. Public Hearings.

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. Metropolitan Planning Organization.

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy

of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

11. Pavement Preventive Maintenance.

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. Terminal Development Prerequisites.

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. Accounting System, Audit, and Record Keeping Requirements.

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this grant, the total cost of the project in connection with which this grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. Minimum Wage Rates.

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. Veteran's Preference.

It shall include in all contracts for work on any project funded under this grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title

49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. Conformity to Plans and Specifications.

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this grant agreement.

17. Construction Inspection and Approval.

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. Planning Projects.

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. Operation and Maintenance.

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be

required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-

- 1) Operating the airport's aeronautical facilities whenever required;
 - 2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
 - 3) Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation.

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. Compatible Land Use.

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-
 - 1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
 - 2) charge reasonable, and not unjustly discriminatory, prices for each unit or service,

provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

- a.) Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
- b.) Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
- c.) Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
- d.) It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.
- e.) In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
- f.) The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
- g.) The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. Exclusive Rights.

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft

rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure.

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
 - 1) If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.
 - 2) If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
 - 3) Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at Section 47102 of title 49 United States Code), if the FAA determines the airport sponsor meets the requirements set forth in Sec. 813 of Public Law 112-95.
 - a.) As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a

manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.

b.) Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

26. Reports and Inspections.

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 - 1) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
 - 2) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft.

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that –

- a. by gross weights of such aircraft) is in excess of five million pounds Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied.

28. Land for Federal Facilities.

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at

Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

- a. It will keep up to date at all times an airport layout plan of the airport showing:
 - 1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
 - 2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;
 - 3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon; and
 - 4) all proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.
 - a.) If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

30. Civil Rights.

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any activity conducted with, or benefiting from, funds received from this grant.

- a. Using the definitions of activity, facility and program as found and defined in §§ 21.23 (b) and 21.23 (e) of 49 CFR § 21, the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by, or pursuant to these assurances.
- b. Applicability
 - 1) **Programs and Activities.** If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the

sponsor's programs and activities.

- 2) **Facilities.** Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
- 3) **Real Property.** Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.

c. **Duration.**

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

- 1) So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
- 2) So long as the sponsor retains ownership or possession of the property.

d. **Required Solicitation Language.** It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this grant agreement and in all proposals for agreements, including airport concessions, regardless of funding source:

"The **(Name of Sponsor)**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises and airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

e. **Required Contract Provisions.**

- 1) It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the DOT, and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
- 2) It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
- 3) It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
- 4) It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin, creed, sex, age, or handicap as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:
 - a.) For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and

- b.) For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

31. Disposal of Land.

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order, (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund. If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.
- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order: (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund.
- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was

notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.

- d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. Engineering and Design Services.

It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

33. Foreign Market Restrictions.

It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. Policies, Standards, and Specifications.

It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated December 31, 2015 and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.

35. Relocation and Real Property Acquisition.

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. Access By Intercity Buses.

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. Disadvantaged Business Enterprises.

The sponsor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its DBE and ACDBE programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure

nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1936 (31 U.S.C. 3801).

38. Hangar Construction.

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. Competitive Access.

- a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-
 - 1) Describes the requests;
 - 2) Provides an explanation as to why the requests could not be accommodated; and
 - 3) Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.



FAA Airports

Current FAA Advisory Circulars Required for Use in AIP Funded and PFC Approved Projects

Updated: 12/31/2015

View the most current versions of these ACs and any associated changes at:
<http://www.faa.gov/airports/resources/advisorycirculars>

NUMBER	TITLE
70/7460-1L	Obstruction Marking and Lighting
150/5020-1	Noise Control and Compatibility Planning for Airports
150/5070-6B Changes 1- 2	Airport Master Plans
150/5070-7 Change 1	The Airport System Planning Process
150/5100-13B	Development of State Standards for Nonprimary Airports
150/5200-28E	Notices to Airmen (NOTAMS) for Airport Operators
150/5200-30C Change 1	Airport Winter Safety And Operations
150/5200-31C Changes 1-2	Airport Emergency Plan
150/5210-5D	Painting, Marking, and Lighting of Vehicles Used on an Airport
150/5210-7D	Aircraft Rescue and Fire Fighting Communications
150/5210-13C	Airport Water Rescue Plans and Equipment
150/5210-14B	Aircraft Rescue Fire Fighting Equipment, Tools and Clothing
150/5210-15A	Aircraft Rescue and Firefighting Station Building Design
150/5210-18A	Systems for Interactive Training of Airport Personnel

NUMBER	TITLE
150/5210-19A	Driver's Enhanced Vision System (DEVS) Ground Vehicle Operations on Airports
150/5220-10E	Guide Specification for Aircraft Rescue and Fire Fighting (ARFF) Vehicles
150/5220-16D	Automated Weather Observing Systems (AWOS) for Non-Federal Applications
150/5220-17B	Aircraft Rescue and Fire Fighting (ARFF) Training Facilities
150/5220-18A	Buildings for Storage and Maintenance of Airport Snow and Ice Control Equipment and Materials
150/5220-20A	Airport Snow and Ice Control Equipment
150/5220-21C	Aircraft Boarding Equipment
150/5220-22B	Engineered Materials Arresting Systems (EMAS) for Aircraft Overruns
150/5220-23	Frangible Connections
150/5220-24	Foreign Object Debris Detection Equipment
150/5220-25	Airport Avian Radar Systems
150/5220-26 Change 1	Airport Ground Vehicle Automatic Dependent Surveillance - Broadcast (ADS-B) Out Squitter Equipment
150/5300-7B	FAA Policy on Facility Relocations Occasioned by Airport Improvements of Changes
150/5300-13A Change 1	Airport Design
150/5300-14C	Design of Aircraft Deicing Facilities
150/5300-16A	General Guidance and Specifications for Aeronautical Surveys: Establishment of Geodetic Control and Submission to the National Geodetic Survey
150/5300-17C	Standards for Using Remote Sensing Technologies in Airport Surveys
150/5300-18C	Survey and Data Standards for Submission of Aeronautical Data Using Airports GIS
150/5300-18B Change 1	General Guidance and Specifications for Submission of Aeronautical Surveys to NGS: Field Data Collection and Geographic Information System (GIS) Standards
150/5320-5D	Airport Drainage Design
150/5320-6E	Airport Pavement Design and Evaluation

NUMBER	TITLE
150/5320-12C Changes 1-8	Measurement, Construction, and Maintenance of Skid Resistant Airport Pavement Surfaces
150/5320-15A	Management of Airport Industrial Waste
150/5235-4B	Runway Length Requirements for Airport Design
150/5335-5C	Standardized Method of Reporting Airport Pavement Strength - PCN
150/5340-1L	Standards for Airport Markings
150/5340-5D	Segmented Circle Airport Marker System
150/5340-18F	Standards for Airport Sign Systems
150/5340-26C	Maintenance of Airport Visual Aid Facilities
150/5340-30H	Design and Installation Details for Airport Visual Aids
150/5345-3G	Specification for L-821, Panels for the Control of Airport Lighting
150/5345-5B	Circuit Selector Switch
150/5345-7F	Specification for L-824 Underground Electrical Cable for Airport Lighting Circuits
150/5345-10H	Specification for Constant Current Regulators and Regulator Monitors
150/5345-12F	Specification for Airport and Heliport Beacons
150/5345-13B	Specification for L-841 Auxiliary Relay Cabinet Assembly for Pilot Control of Airport Lighting Circuits
150/5345-26D	FAA Specification For L-823 Plug and Receptacle, Cable Connectors
150/5345-27E	Specification for Wind Cone Assemblies
150/5345-28G	Precision Approach Path Indicator (PAPI) Systems
150/5345-39D	Specification for L-853, Runway and Taxiway Retro reflective Markers
150/5345-42H	Specification for Airport Light Bases, Transformer Housings, Junction Boxes, and Accessories
150/5345-43G	Specification for Obstruction Lighting Equipment
150/5345-44K	Specification for Runway and Taxiway Signs
150/5345-45C	Low-Impact Resistant (LIR) Structures

NUMBER	TITLE
150/5345-46D	Specification for Runway and Taxiway Light Fixtures
150/5345-47C	Specification for Series to Series Isolation Transformers for Airport Lighting Systems
150/5345-49C	Specification L-854, Radio Control Equipment
150/5345-50B	Specification for Portable Runway and Taxiway Lights
150/5345-51B	Specification for Discharge-Type Flashing Light Equipment
150/5345-52A	Generic Visual Glideslope Indicators (GVGI)
150/5345-53D	Airport Lighting Equipment Certification Program
150/5345-54B	Specification for L-884, Power and Control Unit for Land and Hold Short Lighting Systems
150/5345-55A	Specification for L-893, Lighted Visual Aid to Indicate Temporary Runway Closure
150/5345-56B	Specification for L-890 Airport Lighting Control and Monitoring System (ALCMS)
150/5360-12F	Airport Signing and Graphics
150/5360-13 Change 1	Planning and Design Guidelines for Airport Terminal Facilities
150/5360-14	Access to Airports By Individuals With Disabilities
150/5370-2F	Operational Safety on Airports During Construction
150/5370-10G	Standards for Specifying Construction of Airports
150/5370-11B	Use of Nondestructive Testing in the Evaluation of Airport Pavements
150/5370-13A	Off-Peak Construction of Airport Pavements Using Hot-Mix Asphalt
150/5370-15B	Airside Applications for Artificial Turf
150/5370-16	Rapid Construction of Rigid (Portland Cement Concrete) Airfield Pavements
150/5370-17	Airside Use of Heated Pavement Systems
150/5380-6C	Guidelines and Procedures for Maintenance of Airport Pavements
150/5380-9	Guidelines and Procedures for Measuring Airfield Pavement Roughness
150/5390-2C	Heliport Design

NUMBER	TITLE
150/5395-1A	Seaplane Bases

THE FOLLOWING ADDITIONAL APPLY TO AIP PROJECTS ONLY

Updated: 12/31/2015

NUMBER	TITLE
150/5100-14E, Change 1	Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects
150/5100-17 Changes 1 - 6	Land Acquisition and Relocation Assistance for Airport Improvement Program Assisted Projects
150/5300-15A	Use of Value Engineering for Engineering Design of Airports Grant Projects
150/5320-17A	Airfield Pavement Surface Evaluation and Rating (PASER) Manuals
150/5370-12B	Quality Management for Federally Funded Airport Construction Projects
150/5380-6C	Guidelines and Procedures for Maintenance of Airport Pavements
150/5380-7B	Airport Pavement Management Program
150/5380-9	Guidelines and Procedures for Measuring Airfield Pavement Roughness



H.1

CITY OF TRUTH OR CONSEQUENCES
COMMISSION ACTION FORM

ITEM: Discussion/Action: To enter into a Contract for Administrative Services with SCCOG (South Central Council of Governments) for the purpose of the CDBG (Community Development Block Grant) Program.

BACKGROUND:

The City of T or C was awarded and accepted a grant in the amount of \$500,000.00 from CDBG for Wastewater System Improvements for replacement and rehabilitation of City Manholes. Within this grant amount \$10,000.00 is allocated for Administrative Services.

SUPPORT INFORMATION:

Exhibit 3-B Contract for Administrative Services

STAFF RECOMMENDATION:

To accept and enter into an Administrative Contract with SCCOG for services pertaining to the CDBG Grant.

Name of Drafter: Traci Burnette	Department: Grant Project Coordinator	Meeting date: 9-27-16
E-mail: tburnette@torcnm.org	Phone: 575-894-6673 Ext. 353	

Exhibit 3-B

CONTRACT FOR ADMINISTRATIVE SERVICES

Project Wastewater System Improvements

Contract N° _____

Project N° 15-C-NR-1-01-G-06



Distribution to:

- ☐ Owner
- ☐ Consultant
- ☐ LGD
- ☐ Other

Community Development Block Grant Program

This Agreement entered into this 27 day of September, 2016, by and between

the "Grantee"

and the "Consultant"

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

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SCCOG
P.O. Box 267
Elephant Butte, NM 87935

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[This document was prepared to be used with Community Development Block Grant and state funded projects. This document has important legal consequences; consultation with an Attorney is encouraged with respect to its completion or modification]

PART I -- AGREEMENT

This Agreement for professional services is by and between City of T or C,
name of grantee
(hereinafter called the "Grantee" or "Owner") and SCCOG a corporation
name of consultant
organized under the laws of the State of New Mexico, (hereinafter called the "Consultant").

WITNESSETH THAT:

WHEREAS, Grantee has entered into an agreement with the State of New Mexico for the implementation of the Community Development Block Grant (CDBG) Program pursuant to Title 1 of the Housing and Community Development Act of 1974; and,
WHEREAS, Grantee desires to engage Consultant to render certain administrative services in connection with its CDBG Program;

NOW, THEREFORE, the parties do mutually agree as follows:

1. Employment of Consultant

Grantee agrees to engage Consultant, and Consultant agrees to satisfactorily perform the following scope of services:

2. Scope of Services

- A. With the assistance of the grantee, help conduct public hearings. This includes, but is not limited to, tasks such as assisting with public hearings, preparing public notices, and documenting citizen input.
- B. Prepare Environmental Review Record for all activities. Responsibilities include making a recommendation to the local governing body as to a finding of the level of impact, preparation of all required public notices, preparation of the Request for Release of Funds, and obtaining adequate backup documentation. For activities which are not exempt from environmental assessments, an environmental assessment will be prepared. For activities which are exempt or categorically excluded from environmental assessments, a written Finding of Exemption will be prepared, which should identify the project or activity, and under which category of exemption it falls. Documentation of compliance with the requirements of historic preservation, flood plains and wetlands, and other applicable authorities must be included.
- C. Coordinate requests for payment with the grantee to insure consistency with the letter of credit procedures established for the CDBG program.

- D. Insure that the grantee has an acceptable financial management system for the CDBG program. An acceptable system includes, but is not limited to, cash receipts and disbursement journal and accompanying ledgers, and should conform to generally accepted principles of municipal accounting.
- E. Establish grantee project files. These must be maintained in compliance with all applicable state, local and federal regulations. Monitor project files throughout the program to insure they are complete and that all necessary documentation is being retained in the grantee's files.
- F. If applicable, assist grantee in complying with regulations governing land acquisition (real property, easements, rights of way, donation of property, etc.).
- G. Obtain contractor and subcontractor clearances from the state.
- H. Check weekly payrolls to insure compliance with wage decisions. Conduct on-site interviews and compare the results with appropriate payrolls.
- I. Monitor construction to insure compliance with Equal Opportunity and Labor Standards Provisions.
- J. Make progress inspections and certify partial payment requests.
- K. Accompany design professional on final inspection and issue a final certificate of payment.
- L. Prepare close-out documents to include Project Completion Report, Final Wage Compliance Report, and Certificates of Completion.

Services in each of the task areas above shall be performed at the direction of the Director, Department of Community Development, or his designated representative.

3. Time of Performance

The Consultant shall commence work on 9/27/16, and shall continue providing services in the sequence appropriate to Grantee's CDBG project. All services shall be completed no later than twenty four months from the date of this Agreement.

4. Access to Information

It is agreed that all available information, data, reports, records and maps shall be furnished to Consultant by Grantee and its agencies. No charge will be made to Consultant for such information, and Grantee and its agencies will cooperate with Consultant to facilitate the performance of the work described in this Agreement.

5. Compensation and Method of Payment

The maximum amount of compensation and reimbursement to be paid hereunder shall not exceed Ten Thousand Dollars (\$ 10,000.00) for all services, including travel, per diem and other expenses. All work will be performed on a time and materials basis. Consultant time

for principal and staff will be provided at their respective rates of pay times for direct personal expense. Ten percent (10%) of the total contract amount shall be retained by Grantee until formal closeout of the project by the state.

Travel at the lowest practicable class of common carrier and per diem costs at the amount set in Grantee's mileage and per diem regulations for food, lodging and incidental expenses are INCLUDED in the maximum contract amount.

For payments due, Consultant shall submit monthly invoices to Grantee for costs incurred in that period. Invoices shall itemize the tasks completed, person-days provided, and shall list the travel and per diem costs incurred in performing the tasks. The invoice shall be payable to the Consultant within 20 days of receipt by Grantee.

The Consultant agrees to keep accurate records of all time and expenses allocated to the work. Such records shall be kept in the office of the Consultant and shall be made available to Grantee for inspection and copying upon reasonable request.

6. Ownership of Documents

All documents and data produced are the property of the Grantee. Consultant may retain reproducible copies.

7. Indemnification

Consultant shall comply with the requirements of all applicable laws, rules, and regulations, and shall assume full responsibility for payment of federal, state, and local taxes or contributions imposed or required under Social Security, Workman's Compensation, and income tax laws. Consultant shall hold Grantee harmless with respect to any damages, expenses, or claims arising from or in connection with any negligent acts, errors or omissions performed by Consultant under this Agreement. This shall not be construed as a limitation of Consultant's liability under this Agreement, or as otherwise provided by law.

8. Expert Testimony

Grantee agrees to pay for additional staff time, at the contract hourly billing rates, plus expenses at cost, that might be required for expert testimony or court appearances, including preparation time and legal costs that might arise because of Consultant's involvement in this assignment, whether subpoenaed by the Grantee or any other party.

9. Terms and Conditions

This Agreement is subject to the provisions titled "Part II, Federal Terms and Conditions for Professional Services" consisting of six (6) pages, attached hereto and incorporated herein by reference.

10. Address for Notices and Communications

Grantee: City of Truth or
Consequences
505 Sims Street
T or C, NM 87901

Consultant: SCCOG
P.O. Box 267
Elephant Butte, NM 87935

11. Captions

Each paragraph of this Agreement has been supplied with a caption only to serve as a guide to the contents. The caption does not control the meaning of a paragraph or in any way determine its interpretation or application.

ATTEST:

Grantee: City of T or C

By: _____

Title: City Manager

Date: _____

Consultant: SCCOG

By: _____

Title: _____

Date: _____

PART II
FEDERAL TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

State administered Community Development Block Grant monies are federal funds. Section 13-1-30B NMSA 1978 of the Procurement Code stipulates: "When a procurement involves the expenditure of federal funds, the procurement shall be conducted in accordance with mandatory applicable federal law and regulations. When mandatory applicable federal law or regulations are inconsistent with the provisions of the Procurement Code, compliance with federal law or regulations shall be compliance with the Procurement Code." The applicable governing federal procurement standards are defined in OMB Circular A-102, Attachment O. When federal and state procurement policies are different, the more restrictive policies apply so long as they are consistent with Circular A-102 standards.

1. **Termination of Contract for Cause** - If, through any cause, the Consultant shall fail to fulfill in timely and proper manner his obligations under this Contract, or if the Consultant shall violate any of the covenants, agreements, or stipulations of this Contract, the Owner shall there-upon have the right to terminate this Contract by giving written notice to the Consultant of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys and reports prepared by the Consultant under this Contract shall, at the option of the Owner, become its property and the Consultant shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Notwithstanding the above, the Consultant shall not be relieved of liability to the Owner damages sustained by the Owner by virtue of any breach of the Contract by the Consultant, and the Owner may withhold any payments to the Consultant for the purpose of set-off until such time as the exact amount of damages due the Owner from the Consultant is determined.

2. **Termination for Convenience of the Owner** - The Owner may terminate this contract at any time by giving at least ten (10) days notice in writing to the Consultant. If the Contract is terminated by the Owner as provided herein, the Consultant will be paid for the time provided and expenses incurred up to the termination date. If this Contract is terminated due to the fault of the Consultant, paragraph 1 hereof relative to termination shall apply.
3. **Changes** - The Owner may, from time to time, request changes in the scope of the services of the Consultant to be performed hereunder. Such changes, including any increase or decrease in the amount of the Consultant compensation, which are mutually agreed upon by and between the Owner and the Consultant, shall be incorporated in written amendments to this contract.
4. **Personnel** -
 - a. The Consultant represents that he has, or will secure at his own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the Owner.
 - b. All of the services required hereunder will be performed by the Consultant or

under his supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local law to perform such services.

- c. None of the work or services covered by this contract shall be subcontracted without the prior written approval of the Owner. Any work or services subcontracted hereunder be specified by written contract or agreement and shall be subject to each provision of this Contract.
5. **Assignability** - The Consultant shall not assign any interest on this Contract, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the Owner thereto: Provided, however, that claims for money by the Consultant from the Owner under the Contract may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the Owner.
6. **Reports and Information** - The Consultant, at such times and in such forms as the Owner may require, shall furnish the Owner such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.
7. **Records and Audits** - The Consultant shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the Owner and to assure proper accounting for all project funds, both federal and non-federal shares. These records will be made available for audit purposes to the Owner or any authorized representative, and will be retained for six (6) years after the expiration of this Contract unless permission to destroy them is granted by the Owner and the funding agency.
8. **Findings Confidential** - All of the reports, information, data, etc., prepared or assembled by the Consultant under this Contract are confidential and the Consultant agrees that they shall **not** be made available to any individual or organization without the prior written approval of the Owner.
9. **Copyright** - No report, maps, or other documents produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the Consultant.
10. **Compliance with Local Laws** - The Consultant shall comply with all applicable laws, ordinances and codes of the State and the Owner, and the Consultant shall save the Owner harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Contract.
11. **Equal Employment Opportunity** - During the performance of this Contract, the Consultant agrees as follows:
 - a. The Consultant will not discriminate against any employee or applicant for employment because of race, creed, sex, color or national origin. The Consultant

will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, sex, color or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Owners setting forth the provisions of this non-discrimination clause.

- b. The Consultant will, in all solicitation or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, or national origin.
- c. The Consultant will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
- d. The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
- e. The Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the Owner's representative, the funding agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- f. In the event of the Consultant's non-compliance with the equal opportunity clauses of this Agreement or with any of such rules, regulations or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided bylaw.
- g. The Consultant will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Consultant will take such action with respect to any subcontract or purchase order as the Owners's representative may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that in the event the Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such

direction by the Owner, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

12. **Civil Rights Act of 1964** - Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

13. **Section 109 of the Housing and Community Development Act of 1974**

No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

14. **"Section 3" Compliance in the Provision of Training, Employment and Business Opportunities**

- a. The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
- b. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
- c. The Consultant will send to each labor organization or representative or workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- d. The Consultant will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The Consultant will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to

comply with the requirements of these regulations.

- e. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.
- 15. **Interest of Members of the Owner** - No member of the governing body of the Owner and no other officer, employee, or agent of the Owner who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this contract; and the Consultant shall take appropriate steps to assure compliance.
- 16. **Interest of other Local Public Officials** - No member of the governing body of the Owner and no other public official of the Owner, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract; and the Consultant shall take appropriate steps to assure compliance.
- 17. **Interest of Consultant and Employees** - The Consultant covenants that he presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Consultant further covenants that in the performance of this Contract, no person having any such interest shall be employed.
- 18. **Access to Records** - The State funding (grantor) agency, the Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Engineer which are directly pertinent to this specific contract, for the purpose of audits, examinations, and making excerpts and transcriptions.

All records connected with this contract will be maintained in a central location by the Owner and will be maintained for a period of six (6) years from the official date of close-out of the grant.



H.2

CITY OF TRUTH OR CONSEQUENCES

COMMISSION ACTION FORM

ITEM:

DISCUSSION/ACTION: EXTENSION OF LEASE FOR FOLLOW THE SUN (FTS) TOURS.

BACKGROUND:

The City granted a three (3) month extension of the lease agreement for the Visitor Center to Follow the Sun Tours. The extension expires on September 30, 2016. New Mexico Spaceport Authority, Follow the Sun Tours and the City desires to keep the Spaceport Visitor Center open.

The City will coordinate with Spaceport America, Follow the Sun Tours and local entities to operate and maintain open the visitor center on a month to month basis.

STAFF RECOMMENDATION:

- Authorization to city staff to coordinate with NM Spaceport Authority, Follow the Sun Tours and local entities to operate and maintain open the Spaceport Visitor Center.

Name of Drafter: Juan A. Fuentes	Department: City Manager	Mtg: 09/27/16
E-mail: jafuentes@torcnm.org	Phone: 575-894-6673 Ext. 320	