

*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.*  
*Truth or Consequences, New Mexico 87901*  
*P: 575-894-6673 ♦ F: 575-894-0363*  
*[www.torcnm.org](http://www.torcnm.org)*

## 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. 3<sup>RD</sup> ST., ON TUESDAY, APRIL 25, 2017; 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. Proclamation for Municipal Clerk's Week, May 7<sup>th</sup> – 13<sup>th</sup>, 2017.
2. Presentation of Certificates of Appreciation for the Water System of the Year Award from the New Mexico Rural Water Association.
3. Presentation of a document regarding history of the Municipal Golf Course circa 1948 or 1949. LaRena Miller

### F. CONSENT CALENDAR

1. City Commission Regular Minutes, March 28, 2017
2. Airport Advisory Board Minutes, October 4, 2016

*CONSENT CALENDAR (continued)*

3. Public Arts Advisory Board Minutes, January 17, 2017
4. Subrecipient Quarterly Reports
5. Lodger's Tax Quarterly Reports
6. Contract Award RFP: 16-17-006 Architectural Services for Regional Safety Complex

G. PUBLIC HEARINGS

1. Public Hearing: Final Adoption of Ordinance No. 679 16/17 related to the Public Utility Advisory Board. Juan Fuentes, City Manager

H. ORDINANCES/RESOLUTIONS/ZONING

1. Discussion/Action: Final Adoption of Ordinance No. 679 16/17 related to the Public Utility Advisory Board. Juan Fuentes, City Manager
2. Discussion/Action: Ordinance No. 680 16/17 for publication amending Chapter 2, Article IV, Division 6 and 7 related to Boards, Commissions, and Committees. Juan Fuentes, City Manager
3. Discussion/Action: Ordinance No. 681 for publication amending Section 2-22 of the Code of Ordinances related to Commission Meetings. Renee Cantin, Clerk-Treasurer
4. Discussion/Action: Resolution No. 33 16/17 authorizing and approving submission of a completed application for financial assistance and project approval to the New Mexico Finance Authority (NMFA) for Preliminary Engineering Services for an underground distribution system replacement. Tammy Gardner, Electric Dept. Admin. Assistant
5. Discussion/Action: Resolution No. 34 16/17 Open Meetings Act Resolution revision to change the day of the Commission Meeting. Renee Cantin, Clerk-Treasurer

I. NEW BUSINESS

1. Discussion/Action: DFA Quarterly Report. Melissa Torres, Finance Director
2. Discussion/Action: Amending the City Commission Rules of Procedure to change the day of the Commission Meeting. Renee Cantin, Clerk-Treasurer

J. REPORTS

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

K. ADJOURNMENT

**NEXT CITY COMMISSION MEETING MAY 9, 2017**



E.1

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

**ITEM:**

Presentation of a Proclamation for Municipal Clerk's Week from May 7<sup>th</sup> – 14<sup>th</sup>, 2017.

**BACKGROUND:**

Attached is some information from the International Institute of Municipal Clerk's. Municipal Clerk's Week is scheduled for the first week of May. We are requesting the week of May 7<sup>th</sup> through 13<sup>th</sup> to be proclaimed Municipal Clerk's week.

**STAFF RECOMMENDATION:**

None. Presentation Only.

Submitted by: Renee Cantin, City Clerk-Treasurer

Meeting date: 04/25/2017



## ***International Institute of Municipal Clerks***

***Professionalism in Local Government***

CONTACT: Chris Shalby  
Executive Director

FOR IMMEDIATE RELEASE  
909/944-4162 (chriss@iimc.com)

### **IIMC ANNOUNCES 48<sup>th</sup> ANNUAL MUNICIPAL CLERKS WEEK May 7 – 13, 2017**

RANCHO CUCAMONGA – January 2017 -- The International Institute of Municipal Clerks (IIMC), a professional non-profit association with 14,500 members comprised of City, Town, Township, Village, Borough, Deputy and County Clerks throughout the United States, Canada and 15 other countries, announces its 48<sup>th</sup> Annual Municipal Clerks Week—May 7 through May 13, 2017. This event features a weeklong series of activities aimed at increasing the public's awareness of Municipal Clerks and the vital services they provide for local government and the community.

IIMC has sponsored Municipal Clerks Week since 1969. In 1984 and in 1994, Presidents Ronald Reagan and Bill Clinton, respectively, signed a Proclamation officially declaring Municipal Clerks Week the first full week of May and recognizing the essential role Municipal Clerks play in local government. During this week, Municipal Clerks throughout the world will host open houses and tours of the Municipal Clerk's office, visit local schools and participate in other various events.

"The true worth of the Municipal and Deputy Clerk is often not realized," said IIMC President Vincent Buttiglieri, MMC, and Municipal Clerk for the Township of Ocean, New Jersey. "But Clerks perform some of the principal functions of the democratic process."

"One of the most important responsibilities Clerks administer is advising their municipality's council of the legislative restrictions that apply to the ordinances and resolutions they wish to enact," said Buttiglieri.

MORE

Municipal Clerks Week  
2-2-2-2-2

Municipal and Deputy Clerks' main function is to serve as the council's foundation. Other duties include, but are not limited to, preparing agendas, taking minutes, maintaining ordinance and resolutions files, keeping the municipality's historical records, processing permits and serving as the clearinghouse for information about the local government.

They also record the actions of the various commissions and committees appointed by the council. Many serve as financial officers or treasurers and, in small municipalities, may act as chief administrative officers. Another important responsibility is administering part or all of the local election functions.

"The public often takes the administration of an election for granted," stated Buttiglieri. "In reality, it takes Municipal Clerks months to organize and prepare this key element in the democratic process which must be done correctly for the whole system to work."

One of local government's oldest positions is the Municipal Clerk. Their duties have expanded over the years and, today, modern technology assists them with their increasing responsibilities. To stay abreast of new computer applications, records management and other relevant information, many Municipal and Deputy Clerks return to the classroom to increase their knowledge of these issues, learn new material and sharpen old skills.

"Because some elements of government are constantly changing, Clerks must stay current of changes so they can advise their council and inform their community," said Buttiglieri. "As the focus of each level of government changes, Clerks must also adapt."

Founded in 1947, IIMC is a professional nonprofit association with more than 14,500 members throughout North America and 15 other countries, representing municipalities with populations of 1,000 to more than 8 million. IIMC prepares its membership to meet the challenge of the diverse role of the Municipal Clerk by providing services and continuing educational development opportunities in 46 permanent college-and university-based learning centers. IIMC offers Municipal and Deputy Clerks a Certified Municipal Clerk Program (CMC), a Master Municipal Clerk (MMC) Program and other opportunities to benefit members and the government entities they serve. A 26-member Board of Directors governs IIMC.

*To uphold constitutional government and the laws of my  
community;*

*To so conduct my public and private life as to be an  
example to my fellow citizen;*

*To impart to my profession those standards of quality and  
integrity that the conduct of the affairs of my office shall  
be above reproach and to merit public confidence in our  
community;*

*To be ever mindful of my neutrality and impartiality,  
rendering equal service to all and to extend the same  
treatment I wish to receive myself;*

*To record that which is true and preserve that which is  
entrusted to me as if it were my own; and*

*To strive constantly to improve the administration of  
the affairs of my office consistent with applicable laws  
and through sound management practices to produce  
continued progress and so fulfill my responsibilities to my  
community and others.*

*48th Annual  
Municipal Clerks Week  
May 7 - May 13, 2017*



# *Proclamation*

## *The City of Truth or Consequences*

*Whereas, The Office of the Municipal Clerk, a time honored and vital part of local government exists throughout the world, and*

*Whereas, The Office of the Municipal Clerk is the oldest among public servants, and*

*Whereas, The Office of the Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels, and*

*Whereas, Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all.*

*Whereas, The Municipal Clerk serves as the information center on functions of local government and community.*

*Whereas, Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state, province, county and international professional organizations.*

*Whereas, It is most appropriate that we recognize the accomplishments of the Office of the Municipal Clerk.*

*Now, therefore, I, Steven Green, Mayor, on behalf of the City Commission of the City of Truth or Consequences, Sierra County, New Mexico do hereby proclaim May 7 through May 13, 2017 as:*

## *Municipal Clerk's Week*

*in Truth or Consequences, and further extend appreciation to our City Clerk-Treasurer, Renee Cantin; Deputy Clerk Angela Torres, and Clerk Assistant Priscilla Fuentes and to all Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.*

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*Steven Green, Mayor*

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*Renee Cantin, CMC, Clerk-Treasurer*



E2

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

**ITEM:**

Presentation of Certificates of Appreciation for the Water System of the Year Award from the New Mexico Rural Water Association.

**BACKGROUND:**

The New Mexico Rural Water Association (NMRWA) is a non-profit organization with over 480 water and wastewater system members, representing over 1,297,000 New Mexicans. NMRWA strives to provide the highest quality training and technical assistance, and to represent the legislative and regulatory interests of their members.

At their Annual Conference held on April 3<sup>rd</sup> – 5<sup>th</sup> Water & WW Director Jesus Salayandia was presented with an Award for the Truth or Consequences Water System of the Year – for Large Systems.

Mayor Green will be presenting certificates to staff.

**STAFF RECOMMENDATION:**

None. Presentation Only.



# NMRWA 39<sup>th</sup> Annual Conference

Hotel Albuquerque at Old Town | April 3 – April 5, 2017

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## **ANNUAL AWARDS : Information**

The New Mexico Rural Water Association recognizes the outstanding service and commitment of the men and women involved in operating, managing, directing, and supporting New Mexico's water and wastewater utilities through our Annual Awards Ceremony. Award recipients are acknowledged through press releases to newspapers and television stations statewide.

### ***System Awards***

#### **System of the Year: Small, Medium & Large systems**

Presented to an outstanding water system in each of three size categories (see below)

#### **Wastewater System of the Year**

Presented to an outstanding wastewater system

#### **Tribal System of the Year**

Presented to an outstanding Tribal water system

### ***Individual Awards***

#### **Water Operator of the Year: Small, Medium & Large systems**

Presented to an outstanding certified water operator in three size categories

#### **Office Manager of the Year**

Presented to an outstanding office manager of a water or wastewater system

#### **Director (Board Member) of the Year**

Presented to an outstanding member of a Board of Directors of a water system

#### **Wastewater Operator of the Year**

Presented to an outstanding certified wastewater operator

#### **Tribal Operator of the Year**

Presented to an outstanding certified Tribal water system operator

#### **Instructor of the Year**

Presented to an outstanding volunteer instructor for NMRWA

#### **John Paden Award for Outstanding Service to Rural Water**

This award is presented to an outstanding individual who has gone beyond the normal requirements of their job to help better all utility systems in the State. This special award recognizes persons who have achieved the highest standard of excellence in the industry. Therefore, the Awards Committee may not give this honor every year.

## ***Other Awards***

### **Associate Member of the Year**

Presented to an outstanding associate member of NMRWA who has provided service beyond the normal scope of business to further the goals of Rural Water

### **Excellence in Environmental Achievement Award**

This award is presented to an outstanding individual, water or wastewater utility that has gone beyond the normal requirements of their job to become better stewards of the environment. Recipients of this award are entered into a national competition held by the National Rural Water Association.

### **Legislator of the Year**

Presented to an outstanding State Senator or Representative who has assisted Rural Water in the New Mexico Legislature

### **Drinking Water Taste Test**

Presented to the best tasting water from a small system in New Mexico. The Grand Prize Winner will receive \$1,500 towards airfare and hotel accommodations to meet New Mexico's legislators and enter their water in The Great American Water Taste Test, sponsored each year by the National Rural Water Association during the Rural Water Rally in Washington, D.C. Special contest rules apply. Sponsored by Bohannon Huston, Inc.

## ***System Size Categories***

Small Systems	1 – 99 connections
Medium Systems	100 – 499 connections
Large Systems	500 connections and above, up to 50,000 population

## ***Criteria & Nominations***

Anyone may nominate an individual or system for an award. Nomination should include names, titles and contact information for both the nominee and the submitter. Nominations should include a narrative description of why you feel the nominee deserves this award. Award recipients must be current members of the New Mexico Rural Water Association, unless specially exempted by the Awards Committee. **Nominations must be received by March 24, 2017.** All nominees will be notified by letter of their nomination and category immediately following the deadline. All award recipients must be nominated following this process unless specially exempted by the Awards Committee. Award categories that do not receive any nominations will not be given for that year.

## ***Annual Awards Luncheon***

Awards will be given during the NMRWA Awards Luncheon at noon on Wednesday, April 5, 2017 in the Alvarado Ballroom at the Hotel Albuquerque at Old Town. Prior notification may not be given to Award recipients.



E.3

CITY OF TRUTH OR CONSEQUENCES  
COMMISSION ACTION FORM

**ITEM:**

Presentation of a document regarding history of the Municipal Golf Course circa 1948 or 1949.

**BACKGROUND:**

LaRena Miller would like to present some information she obtained related to the history of the Golf Course.

**STAFF RECOMMENDATION:**

None. Presentation Only.

Submitted by: Renee Cantin, City Clerk-Treasurer

Meeting date: 04/25/2017



**CITY OF TRUTH OR CONSEQUENCES**  
**CITY CLERK'S OFFICE**  
505 SIMS STREET  
TRUTH OR CONSEQUENCES, NEW MEXICO 87901  
PHONE: (575) 894-6673 EXT#1301 FAX: (575) 894-7767

**RECEIVED**  
MAR 30 2017

## **APPLICATION FOR LISTING ON CITY COMMISSION AGENDA**

DATE: 3-30-17

DATE OF MEETING YOU ARE REQUESTING TO BE LISTED UNDER: April 25, 2017

NAME OF APPLICANT/ORGANIZATION: LaRena Miller

ADDRESS: 512 N Foch Torc NM 87901

PHONE: 894-2255 E-MAIL: larenam@windstream.net

REQUEST: (ATTACH WRITTEN REQUEST AND/OR DOCUMENTS IF AVAILABLE)

Presentation of document regarding history of the  
Municipal Golf Course circa 1948 or 1949

WHAT RESOURCES DO YOU REQUIRE: None

ESTIMATED TIME FOR PRESENTATION: 10 minutes SIGNATURE: LaRena Miller

### **CITY MANAGER ACTION**

APPROVED FOR COMMISSION AGENDA OF: \_\_\_\_\_

DENY - REASON FOR DENIAL: \_\_\_\_\_

### **IF YOUR REQUEST WAS DENIED AND YOU WISH TO APPEAL, YOU MAY:**

- appear personally before the City Commission on the day of the meeting and during the "Comments from the Public" ask that the Commission place your item on the next available agenda (usually in 2 weeks); or,
- appeal directly to any one of the City Commissioner by contacting them (see reverse side for contact information). Any Commissioner may place your item on the agenda by notifying the City Clerk at least **7 days** prior to the Commission meeting.



F.1

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

**ITEM:**

Approve the minutes of the City Commission Regular Meeting for March 28, 2017.

**BACKGROUND:**

None.

**STAFF RECOMMENDATION:**

Approve the minutes.

Submitted by: Renee Cantin, City Clerk-Treasurer

Meeting date: 4/25/2017

CITY COMMISSION MEETING MINUTES  
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO  
CITY COMMISSION CHAMBERS, 405 W. 3<sup>RD</sup> St.  
TUESDAY, FEBRUARY 28, 2017

**A. CALL TO ORDER**

The meeting was called to order by Mayor Steve Green at 9:03 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 (absent will be late)  
Hon. Kathy Clark, Commissioner  
Hon. Rolf Hechler, Commissioner  
Hon. Joshua Frankel, Commissioner

Mayor Green announced Mayor Pro-Tem Whitehead will be running an hour late and will be attending the meeting.

Also Present: Juan Fuentes, City Manager  
Jay Rubin, City Attorney  
John Appel, City Attorney  
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 called for Commissioner Clark to lead the Pledge of Allegiance.

**4. APPROVAL OF AGENDA**

Mayor Green asked for a show of hands as to how many people are in attendance for the Subrecipient Grants. Seeing the amount of people who raised their hands, he suggested whoever makes the motion for approval to move H.5 for the Subrecipient Grant allocations to follow G.1 for the discussion of the Skyway Towers.

**Commissioner Clark moved to approve the agenda moving Item H.5 Subrecipient Grant to follow G.1 on the agenda. Commissioner Hechler seconded the motion. Commissioner Frankel stated he has a conflict of interest for item H.1 and will be recusing himself for that item. Motion carried unanimously.**

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

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.

Randall Ashbaugh, 1023 Poplar St. and representing Ashbaugh Construction Co. addressed the Commission related to:

1) Gave a letter on the impact fees and the items the city is in noncompliance with. Such as Section 5-8-16 of the New Mexico Development Fee Act about the accounting and putting the money in an interest bearing account which has not occurred since 2007 when it took conception. He paid in the first three impact fees which were April, June and August. One was \$5,000, one was \$3,450, another was \$3,450 for a house. It clearly states in Section 5-8-17 after seven years that money is supposed to be refunded. Nothing has been refunded to him or anyone else who has paid into the impact fees. The City doesn't even have a council or a capital plan which is required by the New Mexico Development Fee Act. Then in Section 5-8-18, Compliance with the procedures required. The city must be in compliance with collecting impact fees and you're in total noncompliance and still collecting the fees. That's misrepresentation or even worse. The City is noncompliant in every statute in the Development Fee Act. He's asked the city council to do what is right and refund that money back for the last seven years, and get this thing cleaned up. Or pay all of the money back and just disband it. He knows they have a Resolution to make a board finally, after ten years later which is supposed to be done right away and renewed every five years. You need to make a Capital Plan and that all needs to be done before you can collect any more.

2) He knows the State Auditors have come down and audited the fund. He requested a copy of the audit and has not received one yet. He would appreciate getting a copy of that. To just be fair to the Citizen's, you work for us. This is not taxes, it's like an escrow fee. He has an interest in a Title Company, like he can go in there to get the escrow money, he will go to jail. So he would like the city to come into compliance and refund that money. He is referring this to his son Josh Ashbaugh, who is an Attorney. He's already got one letter from Mr. Apple denying all of these allegations and he doesn't know who gave him the information, but whoever did, did not tell the truth.

Perry Wolf, 1107 N. Bosque Dr. addressed the Commission related to:

1) Suggestion for all single and small households to save a little money for a change. Each garbage day, he wonders why he needs this large polycart and pay \$24.66 which has very little trash in it. He recycles and being a single house holder he would suggest a smaller container which could be picked up every two weeks at a savings of half of what

## CITY COMMISSION MARCH 28, 2017 REGULAR MEETING MINUTES

he is paying now. He's sure every small household, every single, on a fixed income would love to have a little extra money to contribute to their monthly expenses. Does that sounds like a plan? It sure does to him, and people who have a residence here and a full time residence in another state, just keep paying and paying. His church has two and they don't even hardly need one.

Magorie Powry, 205 Heights St. addressed the Commission related to:

- 1) Companion Action Animal Team. Left a document that shows they are current.
- 2) She was the President of SJOA and of all the entities in this town that work with Senior's, it is one of the most important and she's appalled the federal government is considering taking money from the meals on wheels. She volunteers and delivers to a woman who is legally blind and diabetic. She goes every two weeks to fill her syringes, take her dogs to have their nails clipped, but that Meal on Wheels is crucial to maintaining her ability to live by herself. She has family, but she essentially lives by herself in handicapped housing. She doesn't understand the Federal Government's stand that Meals on Wheels shows no advantages to Seniors. That's nuts! It really is sad. Even though she is here for her own grant, she will say SJOA has done a wonderful job on feeding seniors and home health care. It's the program of her heart and she thanked them for letting her speak.

George Szigeti, 913 Spruce St. addressed the Commission related to:

- 1) He would like to talk about Public Comment. It's been in the news a little bit lately. As the Mayor said when he opened the meeting, this is a business meeting. The public has the right to attend, but the public does not have the right to interfere with this meeting. By the Open Meetings Act, Public Comment is not a required portion of the meeting. It is a privilege granted to the public, by the Commission. The only the time the public is required to be allowed to speak is in the matter of the public hearings as described by law. Because it's not a required part of the meeting, the city is also not required to record any public meeting within the minutes or to retain any materials that are handed in during the meeting. This again is done by the will of the Commission. Speaking here in front of you is a privilege and he appreciates the Commission's insistence in retaining public comment. But since it is a privilege, it is up to us to behave in a civil manner, bring constructive criticism before the Commission, and bring up issues that the Commission, staff, and the rest of the public need to know about. Unruly behavior, rude and vulgar comments, and insults, have no place at this podium. And the Commission is within its right to ban anyone who does not behave in a civil manner from this podium. As long as the same criteria are applied to everyone's speaking, there can be no infringement on free speech. As he said before this is a privilege and not a right.

Sophia Peron, addressed the Commission related to:

- 1) She would like to address Mr. Szigeti's comments and general public comment. She said every time she has spoken here. Whether she has been polite, helpful, or nasty, Mr. Szigeti has stood up after she speaks and so has other people. They have called her a CAVE Person, they have insulted her and said she has never done anything for this city in the 14 years she has lived here and they have said a million horrible things about "me, myself, and I". And all she's done is move her, invest everything she has in this town,

## CITY COMMISSION MARCH 28, 2017 REGULAR MEETING MINUTES

and she will stay here until she dies. They will throw her ashes at Vista Memory Gardens unless they toss her out if they don't want her in there. And she says that Mr. Szigeti is full of it and the things he's says have been absolutely federal hate crimes against other people in this room. She thanked them so much for giving her the privilege to express her first amendment views.

Seeing none. Mayor Green said they will move on to Item D. Response

Mr. Ron Fenn stepped to the podium stating he has a comment that is to be read into the minutes of this meeting.

**The mayor called a recess for five minutes at 9:18 a.m. and reconvened at 9:26 a.m.**

### **D. RESPONSE TO PUBLIC COMMENTS**

None.

### **E. CONSENT CALENDAR**

1. City Commission Regular Minutes, February 28, 2017
2. Public Utility Advisory Board Minutes, February 21, 2017

**Commissioner Frankel moved to approve the City Commission Regular Minutes for February 28, 2017 and Public Utility Advisory Board minutes for February 21, 2017. Commissioner Clark seconded the motion. Motion carried unanimously.**

### **F. PUBLIC HEARINGS**

1. Public Hearing: Special Use Permit for Skyway Towers. Robbie Travis, Building Inspector

Mayor Green gave an overview of the Battershell Procedures which will be used during the hearing.

City Clerk Cantin administered the Oath to each of those who signed as proponents and opponents.

Building Inspector Travis presented the Special Use Permit for Skyway Towers. There may be alternative sights that may be less intrusive. We have had seven concerned citizens come in and most were against the tower coming in. FDH Velocitel is here for any questions and comments you may have also.

Mayor Green asked if this is the same tower that was brought previously. Building Inspector Travis responded Skyway was the original group who wanted to do one at Water Tank Hill, but they wanted to do it at a different site. FDH Velocitel is the Engineering firm that actually helps Skyway Towers find the site location.

Commissioner Frankel said you mentioned there were alternative sites that would be preferable. He asked where those sites are. Building Inspector Travis responded one of

those sites is by the Water Tank because we already have towers there. This one has residents right below and across the street so it's a little more intrusive.

Commissioner Hechler asked if this tower is larger. Building Inspector Travis responded it would definitely be larger. It would be about 40'-60' away from where the towers are now. But it will be on this side of the property versus the other side of the property where it is now. It's more residential and a little more visual from the public. Mayor Green asked if that is the East Side of the property. Building Inspector Travis confirmed that is correct.

**Proponents:**

Mark Basham, former city attorney for Santa Fe and has represented other municipalities. He also does telecommunication work and has done that for about 17 years. He knows Mr. Appel's office does that as well and they both know the telecommunication laws and they have done that since 1996. Having represented municipalities in the past, he knows over the years the laws have evolved and he explained he will have a need to cross examine staff and others. He doesn't want them to think he is being rude, he is just doing his job. And you have to create the record so it's very clear and you can discuss that with your City Attorney. So he asked that they please don't think he's up here being a jerk.

City Attorney Rubin added for a point of clarification, the Mayor only mentioned one proponent, he asked if Mr. Basham signed in as a proponent. Mayor Green said there was one signature for a proponent which was Sophia Peron. Mr. Basham announced he signed the list, but it was the regular sign in sheet.

Mr. Basham clarified he is a proponent for the applicant. City Attorney Appel suggested we allow him as a proponent because he represents the applicant.

Mr. Basham began by asking Building Inspector Travis if he provided the applicant with a copy of the staff report. Building Inspector Travis responded yes he emailed it to her when she asked for it.

Mr. Basham asked when that was. Building Inspector Travis believes it was last Wednesday or Thursday. Mr. Basham asked if it was the same staff report that is included with Council today? Building Inspector Travis confirmed it was.

Mr. Basham asked numerous questions of Building Inspector Travis about what was in the staff report.

City Attorney Appel notified who can cross examine the city representative.

Mayor Green asked if anyone else from staff going to present the item.

Shirley Crowder who represents Skyway Towers. If the community objects to the height of the tower, they are no opposed to changing the height of the tower. While we are looking at an 80' tower, but can change that to a 60' tower. She was given additional time to give her presentation. The primary reason is the proximity of residential areas

## CITY COMMISSION MARCH 28, 2017 REGULAR MEETING MINUTES

and I-25. This area lacks LTE service. As more landlines go in, the worse the service will be. In closing, she would like them to look at the

Commissioner Clark asked if Skyway Towers in other communities in New Mexico? Ms. Crowder responded. Commissioner Clark asked how many towers are in the middle of other communities. Ms. Crowder responded to her concerns.

Commissioner Clark asked Mr. Appel or Mr. Rubin to define the meaning of General welfare. Mr. Appel responded and Mr. Rubin responded.

Mayor Green asked about the height of the tower.

Mayor Green asked if any opponents would like to cross examine the proponents.

Mr. Basham gave his presentation. The one thing you cannot consider is the alleged harmful effects of a tower. He knows working with other communities, the Federal Government has usurped the local communities

Mr. Appel said Mr. Basham left out one small detail. He understand this tower may fit in the exclusion height for that regulation.

Ms. Crowder responded it's her understanding and it's her experience that all of these towers are licensed by the FCC and they would not put up a tower that would put their license at risk. The environmental study for this property has not been completed because of the price of it.

Mr. Basham continued with the increase of technology going from 2G or 4G, they need more power.

Mayor Green commented that he's not quite sure because the Commission doesn't get involved much with the staff and what they are doing. But he's almost certain that run-off is not a term that we prefer to use.

Mr. Appel asked the Mayor to recall Mr. Travis.

Mr. Basham asked how much the city paid for the appraisal.  
Building Inspector Travis said he believed it was \$1100.

Sophia Peron, 316 North Joffre was disappointed the person who is here for the applicant could not have more time for their presentation.

### **Opponents:**

Tracy McGowan, appreciates the opportunity to give her comments about this tower

**Mayor Pro-Tem Whitehead joined the meeting at 10:30 a.m.**

## CITY COMMISSION MARCH 28, 2017 REGULAR MEETING MINUTES

Ronda Brittan, owns Black Cat books and Coffee and lived at 314 Kopra St. she worries about the microwaves from the tower.

Building Inspector Travis responded to her question about them having a permit before the soil testing. Mr. Basham asked if a building permit is required for a soil test. Building Inspector Travis responded.

John & Paula Vincent, 206 Grape St. and owns property below that. He's own property here since the early sixties. He can't think of anything uglier than a tower.

Martin Marsheak commented in opposition.

John Brady, he and Jared Green own 411 W. Lincoln. They are 100% against the erection of a tower. It will provide a visual pollution to the area. It should be located outside of the residential area.

Mr. Basham asked if he or his partner have a cell phone. Mr. Brady responded they do not.

Kurt & Sharon Manning, 402 Lincoln St. commented the City of Truth or Consequences maintains the road to her house, they live directly under the tank.

William West 913 Locust St. he will be speaking for the next person on their list because they are combining.

Ken Merrick, asked everyone to keep their eyes on the prize. The 80' tower on top of a big hill is really just a 250' tower. Everyone will be impacted by this.

Mr. Basham asked Mr. Merrick what type of business he has. He responded it's a pottery business.

Mayor Green announced before we close the public hearing are there any members of the public who would like to speak.

Magie Powey said T or C and the County has lost population recently. We need to look at the statistics. We are primarily an area that attracts older folks to the area. She has a 3G phone and it works fine. She doesn't think putting a cell phone tower will help us grow. The entertainment opportunities is what we need for people to come and enjoy.

Mr. Szigeti feels the Commission is stuck between a rock and a hard place. The downtown area needs to have good cell phone coverage when they come downtown. It's one of those things that is necessary. You want additional tourism and having adequate cell phone coverage is one of the things that is necessary.

Commissioner Clark commented.

Mayor Green closed this portion of the public hearing.

**G. ORDINANCES, RESOLUTION, & ZONING**

1. Discussion/Action: Special Use Permit for Skyway Towers. Robbie Travis.

Building Inspector Travis stands for any questions they might have.

Commissioner Clark asked if he sent notices to those in the area. Building Inspector Travis responded he did, our Code requires it to everyone within 100 feet.

Commissioner Hechler asked if he looked at an alternate site.

Mayor Pro-Tem Whitehead mentioned that was a suggestion to put some kind of a tower on the water tank.

Mayor Green has the same concerns as some of the others. We are a tourism destination and that's a Catch 22. In relationship to other land the city owns that is not in a residential area. He asked if we took the Historic Downtown area off the table, could we work with them on another site. Or do we need to try to make this happen or do we need more time to research. Building Inspector Travis thinks if they can get out towards Poplar Street that is just outside the residential area and make it look attractive and get it out of the visual area to find an area that is more suitable. Mayor Green asked about the area around Morgan Street. Building Inspector Travis responded he thinks that's too far but off of Poplar Street he thinks there is some land that might work to still be able to reach that area.

**Commissioner Hechler moved to postpone this discussion to a further date to allow Mr. Travis to research further sites and talk with a representative to see if there is any potential for additional sites and bring it back to the agenda at a future date. Mayor Pro-Tem Whitehead seconded the motion. Mayor Green would like to point out as to the Attorney's point, "time is money". And if it's the will of the Commission that staff work diligently and as timely as possible, to see if there is another alternative with less of a negative impact on our historic Hot Springs District and that we bring it back to the Commission, post haste. Motion carried unanimously. Commissioner Clark abstained from the vote.**

H.5 Discussion/Action: Subrecipient Grant Allocations. Juan Fuentes, City Manager

City Manager Fuentes presented the applications are in the packet. We received a total of nine applications for a total of \$100,135. The amount of funds we have available is \$43,000. We have a lot of representatives from the organizations in attendance.

Commissioner Hechler said as he was going through these he noted a couple of things. He's hoping the \$43,000 isn't a hard figure or it will extremely hard for the allocations. He certainly appreciates with the SJOA does for this community, as well as, Matthew 25. He hopes the Commission finds it within themselves to look at that a little more strongly and consider those as more of a benefit for this community.

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Commissioner Clark is in total 100% agreement with him. She even asked our Manager if there was a possibility of raising the amount we can give. Every one of these organizations deserve the funding. She would like to believe that somehow we can manage to come up with what's needed to keep these organizations operating in our community.

Mayor Green has a sense that if we were to lose these organizations, we would lose our community. He also has a sense if the city was to take in and do what these organizations do, we would also lose our city, because we couldn't afford it. He had one comment of record and mentioned what he is a little disappointed that when we go through these applications, we are the only funder of record. We are the only community that is funding the Animal Action Team and other organizations with limited resources, he doesn't think it's fair to ask us to carry them 100%. And next year on the question on the application when they talk about other sources of funding, they should reach out to other communities for funding. Other communities have generating capacity also and just because we are the big dog, there are other dogs as well.

**Mayor Green moved to approve the subrecipient awards to:**

**Companion Animal Action Team (CAAT) – \$1,500;**

**Domestic Abuse Intervention Center (DAIC) - \$2,500;**

**Matthew 25 Food Pantry – \$7,200;**

**Sierra Joint Office on Aging (SJOA) - \$40,435; and**

**The Bountiful Alliance – Bountiful Babies - \$1,500.**

**For a total of \$53,135.**

**Mayor Pro-Tem Whitehead seconded the motion.**

Commissioner Frankel was concerned about MainStreet. Mayor Green responded that will be voted on later.

Commissioner Clark is in complete agreement with him in these. But she knows this will put some hardship on some departments with desperately needed funding and equipment requests also. We are tasking our city Manager to find an extra \$20,000 and it will have to come from someone else. It needs to be noticed that someone else has to give up for that. If that's absolutely not possible, she would like the City Manager let us know. Mayor Green responded that is fair enough, he wanted to point out to Commissioner Clark that if he's reading our presentation properly, that there is \$43,000 for the grant fund. So basically, if we do not support these, we will not support the population that needs these services. These assets and organizations are part of that overall plan to support this.

Mr. Rubin commented and clarified these are done by agreement. And what we do in the agreement is set forth services that are being provided in exchange for the funds. And that is important so we don't get in the situation where somebody sees this as a donation.

**Mayor Green amended his motion to task the staff and City Attorney to create the documents to be presented to the subrecipient and would not obligate anyone until**

**both signatures appear on those documents. Mayor Pro-Tem Whitehead seconded the motion. Motion carried unanimously.**

Mayor Green went on the next portion is for the Lodgers Tax for Operations & Maintenance.

Mayor Green made his comments and let them know he thinks Geronimo Trail needs more money for postage. He would like to see a list of who a relocation packet is sent to so we can follow up and give them a call. He questions what other community Commissioners, Mayor's, or City Manager's call them to find out more and tell them our story.

Mayor Green suggested giving more to the Geronimo Trail Scenic Byway to increase the postage for mailing relocation packets. So

Friends of Elephant Butte State Park – \$1,000

Geronimo Museum - \$3,500

Geronimo Trail Scenic Byway - \$4,000

MainStreet Truth or Consequences - \$35,000

**Mayor Green moved to approve the above amounts.  
Commissioner Hechler seconded the motion.**

Discussion was held.

Commissioner Clark also thinks we've seen an enormous benefit to those who stepped up as our point of location. They have probably generated far more than the \$5,000. Mayor Green agrees with her and amended his motion to state:

Friends of Elephant Butte State Park – \$1,000

Geronimo Museum - \$3,500

Geronimo Trail Scenic Byway - \$5,000

MainStreet Truth or Consequences - \$35,000

**Commissioner Hechler seconded the motion. Motion carried unanimously.**

The Commission discussed what items will be discussed and we will break for lunch at 11:45 and reconvene at 1:15. City Attorney Rubin has to be in court this afternoon. Mayor Green understands that and appreciates that. City Manager Fuentes suggested when we break and come back we have two Executive Session items that City Attorney John Appel is here to speak to them about.

2. Discussion/Action: Ordinance No. 679 16/17 for publication related to the Public Utility Advisory Board. Juan Fuentes, City Manager

City Manager Fuentes added we are proposing the attached ordinance as proposed by the Public Utility Advisory Board to amend Chapter 4, Article 6 under the Impact Fees to put an Advisory Board in place. The change will make it into a seven member board which will consist of the five member Public Utility Advisory Board, plus two members. If

approved we will proceed with the appointment of these two new members and we can begin to start reviewing the documents and the Impact Fees.

Mayor Green asked under Section 1.6 it should be changed to the Impact Fee Board. So we would change it to the Public Utility Advisory Board to the Impact Fee Board. Commissioner Clark thought they were supposed to be one in the same.

Mayor Green clarified it's more like a secondary board where when there are any items to do with the Impact Fee Board, they would meet to discuss them.

Commissioner Hechler asked for clarification if the PUAB was acting as the Impact Fee Board. City Manager Fuentes confirmed they were acting as the Impact Fee Board. We have consulted with our Legal Counsel and staff have a good grasp on what we have now so we will be able to proceed forward. Commissioner Hechler said so his thought is we are in compliance with the Impact Fee Board as he can see. City Manager Fuentes said we were in compliance, there just isn't a whole lot of activity.

**Mayor Pro-Tem Whitehead moved to approve Ordinance No. 679 16/17 for publication related to the Public Utility Advisory Board. Mayor Green seconded the motion. Motion carried unanimously.**

3. Discussion/Action: Ordinance No. 680 16/17 for publication amending Chapter 2, Article IV, Division 6 and 7 related to Boards, Commissions, and Committees. Juan Fuentes, City Manager

City Manager Fuentes said in the past we have talked about some boards which have not been filled. One of the board is the Industrial, Economic Development Board, this board has not existed for many years. In the past, the city has participated with other organizations for economic development efforts. We also collaborate with other state agencies to promote economic development. We are also participating with the Middle Rio Grande Association of which Sierra County is also a member. The city also participated in the formation of that as well. So there are other avenues to promote economic development and there is no real reason to have this board. The second board he's proposing to repeal is the Convention and Entertainment Board. This board has the jurisdiction over the Convention Center, the Recreation Center, and Civic/Activities Center for recommendations of programs to be carried out. Currently we have the Recreation Advisory Board and Gloria Franke on staff and we are looking at a Tourism/Event Coordinator, as well. He feels this is another board that has not existed for many years. And it's not needed because we don't have the resources to make things they may want to have, happen.

Commissioner Frankel said in regards to the Convention Center Board we currently have taxes that are collected. So it seems to him, there would be a pool of money that would need some oversight, and he doesn't understand why this board was never filled in the first place.

City Manager Fuentes responded the reason for that is he will be presenting the Tourism/Event Coordinator position. That person will have direct oversight for those fees so there is no need to have a separate board for the oversight.

Commissioner Frankel asked if the funding collected for the Convention Center fees, will be used to pay for this new position. City Manager Fuentes confirm that is his recommendation and it will still need to be discussed and approved by the Commission.

Commissioner Clark said maybe it's not a bad idea until we determine how we are going to handle that convention center fee before we do this. She understands Commissioner Frankel's point if we don't hire someone for the oversight, maybe a committee would not be a bad idea. But we haven't really made that decision yet and maybe we should waiting until we resolve that issue before we do anything with this board.

Mayor Green is hearing we could move to vote on Section 1 and leave Section 2.

City Manager Fuentes said we are not in a rush to get this done, so maybe we could postpone this until his presentation on the new position.

**Commissioner Frankel moved to postpone Ordinance No. 680 16/17 for publication amending Chapter 2, Article IV, Division 6 and 7 related to Boards, Commissions, and Committees. Commissioner Clark seconded the motion. Motion carried unanimously.**

Commissioner Clark asked to have the Commission reconvene at 1:00 p.m. for the Executive Session.

**Mayor Green recessed the meeting 11:45 a.m. and reconvened the meeting at 1:02 p.m.**

#### **J.1 and 2 EXECUTIVE SESSION**

1. Threatened or Pending Litigation (Alley behind Theater; Hot Springs Land Development; & Wastewater Treatment Project Phase 2A) Pursuant to 10-15-1(H.7)
2. Acquisition, Disposition or Sale of Real Property (1310 Nickel & 613 Gold St.) Pursuant to 10-15-1(H.8)

**Mayor Pro-Tem Whitehead moved to approve going into Executive Session at 1:03 p.m. to discuss Threatened or Pending Litigation (Alley behind Theater; Hot Springs Land Development; and Wastewater Treatment project Phase 2A) Pursuant to 10-15-1(H.7); Acquisition, Disposal, or Sale of Real Property (1310 Nickel & 613 Gold St.) pursuant to 10-15-1(H.8). Commissioner Frankel seconded the motion. Roll call vote was taken by the Clerk. Motion carried unanimously. Commissioner Clark was absent for the vote and executive session.**

Returned to open session at 2:01 p.m.

**Mayor Green certified that only matters pertaining to Threatened or Pending Litigation (Alley behind Theater; Hot Springs Land Development; and Wastewater Treatment project Phase 2A) Pursuant to 10-15-1(H.7); Acquisition, Disposal, or Sale of Real Property (1310 Nickel & 613 Gold St.) pursuant to 10-15-1(H.8) was discussed in Executive Session and no action was taken.**

**ACTION ON ITEMS DISCUSSED DURING EXECUTIVE SESSION, if any.**

**Mayor Pro-Tem Whitehead moved to authorize staff to reach out to Susan Lowe to continue to advertise 1310 Nickel for an additional 45 more days. Commissioner Frankel seconded the motion. Motion carried unanimously.**

3. Discussion/Action: Resolution No. 07 16/17 Parks Fees. Renee Cantin, Clerk-Treasurer

Mayor Pro-Tem Whitehead suggested we take Item G.5 and move it until Linda DeMarino is available for comment. With no objection, Mayor Green said we will move her item until she gets here.

City Clerk Cantin gave an overview of the Resolution that started back in September and was taken to the Recreation Board in January, after that it was brought to the Commission again and the changes the Commission suggested have been included. Attached in your packet is the original redline version and one final version with a few more changes that we are proposing today for final approval. She met with Gloria, the Parks Supervisor, and Commissioner Hechler and they decided to go ahead and combine the changes with the old version and to remove the Rodeo Arena fees to do those separately. She added under Tennis Courts that we had gone back and forth for the fees for the use of them, and we completely removed the fees for the use of the courts but included a fee for the use of electricity and the \$25 key replacement fee. With the new key replacement, we will need to change the locks to a special key that cannot be duplicated. We felt it might be a good idea to add certain hours for the evening hours. The other thing we are proposing is \$75 per team per season which includes electric. Additionally, we are proposing \$40 per team per season for the Youth Leagues and that will include electric fees.

Commissioner Hechler gave a background that what they thought were in the past fees were not being charged, but we didn't want to charge too much and wanted to set the bar low at \$75 per team per season and after the first year if we need to make an adjustment to it if we need to. If you look at the fees, for a 10 person adult team it would be \$7.50 per person which is the price of a fast food meal which isn't too much per person. Doing more research on the Rodeo aspect of it, we felt that could be too complicated to be on the same form so we will look into it at a later date.

Commissioner Frankel mentioned the section on the Non-Profit organizations, we talked about organizations which are not consecutive but like the Farmer's Market has events

every Saturday. Commissioner Hechler said on the actual dates of the application, there is a section where they can put the actual dates of their events and he asked if we can take care of that on the application or do we need to change the wording. Clerk-Treasurer Cantin added it would not be that hard to add the wording that Non-Consecutive day events could be considered.

Commissioner Clark asked about an exception that we wanted to include to allow the City Manager to make exceptions. Clerk-Treasurer Cantin noted at the top of the second page, has a statement that reads, "the City Manager or his/her designee may impose other use regulations and other exemptions as he/she may deem necessary as long as those do not subvert the intent of this policy." Commissioner Clark clarified we could just put that information in there to have freedom and leeway to make the decision. Clerk-Treasurer Cantin added currently when we have an unusual situation, we go to the City Manager anyway. So that's why we added the City Manager or his/her designee to clarify that. Commissioner Clark included the mention of a time frame and that could lead to disappointed people in the summer and asked if we can leave that time frame off. Clerk-Treasurer Cantin agreed we can do that.

Mayor Green thanked staff and Commissioner Hechler. This is what he loves about this Commission working with staff to bring a product we seem to be comfortable with.

**Mayor Pro-Tem Whitehead moved to approve Resolution No. 07 16/17 Parks Fees as presented with the amendments noted. Commissioner Clark seconded the motion. Roll call vote was taken by the Clerk. Motion carried unanimously.**

The Commission went to #G.6 since Mrs. DeMarino isn't here yet.

G.6 Discussion/Action: Resolution No. 30 16/17 Budget Adjustment. Melissa Torres, Finance Director

Finance Director Torres presented the increase and decrease for the local reserves requirement. DFA is really structuring and making different reporting than municipalities are required to do.

**Mayor Pro-Tem Whitehead moved to approve Resolution No. 30 16/17 Budget Adjustment. Commissioner Frankel seconded the motion. Roll call vote was taken by the Clerk. Motion carried unanimously.**

#### **H. NEW BUSINESS**

1. Discussion/Action: Request related to Utility Bill penalties. Sid Bryan, Requestor

Commissioner Frankel recused himself from the meeting for this item.

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Mr. Sid Bryan requested the removal of the penalty fee of \$128 for his bill. He will pay those this week if he can get the penalty fee of \$128 removed.

Commissioner Clark wanted to make sure that she understands this correctly, when we went to the new accounting system there were numerous accounts which were put into payment agreements.

Mr. Bryan said the balance he owed in July was about \$14,000. He got it down to \$7,000, then to \$4,500 as of this week which was well ahead of the schedule he was given. He went over the page in the packet which was about the agreement. When he called her she said she had written it up so it should be fine. It was a bookkeeping nightmare so we agreed I would pay \$1,000 a month until I caught up. He paid off one account and then another, and another. It was expressed to him that there were no exceptions that no one would get a credit. But he feels he paid way ahead of his schedule.

Commissioner Clark added both the Finance Director and Utility Director were both aware this had been an oral agreement. Mr. Bryan agreed that is correct. Commissioner Clark continued he has followed the agreement he made with these people in good faith, is that correct. Mr. Bryan agreed.

Commissioner Hechler said the only concern he really has is the \$128 isn't going to break us. The other issue is what is the criteria that we would waive someone's fees? In his mind, it would be a catastrophic event or an event that occurs where you are not able to pay those fees. He asked City Manager Fuentes to explain that a little bit. City Manager Fuentes said we will look at the customer's account and depending on their history we make a recommendation to staff on how to proceed. In the past there were some dealings that were inconsistent. And now we are really working on being more consistent and treating all of the customer's the same. We judge them on a case by case.

Mr. Bryan would also like to say that in Lori's letter she mentioned he was to keep current on his regular monthly bill and he understood there would be no penalty fees and late fees if they had an agreement. It was right in the middle of the winter where the bills had doubled and the payments doubled. One of the bills didn't come until it was very late and when you own a hotel or properties that can be a huge burden. He had worked with Lori and Korie to make sure the bills were paid off. He thought he would be contacted if there was going to be a change.

Commissioner Hechler asked what staff's recommendations on this. He would like to hear the whole story on both sides.

Finance Director Torres went over the summary of what happened. The arrangement that was made was not in writing. They did look, review, and research they did not miss anything. Their research did show the email in the packet from Ms. Montgomery showing that she may have made an agreement. But it does not indicate waiving any penalties or late fees. They do not in any agreement waive any penalties or late fees. Another thing they have been seeing is the city recognizes their issues with the new system. But one

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of the things they addressed is the red tags and late fees. They gave customers' months and months to pay and many were behind. They empathize with Mr. Bryan and his situation, however, if we start waiving penalties because we're in a minimum situation we will start setting the culture to waive the fees. We've got to set standards and stick to them and model that.

Commissioner Clark appreciates what she's saying. Her concern as a business person is we did have the problem with the penalty fees and we voted to put that accounting system into place. During a period of time when they absolved the interest or penalties and if she had a deal in place and was following through with that deal. She would operate on the agreement that was made and she would feel if penalties were put in place she would feel it was a violation of his rights. When he made the deal, she believes it was done without the penalties and she feels the time period existed.

Mayor Pro-Tem Whitehead pointed out Ms. Montgomery's email. She put it out there to communicate that they were working on it so he wouldn't get "dinged" or penalized. She feels she agreed on this and we need to do right by Mr. Bryan.

Mayor Green asked if we have a lot of customers who have made arrangements. Everyone should be treated equally and unfortunately, you have inherited someone else's solution to work out a payment program. He agrees that a deal is a deal, is a deal. But he doesn't want to open up a can of worms to our customers for this issue. He asked if this is a stand-alone instance.

Finance Director Torres thinks that's a very good inquiry. We could have more come forward who may have had a verbal agreement. Because there is nothing in writing that showed the actual agreement. There was nothing noted on the account either. It will open it up to other customer's to say there was an agreement. They have people coming in on a weekly basis saying this is how it was done in the past. That's not good business on our part to say there is no documentation.

Commissioner Clark responded and she totally agrees with her but where she would go with this is if someone came to her, she would ask for some proof. If they can show they have gone along with the payment plan and have been making them regularly. She feels Mr. Bryan is on a stand-alone as far as she is concerned. The difference is Mr. Bryan showed that he had been making those payments and has shown he was following an agreement.

Mr. Bryan wanted to note that Lori said she put notes in each of the accounts. But he notified her there were no notes in the account. He also added if you look at his last bill it says \$0 for penalties and interest. He will just pay it off this week and get out from it.

**Commissioner Clark moved to provided that Mr. Bryan comes in to pay the balance due this week of the \$4500 and get rid of the \$128. Mayor Pro-Tem Whitehead seconded the motion.** Commissioner Hechler mentioned as a side note, what we've learned is we won't make any agreements unless it's formal. If anything has been agreed

to, we should adhere to them. We will not honor an agreement unless it's in writing. Mayor Green wanted to make sure we are not in and Anti-donation if we waive this. They agreed we were not in violation. **Motion carried unanimously.**

Item No. G.5 Discussion/Action: Resolution No. 28 16/17 supporting a Public-Private Economic Development MainStreet project. Linda DeMarino, MainStreet T or C, Executive Director

Mrs. DeMarino said every year they get this agreement from the State Economic Development Department. It's an agreement between the City, New Mexico Economic Development Department, and MainStreet Truth or Consequences. We are looking at approving the agreement for the next two years. She gave an overview of the accomplishments they have made since MainStreet Truth or Consequences was put together in 2009. They have gotten almost \$300,000 in grants and thousands of volunteer hours. They were able to help get the Healing Waters Plaza, business support services, Hot Springs Festival, assisted a new business in getting the LEDA funding, and many other things. Working on two façade improvement projects right now, and other annual events that have been put into place.

**Mayor Pro-Tem Whitehead moved to approve Resolution No. 28 16/17 supporting a Public-Private Economic Development MainStreet project. Commissioner Clark seconded the motion. Roll call vote was taken by the Clerk. Motion carried 4-0-1. Commissioner Frankel abstained because he's a MainStreet Board Member.**

2. Discussion/Action: Approve the Job Description for the Animal Shelter Manager new position. Lee Alirez, Police Chief

Police Chief Alirez said before you is a job description as a result of a lot of research for the new Animal Shelter Manager position. As we get closer to opening the new shelter, we will need this position in place to oversee some of the policies and procedures and getting the new shelter in place.

Commissioner Clark asked whether this position will be reporting directly to the Chief. Police Chief Alirez responded he will oversee the Animal Shelter but there may be someone they report to as far as the day to day issues. There will be some areas he will be up front on, but he may have a designee to take care of the supervision.

Commissioner Clark was asking because the flow chart may change after we get this person in a comfortable position. Police Chief Alirez agreed and he has looked at our culture and the industry standard for this position. He tailor made this job description to make it interested. He's already been contacted by potential candidates. Commissioner Clark asked what the budget is for this position. Police Chief Alirez said the pay grade is \$17-\$20/hour which is industry standard for this area. \$30,000 is budgeted. Its comprehensive and competitive.

Mayor Green said you said this is a perfect time because we are in transition. He asked if that's because of the new Safety Complex or other problems we are not aware of. Police Chief Alirez said it's actually a stepping stone whether there are people who want to move to our community or want to move up in our department. The people we have here love being here and have taken ownership in being here. Our experience level is growing quickly. It's a perfect time to work on the transition of moving our Officers up.

**Commissioner Clark moved to approve the job description for the Animal Shelter Manager new position. Mayor Pro-Tem Whitehead seconded the motion. Motion carried unanimously.**

3. Discussion/Action: Memorandum of Understanding with NMSU for Special Events. Lee Alirez, Police Chief

Police Chief Alirez was approached by Chief Lopez from NMSU while he was in Santa Fe. They have 21 sworn officers and by signing this MOU, they have resources that we do not have. This opens the door for us in many ways. By engaging this MOU, it opens us up to resources we do not have. For example, they have a Mobile Command Center which can handle a natural disaster for an extended period of time. They also have interoperability communications. So if we have something happen here, we have the local police, state police, and we may have to draw resources from other departments depending on what the issue is. We would not have the interoperability to plug in all frequencies to have communication with one another. We have three agencies here and nobody is on the same frequency and we don't have the ability to get them on the same frequency. The MOU is for a simple event in case we need four or five officers, then they will send them down and we will reciprocate that. It will open the door for more training. It gives an additional resource. We've also been given a generator for the new Animal Shelter. Should they have a special event and a need for a few officers, it gives people the opportunity for growth and helps with retention by creating overtime opportunities. They will reimburse us for the overtime and use of vehicles and equipment.

Commissioner Clark thought we have had something like this before haven't we? Mayor Green said to the best of his knowledge, we have not. Mayor Green just to clarify, they will pay the overtime for the positions. Police Chief Alirez said the only ones applicable are those who are off duty. It would not affect those who are on duty.

Commissioner Clark asked who covers the insurance for our officers. Police Chief Alirez responded it's covered under our policy, that's why there's an Admin. Fee attached to that.

Commissioner Hechler said this is a two way street. He asked in what capacity that would be? Police Chief Alirez it would be done by request. If we have a big parade that would be a mutual aid request and they also have a Reserve Program he would like to put into place. He said it's a two way street that will really benefit us.

**Commissioner Frankel moved to approve the MOU with NMSU for Special Events, NMSA Section 29-8-8. Commissioner Hechler seconded the motion. Motion carried unanimously.**

4. Discussion/Action: Authorization to enter into a Small Services Agreement with Hot Springs Cemetery. Juan Fuentes, City Manager

City Manager Fuentes notified them the reason for bringing this item up was because in the past the Hot Springs Cemetery Association has taken care of the Hot Springs Cemetery. Last year they didn't make the deadline for the applications on the subrecipient grant funds. After looking at it, we have other similar agreements for others to take care of our parks and facilities. It makes sense to have that agreement with the Hot Springs Cemetery to move forward in future years. He wants to make sure there was a break in the services so we will not have to bring this to them in the future.

Commissioner Hechler asked what he considered the value of this contract. City Manager Fuentes said we have provided about \$4,000 and they buy all of the supplies to maintain it and water it. The only duty we have is to open the gates and assist with the burials. We may have to prorate that for the end of this fiscal year but it would be the full rate for next year.

Mayor Pro-Tem Whitehead asked if the signs at both cemeteries say they will be open at 8:00 a.m. till Sunset. They weren't open this weekend. She knows they are being closed at 5:00 p.m. Police Chief Alirez added that as a duty along with closing the bathrooms at the Parks. If it's not open on a weekend, please call him. They are working on the schedule to make sure it's getting accomplished. He will reemphasize that to his staff.

Mayor Pro-Tem Whitehead thanked the chief and would like them to communicate that. She knows a few months ago someone stopped at the rectory to see why the cemetery was closed. She called Dispatch and they didn't know about it. Police Chief Alirez will be sure dispatch is notified. Mayor Pro-Tem Whitehead asked that it please be opened according to the sign.

Commissioner Frankel suggested signage at the cemetery giving a contact number for dispatch so someone can call if they want to get in.

Mayor Green added \$4,000 to an outside entity for maintenance is a great idea. He appreciates staff taking this out of the subrecipient grants.

**Mayor Green moved to approve the Small Services Agreement with Hot Springs Cemetery Board. Commissioner Frankel seconded the motion. Motion carried unanimously.**

## **I. REPORTS**

- a. City Manager

City Manager Fuentes said for the sake of time, some of his report items will be covered under closed session.

**b. City Commission**

**Commissioner Frankel** asked about the Tesla Charging Station. City Manager Fuentes responded they had a meeting and looking into the permitting we will need to be involved. The stations will be behind the Holiday Inn Express. Mayor Green said it's not a done deal yet, but at the meeting we found out it is strictly for Tesla vehicles, you cannot use a Volt for these charging stations. He would like to identify logical locations for other charging stations. This could be a revenue opportunity for businesses. He will report on it when he has more information.

Mayor Green called attention to the Sentinel Newspaper about the Miss Fiesta Pageant. He congratulated Rotary who stepped in to partner with MainStreet to put this event together. He encouraged everyone to get involved and contact them if they want to help. City Manager Fuentes specifically wanted to thank Frances Luna for stepping up to make it happen.

**J. EXECUTIVE SESSION**

1. Threatened or Pending Litigation (Alley behind Theater; Hot Springs Land Development; & Wastewater Treatment Project Phase 2A) Pursuant to 10-15-1(H.7)
2. Acquisition, Disposition or Sale of Real Property (1310 Nickel & 613 Gold St.) Pursuant to 10-15-1(H.8)
3. Limited Personnel Matters (City Manager Evaluation). Pursuant to 10-15-1(H.2)

**Mayor Pro-Tem Whitehead** moved to approve going into Executive Session at 3:28 p.m. to discuss Limited Personnel Matters (City Manager Evaluation) pursuant to 10-15-1 (H.2). **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 5:12 p.m.

**Mayor Pro-Tem Whitehead** certified that only matters pertaining to Limited Personnel Matters (City Manager Evaluation) pursuant to 10-15-1 (H.2) was discussed in Executive Session and no action was taken.

**K. ACTION ON ITEMS DISCUSSED DURING EXECUTIVE SESSION, if any.**

None.

**L. ADJOURNMENT**

CITY COMMISSION MARCH 28, 2017 REGULAR MEETING MINUTES

**Meeting was adjourned at 5:12 p.m.**

**Passed and Approved this \_\_\_\_ day of \_\_\_\_\_, 2017.**

\_\_\_\_\_  
Steven Green, Mayor

**ATTEST:**

\_\_\_\_\_  
Reneé L. Cantin, CMC, City Clerk



F.2

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

**ITEM:**

Approve the minutes of the Airport Advisory Board Meeting for October 4, 2016.

**BACKGROUND:**

None.

**STAFF RECOMMENDATION:**

Approve the minutes.

Submitted by: Renee Cantin, City Clerk-Treasurer

Meeting date: 4/25/2017

**AIRPORT ADVISORY BOARD  
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO**

**REGULAR MEETING**

**ACTION MINUTES**

**TUESDAY, OCTOBER 4, 2016**

**TIME & PLACE:**

The Airport Advisory Board of the City of Truth or Consequences, New Mexico, met in Regular Session in full conformity with the law and ordinances of said Board, at the Truth or Consequences City Commission Chambers, 405 W. 3rd St. Truth or Consequences, New Mexico on Tuesday, the 4<sup>th</sup> day of October, 2016, at 4:00 pm

**PRESIDING OFFICER:**

The meeting was called to order by Vice Chairman David Senn, and Angela A. Torres acted as Board Secretary.

**ATTENDANCE:**

Upon calling the roll the following members were reported present:

**Present:**

David Senn, Vice Chairman  
Chuck VanGelder, Member  
Ronald Phillips, Member

**Also Present:**

Juan Fuentes, City Manager  
Angela A. Torres, Deputy City Clerk  
Steve Spaw, Municipal Airport Attendant  
Julie Thiessen, Delta Airport Consultants

**Absent:**

Gerald LaFont, Chairman  
Dennis Anderson, Member

**QUORUM:**

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

**APPROVAL OF AGENDA:**

Vice Chairman David Senn called for approval of the agenda.

Chuck VanGelder moved approval of the agenda.

Ron Phillips seconded the motion. Motion carried unanimously.

**APPROVAL OF MINUTES:****Approval of Regular Meeting of Wednesday, April 6, 2016:**

Vice Chairman David Senn called for approval of minutes for April 6, 2016.

Ron Phillips moved approval of the minutes as submitted.

Chuck VanGelder seconded the motion. Motion carried unanimously.

**Approval of Regular Meeting of Tuesday, August 2, 2016:**

Vice Chairman David Senn called for approval of minutes for August 2, 2016.

Chuck VanGelder moved approval of the minutes as submitted.

Ron Phillips seconded the motion. Motion carried unanimously.

**COMMENTS FROM THE PUBLIC:**

There were no comments from the public.

## **NEW BUSINESS:**

### **Discussion/Update: Status report on current projects; Delta Airport Consultants:**

Julie Thiessen, Delta Airport Consultants, reported that FAA has agreed to provide 90% of Federal AIP Funds toward the rehabilitation of the Fuel Farm. NMDOT-Aviation Division will provide 5% of State Match Funds, and the City will provide 5% Local Match Funds for schedule 1 and for Schedule 2, Alternate 1 (site work and installation of AV-Gas tank). In addition to that the State is able to provide 50% of funds for Alternate 2, (installation of the Jet-A Tank). The installation of those two tanks along with the site work puts the Airport in compliance with State requirements for fueling. As of right now, the self-fueling portion, and the demolition of the existing tanks are not currently funded.

Chuck VanGelder asked about the bidding process and why all of the bids were rejected.

Ms. Thiessen responded that the initial bids were rejected at the first bid opening because FAA informed them that they were short on funds. And another reason was because one of the bidders entered some numbers incorrectly. Since the initial bid was rejected, they decided (with the FAA approval) to do a re-bid. The contractors who put in for first bid put in for the second bid as well.

Ms. Thiessen also noted that there are sets of plans available for review at the Municipal Airport if anyone is interested in looking at them.

### **COMMENTS FROM THE BOARD:**

There were no additional comments from the Board.

### **COMMENTS FROM STAFF:**

City Manager Fuentes commended Delta Airport Consultants for their help on this project and stated that they have the City Commission's full support.

Steve Spaw reported that he has been in contact with the City Attorney in regards to the eviction of Alex Major from hangar #17. The City Attorney has sent a letter to Mr. Major directing him to vacate his belongings from the hangar.

Mr. Spaw also reported that there have been no changes in regards to the Pippen Hangar.

**ADJOURNMENT:**

There being no further business to come before the Board, Vice Chairman David Senn asked for a motion to adjourn the meeting.

Chuck VanGelder made a motion to adjourn the meeting.

Motion Seconded by Ron Phillips. Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this 4<sup>th</sup> day of

April, 2017, on a motion made by

David Senn and Seconded by

Dennis Anderson, and carried

  
David Senn, Vice Chairman



CITY OF TRUTH OR CONSEQUENCES  
CITY MANAGER'S OFFICE  
505 SIMS STREET  
TRUTH OR CONSEQUENCES, NEW MEXICO 87901  
PHONE: (575) 894-6673 EXT 320 FAX: (575) 894-6690

F.3

## COMMISSION ACTION FORM

### ITEM:

*Public Arts Advisory Board Minutes for January 17, 2017*

### PURPOSE OF ACTION:

*Approval of Minutes*

### BACKGROUND:

*Minutes were approved by the Public Arts Advisory Board at their April 17, 2017 meeting.*

### OPTION/ALTERNATIVES:

*Not Applicable*

### STAFF RECOMMENDATION:

*Respectfully request approval.*

Name of Drafter: Linda Sparks	Department: City Manager's Office	Meeting: 4/25/17
E-mail: <a href="mailto:lsparks@torcnm.org">lsparks@torcnm.org</a>	Phone: 575-894-6673 Ext. 320	

**PUBLIC ARTS ADVISORY BOARD MEETING**  
**January 17, 2017**  
**MINUTES**

**TIME & PLACE:**

The Public Art Advisory Board of the City of Truth or Consequences, New Mexico met in the conference room in the Administration Annex at 401 McAdoo, Truth or Consequences, New Mexico on Tuesday, January 17, 2017 at 4:00 P.M.

**PRESIDING OFFICER:**

The meeting was called to order at 4:09 PM by Sid Bryan.

**ATTENDANCE:**

Sid Bryan, Tourism  
Cary "Jagger" Gustin, Sierra Arts Council (Proxy for James Durham who resigned.)  
Juan Fuentes, City Manager

Absent: Eduardo Alicea, Art Representative  
Jia Apple, Business Community

Other Staff Present: Linda Sparks, Secretary

Visitors Present: Linda DeMarino, Sazi Marri, Jeff Barbour

**QUORUM:** There being a quorum present, the Board proceeded with the meeting.

**APPROVAL OF MINUTES:**

A motion to approve the minutes of the October 17, 2016 meeting was made by Juan Fuentes, seconded by Jagger Gustin, and it carried.

**COMMENTS FROM THE PUBLIC:**

Jagger reported that James Durham resigned from the Sierra Arts Council, and consequently would not be able to serve on the Public Arts Board as their representative. Jagger will be taking James place on the Board. It is not known at this time whether he will be replaced at a later date.

Linda DeMarino was called upon to report on the status of the progress on the Art Park.

Linda DeMarino reported that Will Powell, architect with NM MainStreet, came in November along with some other people. They came to the conclusion that they needed to pull in additional help with this. The MainStreet Board voted to talk to Sabina and actually allot money to hire her. Sazi explained that Sabina will do some creative renderings that they can actually see what is possible in that space because Will is

having a hard time producing anything. Linda added that Will is having a hard time wrapping his head around the whole space and some of the problems that they have, and Sabina seems to be more open to it because Will is more of an architect and Sabina is more of a designer. They expect Sabina to be more helpful with what they have. Sazi explained that Sabina is actually a landscape architect that deals with parks and public art spaces. Will is more comfortable dealing with buildings because he has said more than once that this is the hardest thing he has ever had to do. Linda stated that they reached out to Sabina and what she needs from us is a civil survey, topography, site utilities, meets and bounds. From Jeff, Sabina needs the number of pieces and their sizes. Jeff replied that he could send her a list of all the pieces that he has. Linda suggested that he also send a couple of pictures of what he has to forward on to Sabina.

Jagger stated that they've asked David Senn to survey it up as a comp for us and he will do that.

Sazi stated that Bill Slettom has someone who is willing to do the topo survey for \$250. The City should be able to locate the utilities. And, they already have the meets and bounds.

Sid asked Jagger if when he spoke to Mr. Senn, he said 'a topo survey'.

Jagger replied, no. What he will do is come in and mark all the points on the corners and separate the lots out so that you can actually see where the City property is and the private property on either side.

Sazi explained that he is doing the civil survey so somebody else will do the topo survey and we will have to pay for that one. Bill has negotiated a really great price on it. They raised some money from the card sales for this project so they will be able to apply some of the money towards that.

Sid asked if that person can do the regular survey as well as long as he is doing the topo.

Sazi answered, no. They don't do regular surveys. They are able to do a topo from afar with a computer. David Senn has offered to generously . . . (interrupted). Jagger finished the sentence with "do that for us as a comp".

Jagger continued saying that he suggested to MainStreet that we apply for a building permit and get Robbie, Building Inspector, on board with us. Instead of waiting a year and springing it on him, we should just apply and get him on board so that he will help us with any issues we may encounter. He thinks it's a good idea to do that.

Sazi commented that MainStreet agreed.

Linda stated that we can't apply for anything when they don't know what they're doing.

Sid asked if Sabina would be coming here physically.

Sazi replied that she has already come twice to look at it. She is really excited about it. She also went over to see Jeff's rockets. She has a grasp of not only the town because she loves . . . She said this town is so incredible, the potential with the waters and the mountains; she gets the whole picture which is why Sazi is excited about having someone at work like that.

Juan asked if we can have a timeframe.

Sazi answered that Sabina is really fast, so as soon as we are able to get her what she needs with the surveys, she should really quickly move . . . (Interrupted) Jeff asked how long will the surveys take.

Jagger asked if he should call David Senn. He doesn't want to pressure him, but. Jagger said he sent him a nice letter and the description weeks ago, doesn't remember exactly when, but he did send it to him.

Linda suggested that Jagger ask him what his timeframe is.

Sid said; I'd call him tomorrow so he has time to get his schedule in order.

Sazi stated that Bill is coming back really soon so he'll be able to get the topo. Sazi doesn't know who that company is and how long that process takes.

Jagger stated they spoke to a contractor. The contractor has worked here forever so he knows. He said there needs to be a 5' setback on the City property from the property line all the way around it. He said Robbie would know that for sure.

Sid stated his understanding is that that area can have zero lot lines like the other buildings on that side of the street and all the others are zero lot lines.

Jagger asked if it wouldn't be Robbie to ask that. He would know that.

Sazi stated that she is sure Sabina will be getting in touch with Robbie to get all applicable ordinances and make sure that she designs it up to code.

Juan asked if Sabina is also with MainStreet.

Sazi answered, no. She is in El Paso. She's done some projects that she was aware off so she was in her radar.

Juan asked if she is doing it on a contract.

Sazi replied, yes. We're going to pay her for her services.

Juan asked if she has given them an estimate of how much it's going to be.

Sazi answered, yes. She said anywhere from \$500 to \$800, but that she will pro bono part of her fees. Sabina said she will be using an architect and that's where most of the

costs would come. Sabina told her that she wants to pro bono a lot of her fees because she wants to be a part of it.

Sid asked if when Senn does the survey, if it will also show approximately where the alley is.

Jagger replied that when he spoke to him on the phone, he explained the project to him and he was on board immediately and offered to help. He told him they wanted all the points put in on each of the corners between the City property and the 2 private lots on either side so that there aren't any questions about where those points are at.

Sid stated it was an issue that went on quite a while with the City when we had a rain similar to the one we had the last time only we had like 2 or 3 of those in a row. Then Juan's predecessor wished to have the City event in the alley so that they wouldn't have any responsibility. The Planning Commission turned that down. He tried to put it through again, and all the property owners objected, said you can't make us take ownership to that alley. He still brought it before the Commission and the Commission unanimously said you can't do that to Jaime. So it is still an alley as far as the City is concerned.

Jagger stated there's supposed to be an alley back there, it's unbelievable, but it does go in mid-air, where the old houses are there off of Foch. I guess a long time ago there was a road back in through there. The Museum has pictures showing 10 or 12 houses on that hillside back there that have been torn down over the years.

Sid added "or fell down".

Juan brought the conversation back to the surveys.

Sazi said that the goal for this rendering is to get public input, to be able to present something that we can wrap our heads around and sink our teeth into because we are going to need public input. With what Will was producing, it's just not possible.

Juan asked if it's because the size is too small.

Sazi answered, no. He wanted to make it into a ruin piece. Everything that is existing, the piles of dirt and everything, he just wanted to leave it to save money. The pros and cons, he wasn't able to give us an idea of like grading it to make it a fresh lot. He literally gave us what is existing in different colors, so the existing cement he put in red and the other stuff he put in gray and then he put a shade structure. The sculpture, one version had it as originally proposed and the other had it kind of scattered around. That's an accurate description of what we were given. That's really hard. Unless you're able to give people an actual rendering, I don't think that we can expect everybody to be on the same page with this and then that's where we get in trouble because everybody has a different idea, especially when you're dealing with a red square and a bunch of gray squares. We need something that looks like something so that people can express their opinions and then we can give them an idea and track where we came up with that design and once we spend money on this we need something to track to go, here's the

rendering, here's where we came up with this and I don't think Will was able, obviously, we tried 4 times and this was the final.

Sid stated that at the last meeting Juan said he would talk to Don Armijo and bring back information to this meeting as to grading.

Juan answered that if we have a plan of what needs to be done, the City has the equipment to go in and remove dirt. That's not a big issue. The only big concern really is the timeframe. It looks to me like a great project, but it's going to be, like you said, the planning phase, then it's going to be public input, then it's going to be the budget, the fundraising of it. I see it going into a year or more.

Jeff asked about the reed rockets.

Juan replied that at some point we may discuss finding an alternate location for the reed rockets.

Sazi asked if we are able to purchase the reed rockets knowing that they are going to go up, is that a possibility. Can we compensate Jeff for the reed rockets?

Juan stated that the question is, do we just let them sit there for a year or, it's up to Jeff.

Jeff replied that he would like to have them installed, but he would also like to have the money. If the City wants to finish off the contract and give him the balance of what the payment is on the thing, then he can continue to store it in his place. It's not in his way.

Juan commented that it's up to the rest of the Board members as well.

Sazi commented that she's concerned about rushing things with this because she feels that this could really be a signature park for us. We wanted to do the fundraiser with the portraits and the tiles and all of that which she feels would give ownership and will make people really embrace it. She feels it could be a catalyst for other projects throughout the City which she thinks is the ultimate goal for MainStreet, to keep this momentum going with really amazing projects. She feels this is one that easily could make a huge impact.

After a brief discussion, it was the consensus to have the Reed Rockets there.

Jagger asked if we are bound to work with Will. Is he not going to be a little off centered with us.

Sazi answered, no. He will be relieved because he has expressed the difficulty of this project for him. She has talked to him about Sabina in the past. It is not blindsiding him and he is really honestly stressed.

Linda stated that she doesn't think it's his area of expertise. He is better at building adobes, doing amazing restorations or preservations and all that.

Sazi added that Will has been all over Europe preserving castles in Ukraine. He's a building guy. From a landscaping point of view, because it is multi-dimensional, it's really exciting and it's small enough to do something really great.

Jagger asked where has this lady worked in El Paso, at the Public Library?

Sazi answered that she did that art piece in front of the El Paso Public Library.

Linda replied that her name is P. Sabina Muñoz. She does murals, mosaics.

Sazi added that she does a lot of mosaics, but not herself. She loves to work with local artists. She wants artistic merit. Her primary goal is to not only showcase local art and local assets, but also give a story behind it. The whole Buckhorn Bar being there is also something she will be able to incorporate in somehow which is important.

Jagger asked if then we need to go out to public comment so people can comment on that.

Sazi answered, yes, to come in and see what we're thinking and have their input to guide us in the right direction for what the public wants. That way we're covered, that we're following the processes because we're building the park for the public after all.

Jeff asked if they want to leave the story poles there since you're changing everything.

Jagger stated he thought it's a good idea that way people can see what the height is. Linda agreed.

Sid stated that on the Healing Waters Plaza, the design group actually answered the questions from the public. Can you get her to do that too after she makes the rendering, everybody approves it, then when they have the public input, she can answer questions, then it can help too.

Sazi agreed. Having the input and having that process protects us.

Linda added that coming off the Healing Waters Plaza project, it's really funny how many people after the fact have public input.

Jagger stated that they've had 2 public input sessions already on the Art Park.

Sazi added that those meetings are open to the public and we put it out there and only 4 people show up, believe it or not.

Linda stated that they've had times where we've walked over there and looked at the thing and wrote down everybody's suggestions.

Juan asked if we have any standards for the MainStreet District.

Sazi replied that we need to adopt something. It would really serve us well. It would help solve the hour problem with businesses downtown. In Mesilla, in order to be downtown, you have to sign with your lease that we promise to be open 6 days a week. We can change that, but that's what Mesilla does. We need to start changing the culture of downtown to being something desirable as opposed to desperate. This is the place to be, you have to follow rules.

Juan added that they also have a plan that you can't paint a window a certain color. You will never see a window boarded up over there.

Sid stated that for himself, it's something that can lead to someone deciding what colors are okay. We don't have that here, which he thinks is refreshing. People should still be allowed to have diversity.

Linda replied that no one is saying that you have to go by this color pallet, but that if your window breaks, you can't just board it up. You have this amount of time to fix it. If someone graffiti's on your building, you have this amount of time to get that off. If these kinds of things happen, you have to correct them.

Sazi added that you can't put portable buildings, chain-link fencing. It would be to protect the integrity of the Historic District.

Jagger commented that the Chamber and Economic Development Boards in years past tried to get our business people to open on Saturday and Sunday. Does that make any sense when our tourists and our people here want to look around in your shops and you're closed on Sunday? It doesn't make any sense. Close on Monday and Tuesday.

Sazi stated that they've heard this over and over again, but if you start to include it in leases, that's an action. So new businesses that are coming in, they sign in a lease that in order to be downtown, your hours need to be \_\_\_\_, and then it starts changing. We can preach and talk until we are blue in the face, but if we start to include it in leases then we're able to say, you agreed to do this.

Linda added that what happens then is people sign these leases and then the expectation is there, we have to be open on these days. So guess what, all of a sudden there are places for people to go on the weekends. It makes it a more desirable place. So in the beginning, it may be a little stressful because like as a landlord you're telling people that you have to be open on such and such a day. In the end, ultimately, people will want your response because with these many people open, you become the desirable area.

Sid stated that you can't tell the landowner that they have to be open.

Sazi and Linda replied that in a district you can.

Sid asked if there's a grandfather clause for stuff like that.

Linda replied that there are plenty of other communities that have done it.

Sid, going back to the agenda, asked for comments from the Board.

Jeff asked if we're thinking of giving him his final payment on the Reed Rockets.

Juan replied that he will talk to MainStreet and get back to him.

Jagger stated that the Arts Council has several hundred dollars in their public arts fund that needs to go towards Reed Rockets, that they can help with.

**COMMENTS FROM THE PUBLIC ARTS ADVISORY BOARD:**

No other comments were made other than those made above.

**TIME, PLACE AND DATE OF NEXT MEETING:**

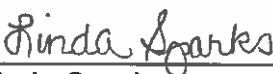
After a brief discussion, it was decided to meet on April 17<sup>th</sup> to give MainStreet time to come back with something solid.

**ADJOURN:**

There being no further business to come before the Board, the meeting was adjourned at 4:45 P.M. Juan Fuentes moved to adjourn, and it carried.

**ATTEST:**

Minutes were approved on April 17, 2017 on a motion made by Jagger Gustin and seconded by Juan Fuentes, and it carried.

  
\_\_\_\_\_  
Linda Sparks  
Secretary



F.4

**CITY OF TRUTH OR CONSEQUENCES  
CITY MANAGER'S OFFICE  
505 SIMS STREET  
TRUTH OR CONSEQUENCES, NEW MEXICO 87901  
PHONE: (575) 894-6673 EXT 320    FAX: (575) 894-0363**

## **COMMISSION ACTION FORM**

**ITEM:**

*Third Quarter Subrecipient Reports, FY 2016/17*

**PURPOSE OF ACTION:**

*Review*

**BACKGROUND:**

*Contract requires that recipients of Subrecipient funding submit a quarterly report to the City by the 15<sup>th</sup> of the month following the quarter.*

**STAFF RECOMMENDATION:**

Not Applicable

**SUPPORT INFORMATION:**

Third Quarter Reports

Name of Drafter: Linda Sparks	Department: City Manager's Office	Meeting: 4/25/17
E-mail: <a href="mailto:lsparks@torcnm.org">lsparks@torcnm.org</a>	Phone: 575-894-6673 Ext. 320	

**SUBRECIPIENT QUARTERLY REPORTS**
**FISCAL YEAR: 2016/2017**

Updated: 04/18/17

NAME OF ORGANIZATION	ALLOTMENT	1ST QTR. REPORT		2ND QTR. REPORT		3RD QTR. REPORT		4TH QTR. REPORT	
		YES	NO	YES	NO	YES	NO	YES	NO
(SUBRECIPIENT GRANTS - Contract requires reports by the 15th of the month following the quarter.)									
Boys & Girls Club	\$9,500.00	X	10/11	X	01/04	X	04/05		
Companion Animal Action Team/CAAT	\$1,000.00	X	10/04	X	01/05		X		
Domestic Abuse Intervention Center/DAIC	\$2,500.00	X	10/11	X	01/09	X	04/10		
Matthew 25 Food Pantry	\$6,000.00	X	09/30 *	X	01/06	X	04/06		
Sierra Joint Office on Aging (SJOA )	\$24,000.00	X	10/05	X	01/13	X	04/05		

*(OTHER FUNDING - Contract requires reports by the 15th of the month following the quarter.)*

Friends of Elephant Butte Lake State PK	\$1,000.00	X	07/14	Zero Balance		Zero Balance			
Geronimo Springs Museum	\$3,500.00	X	09/26	X	01/06	X	04/11		
Geronimo Trail Scenic Byway	\$3,500.00	X	10/07	X	01/09	X	04/05		
MainStreet Truth or Consequences	\$35,000.00	X	10/04	X	12/30		X		
Sierra County Recreation & Tourism		Contract w/ Griffin & Associates							

1st Quarter: JUL, AUG, SEP

2nd Quarter: OCT, NOV, DEC

3rd Quarter: JAN, FEB, MAR

4th Quarter: APR, MAY, JUN

Copies to City Mgr. &amp; Commission 10/25/16.

Copies to City Mgr. &amp; Commission 01/24/17.

Copies to City Mgr. &amp; Commission 04/25/17.

\*Matthew 25 Food Pantry: Documents received by City Clerks Office 9/30/16, but not by City Manager's Office until 12/02/16 after inquiry by Dawn Jensen. Complete report submitted 1/06/17.

RECEIVED

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

APR 05 2017

FY: 2016/2017

# SUBRECIPIENT QUARTERLY REPORT

ORGANIZATION: The Club

ALLOCATION: \$9,500.00

(FY Allotment, Not Qtr. Draw)

QTR DRAW: \$2,375.00

QUARTER: 3rd

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

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

During the January-March 2017 3rd quarter, The Club provided high quality comprehensive programs, opportunities, mentoring and USDA Snack for over 140 6th-12th graders in T or C for 20 or more hours during the school year. Transportation was also provided for youth to off site events and from the schools to the club. Transportation was also offered and provided for youth to attend outreach events and Community Service Learning. We partnered with the police departments to do a basketball tournament with the youth to help build relationships between the youth and the law enforcement. We implemented peer to peer trainings for youth. We transported and attended STEM day for girls at NMSU.

SUBMITTED BY:

Charis Baxter

TYPED NAME



SIGNATURE

DATED: 04/03/17

## SUBRECIPIENT QUARTERLY REPORT

(Report is due by the 25th of the month  
following the quarter.)

FY: 2016/2017

R.S.

ORGANIZATION: Domestic Abuse Intervention CenterALLOCATION: \$2,500.00QTR DRAW: \$625.00QUARTER: 3rd

(FY Allotment, Not Qtr. Draw)

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

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

Statistical information:		Years	Victimization	Referral	
Female-18	Anglo-12	18-21-3	Emotional- 22	Police- 2	Sheriff-
Male-7	Hispanic-9	22-40-13	Physical-16	Hospital -	Self-Referral-4
	Other-5	41-59-7	Sesxual-2	Courts-9	Friends-1
		60-74- 3		Family-4	Other-3
				CYFD-1	

Type of Contact: Volunteer Hours: Total-1637

Orders of Protection- 11 Cell phone-1632

Skills &amp; knowledge Sessions- 52 Administrative-4

Group- 378 Crisis-

Community Navagation - Office-

Crisis Intervention- 6.5 Direct client contact (crisis) -1

Shelter-0

Food-0

Legal Advocacy- 52.75

January

Windstream- \$292.57

February

Windstream-\$178.78

March

Windstream- \$153.65

Total \$625.00

SUBMITTED BY: Blanca Chavez

TYPED NAME

/ Blanca Chavez

SIGNATURE

DATED: 4-6-17

Rev. 5/2014

## SUBRECIPIENT QUARTERLY REPORT

FY: 2016/2017

ORGANIZATION: *Matthew 25 Food Pantry*

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

ALLOCATION: \$ 6000.00

QUARTERLY DRAW: \$ 1500.00

QUARTER: 3rd

SUBMITTED BY:

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pb 9:35am

Dawn Jensen  
Executive Director

Dawn Jensen  
Signature

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

Matthew 25 Food Pantry continued to be extremely busy during the Third Quarter. Our presence on the Internet through our Matthew 25 Facebook page and our participation in other local Facebook sites, continues to draw attention to the services we provide, and the number of interested community members and participants increases weekly. Our social media site has become a clearing house for questions, requests for emergency food, and a place for newly arrived people to touch base and find out about available services here in Truth or Consequences.

We have also continued our work with other food-related programs, donating over-flow food to the Church at the Butte food distribution program and the St. Paul's Episcopal Church monthly Saturday evening community meal. We continue to feed people through our regular weekly distributions, as well as through these community links. Through these links we are able to ensure that no donated food is ever wasted.

We are heartened by and feel strong support from local organizations like the Sierra Joint Commission on the Aging and the local T or C Police Department. We work closely with them, and they with us, to ensure there are few, if any, hungry people in our town.

The Sub-recipient Grant money received from the City has gone toward our electric and gas bills, freeing up money for additional food purchase for our clients. In the warmer months, especially, our electric bill pushes \$600 per month, so the money received from the City of T or C is particularly welcome.

We continue to serve an average of 500 households per month, including TEFAP week, where we distribute food to over 130 households of elderly and disabled people living in HUD housing around Truth or Consequences.

Dawn Jensen  
Dawn Jensen, *Matthew 25 Executive Director*

April 6<sup>th</sup>, 2017  
Date

4:33 PM

04/05/17

Accrual Basis

**Matthew 25 Food Pantry**  
**Profit & Loss Standard**  
January through March 2017

	<u>Jan - Mar 17</u>
Ordinary Income/Expense	
Income	
Contributions and Support	4,016.43
Earned Revenues	1,500.00
Total Income	<u>5,516.43</u>
Expense	
Food	4,575.88
Rent	1,800.00
Utilities	767.61
Total Expense	<u>7,143.49</u>
Net Ordinary Income	<u>-1,627.06</u>
Net Income	<u><u>-1,627.06</u></u>

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Accrual Basis

# Matthew 25 Food Pantry

## Transaction Detail By Account

January through March 2017

Type	Date	Num	Name	Memo	Amount	Balance
<b>Contributions and Support</b>						
Deposit	1/6/2017	DEP	Private Donation	<del>Borland</del>	150.00	150.00
Deposit	1/6/2017	DEP	Private Donation	<del>Borland</del>	200.00	350.00
Deposit	1/6/2017	DEP	Private Donation	<del>Borland</del>	150.00	500.00
Deposit	1/18/2017	DEP	Private Donation	<del>Borland</del>	100.00	600.00
Deposit	1/18/2017	DEP	Private Donation	<del>Borland</del>	75.00	675.00
Deposit	1/18/2017	DEP	Private Donation	<del>Borland</del>	250.00	925.00
Deposit	1/18/2017	DEP	Cash for Clubs (Bullocks)	Percentage Program	180.10	1,105.10
Deposit	1/27/2017	DEP	Private Donation	Cash-Private	10.00	1,115.10
Deposit	1/27/2017	DEP	Private Donation	<del>Wenthamer</del>	25.00	1,140.10
Deposit	1/27/2017	DEP	Private Donation	<del>Wenthamer</del>	25.00	1,165.10
Deposit	1/27/2017	DEP	Private Donation	Women of the Moose	50.00	1,215.10
Deposit	2/8/2017	DEP	Private Donation	<del>Wenthamer</del>	250.00	1,465.10
Deposit	2/8/2017	DEP	Private Donation	<del>Borland</del>	200.00	1,665.10
Deposit	2/14/2017	DEP	Private Donation	<del>Borland</del>	100.00	1,765.10
Deposit	2/14/2017	DEP	Private Donation	<del>Borland</del>	500.00	2,265.10
Deposit	2/17/2017	DEP	Cash for Clubs (Bullocks)	Percentage Program	100.27	2,365.37
Deposit	2/17/2017	DEP	Private Donation	<del>Borland</del>	75.00	2,440.37
Deposit	2/17/2017	DEP	Private Donation	<del>Borland</del>	100.00	2,540.37
Deposit	2/28/2017	DEP	Private Donation	<del>Wenthamer</del>	100.00	2,640.37
Deposit	2/28/2017	DEP	Private Donation	Women of the Moose	50.00	2,690.37
Deposit	3/6/2017	DEP	Private Donation	<del>Wenthamer</del>	20.00	2,710.37
Deposit	3/6/2017	DEP	Private Donation	<del>Wenthamer</del>	250.00	2,960.37
Deposit	3/6/2017	DEP	Private Donation	<del>Borland</del>	150.00	3,110.37
Deposit	3/6/2017	DEP	Private Donation	<del>Borland</del>	200.00	3,310.37
Deposit	3/14/2017	DEP	Private Donation	NM Copper	200.00	3,510.37
Deposit	3/20/2017	DEP	Private Donation	<del>Borland</del>	100.00	3,610.37
Deposit	3/20/2017	DEP	Private Donation	<del>Borland</del>	75.00	3,685.37
Deposit	3/24/2017	DEP	Cash for Clubs (Bullocks)	Percentage Program	240.08	3,925.45
Deposit	3/24/2017	DEP	Private Donation	<del>Borland</del>	90.98	4,016.43
Total Contributions and Support					4,016.43	4,016.43
<b>Earned Revenues</b>						
Deposit	1/18/2017	DEP	City of T or C	2nd Quarter Grant payment	1,500.00	1,500.00
Total Earned Revenues					1,500.00	1,500.00
<b>Food</b>						
Check	1/6/2017	341	RoadRunner Food Bank of NM	December	-708.18	-708.18
Check	1/17/2017	342	Bullocks	December	-579.78	-1,287.96
Check	2/1/2017	346	RoadRunner Food Bank of NM	January	-743.64	-2,031.60
Check	2/4/2017	347	Bullocks	January	-1,278.21	-3,309.81
Check	2/28/2017	352	RoadRunner Food Bank of NM	February	-650.23	-3,960.04
Check	3/4/2017	353	Bullocks	February	-615.84	-4,575.88
Total Food					-4,575.88	-4,575.88
<b>Rent</b>						
Check	1/24/2017	343	Howell and Associates	Apr-May	-600.00	-600.00
Check	2/21/2017	349	Howell and Associates	May-Jun	-600.00	-1,200.00
Check	3/21/2017	355	Howell and Associates	Jun-Jul	-600.00	-1,800.00
Total Rent					-1,800.00	-1,800.00
<b>Utilities</b>						
Check	1/24/2017	344	NM Gas	gas bill	-25.28	-25.28
Check	1/31/2017	345	City of Truth or Consequences	Electric, Water, Sewer	-222.24	-247.52
Check	2/18/2017	348	NM Gas	gas bill	-27.55	-275.07
Check	2/28/2017	351	City of Truth or Consequences	Electric, Water, Sewer	-216.50	-491.57
Check	3/20/2017	354	NM Gas	gas bill	-22.58	-514.15
Check	3/25/2017	356	City of Truth or Consequences	Electric, Water, Sewer	-253.46	-767.61
Total Utilities					-767.61	-767.61
<b>TOTAL</b>					<b>-1,627.06</b>	<b>-1,627.06</b>

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# Matthew 25 Food Pantry

## Participants for December 2016 and January 2017

Dec. 1st	110 Households,	64 Seniors,	136 Adults,	73 Children
Dec. 8th	109 Households,	49 Seniors,	154 Adults,	117 Children
Dec. 15th	88 Households,	53 Seniors,	121 Adults,	68 Children
Dec. 22 <sup>nd</sup>	TEFAP			
Walk-ins	124 Households,	82 Seniors,	158 Adults,	82 Children
Sr. Hous.	127 Households,	93 Seniors,	34 Adults,	0 Children
Dec. 29th	39 Households,	31 Seniors,	32 Adults,	12 Children

**TOTALS:**     597 Households, 372 Seniors, 635 Adults, 352 Children  
**Total Number of People Served: 1359**

Jan. 5th	134 Households,	92 Seniors,	157 Adults,	77 Children
Jan. 12th	116 Households,	58 Seniors,	162 Adults,	104 Children
Jan. 19th	118 Households,	70 Seniors,	137 Adults,	90 Children
Jan. 26	TEFAP			
Walk-ins	99 Households,	59 Seniors,	102 Adults,	32 Children
Sr. Hous.	129 Households,	95 Seniors,	34 Adults,	0 Children

**TOTALS:**     596 Households, 374 Seniors, 592 Adults, 303 Children  
**Total Number of People Served: 1269**

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**Matthew 25 Participant Numbers**  
February, 2017

<u><i>Date</i></u>	<u><i>Households</i></u>	<u><i>Seniors</i></u>	<u><i>Adults</i></u>	<u><i>Children</i></u>
Feb. 2	134	76	173	108
Feb. 9	115	79	138	94
Feb. 16	96	55	117	44
Feb. 23	TEFAP (Federal Commodities)			
Walk-ins	82	52	85	23
Sr. Hous.	131	97	34	0

**1. TOTALS:            558                    359                    547                    269**

**Total Number of People Served: 1175**

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**Matthew 25 Food Pantry**  
***Participant Number***  
**March 2017**

<u>Date</u>	<u>Households</u>	<u>Seniors</u>	<u>Adults</u>	<u>Children</u>
March 2	132	93	156	90
March 9	112	70	143	82
March 16	72	43	75	34
March 23	TEFAP (Temporary Emergency Food Assistant Program)			
Walk-ins	68	33	85	41
Sr. Hous.	131	90	41	0
March 30	79	29	104	56
<b>TOTALS:</b>	<b>594</b>	<b>358</b>	<b>604</b>	<b>303</b>


**Total Number of People Served: 1265**

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**SUBRECIPIENT QUARTERLY REPORT**  
**FY: 2016/2017**

**ORGANIZATION:** Sierra Joint Office on Aging (Report is due by the 15<sup>th</sup> of the month following the QTR.)

**ALLOCATION:** \$24,000 \$6,000 **QUARTER:** 3<sup>rd</sup>  
(FY Allotment) (Quarterly Draw) (1<sup>st</sup>/2<sup>nd</sup>/3<sup>rd</sup>/4<sup>th</sup>)

**SUBMITTED BY:** Joe McClintock / Exec. Director   
Print Name Signature

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

The SJOA performed the following services for the 3<sup>rd</sup> QTR (January, February & March 2017).

Congregate meals	=	9,285	Units / Meals
Home Delivered Meals	=	8,108	Units / Meals
Transportation	=	21,505	Units / Rides
Homemaker Services	=	1,205	Units
Respite (caretaker relief)	=	133	Units
Title XX - Home, chore & personal care services	=	1,625	Units
Foster Grandparent Hours	=	1,241	Hours / Children served
Senior Companion Program	=	1,801	Hours / Seniors served
Senior Employment Training	=	657	Hours Job Skills Training

**Program Information**

- The SJOA will receive another 5% reduction in State funds in 2017/2018 in addition to the 5% cuts received in October of 2016.
- The waiting list for Home Delivered Meals has been lifted.
- The Senior Transportation Department reached over 1,000 rides in March.

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**(Report is due by the 15<sup>th</sup> of the month following the QTR.)**

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

Marilyn Pope 04/10/17  
Signature

**Total**                **\$1,537.92**

(We use the sub-recipient funds to pay as much as possible of the above expenses.)

# SUBRECIPIENT QUARTERLY REPORT

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

FY: 2016/2017

ORGANIZATION: GERONIMO SPRINGS MUSEUM

ALLOCATION: \$3,500.00

QTR DRAW: \$875.00

QUARTER: 3RD

(FY Allotment, Not Qtr. Draw)

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

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

*The Geronimo Springs Museum is open 7 days a week, for a total of 53 hours. We are closed on Sunday mornings, except for Fiesta weekend. Included in this quarterly report are only the expenses which are incurred on a continual basis. We use the sub-recipient funds to go as far as possible to cover these expenses. The City of T or C and NM Gas Co are self-explanatory. Due to the value and care of the valuable artifacts housed in the museum, we include Turtleback Pest Control and the Alarm Services de Las Cruces as essentials in this process.*

*We are currently installing a new heating and cooling system, which will greatly enhance quality control for exhibits and stored items. We have installed motion sensor lighting in many areas to keep our utilities in check, as there are times when there are many people in the museum, and other times, lighting of all areas is not needed.*

*We are constantly making an effort to operate as efficiently as possible. The assistance you provide is much appreciated, as is your interest in this facility, vital to the historic preservation and education of our community and its guests.*

*Thank you.*

SUBMITTED BY:

Maarilyn Pope

TYPED NAME

Maarilyn Pope  
SIGNATURE

DATED:

04/10/17

Rev. 5/2014

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**SUBRECIPIENT QUARTERLY REPORT**(Report is due by the 15th of the month  
following the quarter.)FY: 2016/2017ORGANIZATION: Geronimo Trail Scenic BywayALLOCATION: \$3,500.00QTR DRAW: \$875.00QUARTER: 3rd

(FY Allotment, Not Qtr. Draw)

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

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

*During the months of January, February, March 2017, we greeted 1,992 guests. This is up 51% over the same quarter of 2016. We mailed 26 packet of information to potential visitors and relocatees. We shipped one box of assorted brochures to the El Paso Convention Center. We replied to 372 emails and 104 telephone requests for information on T or C and Sierra County. We opened the Spaceport Visitors Center in February and March for the benefit of travelers.*

***Total expenses for the period:****Telephone \$328.41**Insurance \$202.02**Postage \$ 200.22**Supplies \$ 233.38****Total expenses for the period: \$ 964.03***

*We are open 7 days per week with all volunteer staff. We greeted an average of 22 people per day, providing them with information on the local area including places to eat, shop, and visit while here. Sierra County Tourism Board provides donations for one of our volunteers to deliver brochures to local motels and restaurants on a monthly basis for the benefit of travelers staying at those facilities. We stay open on art hop night for the benefit of the public.*

*We assist visitors with finding hotel rooms, especially on weekends.*

*Our volunteer time and services provide the City of Truth or Consequences with marketing efforts in excess of \$42,000 per year. These services are provided to visitors who come to our community and spend money, increasing both lodgers tax and gross receipts. The information we mail out and provide for conferences and conventions further encourages people to visit or to plan a longer stay at some future time.*

*We provided boxes of literature for the Masonic Lodge convention here for over 200 guests from around the State and nearby states.*

SUBMITTED BY:

LaRena Miller

TYPED NAME

LaRena Miller

SIGNATURE

DATED: 04/05/17



F.5

**CITY OF TRUTH OR CONSEQUENCES  
CITY MANAGER'S OFFICE  
505 SIMS STREET  
TRUTH OR CONSEQUENCES, NEW MEXICO 87901  
PHONE: (575) 894-6673 EXT 320    FAX: (575) 894-0363**

## COMMISSION ACTION FORM

**ITEM:**

*Third Quarter Lodgers Tax Reports, FY 16/17*

**PURPOSE OF ACTION:**

*Review*

**BACKGROUND:**

*Contract requires that recipients of Lodgers Tax funding submit a quarterly report to the City by the 15<sup>th</sup> of the month following the quarter. Reports will be submitted to the Lodgers Tax Advisory Board for their review at its 4/27/17 meeting.*

**STAFF RECOMMENDATION:**

Not Applicable

**SUPPORT INFORMATION:**

Third Quarter Reports and Summary Sheet

Name of Drafter: Linda Sparks	Department: City Manager's Office	Meeting: 4/25/17
E-mail: <a href="mailto:lsparks@torcnm.org">lsparks@torcnm.org</a>	Phone: 575-894-6673 Ext. 320	

**LODGERS' TAX RECIPIENTS****FISCAL YEAR: 2016/2017***Updated: 04/18/17*

Reports due by 15th of month following quarter.

NAME OF ORGANIZATION	ALLOTMENT	1ST QTR. REPORT		2ND QTR. REPORT		3RD QTR. REPORT		4TH QTR. REPORT	
		YES	NO	YES	NO	YES	NO	YES	NO
Chamber of Commerce	\$11,500	X	10/03	X	03/08	X			
Clint Benjamin Memorial Team Roping	\$1,500		X		X	No response from contractor. JAF Rodeo moved to Socorro.			
Friends of Elephant Butte LK ST PK	\$700	X	10/25	X	12/12	X	04/07		
Geronimo Springs Museum	\$10,000	X	09/26	X	01/12	X	04/11		
MainStreet Truth or Consequences	\$10,000	X	10/12	X	01/12	X	03/30		
New Mexico Old Time Fiddlers	\$1,000	X	12/12		X		X		
Sierra County Arts Council	\$3,000	X	10/13	X	01/13	X	04/14		
T or C Fiesta, Inc.	\$4,000	X	10/14	X	01/17	X	04/13		
Veterans Memorial Pk/Museum	\$4,300	X	12/15 *	X	12/30 *		X		
<b>COOP GRANTS</b>									
Geronimo Trail Scenic Byway	\$6,000	X	10/07	X	01/09	X	04/04		
Sierra County Recreation & Tourism	\$16,000	X	10/04	X	01/03	X	04/06		

\* Corrected copies received 1/11/17.

1ST QTR:	JUL, AUG, SEP
2ND QTR:	OCT, NOV, DEC
3RD QTR:	JAN, FEB, MAR
4TH QTR:	APR, MAY, JUN

Copies to LTAB 10/27/16.

Copies to LTAB 01/26/17.

Copies to LTAB 04/27/17.

Copies to CC 11/15/16.

Copies to CC 02/14/17.

Copies to CC 04/25/17.

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ph 11:50 am

01/01/17 TO 03/31/17  
(mm/dd/yy) (mm/dd/yy)

*Committee meetings have continued for detailed planning of the June 16, 17 & 18, 2017 Boat RV & Adventure Show. Advertising posters have been completed and vendor recruitment continues. The application for use of Elephant Butte Lake State Park has been submitted to State Parks for approval. The off-site permit for the State of New Mexico Licensing Bureau is close to being completed. Copies of the paid invoices, cancelled check (front & back) and a copy of the poster are attached to this report. This concludes our contractual work for this event.*

ITEMS(S)

### Poster development for the Boat RV show

\$ 700.00

\$

\$

\$

\$

NM GRT

\$

(if applicable)

**TOTAL**

**\$ 700.00**

Invoice paid 3 Qtr.  
Payment requested 4 Qtr.  
J.S.

## TASK

ANTICIPATED COMPLETION DATE

*This concludes the contractual requirement for this ye*

*S/s Terry J. Squier*

**SIGNATURE**

575-740-9171

CONTACT PHONE NUMBER

7d  
April 19, 2017  
DATE

**LODGERS' TAX  
QUARTERLY WORK/SPENDING REPORT**

04-11-17A09:28 RCVD

NAME OF GRANTEE GERONIMO SPRINGS MUSEUM

THREE MONTH PERIOD OF REPORT: 01/01/17 TO 03/31/17  
(mm/dd/yy) (mm/dd/yy)

PLEASE PROVIDE A DETAILED STATUS OF ACTIVITY FOR REPORTING PER  
(If no work has been done, explain why work has not begun.)

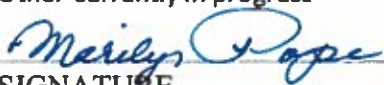
This quarter is always one of our busiest. The annual banquet was held. We had a large crowd, a internationally known speaker, and wonderful food. The Civic Center was used, as we needed a larger venue. I will do a more detailed report on this event, as an example of how we track our fundraisers, with the request for next years lodger's tax allotments. We also had various programs and tours. We always see a large group of tourists during this time, allowing us to encourage longer visits to the area, etc.

ITEMS AND AMOUNTS FOR WHICH REIMBURSEMENT FUNDS WERE REQUESTED DURING PERIOD:

<u>ITEMS(S)</u>	<u>AMOUNT</u>
<u>Advertising</u>	<u>\$ 100.00</u>
<u>Advertising</u>	<u>\$ 125.00</u>
<u></u>	<u>\$</u>
<u></u>	<u>\$</u>
<u></u>	<u>\$</u>
<u></u>	<u>\$</u>
<u></u>	<u>\$</u>
<u>NM GRT</u>	<u>\$ (if applicable)</u>
<b>TOTAL</b>	<b><u>\$ 225.00</u></b> OK ✓ J.S.

ANTICIPATED COMPLETION DATES OF TASKS NOTED ABOVE:

<u>TASK</u>	<u>ANTICIPATED COMPLETION DATE</u>
<u>Advertise-currently in progress</u>	<u>05/15/17</u>
<u>Publish-currently in progress</u>	<u>05/15/17</u>
<u>Radio-currently in progress</u>	<u>05/15/17</u>
<u>Website-completed-will request reimbursement</u>	<u>04/15/17</u>
<u>Other-currently in progress</u>	<u>0</u>

  
SIGNATURE

575-894-6600  
CONTACT PHONE NUMBER

04/10/17  
DATE

LODGERS' TAX  
QUARTERLY WORK/SPENDING REPORT

RECEIVED  
MAR 30 2017

NAME OF GRANTEE: MainStreet Truth or Consequences

THREE MONTH PERIOD OF REPORT: 10/01/16 TO 12/31/16  
(mm/dd/yy) (mm/dd/yy)

PLEASE PROVIDE A DETAILED STATUS OF ACTIVITY FOR REPORTING PERIOD.

(If no work has been done, explain why work has not begun.)

*There were no activities during this time period that required lodgers tax.*

ITEMS AND AMOUNTS FOR WHICH REIMBURSEMENT FUNDS WERE REQUESTED  
DURING PERIOD:

<u>ITEMS(S)</u>	<u>AMOUNT</u>
<u>Advertising for Hot Springs Festival</u>	<u>\$ 76.97</u>
<u>Advertising for Old-Fashioned Christmas</u>	<u>\$ 922.66</u>
<u>Advertising for Veterans Day Car Show</u>	<u>\$ 911.24</u>
<u> </u>	<u>\$</u>
<u> </u>	<u>\$</u>
NM GRT	\$ (if applicable)
<b>TOTAL</b>	<b>\$ 1,910.87</b> Paid 4Q. J.A.

ANTICIPATED COMPLETION DATES OF TASKS NOTED ABOVE:

<u>TASK</u>	<u>ANTICIPATED COMPLETION DATE</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>

Juana Velazquez  
SIGNATURE

575-740-6180  
CONTACT PHONE NUMBER

03/30/17  
DATE

RECEIVED  
APR 14 2017

LODGERS' TAX  
QUARTERLY WORK/SPENDING REPORT

NAME OF GRANTEE: Sierra County Arts Council

THREE MONTH PERIOD OF REPORT: 01/01/17 TO 03/31/17  
(mm/dd/yy) (mm/dd/yy)

PLEASE PROVIDE A DETAILED STATUS OF ACTIVITY FOR REPORTING PERIOD.

(If no work has been done, explain why work has not begun.)

With the compiling of required paperwork for inclusion for reimbursement of allowed advertising  
SCAC personnnel discovered missing tear sheets from publication. The requested tear sheets  
did not arrive by US Postal carrier in time for inclusion for this reporting period.

It will be necessary to include the required copies and tear sheets during the final reporting period

ITEMS AND AMOUNTS FOR WHICH REIMBURSEMENT FUNDS WERE REQUESTED  
DURING PERIOD:

<u>ITEMS(S)</u>	<u>AMOUNT</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
NM GRT	\$ _____ (if applicable)
TOTAL	\$ <u>0.00</u> OK/OK.

ANTICIPATED COMPLETION DATES OF TASKS NOTED ABOVE:

<u>TASK</u>	<u>ANTICIPATED COMPLETION DATE</u>
<u>End of SCAC advertising program will be complete w</u>	_____
<u>on or before the close of business on May 31, 2017</u>	_____
_____	_____

  
Cary Jagger Gustin

575-312-2050  
CONTACT PHONE NUMBER

April 14, 2017  
DATE

**LODGERS' TAX  
QUARTERLY WORK/SPENDING REPORT**

*Rec*  
**RECEIVED**  
**APR 13 2017**

NAME OF GRANTEE: T or C Fiesta

THREE MONTH PERIOD OF REPORT: 01/01/17 TO 03/31/17  
(mm/dd/yy) (mm/dd/yy)

PLEASE PROVIDE A DETAILED STATUS OF ACTIVITY FOR REPORTING PERIOD.

**(If no work has been done, explain why work has not begun.)**

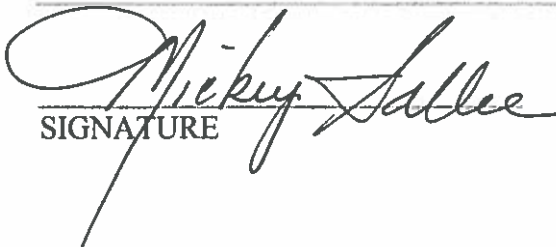
*No work has been done this quarter. Our event does not take place until May 2017*

ITEMS AND AMOUNTS FOR WHICH REIMBURSEMENT FUNDS WERE REQUESTED  
DURING PERIOD:

<u>ITEMS(S)</u>	<u>AMOUNT</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
NM GRT	\$ _____ (if applicable)
<b>TOTAL</b>	\$ <u>0.00</u> <i>OK/L.S.</i>

ANTICIPATED COMPLETION DATES OF TASKS NOTED ABOVE:

<u>TASK</u>	<u>ANTICIPATED COMPLETION DATE</u>
_____	_____
_____	_____
_____	_____
_____	_____

 SIGNATURE	575-894-8948 CONTACT PHONE NUMBER	04/10/17 DATE
---	--------------------------------------	------------------

04-04-17A10:05 RCVD

THREE MONTH PERIOD OF REPORT: 01/01/17 TO 03/31/17  
(mm/dd/yy) (mm/dd/yy)

**(If no work has been done, explain why work has not begun.)**

Our web site hosting has been renewed and we are working with our web tech on various upgrades that are needed for our site.

**TOTAL**      \$      0.00      OK/DR. A.

05/15/17

04/03/17  
DATE

04-06-17P02:00 RCVD

NAME OF GRANTEE: *Sierra County Recreation & Tourism Advisory Board*

THREE MONTH PERIOD OF REPORT: 01/01/17 TO 03/31/17  
(mm/dd/yy) (mm/dd/yy)

PLEASE PROVIDE A DETAILED STATUS OF ACTIVITY FOR REPORTING PERIOD.

**(If no work has been done, explain why work has not begun.)**

*Tourism Website updates, maintenance, projects including corrections, additions and deletions to existing web pages and all supporting documents including downloadable pdfs.*

*Trip Advisory Annual Contract was be renewed in February 2017*

*Annual Contract with Fun and Games for brochure distribution was be renewed in January 2017*

*Reprint of the "I" Brochure will be completed by May 1, 2017*

ITEMS AND AMOUNTS FOR WHICH REIMBURSEMENT FUNDS WERE REQUESTED  
DURING PERIOD:

ITEMS(S)AMOUNT

*website updates, maint, projects, Facebook, Trip Advisor*

\$ 5,975.74

### Brochure Distribution

\$ 1,000.00

\$

\$

\$

NM GRT

\$ 82.94 (if applicable)

**TOTAL**

\$ 7,058.68 OK/RS.D.

ANTICIPATED COMPLETION DATES OF TASKS NOTED ABOVE:

### TASK

**ANTICIPATED COMPLETION DATE**

*Website, updates, maintenance, advertising*

05/01/17

*Print*

05/01/17

SIGNATURE

575-740-1777

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**CONTACT PHONE NUMBER**

04/0517  
DATE



F.6

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

**ITEM:**

Discussion/Action: Contract Award RFP: 16-17-006 Architectural Services for Regional Safety Complex

**BACKGROUND:**

RFP's for Architectural Services was awarded on April 11, 2017 to NCA Architects, LLC

**STAFF RECOMMENDATION:**

Approval of contract to NCA Architects, LLC

**SUPPORT INFORMATION: Contract**

Name of Presenter: Pat Wood, CPO	Department: Finance	Meeting date: 04/25/17
E-mail: <a href="mailto:pat@torcnm.org">pat@torcnm.org</a>	Phone: 894-6673 ext. 312	



**AIA®**

# Document B101™ – 2007

## ***Standard Form of Agreement Between Owner and Architect***

AGREEMENT made as of the            day of April in the year 2017  
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:  
(Name, legal status, address and other information)

The City of Truth or Consequences, NM  
505 Sims St.  
Truth or Consequences, NM 87901  
Telephone Number: 575-8946673

and the Architect:  
(Name, legal status, address and other information)

NCA Architects  
1306 Rio Grande Blvd. NW  
Albuquerque, New Mexico 87104  
Telephone Number: 505-255-6400  
Fax Number: 505-268-6954

for the following Project:  
(Name, location and detailed description)

T or C Public Safety Building  
Truth of Consequences, NM

The Owner and Architect agree as follows.

### **ADDITIONS AND DELETIONS:**

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

## TABLE OF ARTICLES

- 1 INITIAL INFORMATION
- 2 ARCHITECT'S RESPONSIBILITIES
- 3 SCOPE OF ARCHITECT'S BASIC SERVICES
- 4 ADDITIONAL SERVICES
- 5 OWNER'S RESPONSIBILITIES
- 6 COST OF THE WORK
- 7 COPYRIGHTS AND LICENSES
- 8 CLAIMS AND DISPUTES
- 9 TERMINATION OR SUSPENSION
- 10 MISCELLANEOUS PROVISIONS
- 11 COMPENSATION
- 12 SPECIAL TERMS AND CONDITIONS
- 13 SCOPE OF THE AGREEMENT

## EXHIBIT A INITIAL INFORMATION

### ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Article 1 and in optional Exhibit A, Initial Information:

*(Complete Exhibit A, Initial Information, and incorporate it into the Agreement at Section 13.2, or state below Initial Information such as details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, authorized representatives, anticipated procurement method, and other information relevant to the Project.)*

This project includes the renovation of the Armory Building in Truth or Consequences NM into a Public Safety Building. The existing building has approximately 12,220 sf and a proposed addition is approximately 1,085 sf. When fully completed this building will include the T or C Police Department. Additional departments that may be part of this project include the State Police, Dispatch and Emergency Operations.

Consultants on this project include:  
Miller Engineering (Civil Engineer)  
Chavez-Grievies (Structural Engineer)  
ArSed Engineers (Mechanical Engineer)  
AC Engineering (Electrical Engineer)

The initial construction cost estimate for this project is \$2,460,000 (with limited site work)

§ 1.2 The Owner's anticipated dates for commencement of construction and Substantial Completion of the Work are set forth below:

- .1 Commencement of construction date:

To be determined

.2 Substantial Completion date:

To be determined

§ 1.3 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation.

## ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services as set forth in this Agreement.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost:

*(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)*

.1 General Liability

\$4,000,000.00 Aggregate  
\$2,000,000.00 per Occurrence

.2 Automobile Liability

\$2,000,000.00 Combined Single Limit

.3 Workers' Compensation

\$100,000.00 per Accident  
\$100,000.00 Disease for Each Employee  
\$500,000.00 Disease Policy Limit

.4 Professional Liability

\$1,000,000.00 Each Claim  
\$1,000,000.00 Aggregate

## ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval.

§ 3.1.5 The Architect shall, at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

## § 3.2 SCHEMATIC DESIGN PHASE SERVICES

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, and the proposed procurement or delivery method and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project's requirements agreed upon with the Owner, the Architect shall prepare and present for the Owner's approval a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other environmentally responsible design services under Article 4.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

### § 3.3 DESIGN DEVELOPMENT PHASE SERVICES

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

### § 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

### § 3.5 BIDDING OR NEGOTIATION PHASE SERVICES

#### § 3.5.1 GENERAL

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

#### § 3.5.2 COMPETITIVE BIDDING

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by

- .1 procuring the reproduction of Bidding Documents for distribution to prospective bidders;
- .2 distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
- .3 organizing and conducting a pre-bid conference for prospective bidders;
- .4 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda; and
- .5 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

### § 3.5.3 NEGOTIATED PROPOSALS

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by

- .1 procuring the reproduction of Proposal Documents for distribution to prospective contractors, and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors; and
- .3 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 The Architect shall consider requests for substitutions, if the Proposal Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.

### § 3.6 CONSTRUCTION PHASE SERVICES

#### § 3.6.1 GENERAL

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™-2007, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201-2007, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

#### § 3.6.2 EVALUATIONS OF THE WORK

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and

from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2007, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

### § 3.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

### § 3.6.4 SUBMITTALS

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

§ 3.6.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment

or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

#### § 3.6.5 CHANGES IN THE WORK

§ 3.6.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

#### § 3.6.6 PROJECT COMPLETION

§ 3.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

#### ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2.

*(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)*

Additional Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description (Section 4.2 below or in an exhibit attached to this document and identified below)
§ 4.1.1 Programming (B202™-2009)	N.P. (Not Provided)	
§ 4.1.2 Multiple preliminary designs	N.P.	
§ 4.1.3 Measured drawings	N.P.	
§ 4.1.4 Existing facilities surveys	Architect	
§ 4.1.5 Site Evaluation and Planning (B203™-2007)	N.P.	
§ 4.1.6 Building Information Modeling (E202™-2008)	N.P.	
§ 4.1.7 Civil engineering	Architect	
§ 4.1.8 Landscape design	N.P.	
§ 4.1.9 Architectural Interior Design (B252™-2007)	N.P.	
§ 4.1.10 Value Analysis (B204™-2007)	N.P.	
§ 4.1.11 Detailed cost estimating	Architect	
§ 4.1.12 On-site Project Representation (B207™-2008)	N.P.	
§ 4.1.13 Conformed construction documents	N.P.	
§ 4.1.14 As-Designed Record drawings	N.P.	
§ 4.1.15 As-Constructed Record drawings	Architect	
§ 4.1.16 Post occupancy evaluation	N.P.	
§ 4.1.17 Facility Support Services (B210™-2007)	N.P.	
§ 4.1.18 Tenant-related services	N.P.	
§ 4.1.19 Coordination of Owner's consultants	N.P.	
§ 4.1.20 Telecommunications/data design	Architect	
§ 4.1.21 Security Evaluation and Planning (B206™-2007)	Architect	
§ 4.1.22 Commissioning (B211™-2007)	N.P.	
§ 4.1.23 Extensive environmentally responsible design	N.P.	
§ 4.1.24 LEED® Certification (B214™-2012)	N.P.	
§ 4.1.25 Fast-track design services	N.P.	
§ 4.1.26 Historic Preservation (B205™-2007)	N.P.	
§ 4.1.27 Furniture, Furnishings, and Equipment Design (B253™-2007)	N.P.	

§ 4.2 Insert a description of each Additional Service designated in Section 4.1 as the Architect's responsibility, if not further described in an exhibit attached to this document.

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.3.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .3 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of bidders or persons providing proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.3.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker;
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or
- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion identified in Initial Information, whichever is earlier.

§ 4.3.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Two ( 2 ) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor
- .2 Twenty ( 20 ) visits to the site by the Architect over the duration of the Project during construction
- .3 Two ( 2 ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Two ( 2 ) inspections for any portion of the Work to determine final completion

Init.

§ 4.3.4 If the services covered by this Agreement have not been completed within ( ) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

## ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 5.2 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance as appropriate to the services provided.

§ 5.7 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.8 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.9 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.10 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the Architect's consultants through the Architect about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Architect of any direct communications that may affect the Architect's services.

§ 5.11 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.12 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

#### ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the program and scope of the Project; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requests detailed cost estimating services, the Architect shall provide such services as an Additional Service under Article 4.

§ 6.4 If the Bidding or Negotiation Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, through no fault of the Architect, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect, without additional compensation, shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

## ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the author of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

## ARTICLE 8 CLAIMS AND DISPUTES

### § 8.1 GENERAL

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2007, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

## § 8.2 MEDIATION

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:  
*(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)*

- ☐ Arbitration pursuant to Section 8.3 of this Agreement
- ☒ Litigation in a court of competent jurisdiction
- ☐ Other (Specify)

## § 8.3 ARBITRATION

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

#### § 8.3.4 CONSOLIDATION OR JOINDER

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

#### ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7.

§ 9.7 Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect.

§ 9.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 11.9.

#### ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

Init.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

§ 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

#### ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

*(Insert amount of, or basis for, compensation.)*

\$194,100 + NMGR (Based on the initial construction cost estimate of \$2,460,000 and project scope as described under Article 1 of this Agreement)

This sum includes all travel expenses, printing and items in Article 3 and Article 4 of this Agreement.

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows:  
*(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)*

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:  
*(Insert amount of, or basis for, compensation.)*

To be determined.

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus Ten percent ( 10 %), or as otherwise stated below:

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

Schematic Design Phase	Twenty	percent (	20	%)
Design Development Phase	Twenty	percent (	20	%)
Construction Documents Phase	Thirty Five	percent (	35	%)
Bidding or Negotiation Phase	Five	percent (	5	%)
Construction Phase	Twenty	percent (	20	%)
Total Basic Compensation	one hundred	percent (	100	%)

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.

*(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

Employee or Category	Rate
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#### § 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses; and
- .11 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Ten percent ( 10 %) of the expenses incurred.

#### § 11.9 COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of

the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

#### § 11.10 PAYMENTS TO THE ARCHITECT

§ 11.10.1 An initial payment of Zero (\$ 0 ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid ( ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.  
(Insert rate of monthly or annual interest agreed upon.)

1.5 % Per Month

§ 11.10.3 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.4 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

#### ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

#### ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents listed below:

- .1 AIA Document B101™-2007, Standard Form Agreement Between Owner and Architect
- .2 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:
- .3 Other documents:  
(List other documents, if any, including Exhibit A, Initial Information, and additional scopes of service, if any, forming part of the Agreement.)

This Agreement entered into as of the day and year first written above.

OWNER

ARCHITECT

(Signature)

(Signature)

(Printed name and title)

(Printed name and title)

G.1  
+  
H.1



## **CITY OF TRUTH OR CONSEQUENCES**

### **COMMISSION ACTION FORM**

#### **ITEM:**

**DISCUSSION/ACTION: FINAL ADOPTION OF ORDINANCE NO. 679 16/17 RELATED TO THE PUBLIC UTILITY ADVISORY BOARD.**

#### **BACKGROUND:**

Pursuant to Section 2-273, the Public Utility Advisory Board is made up of five members appointed by the City Commission. Under said section, the Commission must appoint at least some members with an electrical utility background, financial background and a general contractor background. However, it is recognized that if candidates with such backgrounds are not available, then the Commission will appoint other competent individuals to fill the position.

In 2007, the City Commission adopted the Development Impact Fee Act and codified it under Article VI of the City Code. This act comes from the NM State Statutes, Section 5-8-1 to 5-8-43. It was the intent of the City Commission to assign the duties under said act to the PUAB, Section 4-421 City Code.

Under Section 5-8-34, the Advisory Committee is also a five member board appointed by the City Commission. However, said section requires that "Not less than forty percent of the membership of the Advisory Committee must be representative of the real estate, development or building industries." Forty percent of five members would be two members with the background described.

The purpose of the proposed ordinance is to add two additional members to the existing PUAB makeup to form the Impact Fee Board to carry out the duties under the Development Impact Fee Act.

#### **STAFF RECOMMENDATION:**

- Approval of the proposed ordinance.

#### **SUPPORT INFORMATION:**

- Proposed Ordinance.

Reviewed by: Juan A. Fuentes	Department: City Manager	E-mail: <a href="mailto:jafuentes@torcnm.org">jafuentes@torcnm.org</a>
Meeting: 04-25-17		

## ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 4, ARTICLE VI, "DEVELOPMENT IMPACT FEE", SECTION 4-421, OF THE CITY CODE OF THE CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF TRUTH OR CONSEQUENCES THAT: the following section of the City Code is hereby amended by deleting the stricken material and/or by adding the underlined material as indicated below:

- Section 1.**     Sec. 4-421. — Impact Fee Board and Comments~~Advisory board~~  
~~comments.~~
- (a) The Impact Fee Board shall consist of the Public Utility Advisory Board established by the City and two additional members.  
(b) No less than forty percent of the membership of the Impact Fee Board shall be representative of the real estate, development or building industries  
~~(a)(c)~~ The Public Utility Advisory Impact Fee Board established by the City or its successor shall file its written comments on the proposed capital improvements plan and development impact fees before the fifth business day before the date of the public hearing on the plan and fees.
- ~~(b)(d)~~ The Board or its successor shall file its written comments on any proposed amendment to the land use assumptions, capital improvements plan, or impact fees before the fifth business day before the date of the public hearing on the amendments.
- Section 2.     Severability**  
If a court of competent jurisdiction holds any part or application of this ordinance invalid, the remainder, or its application shall not be affected.
- Section 3.     Repealer**  
All ordinances or resolutions, or part therefore, inconsistent with this ordinance are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution, or part therefore, previously repealed.
- Section 4.     Effective Date**  
This ordinance shall be in full force and effect, five (5) days after this approval, adoption and publication as provided by law (§3-17-5).

**PASSED, APPROVED, AND ADOPTED** by the City Commission of the City of Truth or Consequences, New Mexico, on this \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Steve Green  
Mayor

**ATTEST:**

\_\_\_\_\_  
Renee Cantin  
City Clerk-Treasurer



## CITY OF TRUTH OR CONSEQUENCES

### COMMISSION ACTION FORM

#### ITEM:

DISCUSSION/ACTION: ORDINANCE NO. 680 16/17 FOR PUBLICATION AMENDING CHAPTER 2, ARTICLE IV, DIVISION 6 AND 7 RELATED TO BOARDS, COMMISSIONS, AND COMMITTEES.

#### BACKGROUND:

Section 1 of the proposed ordinance repeals the Industrial and Economic Development Advisory Board. This board has not existed since its inception. There are two primary duties of this board identified in Section 2-313 which include recommending an annual budget and to establish a comprehensive plan for industrial and economic development. (Section 2-313 (a) (b)). Over the years, the City has used other methods to promote economic development within the City and County. Most recently, the City was a member of the Sierra County Economic Development Organization (SCEDO) until it disbanded a few years ago. Other efforts to promote economic development include collaboration and partnering with the New Mexico Economic Development Department, Rural Council, NM Partnership, MainStreet and individual efforts by Mayor and Commissioners.

Most recently, the City participated in a regional effort to establish the Middle Rio Grande Economic Development Association (MRGEDA). The purpose of MRGEDA is to create, attract, retain, and expand sustainable economic-based businesses, and develop infrastructure to enhance economic development.

Repealing this board does not impact our efforts and collaboration with other organizations, entities and individuals in our efforts to promote industrial and economic development.

Section 2 of the proposed ordinance repeals the Convention and Entertainment Board. This board also has not existed since its inception. Under the code, this board has "jurisdiction over the Convention Center, Recreation Center, and Civic/Activities Center for the purpose of recommending to the Commission programs to be carried on and carried out at these and other places or installations as may be specifically designated from time to time by the Commission." The board also recommends reasonable rules and regulations for the use and care of the facilities under its jurisdiction and make recommendations to the Commission concerning the maintenance, supervision, and management of the facilities under its jurisdiction as well as concerning expenditures to be made in connection with such facilities.

The City does not have the funding or staff in place to carry out any such program/activity that may be recommended by this board if it existed. Depending on the annual facilities budget, staff maintains and repairs all of the city facilities not just those specified under this section.

#### STAFF RECOMMENDATION:

- Approval of Ordinance No. 677

Name: Juan A. Fuentes	Department: City Manager	Mtg: 03/28/17
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**ORDINANCE NO.**

**AN ORDINANCE AMENDING CHAPTER 2, ARTICLE IV, "BOARDS, COMMISSIONS AND COMMITTEES", DIVISION 6 AND 7, OF THE CITY CODE OF THE CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO.**

**BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF TRUTH OR CONSEQUENCES THAT:** the following section of the City Code is hereby amended by deleting the stricken material and/or by adding the underlined material as indicated below:

- Section 1.** Division 6 'Industrial and Economic Development Advisory Board' is hereby repealed in its entirety.
- Section 2.** Division 7 'Convention and Entertainment Board' is hereby repealed in its entirety.
- Section 3. Severability**  
If a court of competent jurisdiction holds any part or application of this ordinance invalid, the remainder, or its application shall not be affected.
- Section 4. Repealer**  
All ordinances or resolutions, or part therefore, inconsistent with this ordinance are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution, or part therefore, previously repealed.
- Section 5. Effective Date**  
This ordinance shall be in full force and effect, five (5) days after this approval, adoption and publication as provided by law (§3-17-5).

**PASSED, APPROVED, AND ADOPTED** by the City Commission of the City of Truth or Consequences, New Mexico, on this \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Steve Green  
Mayor

**ATTEST:**

\_\_\_\_\_  
Renee Cantin  
City Clerk-Treasurer



H.3

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

**ITEM:**

Ordinance No. 681 for publication amending Section 2-22 of the Code of Ordinances related to Commission Meetings.

**BACKGROUND:**

Last year the City Commission changed the time of the meetings to 9:00 a.m. and the ordinance was not revised to reflect that change.

At this time, Mayor Steve Green would like to request the Commission to consider whether the day of the meetings may need to be changed. If the Commission decides to change the meeting date, the ordinance will need to be changed, as well as, the Open Meetings Act Resolution, and the Rules of Procedure.

If the ordinance is approved for publication it would be brought back for Final Adoption at the May 23<sup>rd</sup> meeting.

**STAFF RECOMMENDATION:**

Agree upon the day and time of the Regular Commission Meetings and approve Ordinance No 681 for publication amending Section 2-22 of the Code of Ordinances to include the agreed upon day and time.

Submitted by: Renee Cantin

Department: Clerk-Treasurer

Meeting date: 04/25/2017

**ORDINANCE NO. 681 16/17**

**AN ORDINANCE AMENDING CHAPTER 2, ARTICLE II, "COMMISSION", SECTION 2-22, OF THE CITY CODE OF THE CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO.**

**BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF TRUTH OR CONSEQUENCES THAT:** the following section of the City Code is hereby amended by deleting the stricken material and/or by adding the underlined material as indicated below:

**Section 1. Section 2-22 is hereby amended to read as follows:**

The Commission will hold regular meetings ~~on the second and fourth Tuesday of each month at the hour of 6:00 p.m. or upon such times as the Commission agrees to change the meeting date and proper notice is given to the public. When a regular meeting falls on a legal holiday, the meeting will be held on the following Wednesday at 6:00 p.m.~~ pursuant to the Open Meetings Act Resolution adopted annually.

**Section 2. Severability**

If a court of competent jurisdiction holds any part or application of this ordinance invalid, the remainder, or its application shall not be affected.

**Section 3. Repealer**

All ordinances or resolutions, or part therefore, inconsistent with this ordinance are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution, or part therefore, previously repealed.

**Section 4. Effective Date**

This ordinance shall be in full force and effect, five (5) days after this approval, adoption and publication as provided by law (§3-17-5).

**PASSED, APPROVED, AND ADOPTED** by the City Commission of the City of Truth or Consequences, New Mexico, on this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Steve Green, Mayor

**ATTEST:**

\_\_\_\_\_  
Renee Cantin, Clerk-Treasurer



H.4

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

**ITEM:**

**DISCUSSION/ACTION: AUTHORIZING AND APPROVING SUBMISSION OF A COMPLETED APPLICATION FOR FINANCIAL ASSISTANCE AND PROJECT APPROVAL TO THE NEW MEXICO FINANCE AUTHORITY**

**BACKGROUND:**

**To have the Cielo Vista Estates primary underground distribution system replacement engineered.**

**STAFF RECOMMENDATION:**

To approve resolution no. 33 16/17 authorizing staff and Juan Fuentes to execute, sign and submit required and completed application with required documents for financial assistance thru NMFA Planning Grant.

**SUPPORT INFORMATION:**

- Resolution no. 33 16/17
- NMFA Application

Name of Presenter: Bo Easley and Tammy Gardner	Department: Electric	Meeting date:
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**RESOLUTION NO. 33 16/17**

**AUTHORIZING AND APPROVING SUBMISSION OF A COMPLETED APPLICATION  
FOR FINANCIAL ASSISTANCE AND PROJECT APPROVAL TO THE  
NEW MEXICO FINANCE AUTHORITY**

WHEREAS, the City of Truth or Consequences, New Mexico (the "Governmental Unit") is a duly organized [name of type of entity] created and formed pursuant to [name of act, and citation to act, authorizing creation of, or creating, the Governmental Unit] and is a qualified entity under the New Mexico Finance Authority Act, Sections 6-21-1 through 6-21-31, NMSA 1978 ("Act"); and

WHEREAS, the New Mexico Finance Authority ("Finance Authority") is authorized pursuant to the Act, particularly Section 6-21-6.4 of the Act, to make grants from the local government planning fund (the "Fund") to qualified entities to evaluate and estimate the costs of implementing feasible alternatives for meeting water and wastewater public project needs or to develop water conservation plans, long-term master plans or economic development plans; and

WHEREAS, pursuant to the Act the Finance Authority has developed an application procedure whereby the Governing Body may submit an application ("Application") to the Finance Authority for planning grant financial assistance from the Fund; and

WHEREAS, the Commission of the Governmental Unit (the "Governing Body") desires to submit an Application for financial assistance from the Fund for a Planning Document, as defined in the Rules Governing the Local Government Planning Fund currently in effect and as specifically identified below, for the benefit of the Governmental Unit; and

WHEREAS, the Governing Body intends to submit the Planning Document to [evaluate and estimate the costs of implementing feasible alternatives for meeting water and wastewater public project needs] [develop a water conservation plan] [develop a long-term master plan] [develop an economic development plan] of the City of Truth or Consequences ("Project") for the benefit of the Governmental Unit and its citizens; and

WHEREAS, the application prescribed by the Finance Authority to finance the Planning Document [in whole/in part] with financial assistance from the Fund has been completed, submitted to, and reviewed by the Governing Body, and this Resolution approving submission of the completed Application to the Finance Authority for its consideration and review is required as part of the Application.

**NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY:**

Section 1. That all lawful actions previously taken by the Governing Body and the Governmental Unit and their respective officers and employees in connection with the Application and the Project are hereby ratified, approved and confirmed.

Section 2. That the completed Application submitted to the Governing Body is hereby approved and confirmed.

Section 3. That the officers and employees of the Governmental Unit are hereby directed and requested to submit the completed Application to the Finance Authority, and are further authorized to take such other action as may be requested by the Finance Authority in connection with the Application and to proceed with arrangements for financing the Project.

Section 4. All acts and resolutions in conflict with this Resolution are hereby rescinded, annulled and repealed.

Section 5. This Resolution shall take effect immediately upon its adoption.

PASSES APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[NAME OF GOVERNMENTAL UNIT]

By \_\_\_\_\_  
Authorized Officer

(Seal)

ATTEST:

\_\_\_\_\_  
Authorized Officer



H.5

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

**ITEM:**

Approval of the Open Meetings Act Resolution No. 34 16/17.

**BACKGROUND:**

The Open Meetings Act is found in NMSA 1978, Chapter 10, Article 15, Section 10-15-1 to 10-15-4 and are known as a "sunshine law." The Open Meetings Act or "Sunshine Law" generally require that the Public business be conducted in full public view, and that the deliberations of public bodies be open to the public.

This Resolution is generally adopted as the first Resolution of each Fiscal Year at the first meeting in July. The resolution which was approved on March 23, 2106 by the Commission to change the time of the meeting to 9:00 a.m. and the second change was under Section 3.A Regular Meetings where the change was made to distribute the date of the agenda to 5 days prior to a Regular Meeting instead of the previous requirement of 72 hours.

The attached resolution is the most recent one which was approved on July 26, 2016. The only change on that resolution was for the locations that are required for posting a special meeting if there is no time for publication.

**STAFF RECOMMENDATION:**

If there was a requested change in the meeting date, please amend the highlighted portion of the resolution and approve.

Submitted by: Renee Cantin, City Clerk

Meeting date: 04/25/2017

## **CITY OF TRUTH OR CONSEQUENCES**

### **RESOLUTION NO. 01 16/17**

#### **A RESOLUTION DESIGNATING THE MANNER IN WHICH ALL MEETINGS OF THE CITY COMMISSION, ITS BOARDS, COMMISSION AND COMMITTEES WILL BE HELD AND THE METHOD OF PUBLIC NOTIFICATION.**

**WHEREAS**, pursuant to the requirements of the Open Meetings Act ("Act"), Section 10-15-1 et seq. NMSA 1978, all meetings of the City Commission, its boards, commissions or committees held for the purpose of formulating public policy or for the purpose of taking any action within the authority of or the delegated authority of any board, commission, committee, or other policymaking body are declared to be public meetings open to the public at all times, except as otherwise provided in the state constitution or the Act; and

**WHEREAS**, all meetings subject to the provision of the Act at which the formation of public policy, such as discussion or adoption of any proposed resolution, rule, regulation, or formal action occurs and at which a majority of quorum of the body is in attendance shall be public meetings and shall be held only after reasonable Notice/Agenda to the public; and

**WHEREAS**, the Act requires the City Commission to determine annually in a public meeting what Notice/Agenda for a public meeting is reasonable when applied to the City Commission, its boards, commissions and committees.

**NOW THEREFORE, BE IT RESOLVED** by the governing body of the City of Truth or Consequences:

1. Regular meetings of the City Commission shall be held on the **second and fourth Tuesdays of each month at 9:00 a.m.**, or upon such times as the Commission agrees to change the meeting date or time. If said meeting falls on a holiday, the meeting shall then be held on Wednesday, immediately following. All meetings will be held at the City Commission Chambers, 405 W. 3<sup>rd</sup> Street unless due Notice/Agenda is given to the public.
2. Regular meeting of any board, commission or committee shall be established by formal action of the respective body as to date, time and location. Consideration shall be given to holding such meetings at a date, time and location, which promotes the active participation of the community.
3. Notice/Agenda requirements for all meetings shall be in accordance with the following:
  - A. **Regular Meetings** – Notice of the meetings, indicating the date, time, and location of the meetings shall be published in one or more newspapers of general circulation within the community at least once per month. The Notice/Agenda shall be given at least 5 days prior to the meeting. The final Notice/Agenda shall be posted in the City Clerk's Office and posted on the City's web site.

- B. **Special Meetings** – May be called only by the majority of the members of the City Commission. Notice/Agenda shall be given with no less than 72 hours' Notice/Agenda before such meeting. The Notice/Agenda shall specify the business to be conducted and shall be broadcast over the radio, or in the alternative, be posted in the following places: 1) Bulletin board at the City Utilities Office; 2.) the north bulletin board at the Sierra County Administrative Building; 3) First Savings Bank; 4) Bank of the Southwest at T or C; 5) U.S. Post Office located on Main Street; and 6) City Clerk's Office and on the City's web site.
- C. **Emergency Meetings** – May be called only under circumstances that, if not addressed immediately by the City Commission, will likely result in injury or damage to persons or property or substantial financial loss to the City. Emergency meetings maybe called by the Mayor or a majority of the Commission by giving 24 hours' Notice/Agenda prior to meeting, and is possible and reasonable under the circumstances.

Emergency meeting Notice/Agenda shall include an agenda containing a list of specific items of business to be discussed or transacted at the meeting or information on how the public may obtain a copy of such an agenda. Except in the case of an emergency, the agenda shall be available to the public at least 72 hours prior to the meeting.

4. Pursuant to the Open Meetings Act 10-15-1 (C) NMSA if otherwise allowed by law or rule of the public body, a member of a public body may participate in a meeting of the public body by means of a conference telephone, or other similar communications equipment when it is otherwise difficult or impossible for the member to attend the meeting in person, provided that each member participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time and members of the public attending the meeting are able to hear any member of the public body who speaks during the meeting.

**PASSED, APPROVED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Steven Green, Mayor

ATTEST:

\_\_\_\_\_  
Renee L. Cantin, City Clerk



I.1

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

**ITEM: Approval of Quarterly Budget Report Submission to DFA – 3rd Quarter, January 1, 2017 to March 31, 2017**

**AUTHORIZATION TO:** Approval of 3rd Quarter Budget Report

**BACKGROUND:** Required reporting to DFA on a quarterly basis

Description	Amount	Recommendation
Quarterly Budget Report	N/A	Approve 3rd Quarter Budget Report

**SUPPORT INFORMATION:**

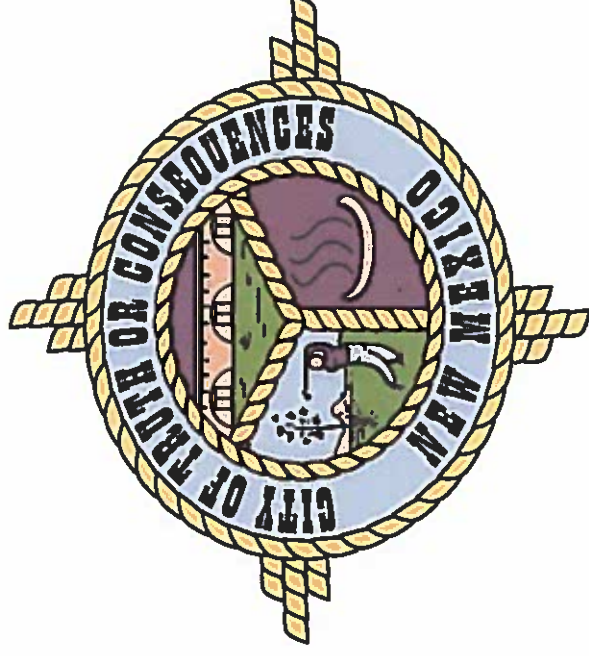
- Finance Documents as presented

Name of Drafter: Melissa Torres	Department: : Finance Director	Mtg: 04/25/2017
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# **CITY OF TRUTH OR CONSEQUENCES**

**FYE 2017**

## **FINANCIAL REPORT**



**January 1, 2017 through March 31, 2017**

YTD BUDGET TO ACTUAL COMPARISON

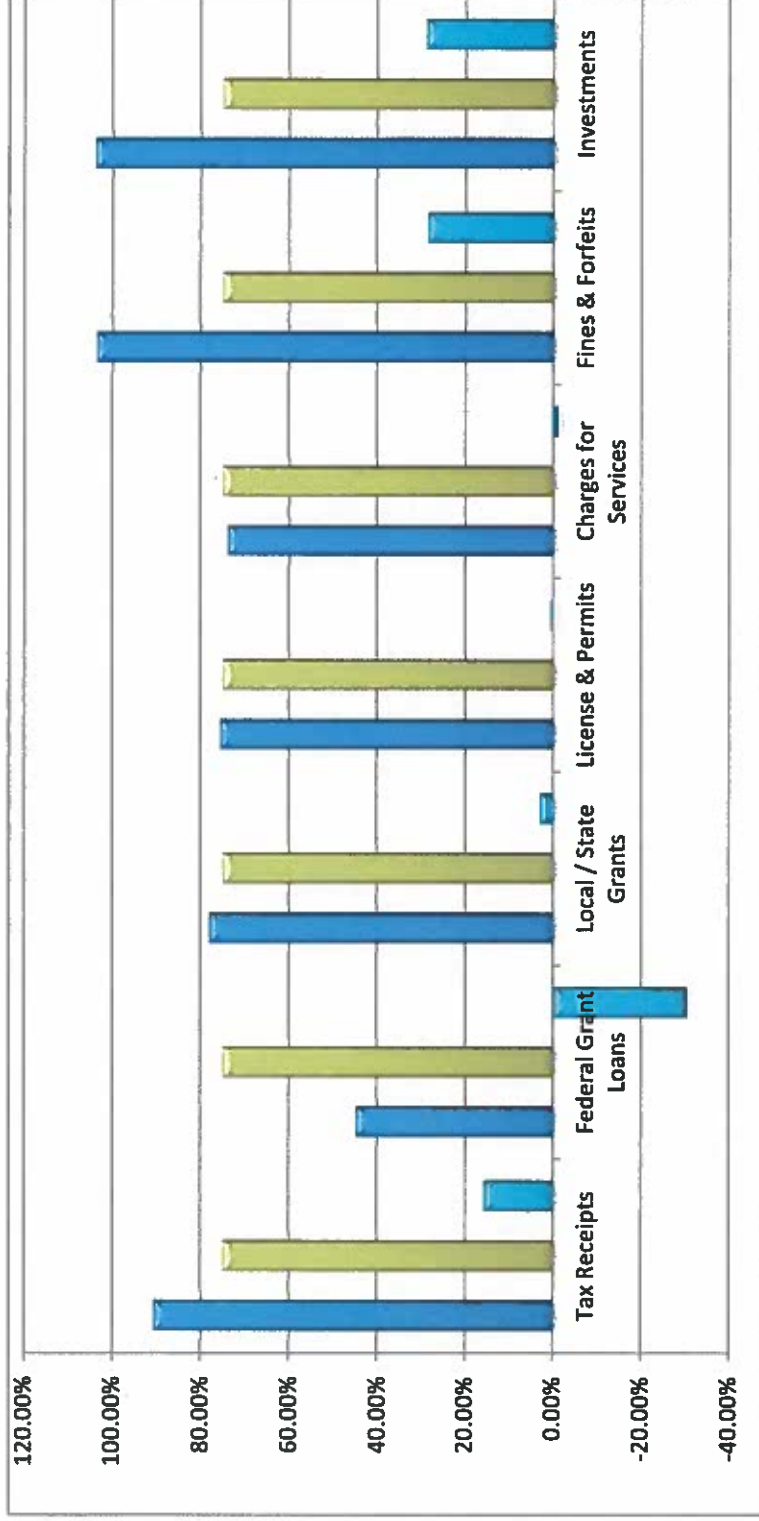
FUND	REVENUE				EXPENDITURES				DIFFERENCE	
	BUDGET REVENUE	ACTUAL REVENUE	UNREALIZED REVENUE	% DIFF	BUDGET EXPENDITURES	ACTUAL EXPENDITURES	AVAILABLE AMOUNT	% DIFF	REV/EXP ACTUAL	
General	\$ 3,453,033	\$ 3,078,287	\$ (374,746)	89.15%	\$ 4,894,790	\$ 3,530,499	\$ (1,364,291)	72.13%	\$	(452,212)
Special Revenue	\$ 1,701,622	\$ 1,480,333	\$ (221,290)	87.00%	\$ 2,348,416	\$ 1,305,084	\$ (1,043,332)	55.57%	\$	175,248
Capital Project	\$ 5,956,453	\$ 3,560,282	\$ (2,396,171)	59.77%	\$ 6,555,517	\$ 3,766,076	\$ (2,789,441)	57.45%	\$	(205,795)
Utility Office	\$ 36,295	\$ 13,920	\$ (22,375)	38.35%	\$ 261,283	\$ 247,245	\$ (14,038)	94.63%	\$	(233,325)
Electric	\$ 6,354,417	\$ 5,263,577	\$ (1,090,840)	82.83%	\$ 4,784,156	\$ 946,270	\$ (3,837,886)	19.78%	\$	4,317,307
Water	\$ 920,600	\$ 757,397	\$ (163,203)	82.27%	\$ 648,942	\$ 375,494	\$ (273,448)	57.86%	\$	381,903
Wastewater	\$ 901,000	\$ 803,308	\$ (97,692)	89.16%	\$ 733,565	\$ 514,108	\$ (219,457)	70.08%	\$	289,200
Solidwaste	\$ 1,196,700	\$ 1,032,096	\$ (164,604)	86.25%	\$ 1,052,872	\$ 782,638	\$ (270,234)	74.33%	\$	249,458
Golf	\$ 42,320	\$ 22,488	\$ (19,832)	53.14%	\$ 143,200	\$ 117,825	\$ (25,375)	82.28%	\$	(95,337)
Cemetery	\$ 10,600	\$ 5,094	\$ (5,506)	48.05%	\$ 11,000	\$ 3,398	\$ (7,602)	30.89%	\$	1,695
Airport	\$ 212,370	\$ 105,254	\$ (107,116)	49.56%	\$ 276,901	\$ 179,627	\$ (97,274)	64.87%	\$	(74,373)
Debt Service	\$ 436,568	\$ 381,619	\$ (54,949)	87.41%	\$ 529,000	\$ 291,947	\$ (237,053)	55.19%	\$	89,672
Internal Service	\$ 17,500	\$ 10,189	\$ (7,311)	58.22%	\$ 41,500	\$ 21,726	\$ (19,774)	52.35%	\$	(11,537)
TOTAL	\$ 21,239,478	\$ 16,513,842	\$ (4,725,636)	77.75%	\$ 22,281,142	\$ 12,081,939	\$ (10,199,203)	54.22%	\$	4,431,904

Note: The 'Budget Revenue' and 'Budget Expenditure' columns are shown on the same trend basis as the Monthly Financial Report.

\*In these instances where expenditures exceed revenue, the fund's cash savings account provides the difference.

Special Revenue Funds				Capital Project Funds			
Corrections	Lodgers' Tax	Library	Veterans Perpetual Care	Fed. Grant Trust	C.I. General	R&R Airport	Emerg. Repair Reserve
Fire Protection	Street	PD Confidential		W-WW EFFL Reuse	C.I. Jt. Utility	R&R Water	WW Repair Reserve
LEPF	Recreation	PD Donations		Elec. Const.	DOT Broadway	CDBG	Elec. Repair Reserve
	DWI			Veterans Wall	Emerg. Fund	C.I. Reserve	

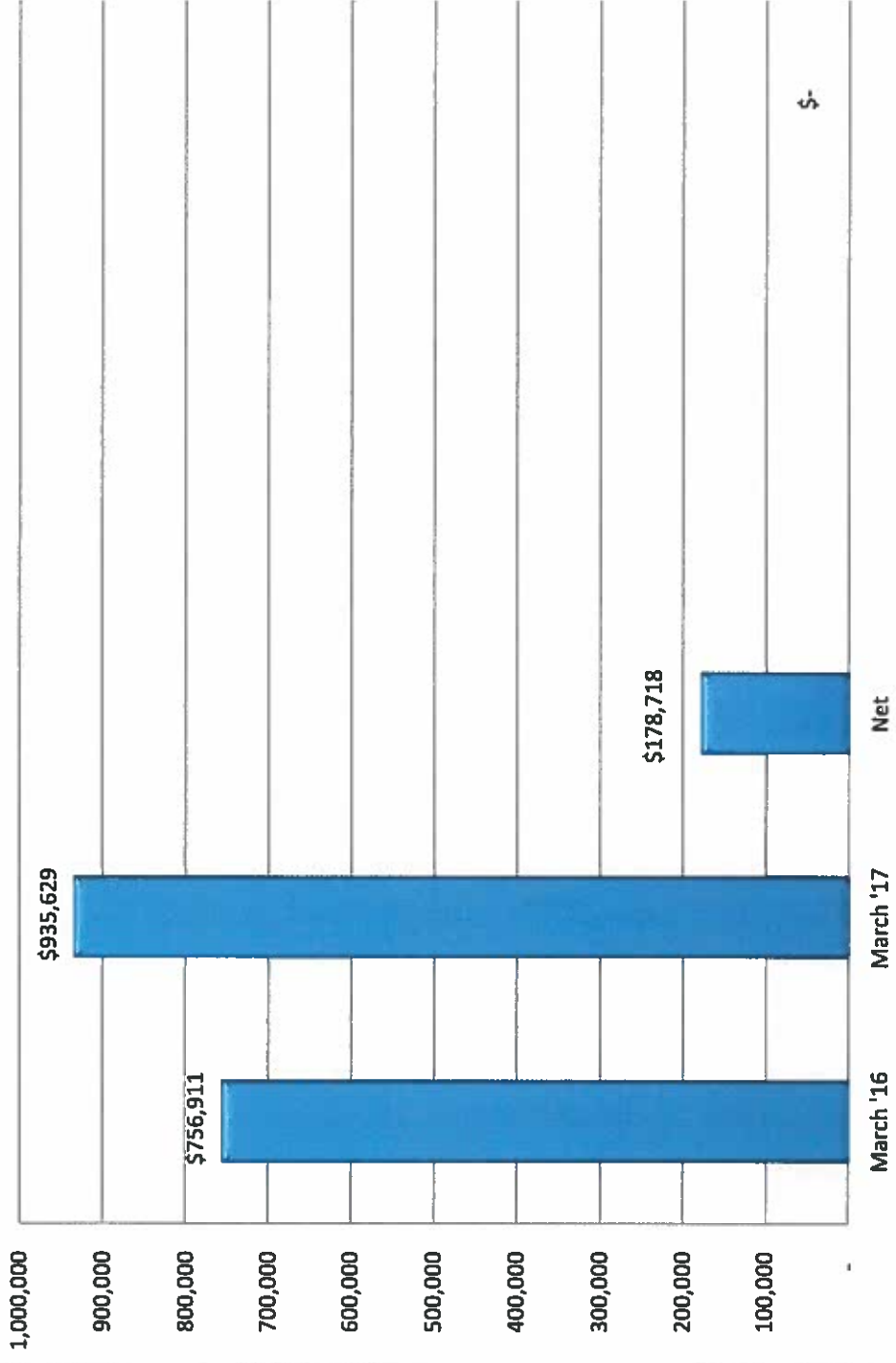
## General Fund Revenues 3rd Qtr. %



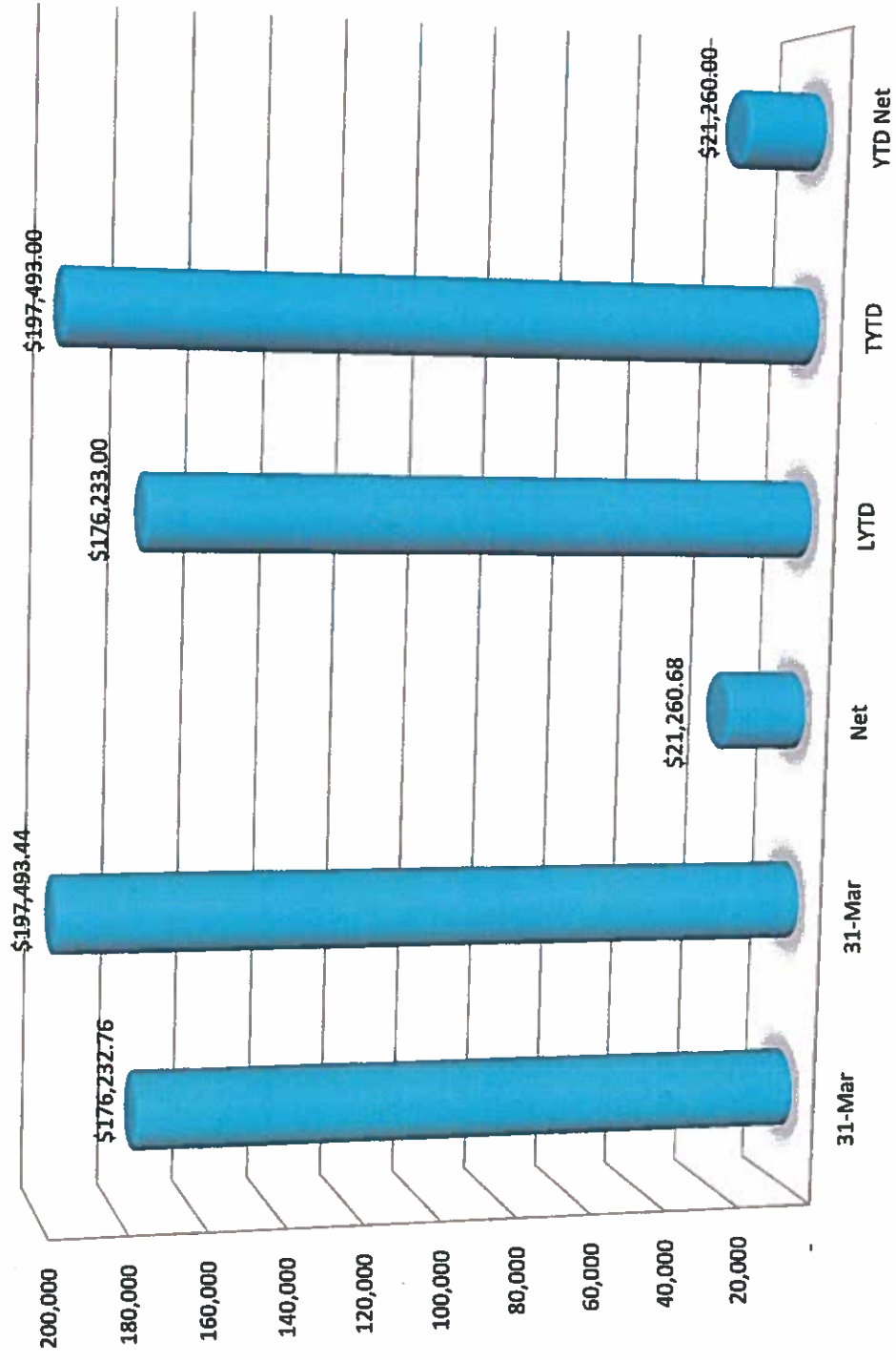
REVENUES	% Rec.	% Est.	YTD % over/under
Tax Receipts	90.76%	75.00%	15.76%
Federal Grant Loans	44.70%	75.00%	-30.30%
Local / State Grants	78.07%	75.00%	3.07%
License & Permits	75.64%	75.00%	0.64%
Charges for Services	73.99%	75.00%	-1.01%
Fines & Forfeits	103.54%	75.00%	28.54%
Investments	103.87%	75.00%	28.87%
<b>General Fund</b>	<b>89.15%</b>	<b>75.00%</b>	<b>14.15%</b>

FUND	REVENUE				EXPENDITURES				DIFFERENCE
	BUDGET REVENUE	ACTUAL REVENUE	DIFFERENCE POS/(NEG)	% DIFF	BUDGET EXPENDITURES	ACTUAL EXPENDITURES	DIFFERENCE POS/(NEG)	% DIFF	
SRF									
(209) Fire Protection	\$ 171,556	\$ 213,817	\$ 42,261	124.63%	\$ 348,290	\$ 47,106	\$ (301,184)	13.53%	\$ 166,711
(217) Recreation	\$ 35	\$ 25	\$ (10)	70.89%	\$ 44,500	\$ 4,149	\$ (40,351)	9.32%	\$ (4,124)
(201) Corrections	\$ 3,100	\$ 4,458	\$ 1,358	143.81%	\$ 41,400	\$ 20,820	\$ (20,580)	50.29%	\$ (16,362)
(211) LEPP	\$ 28,400	\$ 24,800	\$ (3,600)	87.32%	\$ 39,565	\$ 23,496	\$ (16,069)	59.39%	\$ 1,304
(214) Lodgers Tax	\$ 352,358	\$ 246,381	\$ (105,977)	69.92%	\$ 278,381	\$ 122,054	\$ (156,327)	43.84%	\$ 124,327
(507) SW Collection Ctr.	\$ 525,482	\$ 519,446	\$ (6,036)	98.85%	\$ 579,364	\$ 370,036	\$ (209,328)	63.87%	\$ 149,411
(216) Street	\$ 486,377	\$ 330,887	\$ (155,490)	68.03%	\$ 577,794	\$ 354,731	\$ (223,063)	61.39%	\$ (23,845)
Other	\$ 134,314	\$ 140,519	\$ 115,823	104.62%	\$ 439,122	\$ 362,692	\$ (76,430)	82.59%	\$ (222,174)
	\$ 1,701,622	\$ 1,480,333	\$ (111,671)		\$ 2,348,416	\$ 1,305,084	\$ (1,043,332)		\$ 175,248
Capital Projects									
(301) W-WW EFFL Reuse	\$ 108	\$ 205,151	\$ 205,043	189954.62%	\$ -	\$ 10	\$ 10	#DIV/0!	\$ 205,141
(302) Electrical Const.	\$ 35,070	\$ 35	\$ (35,035)	0.10%	\$ 153,955	\$ 126,239	\$ (27,716)	82.00%	\$ (126,204)
(303) Veterans Wall	\$ 100,000	\$ -	\$ (100,000)	0.00%	\$ 110,000	\$ 1,066	\$ (108,934)	0.97%	\$ (1,066)
(304) Senior Grants				#DIV/0!				#DIV/0!	\$ -
(305) Capital Impr. (Gen)	\$ 395,070	\$ 155,164	\$ (239,906)	39.27%	\$ 414,013	\$ 115,072	\$ (298,941)	27.79%	\$ 40,091
(306) C.I. Joint Utility	\$ 835,758	\$ 82,678	\$ (753,080)	9.89%	\$ 1,285,026	\$ 384,549	\$ (900,477)	29.93%	\$ (301,871)
(309) USDA WWTP	\$ 4,088,674	\$ 3,056,486	\$ (1,032,188)	74.75%	\$ 4,089,523	\$ 3,056,474	\$ (1,033,049)	74.74%	\$ 12
(307) Golf Course Imp.	\$ -	\$ -	\$ -	#DIV/0!	\$ -	\$ -	\$ -	#DIV/0!	\$ -
(310) Emerg. Fund	\$ 503	\$ -	\$ (503)	0.00%	\$ -	\$ -	\$ -	#DIV/0!	\$ -
(311) R&R Sewer Fund	\$ -	\$ 60,064	\$ 60,064	#DIV/0!	\$ -	\$ -	\$ -	#DIV/0!	\$ -
(312) R&R Airport	\$ -	\$ 2	\$ 2	#DIV/0!	\$ -	\$ 80,567	\$ 80,567	#DIV/0!	\$ (20,503)
(313) R&R Water	\$ 500,000	\$ -	\$ (500,000)	0.00%	\$ 3,000	\$ 2,098	\$ (902)	69.93%	\$ (2,096)
(314) CDBG	\$ 1,020	\$ 502	\$ (518)	49.21%	\$ 500,000	\$ -	\$ (500,000)	0.00%	\$ -
(315) Capital Impr. Res.	\$ 90	\$ 66	\$ (24)	72.79%	\$ -	\$ -	\$ -	#DIV/0!	\$ 502
(316) Emerg. Repair Res.	\$ 90	\$ 71	\$ (19)	79.37%	\$ -	\$ -	\$ -	#DIV/0!	\$ 66
(317) WW Repair Res.	\$ 70	\$ 63	\$ (7)	89.46%	\$ -	\$ -	\$ -	#DIV/0!	\$ 71
(318) Elec. Repair Res.	\$ 5,956,453	\$ 3,560,282	\$ (2,396,171)		\$ 6,555,517	\$ 3,766,076	\$ (2,789,441)		\$ (205,795)

# Prior vs. Current GRT 3rd Quarter

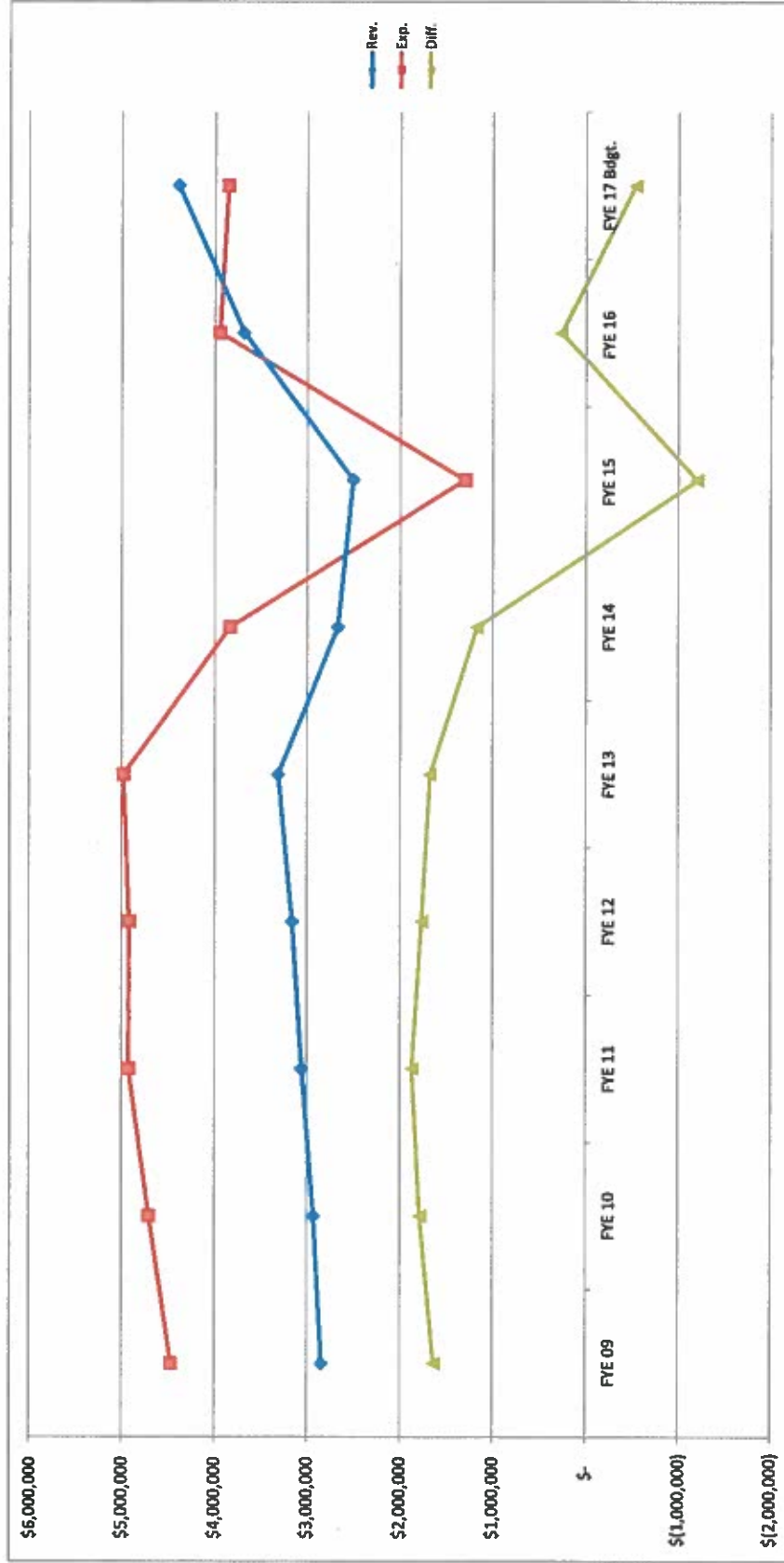


# Prior vs. Current Lodgers' Tax Revenue Month & YTD Comparison

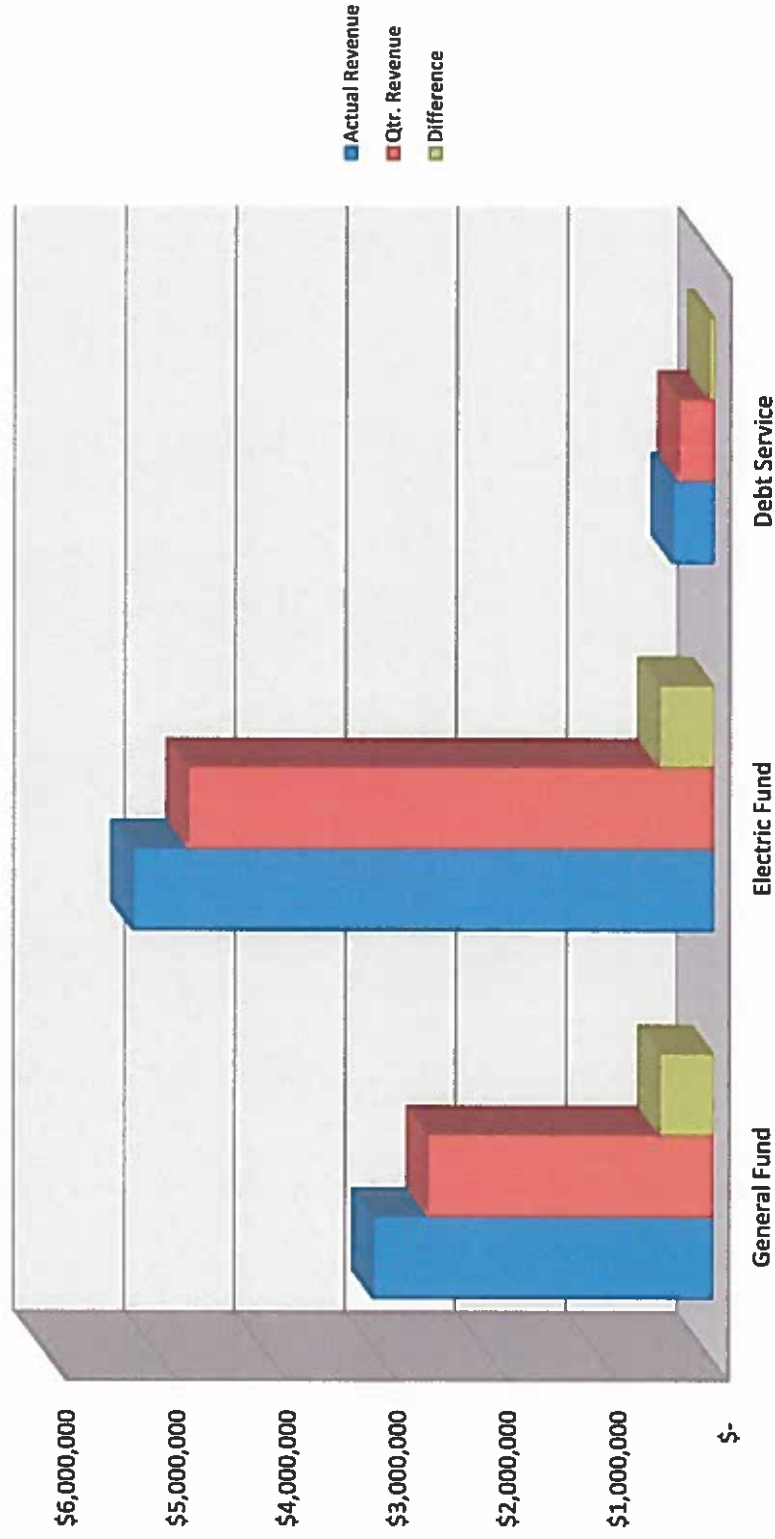


# GENERAL FUND FISCAL YEAR END NET

	FYE 09	FYE 10	FYE 11	FYE 12	FYE 13	FYE 14	FYE 15	FYE 16	FYE 17 Bdg.	Growth since FYE 09
Rev.	\$ 2,839,161	\$ 2,926,427	\$ 3,057,324	\$ 3,156,898	\$ 3,308,626	\$ 2,664,993	\$ 2,501,900	\$ 3,685,568	\$ 4,390,787	% -13.48%
Exp.	\$ 4,467,045	\$ 4,705,040	\$ 4,923,209	\$ 4,917,306	\$ 4,978,989	\$ 3,830,281	\$ 1,295,727	\$ 3,945,797	\$ 3,852,978	\$ (3,171,318)
Diff.	\$ 1,627,884	\$ 1,778,613	\$ 1,865,885	\$ 1,760,408	\$ 1,670,363	\$ 1,165,288	\$ (1,206,173)	\$ 260,230	\$ (537,809)	234.96% \$(2,834,057)

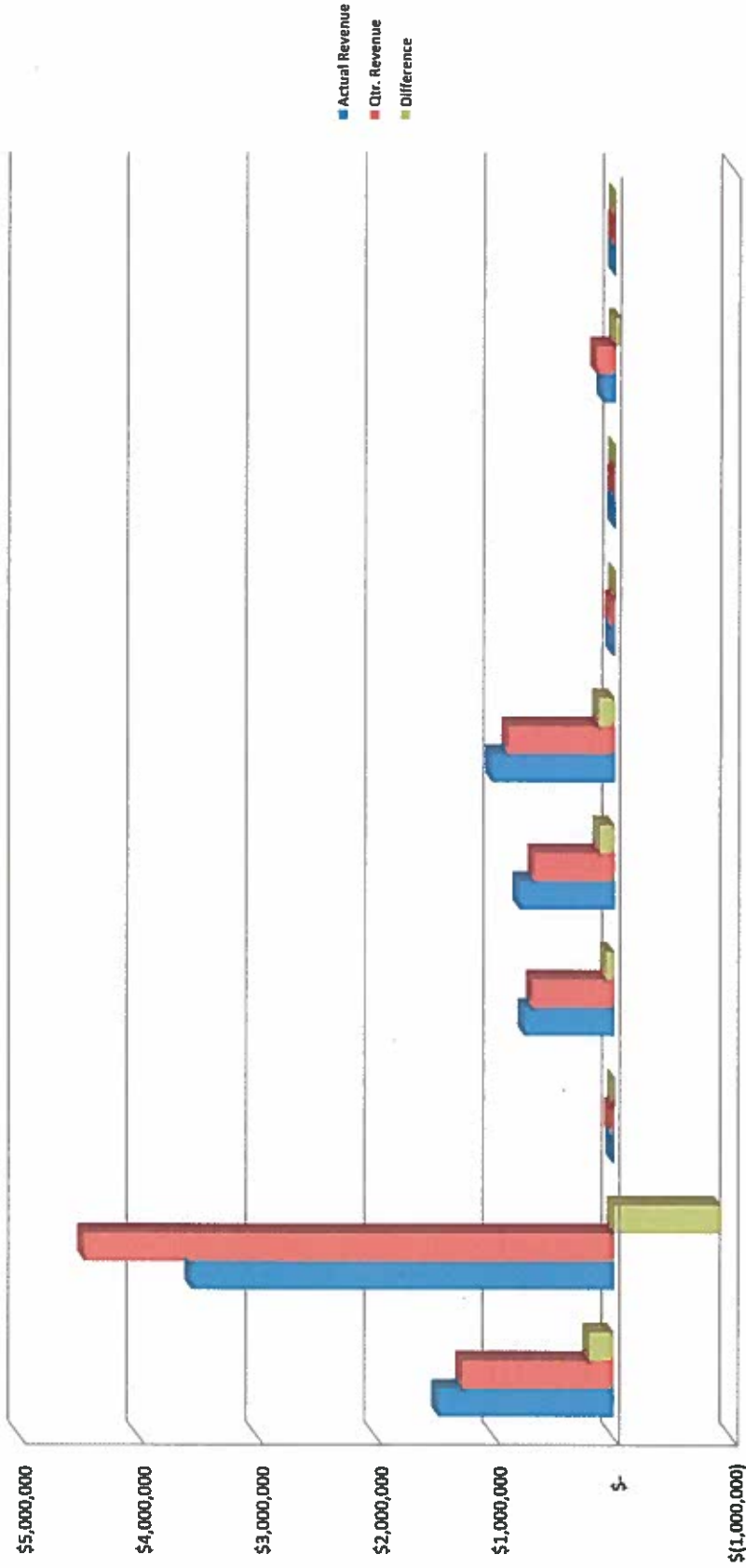


# Revenues Actual / 3rd Qtr. Budget FYE 17 YTD



	General Fund	Electric Fund	Debt Service
Actual Revenue	\$ 3,078,287	\$ 5,263,577	\$ 381,619
Qtr. Revenue	\$ 2,589,775	\$ 4,765,813	\$ 327,426
Difference	\$ 488,512	\$ 497,764	\$ 54,193
QTR	3	3	3
Budget Revenue	\$ 3,453,033	\$ 6,354,417	\$ 436,568

## REVENUES



	Special Revenue	Capital Project	Utility Office	Water	Wastewater	Solidwaste	Golf	Cemetery	Airport	Internal Service
Actual Revenue	\$ 1,480,333	\$ 3,560,282	\$ 13,920	\$ 757,397	\$ 803,308	\$ 1,032,096	\$ 22,488	\$ 5,094	\$ 105,254	\$ 10,189
Qtr. Revenue	\$ 1,276,217	\$ 4,467,340	\$ 27,221	\$ 690,450	\$ 675,750	\$ 897,525	\$ 31,740	\$ 7,950	\$ 159,278	\$ 13,125
Difference	\$ 204,116	\$ (907,058)	\$ (13,301)	\$ 66,947	\$ 127,558	\$ 134,571	\$ (9,252)	\$ (2,856)	\$ (54,024)	\$ (2,936)
QTR	3	3	3	3	3	3	3	3	3	3
Budget Revenue	\$ 1,701,622	\$ 5,956,453	\$ 36,295	\$ 920,600	\$ 901,000	\$ 1,196,700	\$ 42,320	\$ 10,600	\$ 212,370	\$ 17,500

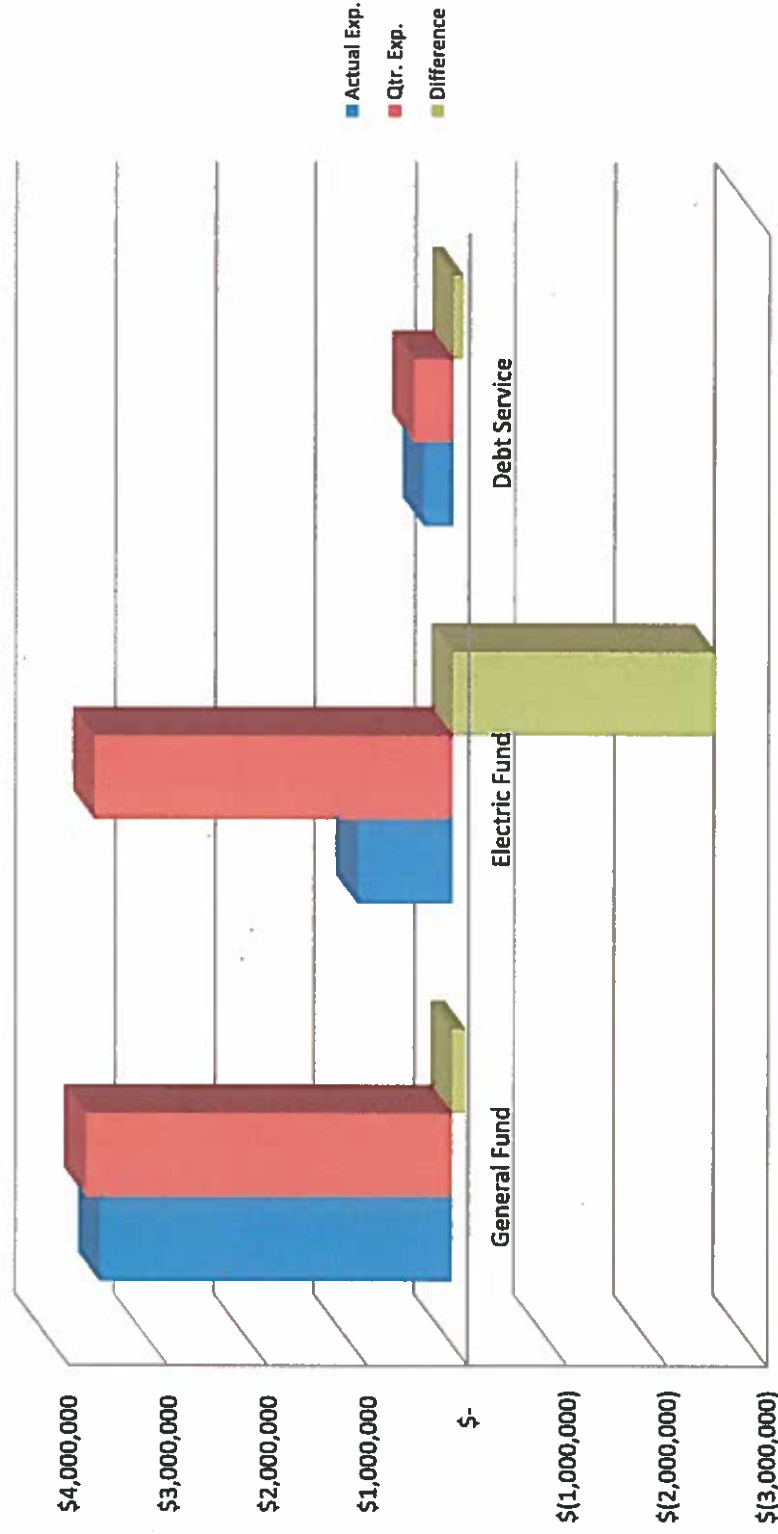
# General & Enterprise Fund Expenditures

3rd Qrt.

FYE 17

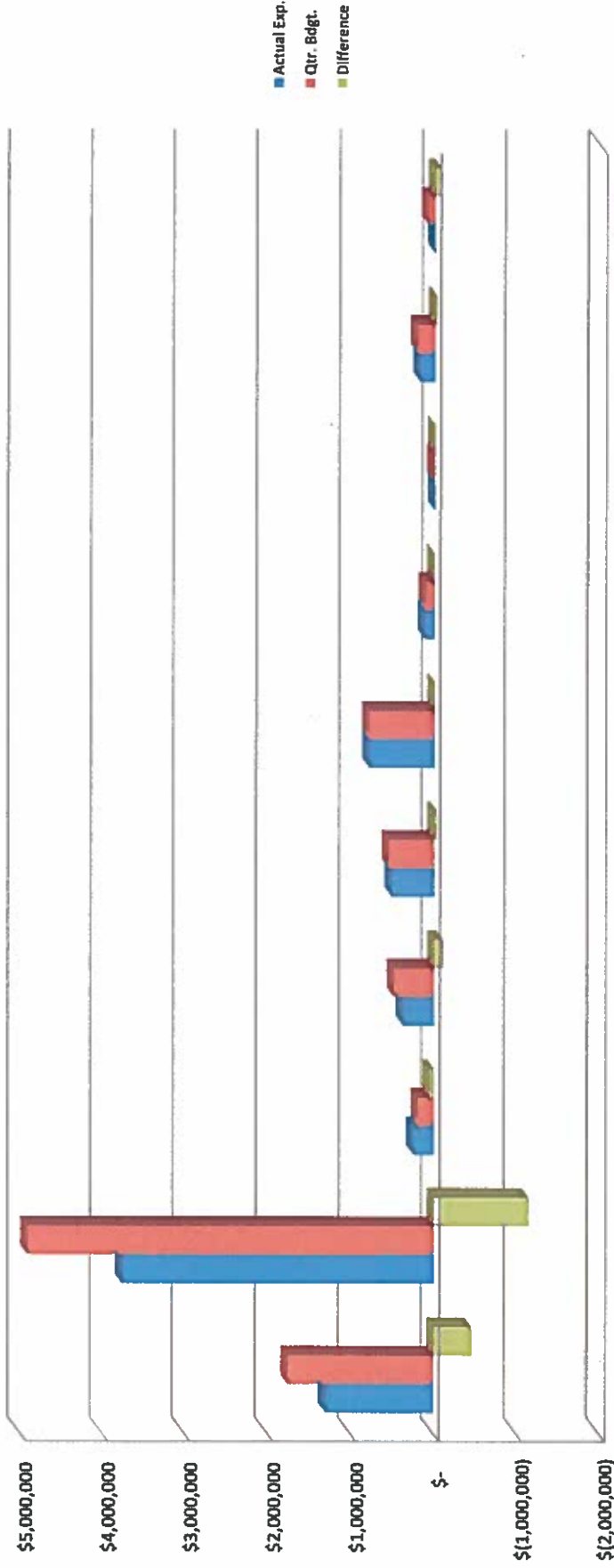
EXPENDITURES	%Exp.	Mo.%	YTD % over/under
Gov. Body	80.62%	75.00%	5.62%
City Clerk	72.83%	75.00%	-2.17%
Municipal Court	73.46%	75.00%	-1.54%
City Manager	71.55%	75.00%	-3.45%
Finance	75.56%	75.00%	0.56%
Vol. Fire Dept.	99.29%	75.00%	24.29%
Police	75.11%	75.00%	0.11%
Codes/Animal	35.49%	75.00%	-39.51%
Recreation	77.67%	75.00%	2.67%
Comm. Development	74.55%	75.00%	-0.45%
Street	73.86%	75.00%	-1.14%
Fleet	75.79%	75.00%	0.79%
Facilities	51.46%	75.00%	-23.54%
Library	70.31%	75.00%	-4.69%
Hospital GRT Dist.	90.53%	75.00%	15.53%
Ins. & Utilities	72.92%	75.00%	-2.08%
<b>General Fund</b>	<b>26.50%</b>	<b>75.00%</b>	<b>-48.50%</b>
Utility Office	93.49%	75.00%	18.49%
Electric Division	78.02%	75.00%	3.02%
Water Division	58.74%	75.00%	-16.26%
Solid Waste	76.65%	75.00%	1.65%
Waste Water	71.18%	75.00%	-3.82%
Golf Course	74.48%	75.00%	-0.52%
Airport	64.98%	75.00%	-10.02%

# Expenditures Actual / 3rd Qtr. Budget FYE 17 YTD



	General Fund	Electric Fund	Debt Service
Actual Exp.	\$ 3,530,499	\$ 946,270	\$ 291,947
Qtr. Exp.	\$ 3,671,093	\$ 3,588,117	\$ 396,750
Difference	\$ (140,594)	\$ (2,641,847)	\$ (104,803)
QTR	3	3	3
Budget Exp.	\$ 4,894,790	\$ 4,784,156	\$ 529,000

# EXPENDITURES ACTUAL / 3rd Qtr. BUDGET FYE 17 YTD





I.2

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

**ITEM:**

Discussion/Action: Amending the Rules of Procedure to change the day of the Commission Meeting

**BACKGROUND:**

This item is related to Ordinance No. 681 and Resolution 34 16/17. If the Commission decides to change the day of the Commission Meetings, the Rules of Procedure also need to be amended.

Here is the section related to the Meetings & Time on page 1 of the document:

**RULE 2. COMMISSION MEETING – TIME**

The regular meetings of the City Commission shall be held on the second and fourth Tuesdays of each month at 9:00 a.m. [Resolution No. 2-94/95] [Amended – Resolution No. 24-05/06] [Amended – Resolution No. 28 15/16]

**STAFF RECOMMENDATION:**

If there was a requested change in the meeting date, please amend the highlighted portion of the Rules of procedure and approve.

Submitted by: Renee Cantin, City Clerk

Meeting date: 04/25/2017

# **CITY OF TRUTH OR CONSEQUENCES COMMISSION RULES OF PROCEDURE**

## **SECTION 1 – GENERAL PROVISIONS**

### **RULE 1. COMMISSION MEETING – LOCATION**

All regular, special, and emergency meetings of the City Commission shall be held at the City Commission Chambers, 405 West 3<sup>rd</sup> Street as specified in the Open Meetings Resolution. [Resolution No. 2-94/95] [Amended – Resolution No. 24-05/06]

### **RULE 2. COMMISSION MEETING – TIME**

The regular meetings of the City Commission shall be held on the second and fourth Tuesdays of each month at 9:00 a.m. [Resolution No. 2-94/95] [Amended – Resolution No. 24-05/06] [Amended – Resolution No. 28 15/16]

### **RULE 3. COMMISSION MEETINGS – OPEN TO THE PUBLIC**

All meetings of the City Commission and of committees thereof held for the purpose of formulating public policy or for the purpose of taking any action within the authority of or the delegated authority are declared to be public meetings open to the public at all times, except as otherwise provided for in the state constitution or the Open Meetings Act (§10-15-1 et seq. NMSA 1978).

### **RULE 4. ELECTION OF OFFICERS**

Procedures for electing officers are as follows:

- (a) At the first organizational meeting of the new City Commission, the members thereof select one of its members to act as Mayor for two years. The Mayor has all the powers and duties of a Commissioner as well as the right to vote on all matters that come before the City Commission. (§3-14-10 NMSA 1978).
- (b) In conjunction with the above election, a Mayor Pro Tempore shall also be elected in a like manner.
- (c) The above elections shall be by affirmative motion.

### **RULE 5. PRESIDING OFFICER**

The Mayor shall preside at all meetings of the City Commission, and be recognized as the official head of the City for all ceremonial purposes, civil process and for military purposes (§3-14-10 NMSA 1978). The Mayor has no regular administrative or executive duties. In case of the Mayor's absence or temporary disability, the Mayor Pro Tempore shall act as Mayor during the continuance of the absence. In case of the absence or

## **CITY OF TRUTH OR CONSEQUENCES COMMISSION RULES OF PROCEDURE**

temporary disability of the Mayor and the Mayor Pro Tempore, a Mayor Pro Tempore selected by members of the City Commission shall act as Mayor during the continuance of the absences or disabilities. The Mayor or Mayor Pro Tempore are referred to as "Presiding Officer" from time to time in these Rules of Procedures.

### **RULE 6. QUORUM**

A quorum is necessary for the governing body to conduct business at any meeting. A quorum is a simple majority of all the commissioners including the Mayor. A majority vote of all the members of the City Commission is required to adopt an ordinance or resolution and certain other actions as required by law or ordinance. (§3-17-3 NMSA 1978). The City Commission may adjourn from time to time, provided that written notice of said adjournment be posted on the exterior Chamber door and at the City Clerk's office. City Commission meetings adjourned under the previous provision shall be considered a regular meeting for all purposes.

### **RULE 7. ATTENDANCE, EXCUSED ABSENCES**

Members of the City Commission may be excused from attendance from a meeting by complying with this section. The member shall contact the City Manager or City Clerk prior to the meeting and state the reason for his/her inability to attend the meeting who shall convey the message to the Presiding Officer. The Presiding Officer shall inform the City Commission of the member's absence and excuse the member's absence. The Clerk will make an appropriate notation in the minutes.

### **RULE 8. SPECIAL AND EMERGENCY COMMISSION MEETINGS**

Procedures for setting a special meeting are as follows:

- (a) A special meeting may be called only by a majority of the members of the City Commission.
- (b) Notice of the special meeting shall be given with no less than seventy-two hours' notice before such meeting. The notice shall specify the business to be conducted and shall be broadcast over the radio, or in the alternative, be posted as set forth in the Open Meetings Resolution.

Procedures for setting an emergency meeting are as follows:

- (a) An emergency meeting may be called only under circumstances that, if not addressed immediately by the City Commission, will likely result in injury or damage to persons or property or substantial financial loss to the City.

## **CITY OF TRUTH OR CONSEQUENCES COMMISSION RULES OF PROCEDURE**

- (b) Emergency meetings may be called by the Mayor or a majority of the City Commission by giving whatever notice is possible and reasonable under the circumstances.

### **RULE 9. COMMISSION MEETING AGENDA**

The City Clerk, under the direction of the City Manager, shall arrange a list of such matters according to the order of business and prepare an agenda for the City Commission. A copy of the agenda and supporting materials shall be prepared for the City Commission members, the City Manager, the City Clerk, and the press at least five (5) days before a regular City Commission meeting. The City Commission shall have the option of deleting any item from the agenda or deferring an item on the agenda to a subsequent meeting. The Presiding Officer or any Commission member may introduce a new item to the agenda by Noon *seven (7) days* before a meeting.

Persons wishing to be placed on the agenda must submit complete written documentation to a member of the City Commission or City Manager who shall make the determination whether to forward to the City Clerk to be placed on the agenda. All requests are due by noon, seven (7) days prior to the meeting. Requests, which do not include detailed information on the proposed subject matter, will not be placed on the agenda.

The City Commission deals with a variety of routine items that do not require individual action or discussion. These items include accounts payable, meeting minutes, etc. These types of items shall be listed on a "Consent Calendar" where one (1) action approves all items. However, if an individual Commissioner wishes to discuss a particular item, then that item shall be removed from the said "Consent Calendar" during the "Approval of the Agenda" portion of the meeting. (See Rule 16. E-3)

### **RULE 10. WORKSHOPS**

Special Workshops, or regular City Commission meetings that may be canceled by the Presiding Officer in accordance with law, may be designed as Workshops where no official action is contemplated. Workshops may be conducted informally so long as such informality is not in conflict with these rules. The City Clerk, under the direction of the City Manager, shall arrange a City Commission Workshop agenda for the Workshop. The Workshop agenda shall, for each item, contain the Workshop Item. After the proposed Workshop agenda has been approved by the City Manager, a copy of it along with any supporting materials shall be prepared for City Commission members, the City Manager, the City Clerk and the press at least *seventy-two (72) hours* before the City Commission Workshop. During the Workshop, the Presiding Officer may; 1) introduce the subject and give background information; 2) identify the eventual goal of the Workshop, and; 3) act as facilitator to keep the meeting discussion focused to the subject.

## **CITY OF TRUTH OR CONSEQUENCES COMMISSION RULES OF PROCEDURE**

### **RULE 11. CITY MANAGER**

The City Manager, as the chief administrative, and executive officer and head of the executive branch of City government or his/her designee, shall attend all meetings unless excused by the Presiding Officer or City Commission. The City Manager may take part in the City Commissioner's discussion on all matters on the agenda, and otherwise concerning the welfare of the City. Except when clearly undesirable or unnecessary, the commission shall request the opinion of the manager on any proposed measure (§3-14-14 NMSA 1978). The City Manager has a seat at commission meetings, but does not have a vote. In the event that the City Manager is unable to attend a City Commission meeting, the City Manager shall appoint another qualified staff member to attend the meeting on behalf of city management.

### **RULE 12. CITY CLERK**

The City Clerk shall be ex-officio Clerk of the City Commission, and shall keep minutes and shall perform such other and further duties in the meeting as may be required by the City Commission, Presiding Officer, or City Manager. In the absence of the City Clerk, the City Manager or the Clerk shall appoint another qualified staff member to act as Clerk.

### **RULE 13. FORMS OF ADDRESS**

The Mayor shall be addressed as "Mayor", "Your Honor", or "Mr. /Madam Mayor". The Mayor Pro-Tempore, when acting for the Mayor, shall be addressed as "Mayor". Members of the City Commission shall be addressed as "Commissioner".

### **RULE 14. APPEARANCE OF FAIRNESS DOCTRINE**

Appearance of Fairness Doctrine and its Application.

When public hearings give the public not only the right to attend, but the right to be heard as well, the hearings must not only be fair, but must appear to be so.

It is a situation where appearances are quite as important as substance. The test of whether the appearance of fairness doctrine has been violated is as follows; 1) Would a disinterested person, having been appraised of the totality of a board member's personal interest in a matter being acted upon, be reasonably justified in thinking that partiality may exist?

If answered in the affirmative, such deliberations, and any course of conduct reached thereon, should be voided.

# **CITY OF TRUTH OR CONSEQUENCES COMMISSION RULES OF PROCEDURE**

## **RULE 15. RULES OF ORDER**

The City Commission members shall be governed by the “City Commission Rules of Procedure”.

## **RULE 16. ORDER OF BUSINESS**

The City Commission may use the following as a guideline for the business of all regular meetings of the City Commission. However the Presiding Officer may, during a City Commission meeting, re-arrange items in the agenda to conduct the business before the city Commission more expeditiously.

**(a) Call to Order** by the Presiding Officer

**(b) Introduction**

**(1) Roll Call** (See Rule 7 for procedure to excuse an absence).

**(2) Silent Meditation**

**(3) Pledge of Allegiance**

**(4) Approval of Agenda**

**(c) Comments from the Public on ~~Agenda Items~~** (for Items not on the agenda – see Rule 17 for procedural details.)

**(d) Response to Public Comments**

**(e) Consent Calendar**

**(1)** The City Manager, in consultation with the Presiding Officer, shall place matters on the Consent Calendar which have been; a) previously discussed by the City Commission, or; b) based on the information delivered to members of the City Commission by administration that can be reviewed by a Commission member without further explanation or; c) are so routine or technical in nature that passage is likely, or; d) as directed by the City Commission.

**(2)** The Presiding Officer shall read the Consent Calendar, including the titles of any resolutions contained therein.

**(3)** Prior to the vote on the motion to adopt the Consent Calendar, the Presiding Officer shall inquire if any City

## **CITY OF TRUTH OR CONSEQUENCES COMMISSION RULES OF PROCEDURE**

Commission member wishes an item to be withdrawn from the Consent Calendar. If any matter is withdrawn, the Presiding Officer shall place the item at an appropriate place on the agenda for the current or a future meeting.

**(f) Public Hearings** (see Rule 17 for procedural details).

**(g) Ordinances, Resolutions, and Zoning**

**(h) Unfinished Business**

**(i) New Business**

**(j) Reports**

- i. City Manager
- ii. City Attorney
- iii. City Commissioners

**(k) Executive Session** ( Taken action as needed)

**(l) Return to regular Session** ( if applicable)

**(m) Adjournment**

### **RULE 17. ACTIONS FOR “COMMENTS FROM THE PUBLIC” OR A PUBLIC HEARING**

The procedures for “Comments from the Public” are as follows:

Any member of the public may request time to address the City Commission. The Presiding Officer in his/her discretion may then allow the comments, subject to a time limitation of three (3) minutes. Following such comments, the City Commission may place the matter on a future agenda, or refer the matter to the City Manager for investigation and report. After the close of all public comments, the City Commissioners may immediately respond to the public comments or respond to the public comments during the “Response to Public comment” section at the next regularly scheduled City Commission Meeting.

Prior to the start of “Comments from the Public”, all persons wishing to be heard shall give their names and addresses.

The following rules of conduct shall apply to all public comment:

No comments shall be made from any other location than the podium and anyone making “out of order” comments as determined by the Presiding Officer may be subject to

## CITY OF TRUTH OR CONSEQUENCES COMMISSION RULES OF PROCEDURE

removal from the meeting. In that regard, a police officer may be present to enforce these rules of conduct.

There will be no demonstrations during, or at the conclusion, of anyone's presentation. No extensions of time shall be given to any speaker, and no sharing or passing of time to other speakers shall be permitted.

If it appears that a group of speakers desire to speak on a particular subject, that group shall delegate a spokesperson to speak for the entire group. This will prevent repetitious comments and prevent the wasting of time.

Any person making a public comment may also supplement their comment by submitting documents. Such documents, however, must be deposited into a receptacle that is designated by the chair. The speaker may not approach the Commissioners without the express consent of a majority vote of the Commission. At the close of the open portion of the City Commission meeting, the City Clerk shall collect the deposited documents from the receptacle.

Any person who violates the rules of conduct may be subject to having their speaking privileges removed at future City Commission Meetings or may be subject to removal from that particular meeting as determined by a majority vote of the City Commission.

The Procedures for a "Public Hearing" are as Follows:

- (a) Prior to the start of a public hearing all persons wishing to be heard shall give their name and address and whether they wish to speak as a proponent, opponent, or otherwise. The time limit for each speaker shall be limited to five (5) minutes. In public hearings that are not of a quasi-judicial nature, the time limit for each speaker shall be limited to five (5) minutes. The Presiding Officer, subject to concurrence of the majority of the City Commission, may extend time limits and otherwise control presentation, The Presiding Officer may change the order of speakers so that testimony is heard in the most logical groups (i.e. proponents, opponents, adjacent owners, vested interests, etc.). However, the following shall be determined a reasonable guide.
- (b) The Presiding Officer introduces the agenda item, opens the public hearing, and asks for comments for or against the item at hand.
- (c) At the outset of each public hearing or meeting to consider a zoning amendment or zoning reclassification the Presiding Officer will announce the legal standards for zoning amendments and ask the parties to limit their presentations to information within the scope of the standards.
- (d) The Presiding Officer calls upon the City Manager to describe the matter under consideration.

## **CITY OF TRUTH OR CONSEQUENCES COMMISSION RULES OF PROCEDURE**

- (e) The Presiding Officer calls for proponents.
- (f) The proponents now speak. (Note: If the City itself is the proponent, a member or members of the Administration shall be designated to give proponent and rebuttal testimony).
- (g) Opponents speak.
- (h) The Presiding Officer calls for proponents to speak in rebuttal. A proponent speaking in rebuttal shall not introduce new materials. If the proponent does, or is allowed to do so, the opponents shall also be allowed to rebut the new elements.
- (i) The Presiding Officer inquires as to whether any City Commission members have any questions to ask the proponents, opponents, or administration. If any City Commission member has questions, the appropriate individual will be recalled to the podium.
- (j) The Presiding Officer closes the public hearing.

### **RULE 18. VOTING**

The votes during all meetings of the City Commission shall be transacted as follows:

- (a) Unless otherwise provided for by statute, a Roll call vote shall be taken for ordinances and to adjourn to Executive Session by the Clerk.
- (b) In case of a tie in votes on any proposal, any Commissioner may request the item be put on the next agenda.
- (c) Every member who was in the City Commission chambers when the question was put, shall give their vote unless the City Commission, for special reasons, shall excuse the member by motion or unless the City Commission member is excused in accordance with Rule 7. A City Commission member who "abstains" will be recorded as neither an "aye" or "nay" vote.
- (d) A majority vote of all the members of the City Commission is required to adopt an ordinance or resolution and certain other actions as required by law or ordinance. (§3-17-3 NMSA 1978).

### **RULE 19. COMMITTEES**

The Committee structure of the City Commission and the procedures governing, all committees shall be as follows:

# **CITY OF TRUTH OR CONSEQUENCES COMMISSION RULES OF PROCEDURE**

## **(a) Special ad Hoc Citizen Advisory Committees:**

Special as hoc citizen advisory committees may be created by the City Commission for a particular purpose. Committee members shall be appointed by the City Commission. The Presiding Officer shall appoint the chair of the Committee. Citizen study committee shall sunset at the end of their mission, but no later than the end of each calendar year unless specifically continued by the City Commission thereafter for a specified time period. One City Commission member, and one alternate City Commission member, may be appointed as a member and liaison of a Citizen advisory committee.

## **RULE 20. ENACTED ORDINANCES, RESOLUTIONS AND MOTIONS**

An enacted ordinance is a legislative act prescribing general, uniform, and permanent rules of conduct relating to the corporate affairs of the municipality. City Commission action shall be taken by ordinance when required by law, or to prescribe permanent rules of conduct which continue in force until repealed, or where such conduct is enforced by penalty.

An enacted resolution is an internal legislative act, which is a formal statement of policy concerning matters of special or temporary character. City Commission action shall be taken by resolution when required by law and in those instances where an expression of policy more formal than a motion is desired.

An enacted motion is a form of action taken by the City Commission to direct that a specific action be taken on behalf of the municipality. A motion, once approved and entered into the record, is the equivalent of a resolution in those instances where a resolution is not required by law.

## **RULE 21. RESOLUTIONS**

A resolution may be put to its final passage on the same day on which it is introduced. The title of each resolution shall in all cases be read prior to its passage, provided, should a majority of the City Commission members present request that the entire resolution or certain of its sections be read, such requests shall be granted. Printed copies shall be made available to interested persons during normal and regular business hours of the City Clerk upon request and payment of a reasonable charge for reproduction.

## **RULE 22. ORDINANCES**

The procedure for ordinances are as follows:

- (a) Notice by publication of the title and subject matter of any ordinance proposed for adoption by the City Commission must take place at least two weeks prior to consideration of final action upon the ordinance in open

## **CITY OF TRUTH OR CONSEQUENCES COMMISSION RULES OF PROCEDURE**

session. This does not apply to ordinances dealing with an emergency declared by the Mayor to be an immediate danger to the public health, safety and welfare of the City, or to ordinances, the subject matter of which is amending a city-zoning map. The title of each ordinance shall in all cases be read prior to its passage; provided, should a majority of the City Commission members present request that the entire ordinance or certain of its sections be read, such requests shall be granted. Printed copies shall be made available to interested persons during normal and regular business hours of the City Clerk upon request and payment of a reasonable charge beginning with the date of publication and continuing to the date of consideration by the City Commission.

- (b) If a Motion to pass an ordinance fails, any Commissioner may request the ordinance be put on a future agenda after six (6) months.
- (c) Any ordinance amending or repealing any portion of the City Code of Ordinances shall also amend or repeal the respective portions of any underlying ordinance(s).

### **RULE 23. PERMISSION REQUIRED TO ADDRESS THE COMMISSION**

Persons other than City Commission members and management may be permitted to address the City Commission upon recognition and introduction by the Presiding Officer or the chair of the appropriate City Commission committee.

### **RULE 24. COMMISSION RELATIONS WITH BOARDS, COMMISSIONS AND ADVISORY COMMITTEES**

All boards, commissions and City Commission citizen advisory bodies shall provide the City Commission with copies of any minutes taken of meetings. Communications from such boards, commissions and bodies to the City Commission shall be recorded in the minutes as follows.

Any such communication shall be officially acknowledged by the City Commission and receipt noted in the minutes.

### **RULE 25. PHOTOGRAPHS, MOTION PICTURES, VIDEO TAPE, TELEPHONE DEVICES – PERMISSION REQUIRED FOR ARTIFICIAL ILLUMINATION**

No photographs, motion pictures, or video tapes that require the use of flash bulbs, electronic flashes, floodlights, or similar artificial illumination, or telephone devices shall be used at City Commission Meetings without the consent of the Presiding Officer or a majority of the City Commission. All cellular telephones shall be either turned off or placed on a non-audio setting. Reasonable effort shall be made to accommodate the use of audio and video recording devices.