

*Rolf Hechler  
Mayor*

*Amanda Forrister  
Mayor Pro-Tem*

*Merry Jo Fahl  
Commissioner*



*Destiny Mitchell  
Commissioner*

*Ingo Hoepfner  
Commissioner*

*Angie Gonzales  
City Manager*

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## REGULAR MEETING

THE REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO, TO BE HELD IN THE COMMISSION CHAMBERS, 405 W. 3RD ST., ON TUESDAY, SEPTEMBER 24, 2024; TO START AT 9:00 A.M.

### A. CALL TO ORDER

### B. INTRODUCTION

#### 1. ROLL CALL

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

#### 2. SILENT MEDITATION

#### 3. PLEDGE OF ALLEGIANCE

#### 4. APPROVAL OF AGENDA

### C. PUBLIC COMMENT (3 Minute Rule Applies)

### D. REPORTS

1. City Manager
  - a. PD Update: Chief of Police Tavizon
2. City Commission
3. City Attorney

### E. CONSENT CALENDAR

1. City Commission Regular Minutes, August 28, 2024
2. Acknowledge Regular Public Arts Advisory Board Minutes, July 16, 2024

### F. ORDINANCES/RESOLUTIONS/ZONING

1. Discussion/Action: Resolution No. 14 24/25 Budget Adjustment Request. Jocelyn Holguin, Finance Director

F. ORDINANCES/RESOLUTIONS/ZONING Continued...

2. Discussion/Action: Resolution No. 15 24/25 in English & Spanish calling a Special Election to be held on Thursday, February 13, 2025, related to the Petition for a Referendum on Ordinance No. 767. City Clerk Torres
3. Discussion/Action: Publication of Ordinance No. 769 Authorizing the Issuance of The City of Truth or Consequences, New Mexico Water System Improvement Revenue Bonds, Series 2024B, In the Principal Amount of One Million Sixty-Five Thousand Nine Hundred Eighty-three Dollars and Thirty-Six cents (\$1,065,983.36) For the Purpose of Predevelopment Financing. Chris Muirhead, Modrall Sperling

G. NEW BUSINESS

1. Discussion/Action: Best Friends Animal Society Grant Agreement. Tara Manning, Animal Shelter Manager
2. Discussion/Action: Variance request and Special Use Permit for Parcel 3021077414340 for the placement of Shipping Containers. Assistant City Manager Alvarez
3. Discussion/Action: Conditional Use Permit at 808 Maple for the placement of a shipping container. Assistant City Manager Alvarez
4. Discussion/Action: Approval of Purchase Requisitions over \$20,000. Jocelyn Holguin, Finance Director
5. Discussion/Action: Review, Approve and/or Allocate Funds for MainStreet for the Application #2 for the "Redefine" Marketing Campaign. Tammy Gardner, Executive Assistant
6. Discussion/Action: Turtleback Trails Network Outdoor Recreation Trails Grant Proposal and Letter of Support. OJ Hechler, Community Services Director

H. ADJOURNMENT

**The meeting will be streamed through Facebook Live on the City of Truth or Consequences Public Information Facebook Page**

*If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting please contact the City Clerk's Office, at 505 Sims Street, Truth or Consequences, New Mexico 87901, phone (575) 894-6673 at least one (1) week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the City Clerk's Office if a summary or other type of accessible format is needed.*

**NEXT REGULAR CITY COMMISSION MEETING OCTOBER 9, 2024**





# CITY OF TRUTH OR CONSEQUENCES

## AGENDA REQUEST FORM

MEETING DATE: September 24, 2024

Agenda Item #: E.1

**SUBJECT:** City Commission Regular Minutes, August 28, 2024  
**DEPARTMENT:** City Clerk's Office  
**DATE SUBMITTED:** September 20, 2024  
**SUBMITTED BY:** Angela A. Torres, Clerk-Treasurer  
**WHO WILL PRESENT THE ITEM:** Consent Calendar

**Summary/Background:**

Minutes approval.

**Recommendation:**

Approve the minutes.

**Attachments:**

- Minutes

**Fiscal Impact (Finance):** N/A

\$0.00

**Legal Review (City Attorney):** N/A

None.

**Approved For Submittal By:** ☐ Department Director

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

**Final Approval:** ☒ City Manager

### CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. - Ordinance No. -

Continued To: - Referred To: -

☐ Approved ☐ Denied ☐ Other: -

File Name: CC Agendas 9-24-24

**CITY COMMISSION MEETING MINUTES  
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO  
CITY COMMISSION CHAMBERS, 405 W. 3<sup>RD</sup> St.  
WEDNESDAY, AUGUST 28, 2024**

**A. CALL TO ORDER:**

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

**B. INTRODUCTION:**

**1. ROLL CALL:**

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

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

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

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

**2. SILENT MEDITATION:**

Mayor Hechler called for fifteen seconds of silent meditation. He asked that everyone keep the family of Robert Johnston in their thoughts and prayers. He was a retired Border Patrol agent who took care of Sierra County. He will be missed in this community. He also asked that everyone keep the family of Helen Dogie Chavez in their thoughts and prayers. She was a lifelong resident of Sierra County from a long time ranching family. She was a registered nurse who provided comfort to many people in her lifetime.

**3. PLEDGE OF ALLEGIANCE:**

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

**4. APPROVAL OF AGENDA:**

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

**C. PRESENTATIONS:**

**1. Cantrell Dam Design and Estimated Cost Estimates.**

Stephen Ingles-Garcia, Wilson & Co. gave a presentation regarding the Cantrell Dam Design and Estimated Cost Estimates. (Complete copy attached hereto and made a part hereof).

**2. Update Commission on Airport Terminal Apron Project and Funding.**

Cheryl Rodriguez, Project Manager, Delta Airport Consultants, Inc. gave a presentation regarding the Airport Terminal Apron Project. (Complete copy attached hereto and made a part hereof).

**3. Progress of the Louis Armijo Sports Complex Master Plan to date.**

OJ Hechler, Community Services Director presented the progress of the Louis Armijo Sports Complex Master Plan. He also stated that he is partial towards option #2 *(Complete copy attached hereto and made a part hereof)* because they currently have the three baseball fields at the complex. He also feels that a good start for phase 1 should be where the soccer fields are now. He also mentioned the Recreation Board's concerns regarding parking, shade structures, and the pond. They will have another update presented in the future, and another public meeting will be held on September 12, 2024. They welcome any feedback from the community.

**D. PUBLIC COMMENT (3 Minute Rule Applies):**

Janice Gray addressed the Commission with comments related to:

- She asked if the Commission had looked into getting funds for another dump. She also asked if they had a chance to look at the cost of what the garbage is costing residents and what income is coming in from that. She has two properties in town. One is in a commercial area and the other is in a residential area. She pays approximately \$69.57 a month, at 402 Main for a dumpster, and she only puts around 6 bags of trash in that dumpster in a month. That works out to \$11.60 per bag for her. We have around 16 businesses on the Southside of Main Street where she lives, and if all of those businesses are all paying \$69.57, that works out to \$1,113.12 a month which adds up to \$13,357.44 a year for that one block alone. That is a significant amount of money just for one block. Her other

property on Veater is costing her \$34.69 a month. That property is a shop building that belongs to her husband, so he might put up to two garbage bags in the polycart.

Steve Green addressed the Commission with comments related to:

- He thanked the mayor and staff for listening to their concerns about Ordinance No. 766 and making some adjustments. He knows that you never get everything in negotiations, but he appreciates what the city has done and how you listened.

He then listed some errors he noticed within the proposed ordinance:

- 11.4: It shall be unlawful for any business... It should say any business(es).
- On the page that is past 11.14.1 which says *organic yard debris*, it should say *large organic debris*, so it is the same as what appears in 11.6.6.
- Under the Exempt Service Collection, where it says *the second bullet point Submit the completed application to the Solid Waste Department (see application for submission options)*. There is no attachment to this document for that application.
- The next page talks about a possible administration fee, which would have to be done by a resolution, so that will be coming back to the public and commission at some later date.
- People who are injured, and people who have physical disabilities might not remember to re-up on July 1, so wouldn't it be easier for the sanitation driver who is handling that person, to have a flyer produced, and in June, they can give it to the customer as a reminder because people forget.
- If you're going to consider an administration fee, does that fee fall under the ADA guidelines. That is something we don't want to get caught in. We don't need that negative publicity if it's against ADA rules to charge another fee for a service for a disabled person.

Becca Eza addressed the Commission with comments related to Mainstreet updates:

- Last week they had the Arrowhead Center from NMSU come up and do training for local businesses on developing their business models. We had several local businesses take advantage of that. They provide a good network of advisors once a business goes through that training, so that is something that will be ongoing. They will have more sessions in the future, so we will keep getting the word out about that.
- They scheduled our show of hands event for October 10<sup>th</sup>, and that's where the public will vote on the best of the finalist's proposals and chose the winner of \$5,000 toward their project.
- She called Santa Clause the other day and he has agreed to come to T or C for the Old-Fashioned Christmas on December 13<sup>th</sup>.

**E. REPORTS:**

**City Manager Gonzales reported the following:**

- We have been working very diligently internally on reviewing utility billings. I can't fix waterlines if I don't have revenue coming in. It costs \$115 a ft. for a waterline to be fixed. This room in the Commission Chambers is 38ft. and to fix a waterline, just the width of this building would cost \$4,300, so anybody who owes money better be ready because we are going to go after them.

**a. PD Update.**

**Chief of Police Tavizon reported the following:**

**Statistics for August 2024:**

- Officers responded to 878 calls for service.
- 99 ACO calls for service. We filled those two positions, and they are currently in training.
- 17 motor vehicle accidents.
- 8 SCI (CYFD) calls.
- 3 SRO Reports.
- 3 DWI/DUI.
- We had two Officers that were certified in crisis intervention training this month, which helps with people that are in crisis.
- We had an Officer get certified in narcotics investigations.
- We have two certified Field Training Officers on the patrol side.
- We have two Officers trained in background investigations.
- 183 Traffic Stops.
- 138 Citations/warnings (Including handwritten).

Chief Tavizon addressed a concern that came up at the last meeting about our public restrooms in the parks. The cameras do work at these parks. The problem is that we don't have an attendant at these restrooms and shy of somebody coming forward as soon as they see that damage, there is no way to tell when that damage occurred or who caused the damage. And for prosecution purposes, we have to prove in court without a reasonable doubt that the individual performed that criminal act and conducted that criminal damage to the property. Therefore, you all came to the conclusion that it was expensive to replace the damaged property. It cost \$5,800 to fix the vandalism that happened at Ralph Edwards Park, and the cost of damage at Family Park was \$2,600. That is just one event at each one of those parks. I know there were some concerns about restrooms, but from what I understand, the restrooms have been fixed and they are available to people who rent the park, but they are closed to the public otherwise. We are not the only city that has these parks that are closed. I was in Deming for 8 years and none of the parks there had access to restrooms. You had to understand that when you went to the park, you had to make other arrangements to use the restrooms. In order to get any kind of resolution, without having any cameras in the

restrooms, which I guarantee nobody wants in this country, to have the government spy on their restroom habits, it is very difficult. That is why we tried to push for the community to assist us and report it if they see something. It's great if it works, but they have to be willing to do it, and it takes a lot because they have to go testify in court, and now this individual knows who it is and so it is difficult to get it, and it is very rare that we do. I support your decision in closing the restrooms and only having them open for certain events, but of course it is going to be your discretion in the future if you want to pay this kind of money continuously. I imagine that we would eventually run out of money to fix these parks, and other things will fall shy of being able to be accomplished because we are having to pay to replace the things that have been vandalized.

Mayor Hechler: We kind of identified who the perpetrator was for the main part of the vandalism, or at least we have a good idea of who it was. I believe it was a homeless person, and when you have a homeless person, you can't prosecute, and you can't fine them because they don't have any means to pay back anything, so you are kind of stuck with it. If you leave these bathrooms open all the time, it kind of fosters an atmosphere of where homeless people start gravitating toward that area, because what happens, they sleep in the bathrooms at night, they use the sinks for showers, and they go inside to do the things that they do because nobody can see them so you have to be careful on how and when you open those bathrooms. With all of that, the city decided to open the bathrooms for special events, and on Saturday mornings for the Farmers Market, and when somebody rents that park for a certain area, they will have access to the bathrooms. On the back part of that, we closed the bathrooms and put portable toilets out there for a while, and lo and behold one morning drug paraphernalia found in bathrooms, and if we had exposed one of the kids or someone else to that paraphernalia and we had an overdose, that would have been one heck of a lawsuit for the city, so you have to be pragmatic about these things. You have to think ahead of these things, and after listening to that demeaning and condescending gentlemen that came down last time and talked about it, he doesn't have a clue about what is going on, so that was the reason why we closed the bathrooms and why they remain closed.

**School Resource Officer, Ted Ontiveros gave a presentation regarding signage around the schools.** (Presentation attached hereto and made a part hereof).

Assistant City Manager Alvarez explained that they have a plan in place to address the problem.

Mayor Pro-Tem advised staff to collaborate with the schools because she is sure that they agree it is needed.

**b. Streets Update.**

**Buster Smith, Streets Manager gave a Streets Department update.** Complete copy attached hereto and made a part hereof.

**Arnie Castaneda, Water/Wastewater Director update.**

Mayor Hechler: I'm really looking for some relief for the elementary school and the hospital. I know that we've had boots on the ground for the last 6 weeks or so while trying to find and turn valves and do some of those things to no avail. It's not because we haven't tried. We even entered into a professional services agreement to help us find those valves and we still weren't able to figure those things out. I am feeling that we are at the level where we have to do something, and I know that you've been planning some of these things, so I'd like to hear what that might be because we have an elementary school that's renting portable toilets and not being able to turn water on in the kitchen and facilities at the same time. We have a hospital that has to put on fire watch because they don't have enough pressure, and we need to get some relief for these two entities which are very important to our community. I am really interested to see what the next plan of action is or what we can do, and what your recommendations are.

Arnie Castaneda, Water/Wastewater Director: I got word about a week or a week and a half ago that the elementary school was doing good with their pressure, so I kind of left it alone. We have been checking pressure and fire hydrants throughout the areas that we think were the problem. We bumped into a valve just north of the golf course that connects a high-pressure line going into the upper zone and connects upper water to the system which the main line would be running through the high school. Our crew found that it was a hydrant valve. It was just a line valve that we opened so got higher pressure in that area. We checked the pressure inside the campus of the elementary school, which was normally 20 psi with this problem, and once we opened that valve, we jumped up to 42 psi. That was the last I heard. I haven't gotten any complaints from the elementary school. The pressure gauge that we have at the hospital was showing around 45 psi and now it is showing 55 psi. I thought the problem was solved. I haven't received any calls from the elementary school or the hospital, so that's where I thought we were at. If they are still having problems, we haven't heard from them.

Mayor Hechler: Well, I'm glad you said that because I've been getting calls. I'm going to ask you to do this. Would you please go back out and check with these people, check with Chad, and then check with the hospital. The hospital said that they're getting an increased pressure, but not enough. They need to have 60 psi. When they built the hospital, they had 60 lbs. of pressure so they built facilities around 60 lbs. of pressure, and for whatever reason we lost pressure and they're not able to run their fire suppressing units right now, so we've got to solve that problem. I got several comments from the Elementary School and the pressure has gone back down to some degree. They are still having to operate the kitchen independently of the other facilities. That's not something that we need to have done, so instead of waiting for them to contact you, would you mind contacting them and just do a weekly follow up with them, and make sure that we stay on top of this thing. I would really be interested in hearing what our solution is going to be. If it is going to be an up and down thing with our valves, and we solve the problem for a week, but it goes back down, that's not going to be something

permanent that we are going to be interested in. We need to come up with a permanent solution so that we can guarantee these folks the pressure that they need.

Arnie Castaneda, Water/Wastewater Director: The city had contracted with Wilson & Company to be more specific and find a problem area. They are continuing to do that, and one of the solutions that they recommended was to do a bypass from the high pressure zone to a zone that is having pressure problems. There are two locations where we might do that. That was the last plan. We have not moved forward again, because I thought that we had solved the problem. I will contact Wilson & Company to get more details to see if we can get that accomplished sooner than later.

### **City Commission Reports:**

#### **Commissioner Hoepfner reported the following:**

- A couple of days ago we had another big rain, and luckily enough it didn't come into the downtown stores, but it only rained for 10 minutes, and it flooded completely. The water was around a foot deep on my front door. The water is draining pretty fast so as a temporary solution, when there is a forecast of a flash flooding, maybe one of the officers could close Broadway for the 15 minutes that it is raining. The waves are what bring water into the stores. Not the drainage itself.
- I will be part of the Recycling Committee in the future to represent the city. I am looking forward to this new experience and making a difference for a better future.

#### **Commissioner Mitchell reported the following:**

- I went into point out on chief's point about the bathrooms at Ralph Edwards Park. We had an event there on Saturday and it was fairly well attended, and the bathrooms were open, and they were clean. We didn't have any problems with using the facilities during the event. Thank you for allowing us to do that. I think it will continue to keep those areas from being vandalized.
- I was at the elementary school giving a presentation as a city commissioner. I was asked to come talk to a group during class. One of the teachers did ask me about the water issues and I tried to give an explanation. It's going to be here in update, but I do think we need to more communication with the schools. With all of our issues really being ahead of it and proactive as opposed to waiting for complaints.
- MainStreet T or C is going to be putting together a Way Finding Committee.

#### **Mayor Pro-Tem Forrister reported the following:**

- I attended the Sierra County Commissioners meeting on Tuesday. I was there as a fair board member, and they are almost 90% done with the design and so we all know how those things go. Hopefully soon they will start breaking ground and we will have nice new facilities over at the fairgrounds. Which makes me to push them more to support our Cantrell Dam situation.



**Mayor Hechler reported the following:**

- On August 15 myself, the city manager and the assistant city manager met with South Central Council of Governments to talk about a couple of grant opportunities. One of them is a commercial park with dedicated HOV property that could be donated to the city we are working on a grant in that regard. The second thing we are working with them on is to apply for a grant for community planning or metropolitan redevelopment plan or community master plan. The last one we did was obviously October 2014 it's time to revisit that. I'm hoping the grant will be between 4 and 5 hundred thousand dollars so it will be comprehensive, and I will include the entire community. I'm really interested in what we can do with facilities like Lee Belle Johnson Center, the old armory I want all that to encompassed in this planning. We will get some guidance and direction into that, but we are applying for economic development association grant with the federal government in that regard so hopefully I will be able to report somethings to you on that down the road.
- I had several meetings with Mayor Green over the last 6 weeks or so. We have hammered out the sanitation ordinance and talked about that extensively so appreciate your time and effort I know that is a passion of yours.
- I'm working with the city right now trying to figure out what we are going to do with the weeds in the roundabouts. I know we have a couple of bids to spray the roundabouts a couple times a year. One of them would be emergent to take care of the seeds and the other one to take care of the weeds. I know that the longer we wait the more physical work we are going to have to do at the roundabouts so I'm hoping we get that resolved soon. Thank you, guys for your efforts in that regard but let's keep pushing on it so we get those things taken care of.
- I want to thank Ron Pacourek for bringing this to our attention. On August 29th we actually have a meeting with the USBOR and the county emergency personnel regarding the functional training and exercise for an emergency action plan for the dam. It will be at the Richard Copper Training Center. I have already signed up for it. I know the chief has signed up for it. I know that the county emergency planner signed up for it. We will have several folks there that will actually go through the scenario if we have some issues with the dam or even the surrounding arroyos like Mescal and Cuchillo when they receive heavy rain fall and flood the river below the dam it doesn't really do any good to shut off the dam because when you shut it off it takes several hours to do that. That is what happened last time when we almost had a flood was the arroyos to the side filled up our river channel and it caused some issues for the people on Riverside. I'm sure we will be discussing some of that and I'm hoping to have a report for you in that regard down the road.

**City Attorney Rubin reported the following:**

- I handed the commissioners a copy of the order that was entered District Court in Catron County in a case with Augustin Plains Ranch LLC versus the State Engineers office. A decision here actually directly benefits the city. What happened here was that applicant Augustin Plains Ranch filed an application for a permit with the state engineer's office and the seeking to appropriate

underground water to divert and use the waters from the San Augustine base in Catron County. If you take a look at the second page of the orders paragraph 5 it tells you this again this is the courts findings, the APR application request a new ground water appropriation in the amount of 54,000-acre feet per annum for 37 wells in the Rio Grande Underground Water basin for municipal and commercial sales purposes. Now this case was filed 6 years ago but we were concerned that application could have potential of affecting our own water rights so we joined a protest filed by the Cuchillo valley Community Ditch Association and as I noted this case has actually been pending for 6 years it was in the engineers office it was in district court it went back the engineers office and then back to district court and then we had this ruling from the district court that was entered last week. The order was found in favor of the protesters and against the applicant. I thought it was interesting because the applicant files were really not specific as to where it was coming from and most importantly what the proposed uses of the water would be. If you take a look at paragraph 16 on page 4 again we are talking about the judges findings hear and it is quoted here " Speculators are water rights owners who do not beneficially use the water rights and provide' merely expressions of desire or hope' to use the water rights at an undefined point when it is financially profitable" and if you take a look at paragraph 21 the APR application does not specify the quantity of water to be appropriated except a generalized 54,000 afy. The exact amount to be appropriated will not be determined until Stage 2. There is no specific breakdown of how much water will be used among multiple purposes of use. While the breakdown may be based on demand, the application contains no confirmation of demand. The bottom line is even though this matter was pending for 6 years the application did not have their correct specifics it was needed so their application was denied.

**D. ORDINANCES/RESOLUTIONS/ZONING:**

- 1. Discussion/Action: Resolution No. 13 24/25 approving submission of an application for financial assistance to Water Trust Board for Cantrell Dam Breach and Watershed Drainage Improvements Project.**

Assistant City Manager Alvarez: You heard the presentation from Wilson and Company on the Cantrell Dam. We would like to submit an application for an 8 million 100-thousand-dollar grant. We would require a 10 local match. The Water Trust Board is also a 90% grant 10% loan so there would be an 810-thousand-dollar loan associated with the 810-thousand-dollar cash match. The local match would be budgeted from our street department or any other funding that we might potentially receive through Sandy Jones if possible. This is just the first step. The Water Trust Board does require that we submit a resolution allowing us to apply for the funds. Once the funds are awarded, we receive a notice of award. It comes back to the commission again with the actual amount they are awarding, and you guys have to accept the notice of award by resolution. Then they give us readiness to proceed items that have to be submitted once those are all submitted it will come back to the commission for a third time with a

grant agreement. At this time, we are requesting approval of the resolution so we can submit the application.

**Mayor Pro-Tem Forrister moved to approve Resolution No. 13 24/25 approving submission of an application for financial assistance to Water Trust Board for Cantrell Dam Breach and Watershed Drainage Improvements Project. Commissioner Hoeppner seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

**2. Discussion/Action: Publication of Ordinance No. 766 Amending the City of Truth or Consequences Municipal Code of Ordinances, Amending Chapter 11 Pertaining to Solid Waste.**

Assistant City Manager Alvarez: This was brought to you previously and the commission has sent it back for some revisions after the public hearing and discussion. We are recommending some of those revisions. There for it will have to go back out to publication in review of the information we heard during public comment. On page 2 11-4 I think the wording shall be unlawful for a business to collect without having a business license within the city. Under 11-14-1 we note in section 2 that they can put in their small bag organic waste.

City Attorney Rubin: You are saying that is consistent. The comments made by Mr. Green I appreciate that. He was referring to the third sentence to the end on paragraph B "only regular household, business or small organic or debris should be deposited. Then we refer here on the other section 11-14-2 only regular household, business bag garbage shall be deposited. There were some questions about whether that was consistent or not.

Assistant City Manager Alvarez: Weather or not we need to add in the reference to large organic debris should not be submitted to waste. We can make those changes if the commission allows before we put it out for publication. If there is anything else that we missed I made notes at our public hearing at the commission meeting that we had.

Mayor Pro-Tem Forrister: I just want to hit on the admin fees again. I think we making it where if they are disabled, we do not charge that admin fee correct? We can charge an admin fee at our discretion if someone doesn't have documentation of them being disabled but they say they still can't take their trash out, but we seem them doing that for misuse of that.

Assistant City Manager Alvarez: For the publication of the ordinance, we added in the word administration fee may apply so that when we come back to the commission for final adoption of this ordinance and then the resolution for the fees the commission can make that determination if they want to implement an administration fee and if they do

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what the provisions of that administrative fee are. This just sets that guideline in case you guys want to do something with in the resolution.

Mayor Hechler: Mr. Rubin if you wouldn't mind researching the ADA issue.

Attorney Rubin. Yes. What you have in your packet you have the red line and yellow line, but we put together the final draft.

Commissioner Mitchell: I think we should take in account Steve Greens changes.

Mayor Hechler: On page 18 paragraph 3 the last line under the red line it says owner of multiple addresses are not allowed to exchange or remove to from their other properties for exchange. There is a word missing there or somebody explain to me what that means.

Assistant City Manager Alvarez: The purpose of this statement is because you might have a customer that owns 2 different properties in 2 areas of town. Each one of those properties is assigned a poly cart. What had been happening in the past is maybe they weren't using the trash at one location, so they were taking their trash container to their other address to fill up both. The problem with that is when our drivers are out there the drivers don't know necessarily that those are paying 2 separate trashes. They see 2 poly carts at one residence, and we know that they are not paying for 2 poly carts. Then maybe the other place is a rental, and somebody moves in as a rental and then they say they don't have a trash container and all of a sudden, we have 3 out there when we should only have 2. The idea is each trash container is address specific and needs to remain at that address.

Mayor Hechler: Is the term receptacle or poly cart is that term missing from that sentence?

Assistant City Manager Alvarez: Can you tell me the section you are in?

Mayor Pro-Tem Forrister: Its 11-14-1 number 3.

Mayor Hechler: It says owners of multiple addresses are not allowed to remove or exchange. Should poly carts or receptacles from other properties for usage.

Assistant City Manager Alvarez: Yes. I'll probably put refuge containers, so I cover it all.

Mayor Hechler: There are only 22 people that are taking exempt services now from what I understand. In June our admin for sanitation should generate a letter to this residence to indicate starting July 1 we will no longer provide this service unless you reapply. I think that should be automatically generated from our admin at the sanitation department every June. We are in a service industry that's service that we should provide. Can we make sure that gets done.

Assistant City Manager Alvarez: I did forget to reference one section. The section that you have highlighted in green in your packet is because we saw some discrepancy in what was in the solid waste ordinance versus what was in the billing procedure ordinance. That green section is being changed. It's going to give a direct link to the actual process and procedures.

City Attorney Rubin: It says under 11-12 and 11-13 the city here to the provisions of city ordinance 14-51 pass thorough charges and 14-53 declaration of lien and recovery of past due bills.

Assistant City Manager Alvarez: We put that section in your packet as well for you to refence.

City Attorney Rubin: Yes, its section 11-12 and 11-13.

Assistant City Manager Alvarez: That is to make it consistent.

Mayor Hechler: On the top of the page top of the ordinance under definitions. We got paraded pretty heavy by one of our citizens again. So, city means, and it includes the city, its duly authorized agents, contractors, servants, employees, or licensees. When you look up the word servants in this context the word servants means in law a servant is an employee who works for an employer and is subject to their direction and control. This is different from an independent contractor who operates their own business and has more control over how they do their work. So, it's not what it was represented to be last time the citizens that is what the word servant means in this context. Having recognized that servants is an antiquated term part this ordinance was actually written in 1962, so it's been out there for a while. For that reason, since it is an antiques term, I don't mind if we strike it from the ordinance.

City Attorney Rubin: The word servants?

Mayor Pro-Tem Forrister: I would help people more when they come with positive suggestions.

Mayor Hechler: If a name change from solid waste management is going to be to recycle and waste collection center. That means if is going to be in our name we have to pay attention to it and recycling is an important component of what our city sanitation should do. So, the name change is going to be Recycle and Waste Collection Center let's put an effuses on recycling. Im glad Mr. Hoepner that you joined the committee. We will see what we can do to make it a better program down the road.

**Mayor Pro-Tem Forrister moved to approve Publication of Ordinance No. 766 Amending the City of Truth or Consequences Municipal Code of Ordinances, Amending Chapter 11 Pertaining to Solid Waste with the recommended changes. Commissioner Hoepner seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

**G. NEW BUSINESS:**

**1. Discussion/Action: Civility Legislative Actions for 2024/2025.**

Kathy Elliot, Civility Government Relations: I was here a couple of months ago, and after the past year we did our initial contract with the City of Truth or Consequences, and we found that it was a successful partnership, and we are working on some new goals this year. I wanted to come and give you an update of everything that I've been doing recently and then discuss what our future goals are as far as what we're going to be advocating for in the legislature. I've had the opportunity to come back in the area for different events. I had some nice interactions with area legislators and getting to know them better because even though it is a fairly large state, there is actually a small group of us that often times travel around in this legislative circle and it's easy to get to know each other better that way. Last week, I was in attendance at the Municipal League which is a gathering of all of the different Municipalities, and towns and villages and cities. They came into my neighborhood on the east side, and I had the opportunity to sit in on a water program that was initiated by NMED. There were some points made that was brought up about Truth or Consequences and knowing your needs. When they point out a city like that, I actually stood and said, that we appreciate you bringing that to light because that means that we have done a job of saying there are water needs for drinking water specifically in Truth or Consequences. Also to acknowledge the fact that in the future, they are working on wastewater needs through the Water Trust Board as well. Those are all positive moves for Truth or Consequences and having that relationship with those folks that are in Santa Fe is always strong. Yesterday, I went to a water and natural resources meeting that was in Socorro and I got to see a lot of the Legislators there, and I got to listen to some of the plans that look like they're going to be coming down that pike in session for some Bills and some things that we will discuss in the future as to whether or not you think that is a good or bad move from the state's perspective. As your lobbyist, what we do is not only have those relationships with legislators, and advocate for your priorities, but we actually put in requests for money. You guys are doing a fantastic job. You guys are digging out grants that I'm very impressed with. 1% to come back in for the Airport is incredible. We are going through your ICIP which is your Infrastructure Capital Improvement Plan, and we've had some talk about what could be some of our top request from your legislative money over this next year. The sheets have 30 to 35 different projects that we look forward to in the future, but when we come in and we ask our legislators for money, we prioritize up to 4 or 5, sometimes depending upon the amounts of what we are really looking for. Through some of our discussions, we highlighted a few things that we would like for you guys to consider now, and to actually put a 1-4 number ranking on these, and then we will pass that word along, and then they look through it and we give them the details of it, and we lobby for it and then we see what they can actually afford to give us. Our directive last year was water, so that's what we got. We got some very good funding from our Legislators and our Governor for water projects. As well as the Water Trust Board and other places. We are working on those projects and this year we've gone back into four different things that could elevate the community and are doable for the legislators.

Mayor Hechler: So, these are projects that we can do with our legislative finance committee, and we can request help from our legislators. That doesn't mean that we're not going to ask for \$10 million from the Water Trust Board for our sewer issues. It doesn't mean that we're not going to go after the big items. These are just items that we think we could get through from our legislators on a local level. The Animal Shelter as you know was a little over \$200,000 short. The bids came in way too high so we are going to ask our legislators to help with that, and of course the PNC Bank (New Police Station) renovations so we can make it a functional Police Department. We will make a decision regarding the \$1.68 million bond that we are requesting. If the bond gets shut down for a referendum, then we can hopefully ask one of our legislators to appropriate the funds to us. We will have our Police Station in one form or another. It just depends on what happens with our community down the road.

**Mayor Pro-Tem Forrister made a motion to approve the legislative action seeking capital outlay in the order of 1. Police department 2. Sewer Vacuum System Replacement 3. Animal Shelter 4. Lee Belle Johnson Center. Commissioner Hoepner seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

### **3. Discussion/Action: Multi Animal Special Use Permit at 1501 N. Ash.**

Assistant City Manager Alvarez: This item went before the Planning & Zoning Commission. The applicant was unable to attend at that time. The board made a recommendation to deny her request for a Multi-Animal Special Use Permit. There were no opponents or proponents that showed up, and due to lack of information and the lack of attendance, the recommendation was unanimously to deny the request. The applicant Rhonda Spence is here in attendance today as well as Code Enforcement. Code Enforcement also recommended that we not approve the application.

City Attorney Rubin: It might be helpful to find out why the applicant did not attend the Planning & Zoning meeting because the concerns that I have legally is that the Planning & Zoning meeting is where we had the Battershell hearing and if there was nobody to show up there as a proponent, then the board didn't really have any other choice but to deny the application because there wasn't any evidence submitted.

Rhonda Spence, Applicant: That was my error. I wrote it down on the wrong date. That's why I didn't attend.

Mayor Hechler: Generally, this isn't the way we do things at this level, but I'm still interested to hear what you have to say, and then we'll ask our Code Enforcement Officer to Speak.

Rhonda Spence, Applicant: I came here in a flight situation. I have 6 dogs and I'm trying to find a place to put them. I was requesting to build a fence and have them housed there. They can have ample shelter that has a permanent shelter, and they also have

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their dog houses. They get food and water every day. I go and visit and play with them. I'd like to extend the fence eventually and put a building in there so they can get washed and bathed.

Mayor Hechler: I think some of our concerns are that this is on a lot by itself, and there is no landowner onsite. How far away do you live from the proposed area?

Rhonda Spence, Applicant: Maybe 2 miles. Right now, I'm renting a house on Locust, and I work at the Elementary School, so I go right by there as well.

Mayor Hechler: It seems that there is a lack of shade on the property right now.

Rhonda Spence, Applicant: Right, but again, I have had some permanent structure placed for shade on there right now. I also have two oversized dog houses, and I have two more being built.

Mayor Hechler: What happens if one of the dogs get bitten by a snake or they get out of the kennel. How would you know?

Rhonda Spence, Applicant: I've been contacted by Animal Control one time that my dogs had gotten out and that was due to the dog houses being too close to the fence, and my two Ausie mixes jumped over, and so I have since moved those dog houses elsewhere so they can't go out of the perimeter unless they all come and rage towards me, and if they do that and they get out that way I just go and scoop them up in the car.

Mayor Hechler: What is your intent with these animals?

Rhonda Spence, Applicant: To continue to love them. I had them and I am responsible for them.

Mayor Hechler: How did you get 6 animals?

Rhonda Spence, Applicant: I had one run in front of my car in Hatch, then I got one as a gift and then I was in an accident and that dog met some neighbors and she had puppies. Then I had a blue heeler with a broken hip who came up to my pond when I was living in the Hobbs area.

Mayor Hechler: You obviously care for the animals, but you also understand our concerns. Thank you, ma'am. I'd like to hear from the ACO now.

Tyler Knull, Animal Control/Code Enforcement Officer: As Ms. Spence has stated, she obviously does care for the animals. I don't see any signs of cruelty, but I do share the same concerns that you guys do. Nobody lives on the property, and there's not really a lot of space for 6 animals on the current property with dog houses, shade and all of that. I've received quite a few complaints from people who are concerned that there is nobody living on the property, and the dogs are left there, and the owner visits maybe



twice a day or once most of the time. People are concerned about what happens if these dogs start barking and what happens if these dogs start getting out. In the process of her starting to get her permit, there were 5 or 6 times that I had to respond to go and contain her dogs that were running at large. I don't know what the reasons were, but she was very hard to contact to let her know that the dogs were running at large. I'm not saying that's currently the issue. I haven't had an issue in quite a while with the dogs running at large, but that was an issue in the beginning. So, I do share the same concerns about what happens if the dogs get hurt and she's not there. If it takes 5 hours for her to visit for the next time, there is a lot that can happen to a dog that is in pain or has been injured or anything like that. If the dogs start barking, who's going to stop the dogs from barking. People are concerned that we've denied permits for less than what's going on. No one is living on the property, so who is taking care of these animals consistently, so I do share the same concerns and that's why I recommend denying the permit at this time.

Mayor Hechler: Are the animals on the site there now? And how long have they been there?

Tyler Knull, Animal Control/Code Enforcement Officer: Correct. I would say they have been there for a few months. It's been 3 months since she applied for the permit.

Mayor Hechler: How many issues have you had in that time frame?

Tyler Knull, Animal Control/Code Enforcement Officer: The 6 at the beginning and then I am getting complaints from citizens about if this is allowed and why are we allowing animals to be left on the property when nobody is watching them.

Mayor Pro-Tem Forrister: She obviously does care for these animals, so what are our steps moving forward. What can we do to accommodate her when it is her long-term goal to have these animals. What happens if we deny it? Do you go and take the dogs from her and then they go into our overcrowded shelter?

Tyler Knull, Animal Control/Code Enforcement Officer: I wouldn't take the dogs. It would be up to her to figure out where she could house the dogs until she could have an approved permit. Whether that's at the property she's renting or something like that. Her long-term goal is to try to get a building built so she can have the dogs go into an indoor area in the heat of the day and bathe them. Things like that. That's currently not what's on the property right now. They are currently outside 24/7 right now.

Mayor Pro-Tem Forrister: But you do have a shelter out there for them now?

Tyler Knull, Animal Control/Code Enforcement Officer: Currently they have dog houses, and she has a tarp out there for shade. I don't know if that's changed. It's been quite a while since I've been over there.

Rhonda Spence, Applicant: I do have a structure inside the gate. I can't remember the dimensions, but it has metal piers. It's on the side that goes towards the street, but that's the side that is also covered so the dogs don't see the road, and the other side is a chain-link fence. So, where the structure ends, I placed a canopy that goes all the way over to the chain-link part.

Mayor Pro-Tem Forrister: You can see how this is not ideal. We want to help, and we want you to be able to keep your dogs, but what is in your future? Is there a place you can rent where you can keep your dogs with you?

Rhonda Spence, Applicant: No, there's not.

Mayor Hechler: We are going to have to make a tough decision here because I don't see this as being an attainable position. I think these animals need to be on a property where they have immediate care. They are out in the middle of nowhere. Do you own that property?

Rhonda Spence, Applicant: Yes.

Mayor Hechler: What would be a reasonable timeframe for you to do something other than leaving them on these premises?

Rhonda Spence, Applicant: I will have to quit my job and leave the area.

Mayor Hechler: I don't want that to happen, but this is setting kind of a tough precedence for us.

Rhonda Spence, Applicant: I do want a building there. I've always said that, but then the way that it is zoned as an R3, it is difficult to what you can and can't do.

Mayor Hechler: Exactly. We can help you get these dogs adopted. That would be one option.

Rhonda Spence, Applicant: No thank you.

Mayor Hechler: I know we all form attachments to animals, but what your perception is on care of those animals may not be the same perception that the average person would think it is because animals should be at home where there is somebody on the premises 24/7 so if something happens, you can have an immediate response. If you're at work all day, there isn't going to be an immediate response. I appreciate you driving by there and looking, but that doesn't solve the problem, and we have to get to the point where we solve the problem. So, we have to make a decision on that and that's what makes the decision difficult because I know that you care about your animals, but we have to care for the animals ourselves too, and what's best for the animals may not be this scenario.

Mayor Pro-Tem Forrister: I'm not even concerned about her being at work all day. That would happen if she had them at her house. Ms. Spence, how do you foresee this playing out? Are you just going to leave them on this piece of property, and you're going to live somewhere else?

Rhonda Spence, Applicant: That's what I've had to do. I would like to put a structure where I could be with them there, but then again to zoning, I didn't know the requirements. I do have a business license. I've been trying to do this since November. I'm at a loss.

Mayor Hechler: Mr. Knull. Is there an opportunity for us to help her get some of these animals adopted?

Tyler Knull, Animal Control/Code Enforcement Officer: There is from the Animal Shelter. As far as her process and what she's comfortable with, I'm not exactly sure. Like you guys stated, this is a precedence that we haven't set before. I want to clarify that the issue is not the necessities for the dogs. The water and food are being met and the dogs look healthy. My concern as far as responsibility, is the owner not being on the property, as well as the space. That's the only necessity that is kind of missing for me. I'm willing to work with her. It's within the process of compliance and I am willing to extend my time limit and not issue citations and things like that. I do have that ability. I understand what she's going through. We would have to decide what she's comfortable with and check with the Animal Shelter to see what we can do as far as the next step to get these animals removed from the property.

Mayor Pro-Tem Forrister: This is difficult because like you said, their needs are being met. Fix the place up a little bit, and get a kennel permit and have a kennel business there. I don't know if there is something that can be done here.

Rhonda Spence, Applicant: That's what I wanted to do, but you have to do these steps, and the first step for me was to take care of my dogs and let them all be together somewhere. That was the fastest thing that I could do.

City Attorney Rubin: You can deny the application, but that doesn't stop Ms. Spencer from coming back and re-applying after her situation changes.

Mayor Pro-Tem Forrister: Clearly, she doesn't want to get rid of her dogs, and I don't think we need to be taking them from her. I like Officer Knull's discretion on this and working with her to come up with a solution. Clearly, she's taking care of her animals and she loves them so let's figure out a way to make it work. I don't want to give her the permit, because then we are setting a precedence.

Assistant City Manager Alvarez: We could potentially do a temporary approval and re-visit with Code Enforcement and the applicant to maybe see where she is at and whatever amount of time that you guys wanted to do that.

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Mayor Hechler: I kinda like that idea. Officer Knull, would you be okay with us not making a decision other than a temporary permit for maybe 3 months, and then monitoring the situation in the system, and hopefully you can work toward a resolution that will benefit her situation and the animals. Quite frankly Ms. Spencer, you may have to adopt some of them out so that we can lessen the impact because I do have some concerns that those animals are going to be left in a community without anybody around for a lot of the time, and I don't want to set that precedence either. Absentee ownership isn't something that I think we want to allow to have within the city. I hope you understand our situation too.

Assistant City Manager Alvarez: If I could encourage the applicant to come and speak with me regarding the zoning, R3 allows for home occupation, as well as structures and stuff like that. I haven't seen anything other than the fence brought to me.

Rhonda Spence, Applicant: You won't let me do anything else.

Assistant City Manager Alvarez: When you were saying that there were limits on what you can put there, there is, we have a distinct list of what's allowed, but there's also processes for items that maybe aren't allowed or require a special use permit, so if you have some ideas that aren't fitting in what you read, I encourage you to come speak with me and see if there is a way that we can go back to Planning & Zoning and ultimately the Commission for a conditional use or special use permit or a variance request. There are different options and routes that we can take.

Mayor Pro-Tem Forrister: Officer Knull, what would you prefer? Would you prefer that we deny it and you just kind of just use discretion on what she's doing or do you want us to approve it for 3 months and let her work in that period of time.

Tyler Knull, Animal Control/Code Enforcement Officer: Personally, I would recommend denial simply because it does set a precedence. For other properties and other cases, we don't allow property owners to just leave their animals and go stay somewhere else for a week and visit them once a day or whatever. It's not something that I allow, so I don't think that the situation is permissible, but upon your denial of the permit, this is only a denial for my side of things for now. The situation is planning to change, and I can see that she loves all of the animals. Once improvements are made as far as where the animals can live and where she can stay with the animals, then I would recommend approval.

Mayor Hechler: Ma'am, I see several houses around that area. Do you have any relationship with any of the folks that live close to there that can possibly assist you.

Rhonda Spence, Applicant: No.

Mayor Hechler: So, your options are that we're going to deny the permit, but we'll allow 90 days. Please go talk with the Assistant City Manager in the meantime to see if we can make some plans, and then we will revisit this thing in 3 months.

**Commissioner Hoepfner made a motion to deny the Multi Animal Special Use Permit at 1501 N. Ash, and we will revisit this in 3 months with an update. Mayor Pro-Tem Forrister seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

#### **4. Discussion/Action: Charging & Fueling Infrastructure Grant Application.**

Bo Easley, Electric Division Director: About a year ago the government and the federal highway administration gave money out to stage for electric car charging stations so we started working with SCCOG and submitted a grant. We didn't get a grant the first go around, and now the second round is fixing to come up and close out, and they are asking for a match fund of 20%. I wanted to bring this to the Commission to get a directive of which way you would like to go. There are other grants out there that we could probably look for to get electric car charging stations, but I wanted to bring this to you to get a decision from you.

Mayor Hechler: So, we are looking at 20%. What is the overall cost.

Bo Easley, Electric Division Director: The overall cost would be \$2.2 million, so we are looking at a little over \$1.5 million.

Mayor Pro-Tem Forrister: When you first brought it I thought it would be really cool for the city, but the more I look into this, say we did want to pay that \$1.5 million and invest in this. Its our upkeep and we're going to have to be working on this, and right now private businesses are putting in charging stations in our community so I think, let them handle it and we should stay out of it.

Commissioner Hoepfner: I feel that we should have at least a couple of them in the downtown area so we can provide the service. There is a space next to the PNC bank where we could put one and people could know that their cars are safe. What safer place then directly by the Police Station, and when we ask for funding, that's another bullet point we could put on it to help downtown and the community. It would be better for the interest of downtown. Or we could find somebody privately who would want to install something. I don't think we should abandon the opportunity. Maybe we could look into some better grants for it.

Commissioner Mitchell: I kind of agree with Ingo's point on having those kinds of stations in the downtown area. I think that would be beneficial. I disagree in the sense that I just see that this could potentially be where eventually it would get rid of all gasoline cars, and that would be a positive step for the city, but it would all depend on the cost to us personally. I also agree with Mayor Pro-Tem Forrister about private businesses putting them in.

Mayor Hechler: So, we are looking at a \$400 plus thousand dollar investment on our end. Its going to take us a lot of years to get that money back from two charging stations for people to spend money and buy food downtown. I don't think it's a business decision that I would make and that's why I think we should leave this type of stuff up to private businesses. The other thing that I would be really concerned about is that there could be a change in administration down the road with a new emphasis on electric vehicles and things of that nature depending on who gets in the office down the road, so we could be investing in something that isn't going to have any return for us or very little return. I don't think we know enough right now to make that decision and jump into it. A private business will have this stuff done if there is enough business out there to get it done. Its not always up to the government to supply these things. Especially at a loss. I think maybe in the future we could look into it, but right now we have bigger dragons to slay.

Mayor Pro-Tem Forrister: I would rather spend that money on our citizens and not people passing through.

**Mayor Pro-Tem Forrister made a motion to deny the Charging & Fueling Infrastructure Grant Application. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

- 5. Discussion/Action: ITB 23-24-010 Recommendation to Award a Construction Contract to Morrow Enterprises, Inc. in the amount of \$1,840,000.00 (excluding NM Gross Receipts Tax) and Authorize the City Manager to sign said contract for the Construct Terminal Apron Project at the Truth or Consequences Municipal Airport.**

**Mayor Pro-Tem Forrister moved to approve the ITB 23-24-010 Recommendation to Award a Construction the conditional Contract to Morrow Enterprises, Inc. in the amount of \$1,840,000.00 (excluding NM Gross Receipts Tax) and Authorize the City Manager to sign said contract for the Construct Terminal Apron Project at the Truth or Consequences Municipal Airport. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

- 6. Discussion/Action: Approval of FY25 Clean and Beautiful Draft Grant Agreement for staff or mayor to execute.**

OJ Hechler, Community Services Director: The reason we worded it that way to begin with was because it is a DocuSign agreement, so you will see a draft agreement in there. We got it changed over to where it is in the mayor's name to execute. We were awarded \$18,800.60. These are initiatives that consist of two trash cleanups providing

access to proper waste disposal, and prevent littering, painting of trash cans, recycling benches and tables in other efforts to make the community cleaner. Normally the Clean & Beautiful grant requires a 25% match. All of our matches will be in kind services, almost 40% of what the grant agreement was for.

Mayor Hechler: This is the second largest Clean and Beautiful grant that the city has ever received thanks to the hard work of you OJ and Kathy for putting that together. I like Clean and Beautiful grants, but there is an awful lot of work for a little bit of money, and I really appreciate the hard work it takes to get these things done, so thank you guys for being willing to take that on.

**Mayor Pro-Tem Forrister moved to approve the FY25 Clean and Beautiful Draft Grant Agreement for staff or mayor to execute. Commissioner Hoeppner seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

**7. Discussion/Action: Donation of 10,000 Gallon Fuel Tank to Sierra County for Monticello Fire Dept.**

Assistant City Manager Alvarez: There is a 10,000 Gallon Fuel Tank that was previously used by our airport that is sitting out at our airport. There are pictures of it in your agenda packet. This was decommissioned back in the 1990's. It's no longer in use. It's just been sitting there un-used. Our Monticello Fire Department has reached out to request the city to potentially donate that tank, and all of the attached piping for water storage in Cuchillo for firefighting purposes. We have received a letter of support from Sierra County Management as well, so this would be a government to government donation if the Commission approves it, so we wouldn't be violating anything with our anti-donation policy. I think it is a good use of the tank that is just sitting there, because we have no use for it out at the airport.

**Commissioner Hoeppner moved to approve the donation of 10,000 Gallon Fuel Tank to Sierra County for Monticello Fire Dept. Mayor Pro-Tem Forrister seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

**8. Discussion/Action: Review/Accept offers to Purchase Reed Rocket Sculpture.**

Assistant City Manager Alvarez: The Reed Rocket was advertised as request and recommended by the Public Arts Board, and requested by the City Commission, and the artist of the Reed Rocket sculpture. It was advertised for 3 weeks. We received 3 offers. I am just requesting further direction on offers received, whether you want to continue to advertise or whether you want to potentially look at accepting an offer.

Mayor Hechler: We have 3 bids. What I'd like to do is for us to do a little bit of research. I don't know if I want to accept the bids right now. I'd like to know what the bidders are going to do with the Reed Rockets before we award the bids.

Assistant City Manager Alvarez: I spoke to 2 of the 3 offers. I followed up with their offer to let them know that they were encouraged to attend the Commission Meeting to answer any questions. The 3<sup>rd</sup> bid went into my quarantine folder so I actually didn't see it until this morning, so I was un-able to reach out to them.

Mayor Hechler: I know that one of them was going to use it on private property and maybe not even in this community, and that's kind of my concern. Once we sell the Reed Rockets, I'd like to know where they are going to go and how they are going to be displayed.

Assistant City Manager Alvarez: I could potentially advertise it a secondary time before our next meeting, and I can also contact those people and we could put it back on the agenda, and I could request that all bidders must be in attendance if they want their offer considered.

**Mayor Hechler made a motion to table to item until the September 11<sup>th</sup> meeting. Mayor Pro-Tem Forrister seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

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

Jocelyn Holguin, Finance Director reviewed the Purchase Requisitions over \$20,000 provided in the packet.

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

**I. ADJOURNMENT:**

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

**Passed and Approved this 24<sup>th</sup> day of September, 2024.**



CITY COMMISSION AUGUST 28, 2024 REGULAR MEETING MINUTES

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Rolf Hechler, Mayor

ATTEST:

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Angela A. Torres, CMC, City Clerk

# TRUTH OR CONSEQUENCES SCHOOLS



**BE RESPONSIBLE SLOW DOWN**

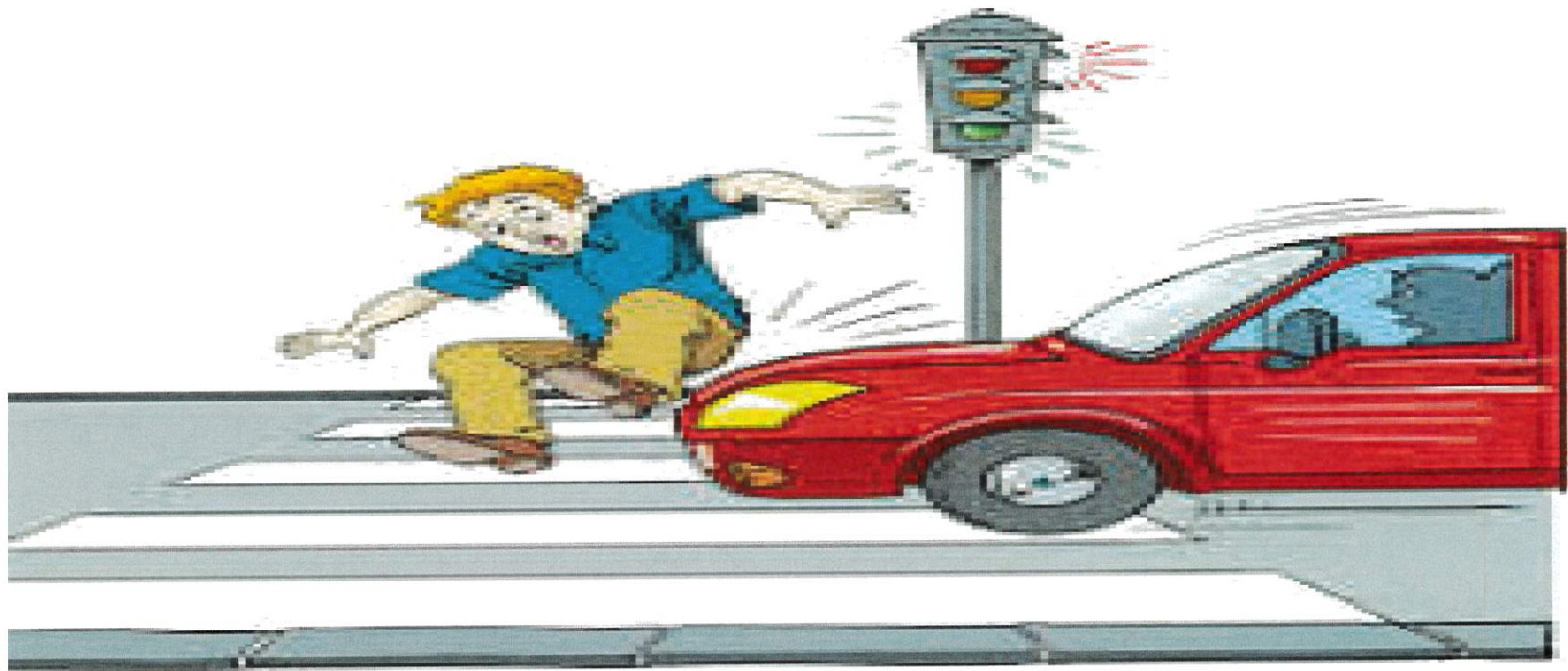
*August, 2024*

*School Resource Officer Ted Ontiveros #201*

## School safety is a priority, which is why school zones are protected areas.

- School zones are designed to be safe places for children and teenagers. This is because activity is higher in these areas in the morning when children are dropped off and in the afternoon when children are picked up from school. There are reduced speed limits and harsher laws in place in these areas to ensure the safety of the children going to school.
- But what happens if an accident occurs within one of these areas? And what causes these accidents to occur?

**SLOW DOWN FOR OUR STUDENTS  
REMEMBER THEY'RE ALL OUR CHILDREN**





# CAUSES OF PEDESTRIAN ACCIDENTS IN SCHOOL ZONES

The most common causes of these accidents are reckless driving and distracted driving. Drivers often aren't paying attention to the road and may not see when they are driving in a school zone. This may lead to their driving too fast, potentially injuring someone in the process. Distracted driving can also cause accidents. If someone isn't paying attention, they may fail to stop at stop signs or at crosswalks.

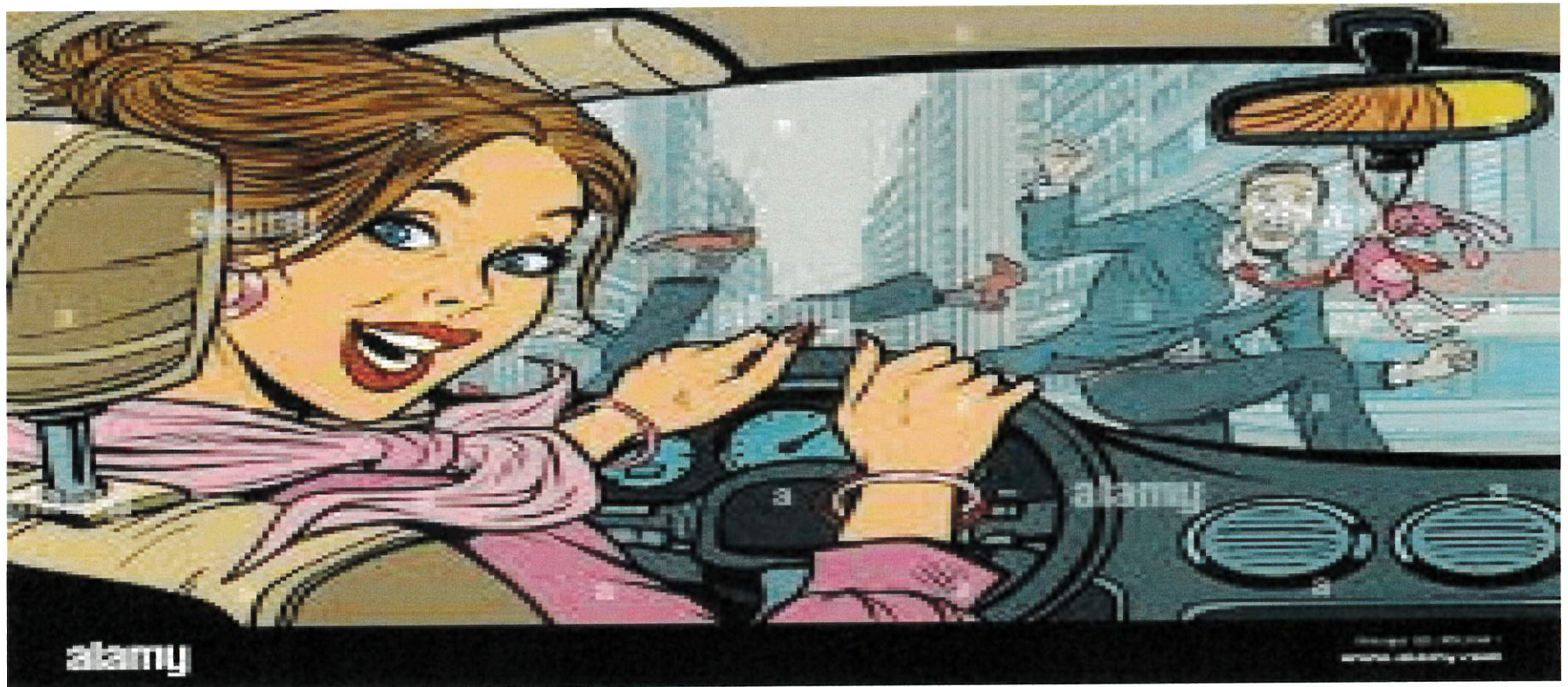
# CAUSES OF PEDESTRIAN ACCIDENTS IN SCHOOL ZONES

First and foremost, it's important to recognize that the word "pedestrian" includes more than just people walking. In this case it can also refer to joggers/runners, [cyclists](#), skateboarders, and roller skaters.

## **These accidents can occur because of:**

- rolling stops/failure to stop
- excessive speeding
- reckless driving
- poor intersection design or maintenance
- drunk or distracted driving
- passing a school bus

# ***DISTRACTIONS***





# ***TEXTING AND DRIVING***

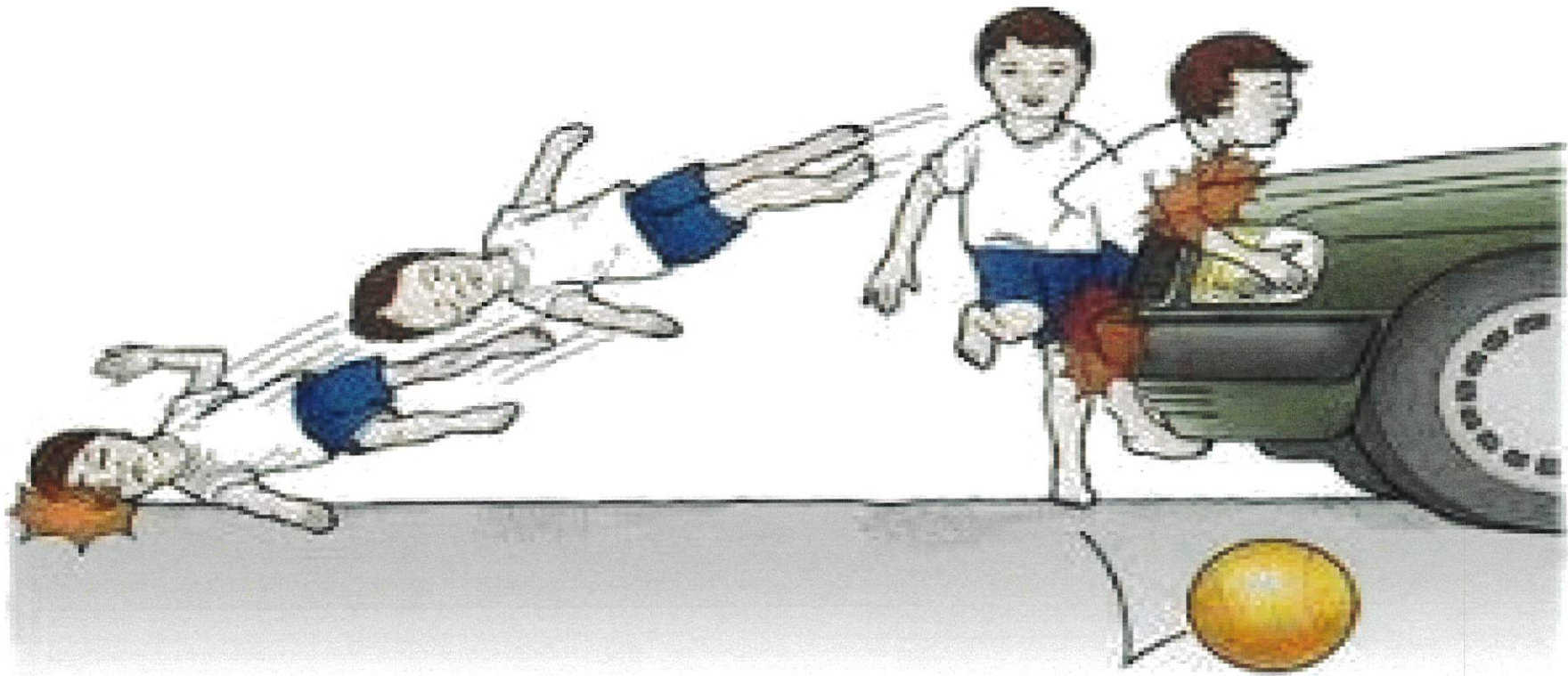




# PASSENGERS/FRIENDS/HORSING AROUND



# SCHOOLS ZONES AND RESIDENTIAL STREETS WATCH FOR THEM





INJURIES/PARALYSIS/HOSPITALIZATION/FINANCES/  
POTENTIAL DEATH



# HOW TO STAY SAFE IN SCHOOL ZONES

- Staying safe in school zones should be easy. Children shouldn't have to worry too hard about avoiding accidents. The road markings and flow of pedestrian traffic should be easy to understand. If necessary, a crossing guard will be present to protect children and direct traffic so things flow more easily.
- It's up to drivers to remain safe in these areas as well. Staying off your phone, following the speed limit and rules of the school zone, and remaining focused while driving will help you avoid an accident. If you or your child is injured in a school zone pedestrian accident, the driver may be liable if they were acting with negligence.



# HOW ARE SCHOOL ZONE ACCIDENTS DIFFERENT FROM REGULAR PEDESTRIAN ACCIDENTS?

- Approximately 25,000 children are injured each year in school zone accidents, with about 100 children being killed. Unlike regular pedestrian accidents, school zone accidents are more likely to happen on weekdays as opposed to weekends. These accidents also most often occur during regular daylight hours, with good lighting and good weather conditions. Regular pedestrian accidents often occur in poor lighting and poor weather conditions.
- School zone pedestrian accidents more often occur because of driver negligence. Drivers are given extra signage and a lower speed limit to follow so they're more alert while driving. The lower speed limit allows them to have a greater reaction time so accidents can be more easily avoided. This means that when an accident does occur, it usually means that negligence was involved, usually in the form of speeding or distracted driving.
- In some cases the school or road authority may also be liable for these accidents if proper signage isn't displayed or if school zone rules aren't enforced.

HOUSE BILL 591  
51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013  
INTRODUCED BY  
Thomas A. Anderson and Richard C. Martinez

AN ACT

RELATING TO TRAFFIC CONTROL; CLARIFYING SCHOOL ZONE POSTING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 66-7-301 NMSA 1978 (being Laws 1978, Chapter 35, Section 405, as amended) is amended to read:

"66-7-301. SPEED REGULATION.--

A. No person shall drive a vehicle on a highway or street at a speed greater than:

(1) fifteen miles per hour [~~on all highways~~] when passing a school while children are going to or leaving school and when the school zone is properly posted;

(2) thirty miles per hour in a business or residence district;

(3) seventy-five miles per hour; and

(4) the posted speed limit in construction zones posted as double fine zones or other safety zones posted as double fine zones as designated by the [~~highway and transportation~~] department of transportation; provided that the posted speed limit shall be determined by an engineering study performed by the [~~state highway and transportation~~] department of transportation.



B. The department of transportation shall:

(1) designate sections of every highway or street that is adjacent to schools as school zones;

(2) post signs to identify the beginning and end of each school zone; and

(3) post signs, with or without flashing lights, to alert drivers to the school zone speed limit.

~~[B.]~~ C. In every event, speed shall be so controlled by the driver as may be necessary:

(1) to avoid colliding with a person, vehicle or other conveyance on or entering the highway;

(2) to comply with legal requirements as may be established by the ~~[state highway and transportation]~~ department of transportation or the New Mexico state police division of the department of public safety and the duty of all persons to use due care; and

(3) to protect workers in construction zones posted as double fine zones or other safety zones posted as double fine zones as designated by the ~~[highway and transportation]~~ department of transportation.

~~[C.]~~ D. The speed limits set forth in Subsection A of this section may be altered as authorized in Section 66-7-303 NMSA 1978."

**SECTION 2. EFFECTIVE DATE.**--The effective date of the provisions of this act is July 1, 2014.

# BEACON LIGHTING



# ***SPEED RADAR SIGNS***



# SPEED HUMPS/BUMPS





# SPEED HUMPS

- Speed humps, sometimes called road humps or undulations, are used for 10–15 mph speed zones. They're often seen on local streets or connector roads where traffic needs to flow smoothly but excessive speed will endanger pedestrians. Playground and school zones often use these in traffic management.
- A speed hump creates a gentle rocking sensation in a car passing over it at the posted speed limit. If a car is driving at unsafe speed, the hump will jar the vehicle and its contents, causing discomfort to the occupants and disruption to cargo. These obstacles usually span the lane they are placed in. This way, vehicles are encouraged to pass over them with both wheels, [reducing the likelihood of bottoming out.](#)

## SPEED HUMPS CONT.

- Speed humps come in a variety of profiles and travel lengths. These factors influence the experience of discomfort created in the speeding vehicle. Travel length varies between 3–20 feet. Any travel length longer than the vehicle creates only one up-and-down motion, whereas a travel length shorter than the vehicle creates two rocking movements as each set of wheels passes over. Speed humps are most often placed in a series, maintaining speed reduction through a long corridor.
- These vertical deflections are not a good choice for arterial roads, emergency routes, or on any street where it is easy for a car to evade the hump by driving on a shoulder. Because of this, they're usually installed in one or two lane local urban settings where there are curbs and closed sewers. If speed humps are installed in areas where there is a shoulder, they are often twinned with bollards or other obstructive measures to prevent cars from leaving the roadway.



# SPEED BUMPS

- Speed bumps are more aggressive traffic calming options than speed humps, and so are useful in places where pedestrians and cars share space closely, like parking lots and driveways. A speed bump generally slows traffic to 2–10 mph, giving both people and cars time to react safely to one another. Speed bumps are rarely used on public roads because they require vehicles to come to a near stop to pass over them, and can do damage to cars moving at regular speeds.
- Speed bumps can be two to four inches high, but they have a much shorter travel distance than speed humps. These obstacles are under a vehicle's tire for less than half of a full wheel rotation, with standard widths are between six inches and two feet. The height to travel-distance ratio creates an abrupt bounce in a vehicle, which can shake both occupants and cargo. Since a speed bump is always much smaller than vehicles passing over it, each axle will cross separately, meaning a car moving at excessive speed will receive two substantial jolts.

## SPEED BUMPS CONT.

- Speed bumps, like their more sedate siblings, can be placed at intervals to maintain speed reduction. They are often spaced judiciously as they are more uncomfortable to go over at any speed and are used in smaller geographical areas.
- Speed bumps can deliver a shock, which is perhaps why they have developed colorful names around the world. They're known as speed breakers (India), judder bars (NZ), sleeping policemen (UK), and road turtles (Southern US). In French, they're known as "dos-d'âne," or literally, "humpback."

## Benefits and cautions

One of the great strengths of speed bumps and humps is that they remain a deterrent no matter how accustomed drivers become to their presence. Flashing signs or intermittent traffic enforcement change behaviors for a while, but drivers often revert to previous behavior. One can disregard a sign, but not the road beneath. A speed hump or a speed bump creates the same discomfort for a driver going too quickly whether it is their first or their hundredth time over it.

A bump in the road is not perfect for every traffic calming scenario. Obstacles work best when the driver knows they're coming and starts slowing down before arriving at their edge. Speed bumps and humps are usually well marked with contrasting colors or reflective surfaces to ensure visibility, but they also need to be installed in places where a driver can see them coming. They are not effective when used in the middle of a long curve, or on streets where the grade is greater than 8%. A steep grade can also change the effective height of a speed hump or bump, and create more of an impact than is intended. Visibility can also be an issue in some winter climates where snowfall is deep and local streets go unplowed.

## **Benefits and cautions cont.**

- Speed humps and bumps are also not recommended for arterial or emergency roads, where they can be a hazard. If unexpected or taken at too high a speed, these obstacles can cause a driver to lose control or damage a vehicle.
- However, when used in the proper setting, these are the most adaptable tools in the traffic management toolbox.

# NEW SCHOOL RD. & PERSHING CURRENT SIGNAGE FOR HSHS,TCMS,TC ELEMENTARY & SIERRA COMPLEX

TC ELEMENTARY & SIERRA COMPLEX

## **SMITH RD.**

- (2) TWO 15 MPH SIGNS
- (2) TWO CROSSWALK
- (2) TWO SLOW SCHOOL ZONE

HSHS & TMCS

## **PERSHING ST. & NEW SCHOOL RD.**

- (7) SEVEN 15 MPH SIGNS
- (2) TWO CROSS WALK ONE SIGN
- (2) TWO SCHOOL ZONE SIGNS
- SMALL STOP SIGNS COMING OUT OF SCHOOL PARKING LOTS



CONTINUED



# SIERRA COMPLEX & TC ELEMENTRY





CONTINUED



# HSHS & TCMS





# CONTINUED





CONTINUED





# BARTON & PERSHING ST.



# STOP SIGNS IN PARKING LOTS





## NEW SIGNAGE ON N. DATE



CONTINUED



## Estimated Cost

- (4) FLASHING BEACON LIGHT \$3,160.00 EA. = \$12,640.00
- (12) SCHOOL CROSSING \$86.95 EA. = \$1,043.40
- (4) RADAR SPEED SIGNS (SOLAR) \$3,832.78 EA. = \$15,331.12
- (8) SLOW SCHOOL ZONE \$166.39 EA. = \$1,331.12
- (8) SPEED HUMPS 10' \$335.00 EA. = \$2,680.00
- (8) SPEED HUMPS 15' \$515.00 EA. = \$4,120.00
- (4) SLOW SPEED HUMP AHEAD \$68.05 EA. = \$272.20
- (8) SPEED HUMP EA. 38.25 = \$306.00

**TOTAL: \$33,603.84 W/10' SPEED HUMP**

**TOTAL: \$35,043.84 W/15' SPEED HUMP**









We should ask ourselves, are we willing to take a chance, not if and but when it happens are we as a community ready to face the questions and consequences?



# Cantrell Dam Inundation Mapping with HEC-RAS 2D

Glen Selover, PE – Wilson & Company

Stephen Ingles-Garcia, PE – Wilson & Company



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**WILSON  
& COMPANY**

discipline | intensity | collaboration | shared ownership | solutions



## Funding Sources

- Water Trust Board 2021 Application
  - Flood Prevention Project
  - Total Project Award: \$825,000.00 (Loan, Grant, Match)
- Funding Application Scope
  - To plan, design, environmental permitting, right-of-way appraisals and land acquisition, for the reconstruction of Cantrell Dam. The project goal is to provide flood protection for the downtown communities of Truth or Consequences and Village of Williamsburg
- Completion of the Design Analysis Report (DAR)
  - Field Data Collection
  - Modeling and Analysis
  - Evaluation of Alternatives



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## Typical Design Analysis Report Process

- Wilson to work on study, working with staff
- Submission to staff for preliminary review of recommendations
- Revisions to report incorporated
- Presentation to commission
- Final draft incorporating commission comments
- Final draft submitted to commission and/or funding agency
- Incorporation of all comments received
- Commission approval



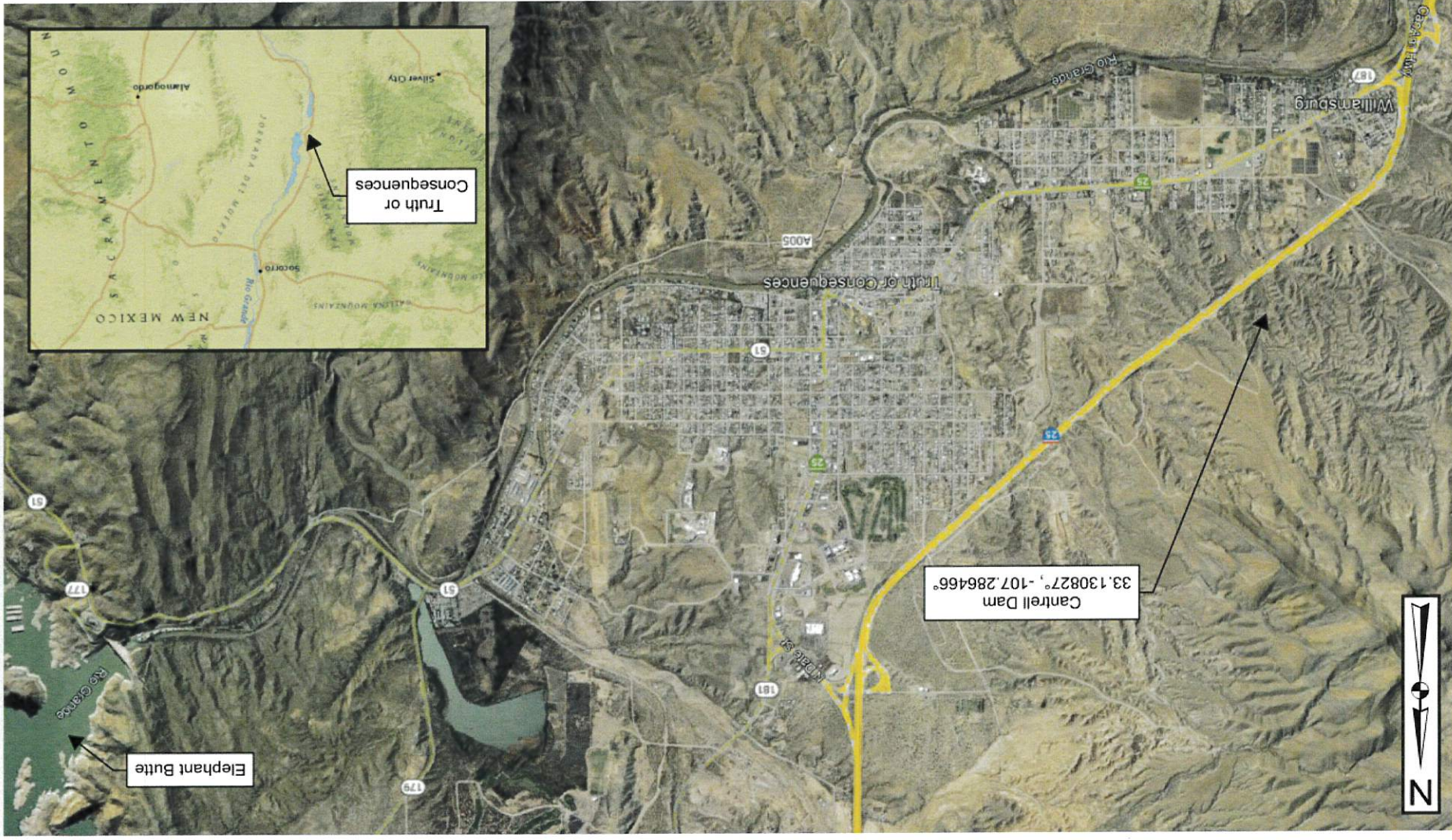
HERE





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& COMPANY**  
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# Background







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## 2020 Flooding

- Sunday July 26, 2020
- 3-5 inches of rain
- Cantrell Dam overtopped with ~20 ft depth in dam pool

Sierra County Sentinel • [gpkmedia.com](http://gpkmedia.com)

**2020 Flood**

Cantrell  
Dam

July 31, 2020 • **A5**







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# 2020 Flooding







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## 2020 Flooding

Flooded Home



Fairgrounds



Flooded Street



- Downstream of Cantrell:
  - Albert J. Lyon Event Center
  - Louis Armijo Sports Complex





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# 2020 Flooding







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# 2020 Flooding







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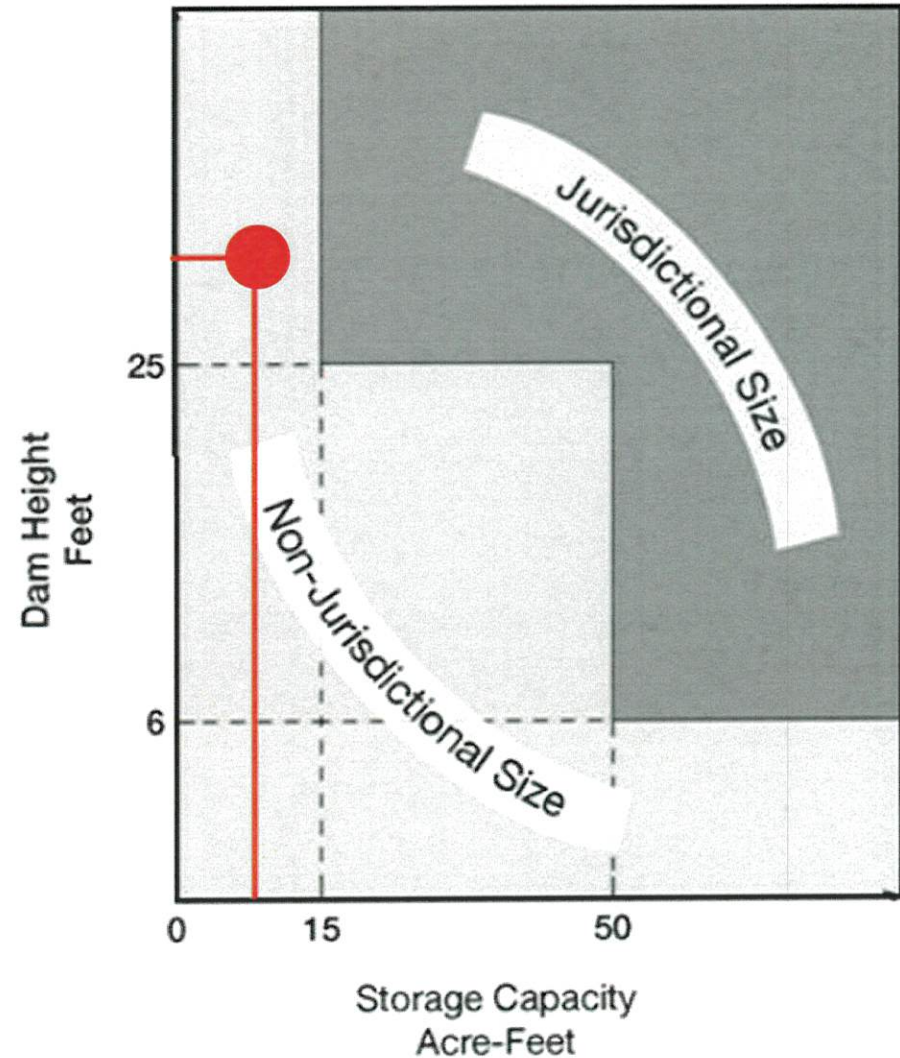
HIGHER RELATIONSHIPS

## Cantrell Da



- Located on BLM land
- Jurisdictional Criteria
  - 25 ft or greater in height
  - Impounds 50 AC-FT or m
- Non-jurisdictional (30 ft in height and 6.9 AC-FT of storage)

### New Mexico Office of the State Engineer Jurisdictional Dam Size





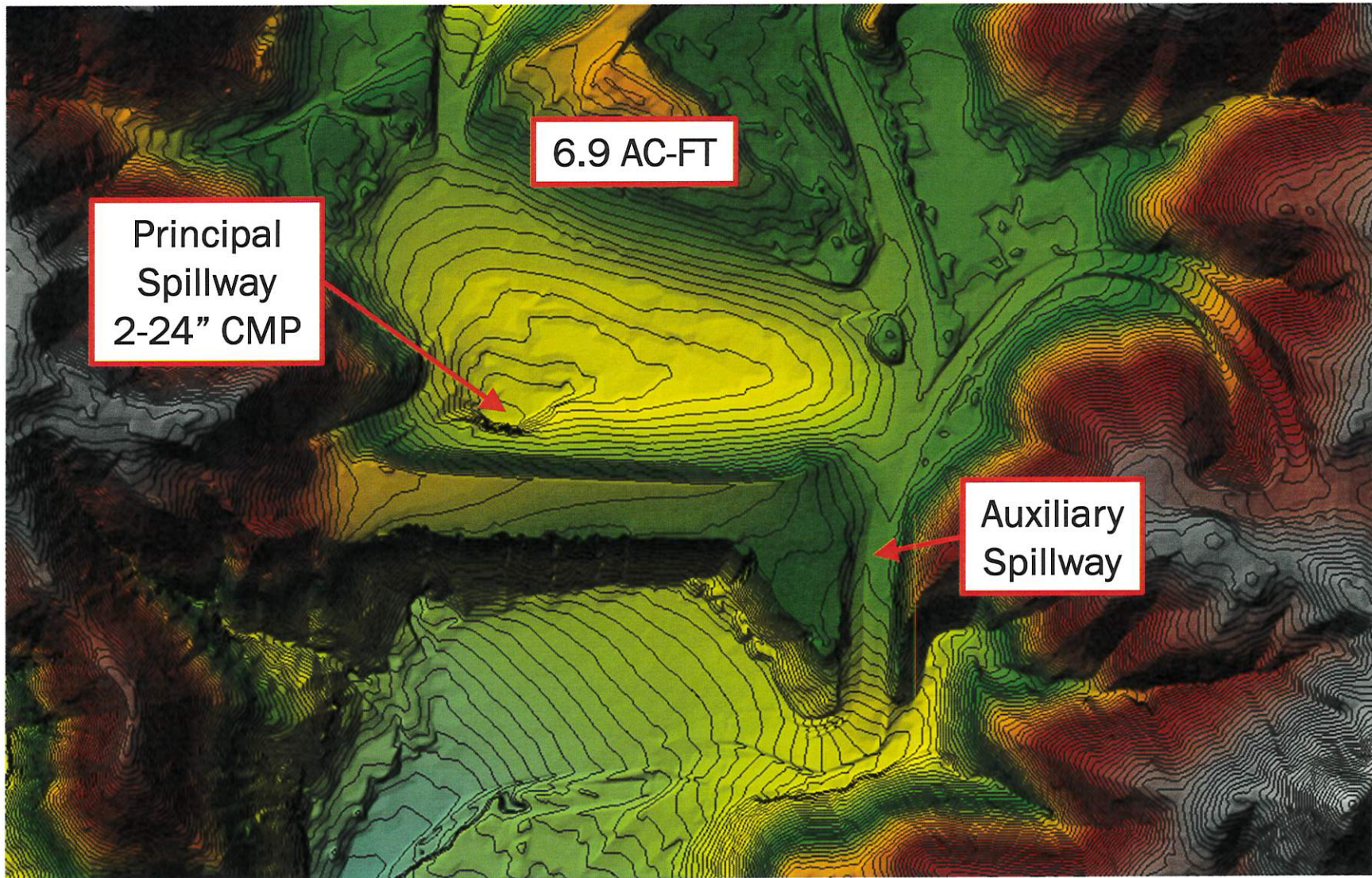


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# Cantrell Dam Characteristics







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# Cantrell Dam Characteristics





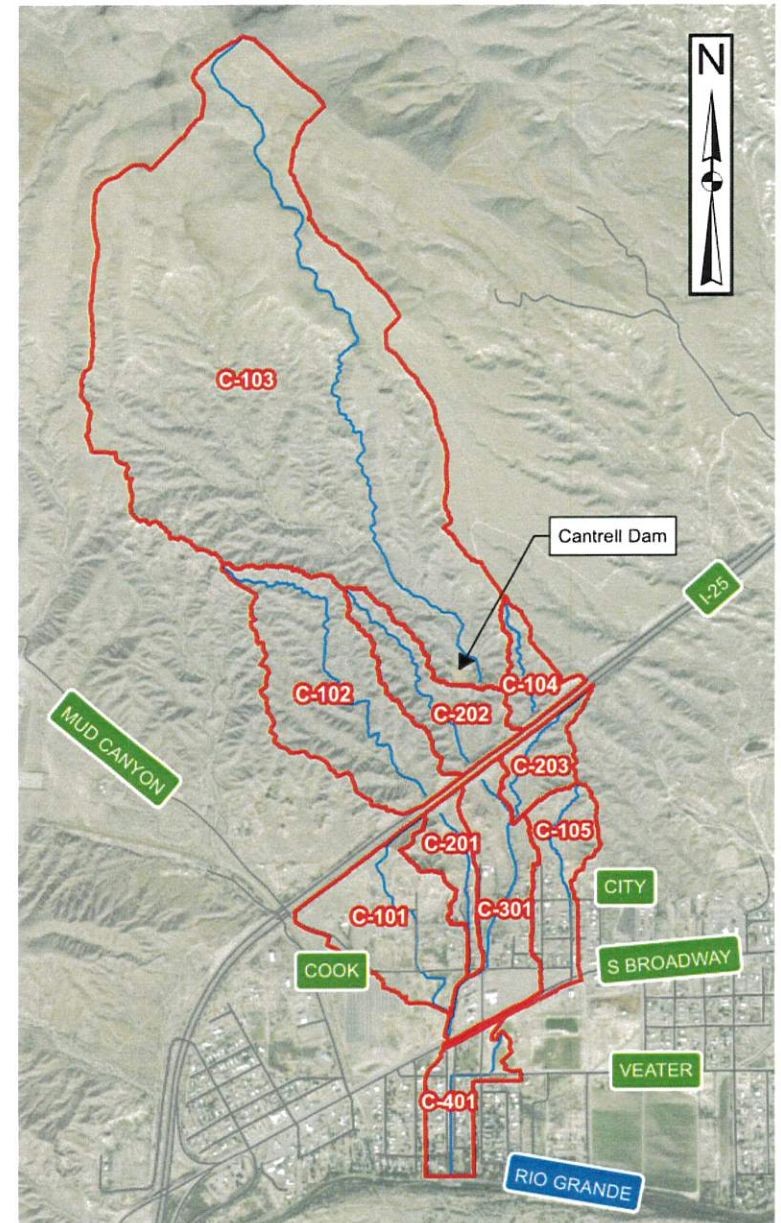


## Cantrell Dam



## Hydrologic Model Methodology – HEC-HMS

- 24 Hour NOAA Precipitation Depths
  - 50-YR: 3.07 inches
  - 100-YR: 3.49 inches
- Time of Concentration
  - NMDOT Drainage Design Manual (SCS/Upland Method)
- CN Selection
  - 2019 NLCD Land Use
  - NRCS Hydrologic Soil Group
- HEC-HMS Modeled Events
  - Two Standpipes
  - Dam Breach





## Modeled Events

- Two Standpipes
  - Dam maintained and both standpipes functioning
- Dam Breach
  - New Mexico Administrative Code (NMAC)
    - 19.25.12.11 and 19.25.12.20
  - Designed to safely pass 100-YR, 24-hour discharge without attenuation
  - Bank stabilization
  - Sediment Control



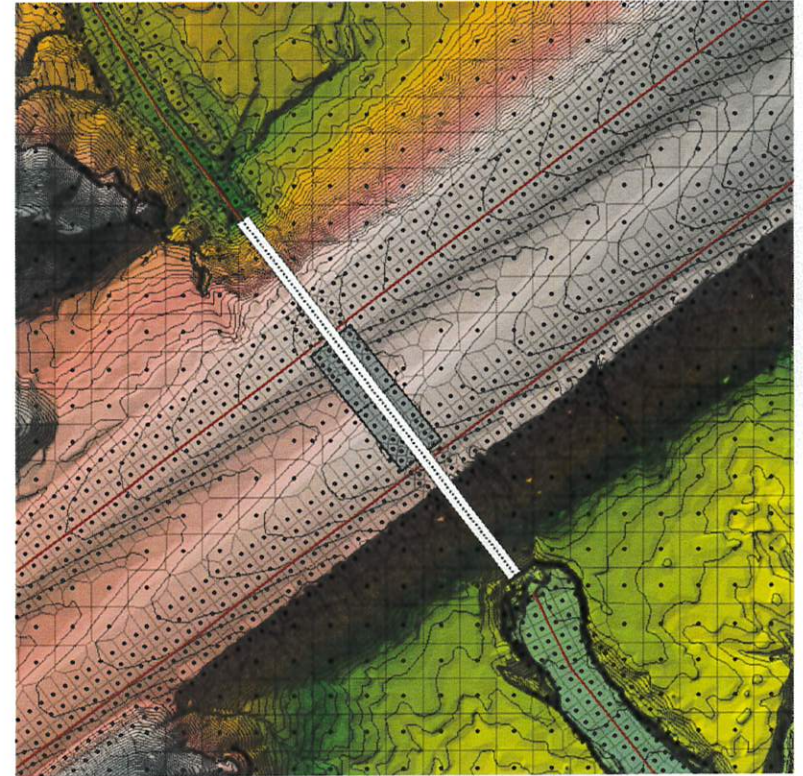
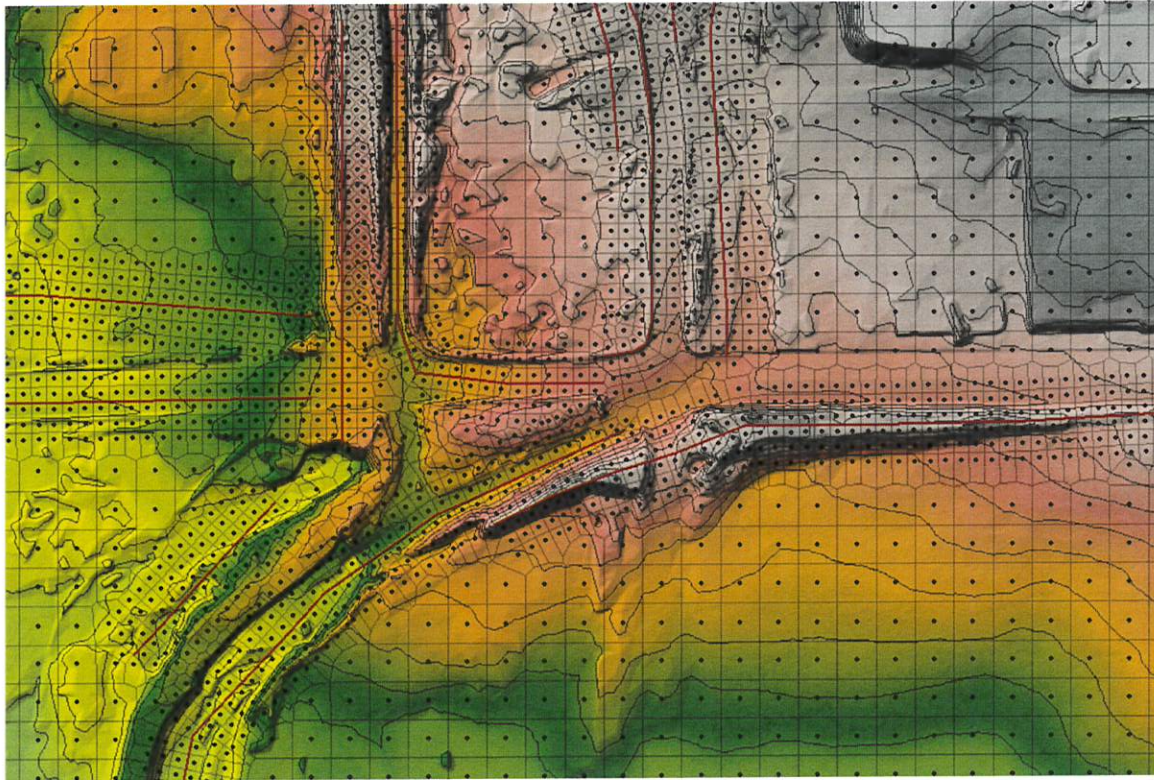


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## Hydraulic Model Methodology – HEC-RAS 2D



- Model Runs
  - Existing and Proposed
  - 50-YR and 100-YR
  - Two Standpipes and Dam Breach



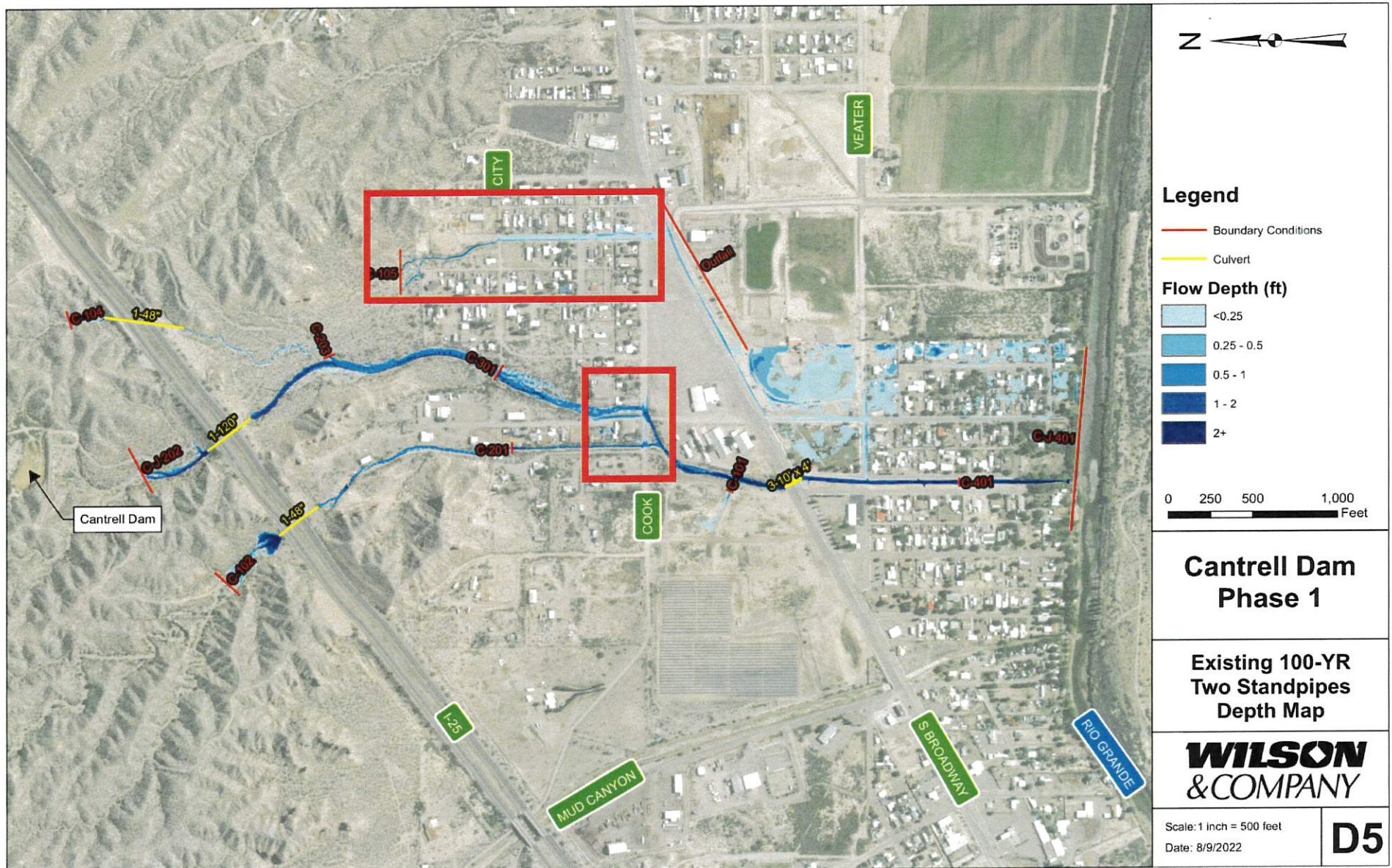


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# Existing HEC-RAS 2D Results – Depth Map





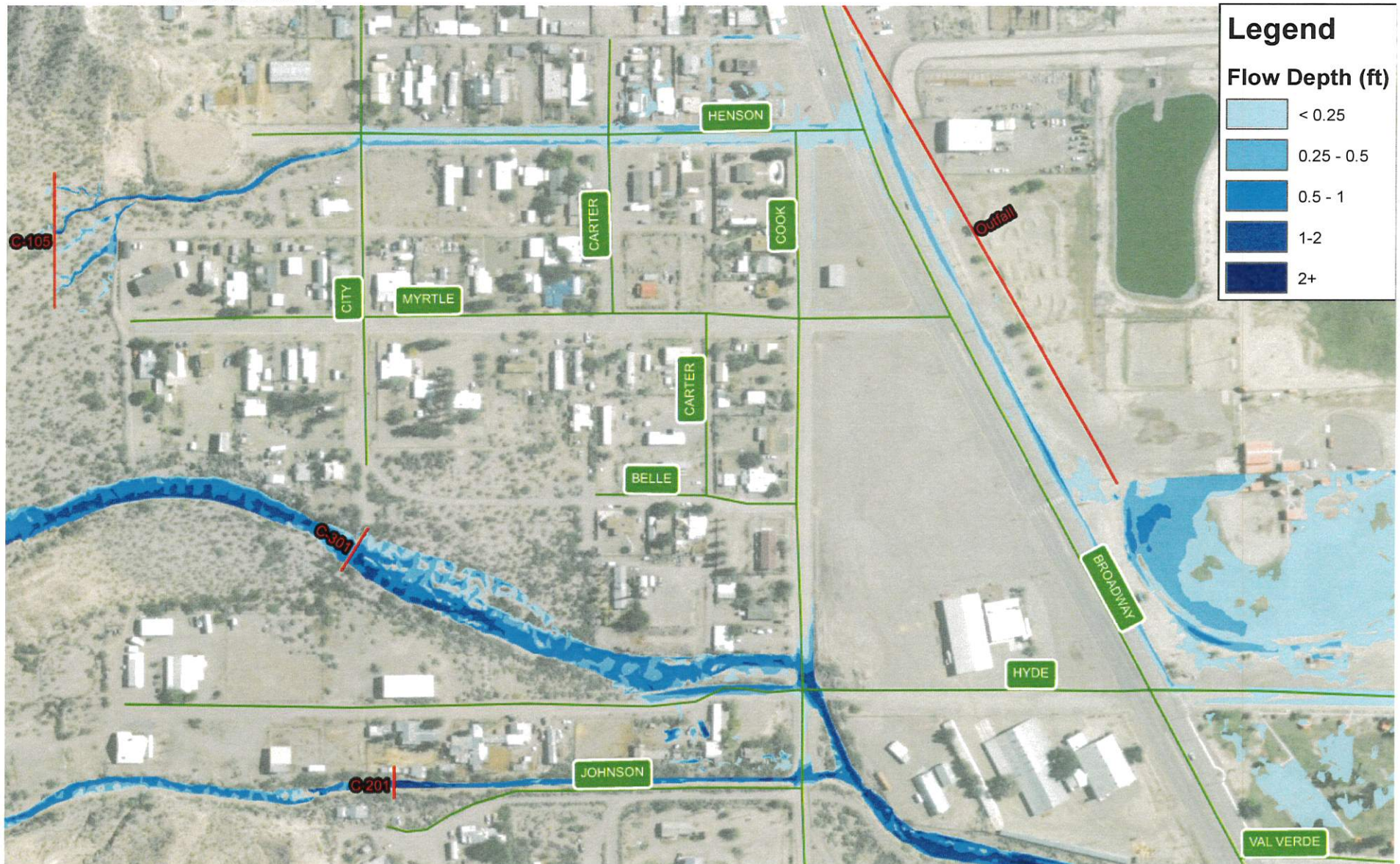


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# Existing HEC-RAS 2D – Henson St





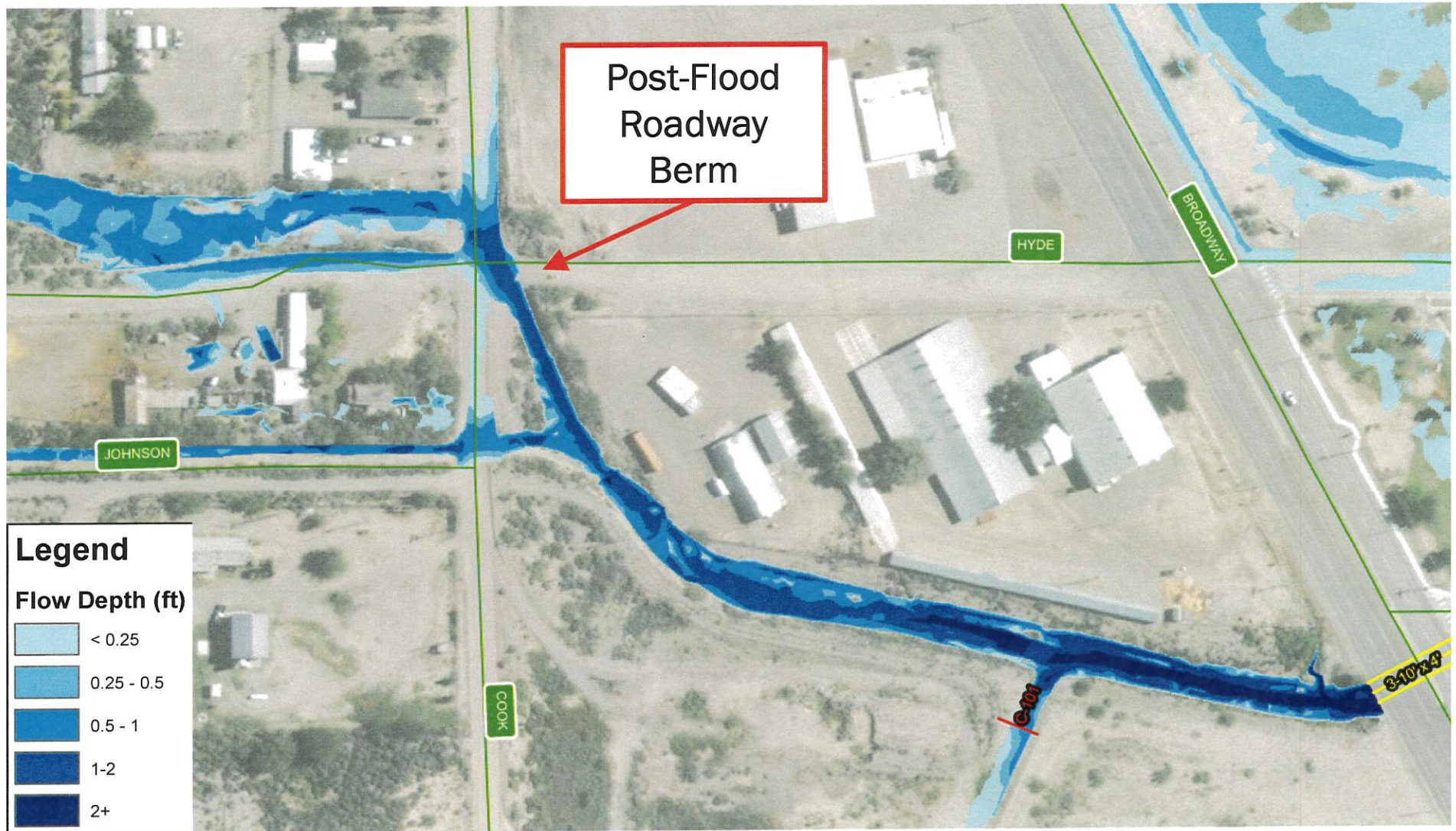


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## Existing HEC-RAS 2D – Cook St







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## Cook St – Looking South





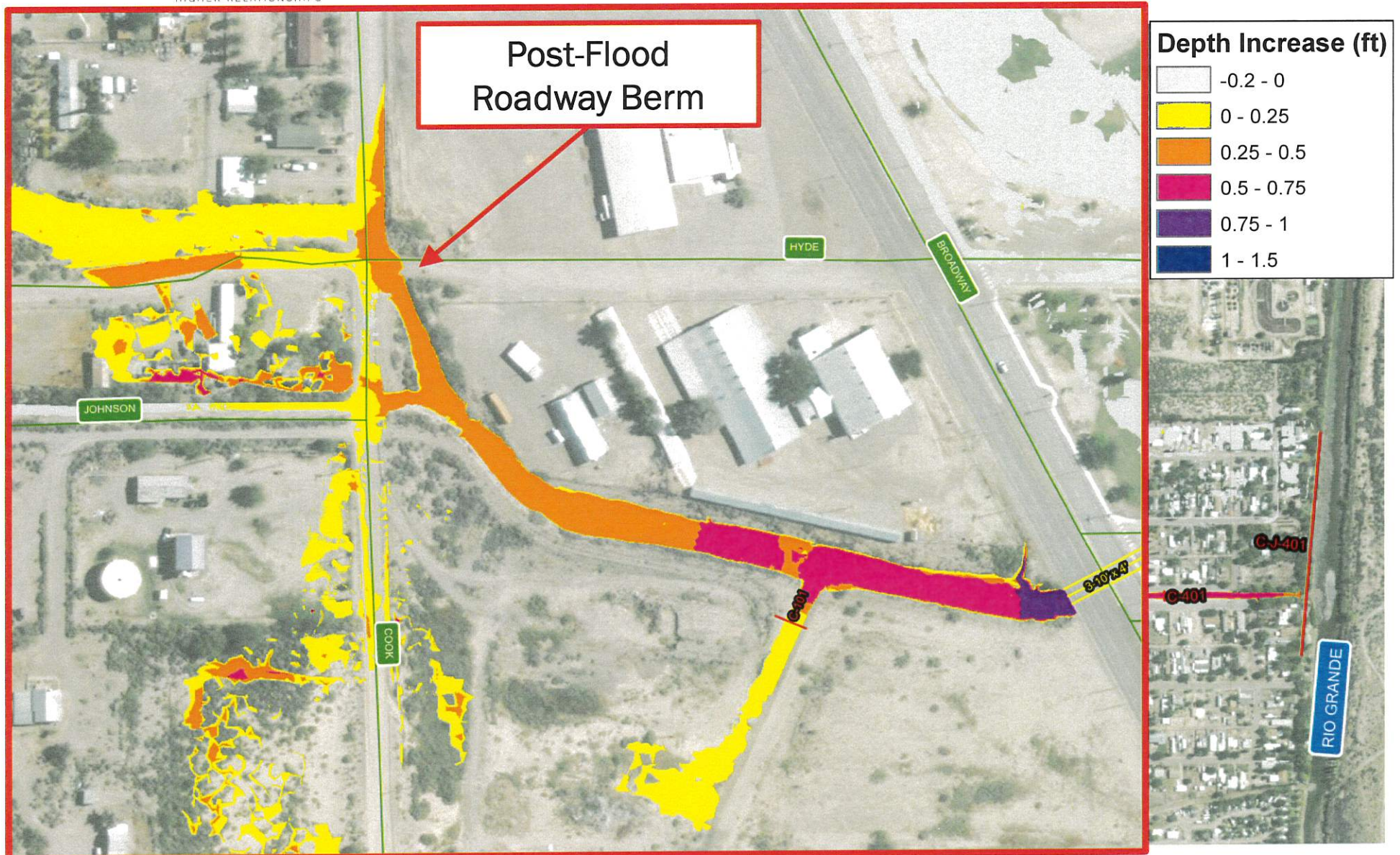


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## Existing HEC-RAS 2D – Depth Increase





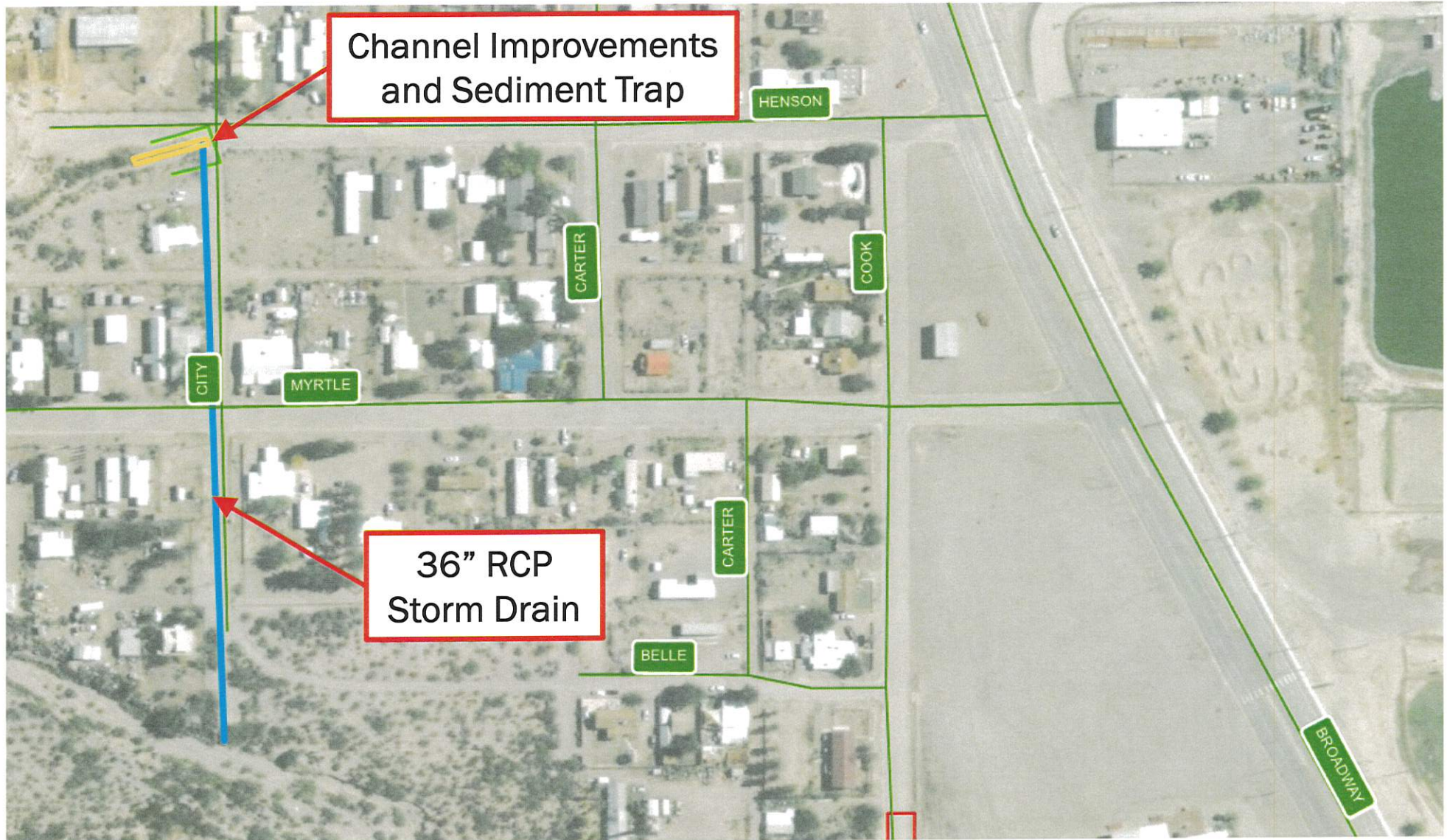


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## Proposed Improvements – Henson St





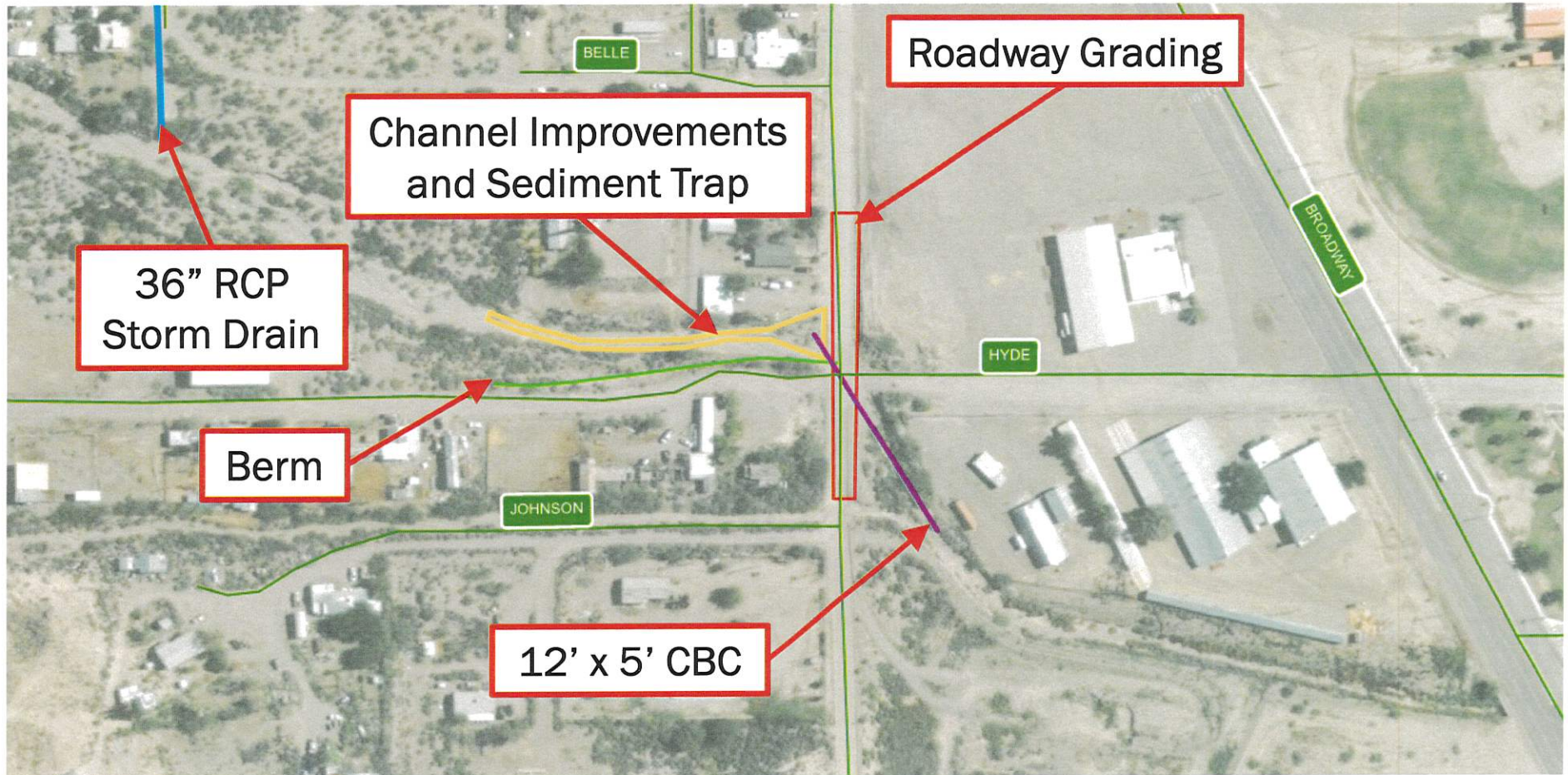


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## Proposed Improvements – Cook St









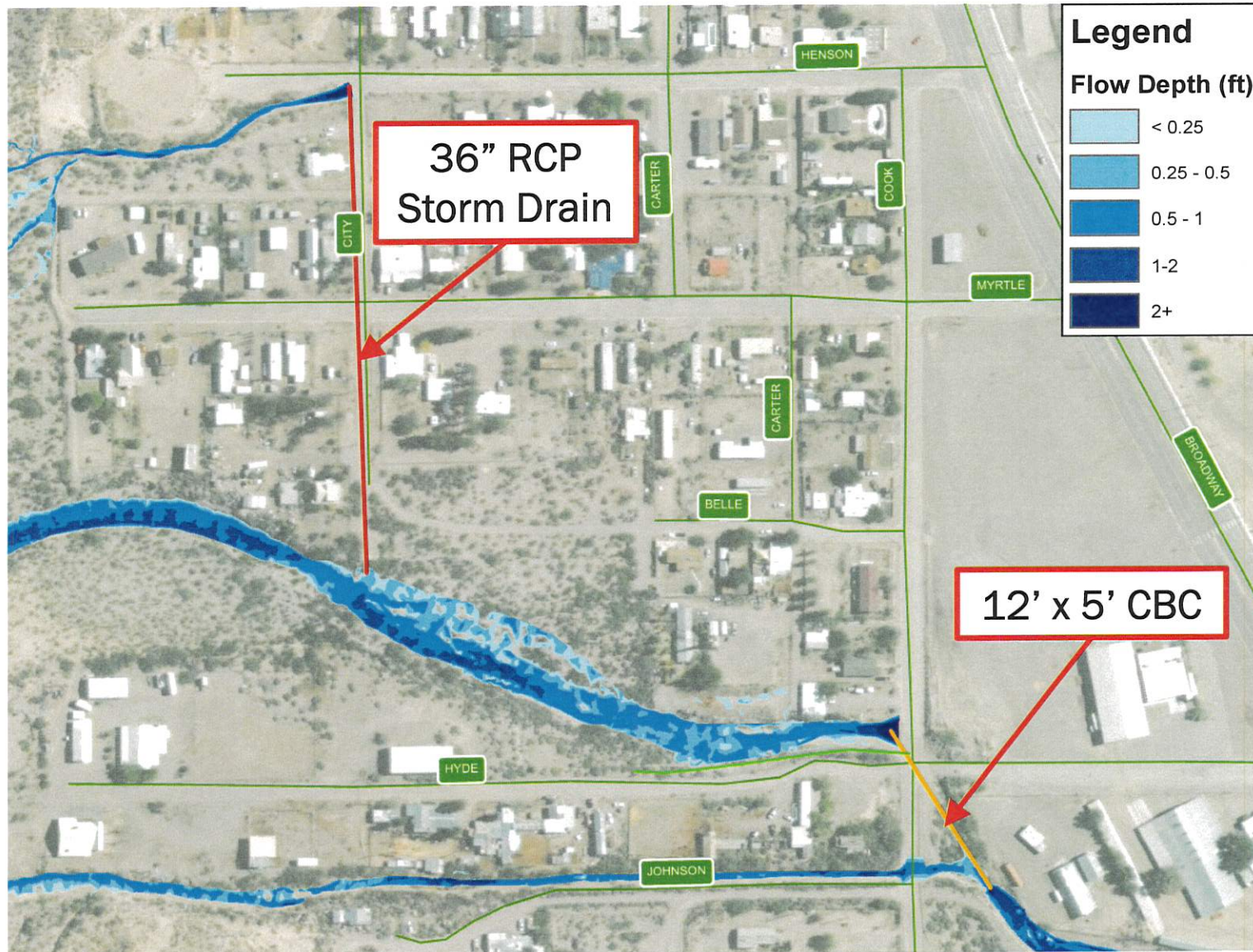


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# Proposed HEC-RAS 2D – Depth Map











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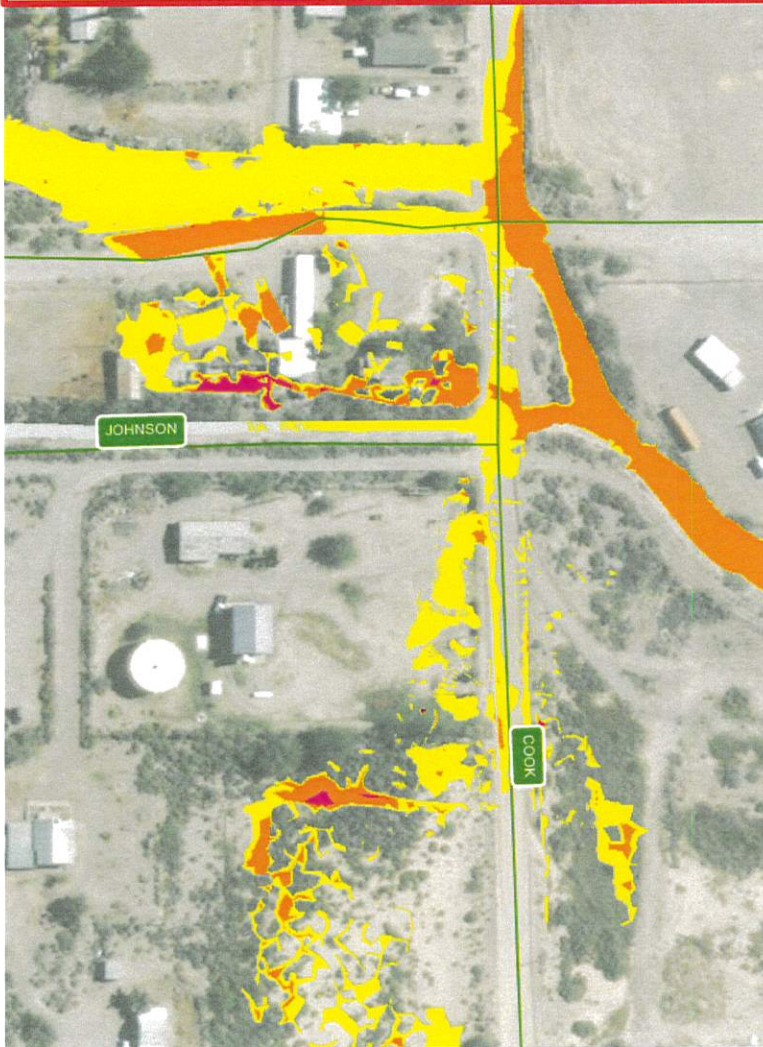
NEW MEXICO

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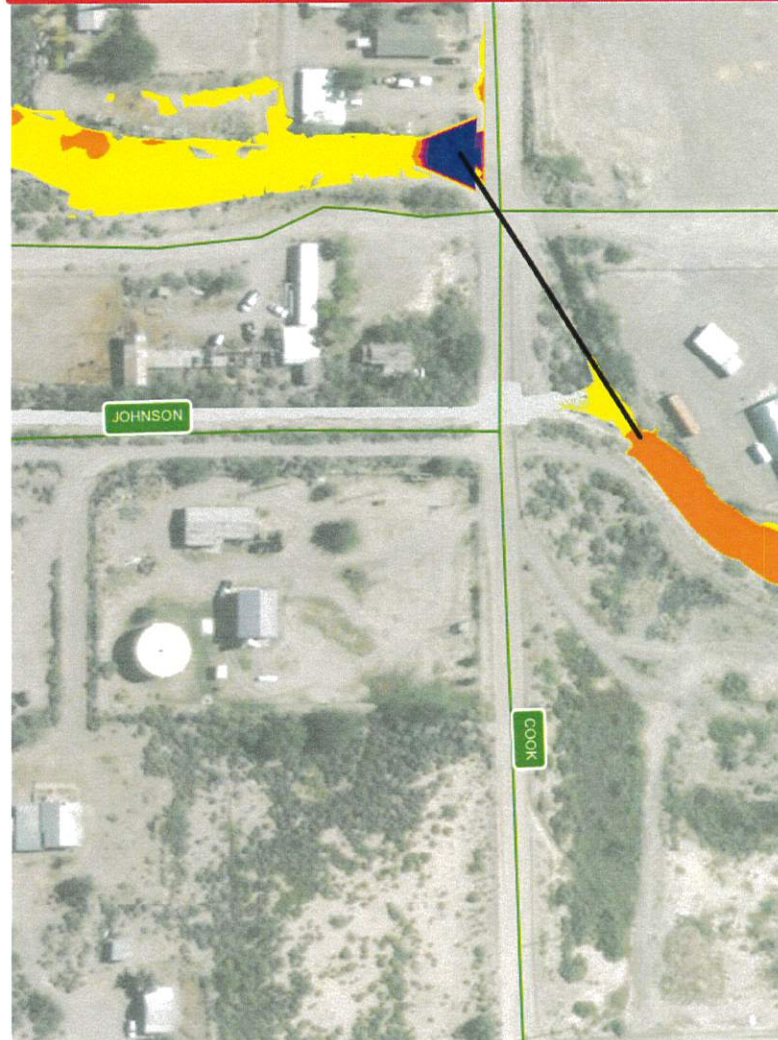
HIGHER RELATIONSHIPS

## HEC-RAS 2D – Depth Increase with Dam Breach

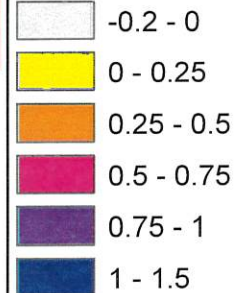
w/o improvement



with improvement



Depth Increase (ft)





## BLM Coordination

Email from 2/27/2023

“A records check showed no authorization for this structure was issued by BLM. BLM does not maintain this structure.

If the City is interested in maintaining or reconstructing the structure, a Right-of-Way would be needed.”

- Don McClure  
Assistant District Manager  
BLM, Las Cruces District Office  
[dmcclure@blm.gov](mailto:dmcclure@blm.gov)

## Conceptual Construction Cost Estimate

- Dam Reconstruction
    - \$4-6 million
  - Downstream Channel Improvements
    - \$1.5-2 million
  - Dam Breach
    - \$0.5-1 million
- 
- Option 1: Reconstruct Dam and Channel Improvements
    - \$5-8 million
  - Option 2: Dam Breach and Channel Improvements
    - \$2-3 million

## Summary

- Cantrell Dam was not designed for flood management
  - No documentation or plans to certify design
- A reconstructed dam will be jurisdictional according to OSE
  - Enlargement of dam pool volume
  - Increased design and construction costs
  - Incur more maintenance costs for the city
- Longer process (2-3 years)
  - Right-of-Way from BLM
  - OSE coordination and approval
- Cantrell Dam is only one of the watersheds that contribute to the flooding in this area



## Summary

- The city has remaining funds that would cover the design and partial construction costs
- The purpose of channel improvements is to address the flooding issues for the whole community
  - Channel improvements required for existing conditions and proposed alternatives
- Dam breach removes risk of dam failure
  - Increase safety for community

# Questions



# REHABILITATE TERMINAL APRON

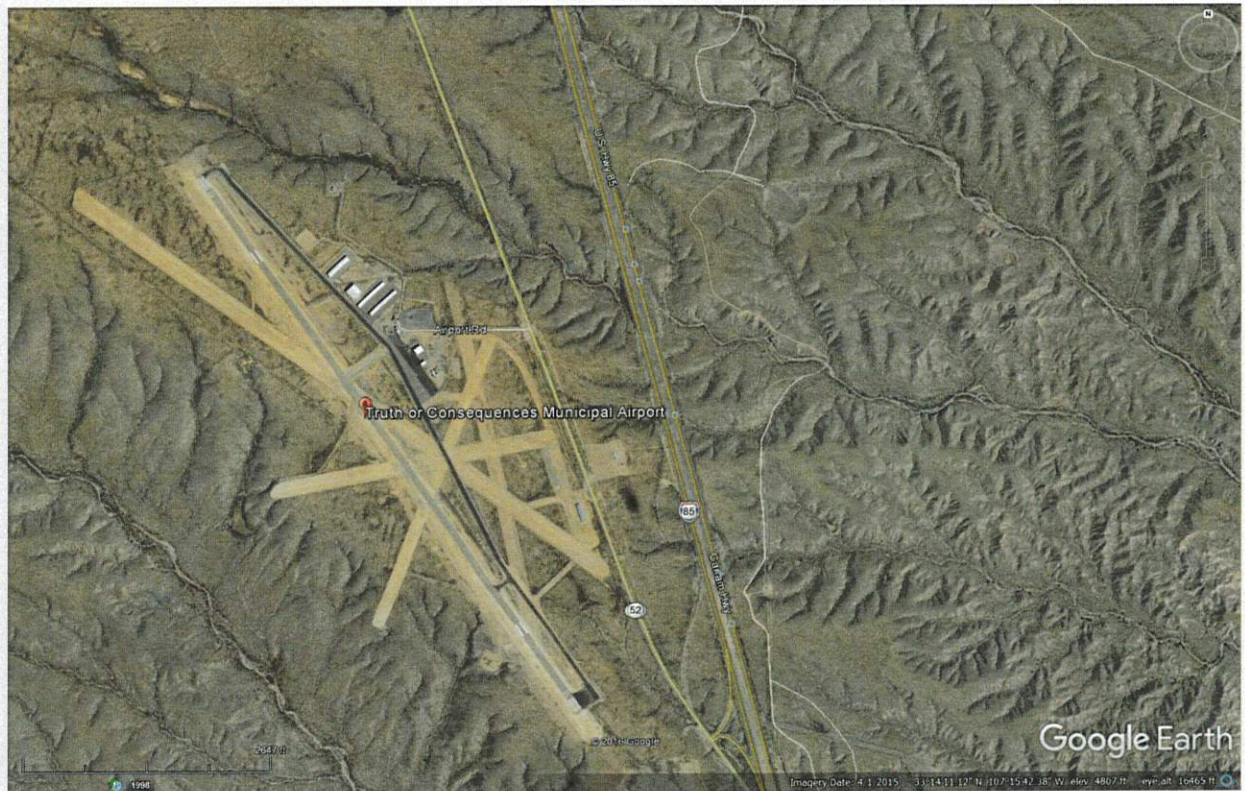
TRUTH OR CONSEQUENCES MUNICIPAL AIRPORT





# PROJECT LOCATION

Existing Terminal Apron and Existing  
Aviation Fuel Facility



**DELTA AIRPORT  
CONSULTANTS, INC.**



# DELTA'S ROLE

- Provide Design Services
- Provide Bidding Phase Services to support City Procurement
- Provide Construction Administration Services
- Provide full-time Resident Project Representative throughout construction



## Design and Bidding Phase Services



## Construction Administration Services



**DELTA AIRPORT  
CONSULTANTS, INC.**



# PROJECT SCOPE

- Existing asphalt pavement in front of Terminal Building contains longitudinal/transverse cracks and is unraveling
- North end of apron is old pavement covered in pea gravel
- Together these pavements are generating debris known as FOD (Foreign Object Debris) and can cause damage to operating aircraft
- Existing 500-gallon AvGas 100LL tank with a POS system located on terminal apron
- Relocate the POS system and dispensing equipment to the Aviation Fuel Facility to improve circulation of aircraft on terminal apron



Rehabilitate Pavement on the Existing Terminal Apron



Relocate Existing Self-Fuel Tank, POS System, & Dispensing Equipment to the Aviation Fuel Facility



**DELTA AIRPORT  
CONSULTANTS, INC.**



# PROJECT SCOPE

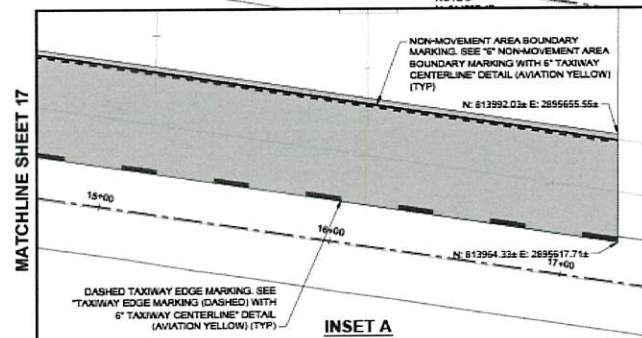




# PROJECT SCOPE









## BIDDING RECAP

- Project originally bid in May 2023
- Bid opening extended two times
- No bids received
- Extensive coordination with FAA and NMDOT-AD to change asphalt specifications to use NMDOT Asphalt Mix
- Project Re-Bid in June 2024
- One (1) bid received – Morrow Enterprises, Inc. for \$1,840,000 (excluding NM GRT)
  - Engineer's Estimate: \$1,199,850 (excluding NM GRT)

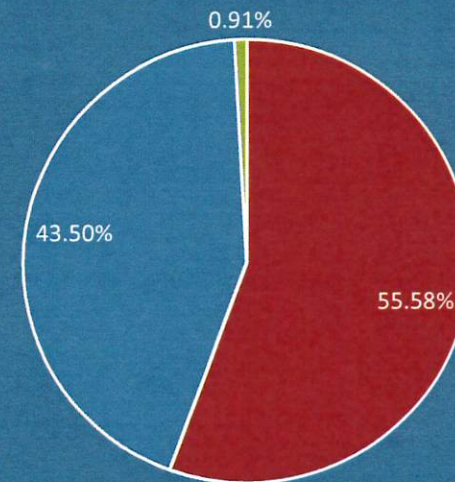


# PROJECT FUNDING

| DESCRIPTION                                          | BUDGET AMOUNT<br>(includes NM GRT) |
|------------------------------------------------------|------------------------------------|
| Administration                                       | \$1,000                            |
| Engineering Fees                                     | \$311,400                          |
| Construction<br>Administration/Project<br>Inspection | \$360,000                          |
| Construction<br>Improvement                          | \$1,963,050                        |
| <b>TOTAL</b>                                         | <b>\$2,635,450</b>                 |

## Funding Sources:

FAA AIP: \$1,128,883  
 FAA AIG: \$336,000  
 NMDOT-AD: \$1,146,488  
 Local: \$24,079



■ FAA 
 ■ NMDOT-AD 
 ■ Local



## RECOMMENDED ACTION

Approve Contingent Upon Receipt and Execution of the Federal Aviation Administration FY 2024 Airport Improvement Grant, the Federal Aviation Administration FY 2024 Bipartisan Infrastructure Law – Airport Improvement Grant, and the New Mexico Department of Transportation – Aviation Division FY 2025 Grant



# PROJECT NEXT STEPS

- Receive and Execute FAA and NMDOT-AD Grants
- Execute Contract with Morrow Enterprises, Inc.
- Coordinate Construction Start Date
  - Tentative: October 2024 (subject to Contractor's proposed schedule)





# CITY OF TRUTH OR CONSEQUENCES

## AGENDA REQUEST FORM

MEETING DATE: September 24, 2024

Agenda Item #: E.2

**SUBJECT:** Acknowledge Regular Public Arts Advisory Board Minutes, July 16, 2024  
**DEPARTMENT:** City Clerk's Office  
**DATE SUBMITTED:** September 20, 2024  
**SUBMITTED BY:** Angela A. Torres, Clerk-Treasurer  
**WHO WILL PRESENT THE ITEM:** Consent Calendar

**Summary/Background:**

Minutes approval.

**Recommendation:**

Acknowledge minutes.

**Attachments:**

- Minutes
- 

**Fiscal Impact (Finance):** N/A

\$0.00

**Legal Review (City Attorney):** N/A

None.

**Approved For Submittal By:** ☐ Department Director

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

**Final Approval:** ☒ City Manager

### CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. - Ordinance No. -

Continued To: - Referred To: -

☐ Approved ☐ Denied ☐ Other: -

File Name: CC Agendas 9-24-24

**CITY OF TRUTH OR CONSEQUENCES  
PUBLIC ARTS ADVISORY BOARD  
MINUTES  
TUESDAY, JULY 16, 2024**

**REGULAR MEETING**

Regular meeting of the Public Arts Advisory Board of the City of Truth or Consequences, New Mexico to be held on Tuesday, July 16, 2024 at 4:00 p.m. in the City Commission Chambers, 405 W. 3rd St, Truth or Consequences, NM 87901.

**ROLL CALL:**

Sid Bryan, Tourism - Chairman  
Cary "Jagger" Gustin, Sierra County Arts Council – Vice-Chairman  
Eduardo Alicea, Art Representative  
Andy Underwood, Business Community  
Suzanne Carlstedt, Member

**ALSO PRESENT:**

Traci Alvarez – Assistant City Manager  
Luba Hoffman – Deputy Clerk  
David Johnson – Facilities Manager  
Susan Buhler – Community Member  
OJ Hechler – Community Services Director arrived 4:03pm

**1. APPROVAL OF THE AGENDA:**

- a. July 16, 2024

Member Alicea made a motion to approve the agenda. Vice-Chairman Gustin seconded the motion. Motion carried unanimously.

**2. APPROVAL OF MINUTES:**

- a. June 4, 2024 Special Meeting Minutes

Vice-Chairman Gustin made a motion to approve the June 4, 2024 Special Meeting minutes. Member Alicea seconded the motion. Motion carried unanimously.

**3. COMMENTS FROM THE PUBLIC: (3 minute rule applies)**

There were no public comments at this time.

**4. NEW BUSINESS:**

- a. **Discussion/Action: Fountain.** Assistant City Manager Alvarez

Assistant City Manager Alvarez: We're here to discuss the fountain. What I'd like to do first is turn it over to Member Underwood. He and I had a great conversation on the fountain. I'd like him to



discuss what he was looking at then we can jump over to David. We do have it as an action item in case at the end of this the Board wants to take any action.

Member Underwood: I met with Tracy and Dave.

Assistant City Manager Alvarez: David Johnson is our Facilities Maintenance Manager, so he deals with all of our City buildings including the City Commission Chambers.

Member Underwood: We've been working on fountain. As you know, we were going to drill a well. We decided to explore possibilities with the spring. Myself and Eddie Irwin, who is a licensed well-driller in New Mexico, have been looking at it. We opened the box and discovered the spring was probably okay. We were able to get 8 gallons of water per minute from it. At that point, I went to Tracy to find out what my next steps would be. I met with Dave, Tracy, and OJ. We talked about the fact that the spring was okay and that I needed to spend some money. I was going to approach them about how to do it. Dave and OJ brought up the fact that there might be some problems with the structure of the sculpture that's there. That's why they're here today. We're going to talk about that. That's about where I was at. We do have water there.

Assistant City Manager Alvarez: David's going to get up and talk. Unfortunately, OJ had a delivery he had to go deal with.

David Johnson: (pointing to screen image) These mountains right here they're structured and they're made using lath with expanded metal on the inside. They framed it all in. The problem is for all of the years that it was functioning, it used to run 24/7. It never stopped and just kept running. What happened is that expanded metal from the inside is rotting out including all the banding and strapping they used to support the structure. I brought some pictures (attached hereto and made a part hereof). Continued to explain the photos and how the degradation of the materials have rotted and the structure is exposed to the elements and continual degradation. All the debris is from the metal and structure collapsing.

Member Carlstedt: Do you know what kind of metal that is?

David Johnson: It looks to be just steel. All these metal straps were much larger than they are now. They're deteriorated, rotting, and collapsing onto the ground there.

Member Underwood: What you're suggesting is it's unsafe to have this.

David Johnson: Yes, correct. It would be unsafe and only because we can't stop children and people from playing around on this thing. They've done it before. At some point, it may collapse on itself. The outside looks fine, but you can see the stress fractures all around it. At some point, that's all going to give.

Assistant City Manager Alvarez: One of the things that we're posing to the Art Board is instead of potentially allocating the money you had received to do the well maybe you could go back to Lodger's Tax and see if you can allocate that to some type of new art piece that we could incorporate that spring into. If you guys could do the art piece, then the City could look at replacement pumps or whatever. I would assign it to David and OJ because they're awesome, and they volunteered to get this spring and stuff potentially running into some other art piece or art

**CITY OF TRUTH OR CONSEQUENCES  
PUBLIC ARTS ADVISORY BOARD  
MINUTES  
TUESDAY, JULY 16, 2024**

**REGULAR MEETING**

Regular meeting of the Public Arts Advisory Board of the City of Truth or Consequences, New Mexico to be held on Tuesday, July 16, 2024 at 4:00 p.m. in the City Commission Chambers, 405 W. 3rd St, Truth or Consequences, NM 87901.

**ROLL CALL:**

Sid Bryan, Tourism - Chairman  
Cary "Jagger" Gustin, Sierra County Arts Council – Vice-Chairman  
Eduardo Alicea, Art Representative  
Andy Underwood, Business Community  
Suzanne Carlstedt, Member

**ALSO PRESENT:**

Traci Alvarez – Assistant City Manager  
Luba Hoffman – Deputy Clerk  
David Johnson – Facilities Manager  
Susan Buhler – Community Member  
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Member Underwood: We've been working on fountain. As you know, we were going to drill a well. We decided to explore possibilities with the spring. Myself and Eddie Irwin, who is a licensed well-driller in New Mexico, have been looking at it. We opened the box and discovered the spring was probably okay. We were able to get 8 gallons of water per minute from it. At that point, I went to Tracy to find out what my next steps would be. I met with Dave, Tracy, and OJ. We talked about the fact that the spring was okay and that I needed to spend some money. I was going to approach them about how to do it. Dave and OJ brought up the fact that there might be some problems with the structure of the sculpture that's there. That's why they're here today. We're going to talk about that. That's about where I was at. We do have water there.

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sculpture. We just have a concern with the piece itself collapsing. OJ if you want to talk on any of it, you've been out there quite a bit.

OJ Hechler: I've been out there. Members of the Board, we've got a pot of money to spend on it. Do we want to put it into something that potentially may last a year or someone gets hurt, or do we give ourselves a blank slate here? I think a fountain or something of that nature would be really cool. It would still draw people. It would still be the warm water. It would still be an attraction.

David Johnson: I have an idea to use it as a cooling station at some point. We could build a structure with misters and all that kind of stuff.

Member Underwood: Would the City take on the cost of demoing that structure and this Art Board would have a clean slate to start with and we would think about a water feature of some sort?

David Johnson: Absolutely. I don't see any problem with the structure. It's not that large. We could probably do it in-house.

Assistant City Manager Alvarez: I think so. We can work with our Solid Waste Department.

Member Underwood: If we did that then we'd have to put out a call for art or would this board try to figure out a design or something like that?

Member Alicea: Is there a process we need to go through to figure out what to build there?

Assistant City Manager Alvarez: I'm not sure how you had your funding allocated. It was through Lodger's Tax, was it not?

Vice-Chairman Gustin: Yes.

Assistant City Manager Alvarez: You might have to go back in front of Lodger's Tax and ask them. I don't know Lodger's Tax rules, so I don't know what their requirement is if you're going to use that money for something different than what they originally allocated it for. I think that your action today would be if you wanted to move forward and make a motion to pursue re-allocating those funds to a potential art piece. Then you could have your meetings or your workshops. You can call special meetings or whatever and figure out what you guys do want to build there or if you need to ask Lodger's Tax for funding.

Vice-Chairman Gustin: They were holding \$18,000, but that was earmarked to possibly drill a new well. Now, that that's off the table, we'll probably have to go back to them and ask if we can come up with another plan and use that same money for it.

Member Underwood: I thought half of that was money that the City gives us to spend on public art, 2%, and then part of it was a new portion that you went and asked for.

Vice-Chairman Gustin: I don't know exactly how that got divided up, but this board derives a certain percentage every year for public art. We went back to the Lodger's Tax and asked for an additional amount. That's where that \$18,000 came from combined with the money that automatically comes to the board for use.



Assistant City Manager Alvarez: I don't know if you had Lodger's Tax and Commission approval on the digging of the well. I don't know if that went to Commission as well. Obviously, any referrals from the Lodger's Tax go to our City Commission for approval. It's a good idea to keep our commission involved anyway in the public. What we're asking the board today is to maybe consider a motion to potentially recommend the demoing of the existing fountain and re-allocation of your funding for a new art sculpture.

Chairman Bryan: Or the mister that you're talking about. The heat like this is going to get worse. I think it would be good if we had something like that where people can cool off when they're walking around.

Vice-Chairman Gustin: A pergola or a shade structure could be incorporated into the design and give tourists and visitors a relief from our wonderful summer heat.

Chairman Bryan: I don't think it necessarily needs to be another art structure. I think it'll still have enough of the way it is now left to look at and with the misting structure. If we do a contest and meetings and stuff, it'll be another year or two before we get anything done. It would be nice to see the water run. Again, we've been at this for several years now.

Member Alicea: My concern is if we build something, we have to make sure that the material doesn't get damaged again in 20 years or so. Can that be guaranteed with this new project?

Assistant City Manager Alvarez: You want me to guarantee something for 20 years?

Member Alicea: The sculpture was built 20 years ago and the metal is not working and it's falling apart. Can it be guaranteed it won't fall apart again in 20 years?

Assistant City Manager Alvarez: I can't guarantee anything. I don't know.

David Johnson: With any structure, you can't guarantee how long it will last.

Assistant City Manager Alvarez: That water is pretty hard. It's damaging the cement even around where we have our fountain. I think it's something that whatever you guys decide to build there, now we have the knowledge of what it does. When you reach out to contractors or artists, whatever you decide, that's something you can make them aware of, so they can provide recommendations. I can't guarantee anything is going to be there in 20 years.

Vice-Chairman Gustin: Even something like the water fountain in front of the Civic Center would be nice. Those aren't very expensive. You can buy them in El Paso or Las Cruces. They're concrete and they're easily installed. They look good. People like them. It would be quick and easy. It looks really nice in front of the Civic Center. Why wouldn't something like that do down there? It would be good. It would be quick.

Member Underwood: If we demo the old fountain and put in a cooling station, none of that is the business of the Public Art Advisory Board anymore. It's Parks, right, because it's not art?

David Johnson: If you put an art feature in it of some kind like a fountain or something like that, yeah.

Member Underwood: So really what we should do is give our blessing to demo the fountain or something like that and then a motion to re-allocate the funds?

Chairman Bryan: I would think that underneath we were getting that money to make sure the water was running again. That's what everyone wanted since we have all the hot baths and stuff is to see water run.

David Johnson: The main issue, when I was talking with Angie is if you have a pump that runs with the flow that comes in, because right now we have two pumps that are pumping 24 gallons per minute. That's 48 gallons per minute. The water coming in only comes in at 8 gallons per minute. You can imagine how quickly it's going to draw that water out of there, how long it's going to take to recover. The only problem with the recovery part is it's not coming up as high as it used to. The water used to come up to about 8 feet. Now, it only comes up to what we call static pressure, it only comes up to about 4 feet or less. That's where the water stops. We can pump that out with a smaller pump. Then you have that head. You've got 8 feet going into the ground. You've got 8 feet coming above, so that's 16 feet or more. With an 8 gallon per minute pump, it's kind of like a fish pump or a pond pump. You're not going to get that much height, that head out of it. Water will pump, but it won't come out. You need something with a little more pressure, but the problem is, it will drain water out of there faster than it can recover because it's a spring.

Member Underwood: If the City decides to demo the existing structure, then we need to ask the City and the Lodger's Tax Board if we can re-allocate that \$18,000. When they decide they're going to do something, we need to decide what kind of art project might be appropriate to put in there to spend our \$18,000 on top of it.

Chairman Bryan: How would you suggest what we would need to do to make it where the water wouldn't drain out faster than it can recover?

David Johnson: We had a timer on it for a while. It would go for a little bit and run, so it had time to recoup. The whole thing would be empty in 10 minutes, and it would take all day for that water to recover.

Member Underwood: When I was speaking with Eddie Irwin, as I said, he's a professional well-driller, he thought we could design a pump to just pump the 8 gallons of water a minute. That's why I went to see them was to see if we could spend the money to do that. He worked for Riverbend, Blackstone, and all these big bath houses in town. He thinks outside of the box, but he doesn't want to be a vendor for the City. If we decide to pump the water out of there, I'm sure Eddie could figure out a way to make an appropriate flow.

David Johnson: If we keep it lower, a structure not that high, we could probably run a lower pressure pump. It would be a smaller feature. It won't be as grand as it is now, but we can use part of the structure as balance. That would be the art part. Someone could come up with an idea to make a smaller structure that we could work with. If not, we're going to have to re-do the entire thing.

Chairman Bryan: Should we talk to Shel Neymark who was instrumental with putting it in?

David Johnson: Sure. That would be a conversation to have with somebody who's a contractor.



Chairman Bryan: I think maybe the first thing is to just do what Traci suggested is make sure we have the funds if they'll transfer it over. It's still funds that will be used to get the fountain working. We might just make a motion of some version of that or however you want to word it, Traci. Would you do that so we could go to the Lodger's Tax to see if they'd allow us to move the format from what it is. It seems like it's the same thing in a way depending on how you word it.

Assistant City Manager Alvarez: I'm fine with that if you want to go to Lodger's Tax first and then decide next meeting. However, if you decide that you want the structure to be demoed, you need to make an action or recommendation to the City Commission, so we can take that to the City Commission and let them know. It may be something the Art Board can also attend, so we can let them know what the game plan is moving forward. Or we can leave everything like it is until you guys get it all figured out – whatever you guys want to do.

Member Underwood: So you think it's up to this board to decide whether or not to demo it?

Assistant City Manager Alvarez: I think a recommendation from the board isn't a bad idea because you guys want to replace it or do something different there.

Member Underwood: So we should have a discussion about that, Mr. Chairman, about how people feel demoing this project. It could be an emotional thing for some.

Chairman Bryan: Suzanne, you haven't spoken yet.

Member Carlstedt: I've just been wondering if the museum should be consulted at all. I guess it's technically not their property, but when a tourist is looking at the area, I think they would consider it all part of the same thing. What would the museum feel would enhance the area?

Member Underwood: How do you feel about it, Eduardo?

Member Alicea: Are we talking about a plan or idea for a bath for people to jump in the hot springs or something?

Member Underwood: I think right now, we're just talking about demoing the existing art structure – the fountain.

Member Alicea: I'd like to wait to get more information about the whole thing.

Chairman Bryan: David, it wouldn't be demolishing the entire thing, right? We'd still have some of the places where they sit and flagstone.

David Johnson: The main structure itself, but we could probably save most of what goes under the little bridge there and the flagstone definitely. We will try to protect that most certainly.

Chairman Bryan: A lot of people have already had their names on that.

Assistant City Manager Alvarez: If it's something you want to brainstorm and then bring it back to your next Art Board meeting, then make a decision. Maybe you guys can gather more information or talk to the public and the museum. We are on your time frame. We're not in a hurry. There's nothing that says we have to immediately demolish that thing. However you guys want to do it. If

we are going to demolish, that's something that does have to go in front of the Commission. I think between Art Board saying "We support the City demolishing the sculpture because we're going to put something else in there". I think we probably just need to be on the same page when we go to Commission.

Member Underwood: Once again, we should check and make sure we still have funds. Then we can go before the Commission and say that there's an opinion that it's possibly unsafe and maybe it's life expectancy is over, but we still have \$18,000 to do another art project and we want to re-allocate.

Assistant City Manager Alvarez: This is on the agenda as an action, but you don't have to take action. I just wanted to make sure it was there as an action in case you guys wanted to.

Chairman Bryan: We should use maybe the word restoring or something rather than demolish. If we're going to tell people we're demolishing an art piece that's there, restoring would be better for some.

Member Carlstedt: I don't think it's restoring because that would mean something similar.

Chairman Bryan: A good part of it would be left if they're going to leave the flagstone and some of the seating areas.

Vice-Chairman Gustin: I think it would make sense to put a delay in and consider our actions until the next time. There's not a rush to do it, so I think it would make sense for us to contemplate what our actions are going to mean and delay it a little bit. That will give us some time to work with the Lodger's Tax people and see if we can re-allocate that funding for a new design. That makes sense.

Member Carlstedt: I'm wondering if the committee that you agreed to serve on to spend the money associated with the animal shelter could locate something there because I didn't think it had to be any particular place.

Assistant City Manager Alvarez: I don't know if you've had a chance to review, but some of the review I've done of those art works, I don't know if they would be outside sculpture.

Member Alicea: Most is inside artwork and sculptures are more like smaller pieces.

Assistant City Manager Alvarez: You can just let Luba know when you're ready to add it on to the agenda. If you guys are going to Lodger's Tax and need any support from City or staff, just let us know, and we'll assign David to go.

Deputy Clerk Hoffman: I can make a note to remind you that you might want to re-visit it for the next meeting as well when we start preparing for it.

Chairman Bryan: Do you have anything else on this topic?

The Board agreed to postpone action until they've had time for further discussion.



## **5. REPORTS FROM THE BOARD:**

Vice-Chairman Gustin requested Assistant City Manager Alvarez provide an update on the Reed Rocket Sculpture sale and bid process.

Assistant City Manager Alvarez: We're going to be advertising that probably the end of this month. We're just going to get final pictures and then we'll put that up for sale. I think we're just going to do a minimum bid on it. We did the weigh-in for an estimate on scrap metal and it was less than \$50. Unfortunately, scrap metal prices are really low right now, so we'll do a minimum bid of \$100 or \$200. We'll have to get with Commission and get a final on what they want out of it.

Vice-Chairman Gustin: So it's true, they just submit a bid.

Assistant City Manager Alvarez: Yeah, I haven't advertised it yet. Our new budget came open, so we're awaiting final budget approval at this next meeting the end of July. The first meeting in August, I'll take it to Commission to get the bid amount. We will get it advertised, and I'll reach out to you, Jagger, and let you know as soon as we've advertised it.

Vice-Chairman Gustin: Thank you. I appreciate that.

There were no other reports.

## **6. REPORTS FROM STAFF:**

There were no staff reports at this time.

## **7. SET TIME, PLACE AND DATE FOR NEXT MEETING:**

The board agreed to schedule the next meeting at 4:00pm Tuesday, September 17, 2024.

## **8. ADJOURN**

Member Underwood made a motion to adjourn the meeting at 4:30pm. Vice-Chairman Gustin seconded the motion. Motion carried unanimously.

PASSED AND APPROVED this 17<sup>th</sup> day of September, 2024.



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Sid Bryan, Chairman



# CITY OF TRUTH OR CONSEQUENCES

## AGENDA REQUEST FORM

MEETING DATE: September 24, 2024

*Agenda Item #: F.1*

**SUBJECT:** Resolution No. 14 24/25 Budget Adjustment Request

**DEPARTMENT:** Finance Department

**DATE SUBMITTED:** September 17, 2024

**SUBMITTED BY:** Kerin Salcedo, Accounting Officer

**WHO WILL PRESENT THE ITEM:** Jocelyn Holguin, Finance Director

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

**Recommendation:**

Approval Resolution No. 14 24/25 Final Budget Adjustment Requests for Fiscal Year 2024-2025

**Attachments:**

Resolution No 14 24/25

- Schedule of Budget Adjustments, Supporting Documentation

**Fiscal Impact (Finance):** Yes

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

**Legal Review (City Attorney):** N/A

**Approved For Submittal By:** ☒ Department Director

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

**Final Approval:** ☒ City Manager

### CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

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

Continued To: . Referred To: .

☐ Approved ☐ Denied ☐ Other: .

File Name: CC Agendas 9-24-24





## **RESOLUTION NO. 14 24/25**

### **A RESOLUTION REQUESTING FINAL BUDGET ADJUSTMENTS IN THE REVENUE AND EXPENDITURE BUDGET FOR FISCAL YEAR 2024-2025.**

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

**WHEREAS**, the City Commission in and for the City of Truth or Consequences, State of New Mexico needs to adjust the current approved budget for Fiscal Year 2024-2025; and

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

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

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

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

**PASSED, ADOPTED and APPROVED** this **24th day of September, 2024.**

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Rolf Hechler, Mayor

ATTEST:

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Angela A. Torres, City Clerk-Treasurer

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

ENTITY NAME: City of Truth or Consequences  
FISCAL YEAR: 2024-25  
DFA Resolution Number: 14 24/25  
BAR NUMBER: 3

For Local Government Division use only:

| DOCUMENT NUMBER | FUND | ACCOUNT STRING | ACCOUNT NAME        | REVENUE, EXPENDITURE, or TRANSFER (TO or FROM) | APPROVED BUDGET | ADJUSTMENT / INCREASE | ADJUSTMENT / DECREASE | ADJUSTED BUDGET | PURPOSE                                                                             |
|-----------------|------|----------------|---------------------|------------------------------------------------|-----------------|-----------------------|-----------------------|-----------------|-------------------------------------------------------------------------------------|
| 1               | 101  | 101-1009-43770 | Subscription & Dues | Expense                                        | \$ 1,800.00     | \$ 1,000              |                       | \$ 2,800        | Increase due to increase in agreement on 09/12/24                                   |
| 2               | 340  | 340-7031-32386 | Local/State Grants  | Revenue                                        | \$ -            | \$ 104,000            |                       | \$ 104,000      | NMDOT Map Grant LGRF FY25 HW2L100619-D20213                                         |
| 2               | 340  | 340-7031-43550 | Roadway Maintenance | Expense                                        | \$ -            | \$ 104,000            |                       | \$ 104,000      | NMDOT Map Grant LGRF FY25 HW2L100619-D20213                                         |
| 2               | 340  | 340-7031-45600 | Entity Match        | Expense                                        | \$ -            | \$ 34,667             |                       | \$ 34,667       | NMDOT Map Grant LGRF FY25 HW2L100619-D20213                                         |
| 2               | 340  | 340-7031-39935 | Transfer In         | Revenue                                        | \$ -            | \$ 138,667            |                       | \$ 138,667      | NMDOT Map Grant LGRF FY25 HW2L100619-D20213                                         |
| 2               | 216  | 216-4503-49930 | Transfer Out        | Expense                                        | \$ 116,778.00   | \$ 138,667            |                       | \$ 255,445      | NMDOT Map Grant LGRF FY25 HW2L100619-D20213                                         |
| 3               | 380  | 380-7033-32380 | Local/State Grants  | Revenue                                        | \$ -            | \$ 18,801             |                       | \$ 18,801       | Clean & Beautiful Grant FY25 Litter Control & Beautification 25-418-3002-00057-00   |
| 3               | 380  | 380-7033-44607 | Field Supplies      | Expense                                        | \$ -            | \$ 18,801             |                       | \$ 18,801       | Clean & Beautiful Grant FY25 Litter Control & Beautification 25-418-3002-00057-00   |
| 3               | 380  | 380-7033-39935 | Transfer In         | Revenue                                        | \$ -            | \$ 18,801             |                       | \$ 18,801       | Clean & Beautiful Grant FY25 Litter Control & Beautification 25-418-3002-00057-00   |
| 3               | 101  | 101-1099-49930 | Transfer Out        | Expense                                        | \$ 652,790.00   | \$ 18,801             |                       | \$ 671,591      | Clean & Beautiful Grant FY25 Litter Control & Beautification 25-418-3002-00057-00   |
| 3               | 101  | 101-1099-39935 | Transfer In         | Revenue                                        | \$ 65,000.00    | \$ 18,801             |                       | \$ 83,801       | Clean & Beautiful Grant FY25 Litter Control & Beautification 25-418-3002-00057-00   |
| 3               | 380  | 380-7033-49930 | Transfer Out        | Expense                                        | \$ -            | \$ 18,801             |                       | \$ 18,801       | Clean & Beautiful Grant FY25 Litter Control & Beautification 25-418-3002-00057-00   |
| 4               | 380  | 380-7034-32380 | Local/State Grants  | Revenue                                        | \$ -            | \$ 4,400,000          |                       | \$ 4,400,000    | Capital Appropriation SAP 24-12460-GF-Wtr Systm Improv Water Distribution Line RPLC |
| 4               | 380  | 380-7034-80860 | Infrastructure      | Expense                                        | \$ -            | \$ 4,400,000          |                       | \$ 4,400,000    | Capital Appropriation SAP 24-12460-GF-Wtr Systm Improv Water Distribution Line RPLC |
| 4               | 380  | 380-7034-39935 | Transfer In         | Revenue                                        | \$ -            | \$ 4,400,000          |                       | \$ 4,400,000    | Capital Appropriation SAP 24-12460-GF-Wtr Systm Improv Water Distribution Line RPLC |
| 4               | 315  | 315-9003-49930 | Transfer Out        | Expense                                        | \$ 121,908      | \$ 4,400,000          |                       | \$ 4,521,908    | Capital Appropriation SAP 24-12460-GF-Wtr Systm Improv Water Distribution Line RPLC |
| 4               | 315  | 315-9003-39935 | Transfer In         | Revenue                                        | \$ 262,300      | \$ 4,400,000          |                       | \$ 4,662,300    | Capital Appropriation SAP 24-12460-GF-Wtr Systm Improv Water Distribution Line RPLC |
| 4               | 380  | 380-7034-49930 | Transfer Out        | Expense                                        | \$ -            | \$ 4,400,000          |                       | \$ 4,400,000    | Capital Appropriation SAP 24-12460-GF-Wtr Systm Improv Water Distribution Line RPLC |
| 5               | 312  | 312-7035-31375 | Federal Grants      | Revenue                                        | \$ -            | \$ 1,128,883          | \$ -                  | \$ 1,128,883    | Fuel Farm Safety/Terminal Apron Improvements 3-35-0042-028-2024                     |
| 5               | 312  | 312-7035-47415 | Grounds & Roadways  | Expense                                        | \$ -            | \$ 1,128,883          |                       | \$ 1,128,883    | Fuel Farm Safety/Terminal Apron Improvements 3-35-0042-028-2024                     |
| 5               | 312  | 312-7035-39935 | Transfer In         | Revenue                                        | \$ -            | \$ 1,128,833          |                       | \$ 1,128,833    | Fuel Farm Safety/Terminal Apron Improvements 3-35-0042-028-2024                     |
| 5               | 101  | 101-1099-49930 | Transfer Out        | Expense                                        | \$ 652,790      | \$ 1,128,833          |                       | \$ 1,781,623    | Fuel Farm Safety/Terminal Apron Improvements 3-35-0042-028-2024                     |
| 5               | 101  | 101-1099-39935 | Transfer In         | Revenue                                        | \$ 65,000       | \$ 1,128,883          |                       | \$ 1,193,883    | Fuel Farm Safety/Terminal Apron Improvements 3-35-0042-028-2024                     |
| 5               | 312  | 312-7035-49930 | Transfer Out        | Expense                                        | \$ -            | \$ 1,128,883          |                       | \$ 1,128,883    | Fuel Farm Safety/Terminal Apron Improvements 3-35-0042-028-2024                     |



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

|   |     |                |                               |         |            |            |  |            |                                                                 |
|---|-----|----------------|-------------------------------|---------|------------|------------|--|------------|-----------------------------------------------------------------|
| 6 | 312 | 312-7036-31375 | Federal Grants                | Revenue | \$ -       | \$ 336,000 |  | \$ 336,000 | Fuel Farm Safety/Terminal Apron Improvements 3-35-0042-027-2024 |
| 6 | 312 | 312-7036-47415 | Grounds & Roadways            | Expense | \$ -       | \$ 336,000 |  | \$ 336,000 | Fuel Farm Safety/Terminal Apron Improvements 3-35-0042-027-2024 |
| 6 | 312 | 312-7036-39935 | Transfer In                   | Revenue | \$ -       | \$ 336,000 |  | \$ 336,000 | Fuel Farm Safety/Terminal Apron Improvements 3-35-0042-027-2024 |
| 6 | 101 | 101-1099-49930 | Transfer Out                  | Expense | \$ 652,790 | \$ 336,000 |  | \$ 988,790 | Fuel Farm Safety/Terminal Apron Improvements 3-35-0042-027-2024 |
| 6 | 101 | 101-1099-39935 | Transfer In                   | Revenue | \$ 65,000  | \$ 336,000 |  | \$ 401,000 | Fuel Farm Safety/Terminal Apron Improvements 3-35-0042-027-2024 |
| 6 | 312 | 312-7036-49930 | Transfer Out                  | Expense | \$ -       | \$ 336,000 |  | \$ 336,000 | Fuel Farm Safety/Terminal Apron Improvements 3-35-0042-027-2024 |
| 7 | 312 | 312-7037-32380 | Local/State Grants            | Revenue | \$ -       | \$ 24,079  |  | \$ 24,079  | TCS-25-01 NMDOT Aviation (Match for Apron Project)              |
| 7 | 312 | 312-7037-47415 | Grounds & Roadways            | Expense | \$ -       | \$ 24,079  |  | \$ 24,079  | TCS-25-01 NMDOT Aviation (Match for Apron Project)              |
| 7 | 312 | 312-7037-39935 | Transfer In                   | Revenue | \$ -       | \$ 24,079  |  | \$ 24,079  | TCS-25-01 NMDOT Aviation (Match for Apron Project)              |
| 7 | 101 | 101-1099-49930 | Transfer Out                  | Expense | \$ 652,790 | \$ 24,079  |  | \$ 676,869 | TCS-25-01 NMDOT Aviation (Match for Apron Project)              |
| 7 | 101 | 101-1099-39935 | Transfer In                   | Revenue | \$ 65,000  | \$ 24,079  |  | \$ 89,079  | TCS-25-01 NMDOT Aviation (Match for Apron Project)              |
| 7 | 312 | 312-7037-49930 | Transfer Out                  | Expense | \$ -       | \$ 24,079  |  | \$ 24,079  | TCS-25-01 NMDOT Aviation (Match for Apron Project)              |
| 8 | 101 | 101-1014-80810 | Other Capital Equip. Vehicles | Expense | \$ -       | \$ 50,000  |  | \$ 50,000  | To purchase new Truck for Facility Maint. department            |

ATTEST:

Angela Torres, Clerk-Treasurer

(Date)

Rolf Hechler, Mayor

(Date)

Column A: Enter the Resolution Number;  
Column B: Enter the FUND Number affected;  
Column C: Enter REVENUE, EXPENDITURE or TRANSFER TO or TRANSFER FROM;  
Column D: Enter APPROVED BUDGET;  
Column E: Enter ADJUSTMENT INCREASE (+), DECREASE (-);  
Column F: Enter ADJUSTED BUDGET;  
Column G: Enter PURPOSE.

\*\*\*\*\*MAKE SURE TRANSFERS NET TO ZERO



# CITY OF TRUTH OR CONSEQUENCES

## AGENDA REQUEST FORM

MEETING DATE: September 24, 2024

Agenda Item #: F.2

**SUBJECT:** Discussion/Action: Resolution No. 15 24/25 in English & Spanish calling a Special Election to be held on Thursday, February 13, 2025, related to the Petition for a Referendum on Ordinance No. 767

**DEPARTMENT:** City Clerk's Office

**DATE SUBMITTED:** September 20, 2024

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

**WHO WILL PRESENT THE ITEM:** City Clerk Torres

### **Summary/Background:**

A Referendum Petition was submitted against Ordinance No. 767. As per NM State Statute Section 3-14-17 upon verification of a referendum petition, the commission shall adopt a resolution calling for the holding of a special election on the measure. The number of signatures required for the petition was 209. After verification of the petition, it was determined that there were 278 valid signatures on the petition which exceeded the number required for an election.

The date of the Special Election will be on February 13, 2025, through a **mail ballot only** election which will be conducted by the Sierra County Clerk.

### **Recommendation:**

Approval of the English & Spanish Special Election Resolution/Proclamation.

### **Attachments:**

- English & Spanish Special Election Resolution/Proclamation and supporting documents.

-

### **Fiscal Impact (Finance): Yes**

TBD

### **Legal Review (City Attorney): Yes**

.

**Approved For Submittal By:** ☐ Department Director

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

**Final Approval:** ☐ City Manager

### CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. 15 24/25 Ordinance No. -

Continued To: - Referred To: -

☐ Approved ☐ Denied ☐ Other: -

File Name: CC Agendas 9-24-2024



*Rolf Hechler  
Mayor*

*Amanda Forrister  
Mayor Pro-Tem*

*Merry Jo Fahl  
Commissioner*



*Destiny Mitchell  
Commissioner*

*Ingo Hoeppepner  
Commissioner*

*Angie Gonzales  
City Manager*

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

## **Referendum on Ordinance No. 767 verification of signatures**

### **Names of Valid Signatures:**

1. Ron Fenn, 316 N. Foch
2. Dayna Logan, 200 N. Foch St. #3
3. Alvena Dawson, 217 N. Foch
4. Carolyn Cazares, 303 N. Foch
5. Louise Hewett, 313 N. Foch
6. Rosemary Xiques, 417 N. Foch St.
7. Charles Flink, 412 Grape St.
8. Sidney Smith, 606 N. Foch
9. Wanett Zacharzuk, 511 N. Foch
10. Lauren Felber, 413 N. Foch St.
11. Elizabeth Weed, 704 N. Maple
12. William Martin, 312 Marr
13. Tom Koenig, 312 Marr
14. Marland Shockey, 312 Marr
15. Judith Mead, 529 Van Patten Apt #3
16. Carolyn Brown, 613 Van Patten
17. Jody Nelsen, 625 Gray St.
18. Marilyn Decker, 607 N. Elm
19. Audie Decker, 607 N. Elm
20. Roger Swanson, 310 N. Birch
21. Clarence Jordan, 612 N. Birch
22. Mary Grace Mobley, 703 Oak
23. Ramon L. Scott, 1046 Turtle View St
24. Frances McLaughlin, 403 Juniper
25. Alan Thomasson, 716 Elm
26. Anna Detrick, 1003 Locust St.
27. Douglas Graham, 115 W. 2<sup>nd</sup> Ave.
28. John Diaz, 1003 Locust St.
29. Linda L. Diaz, 1003 Locust St.
30. Dustin Wehrs, 407 N. Foch

**Names of Valid Signatures:**

31. Dushane Dawson, 217 N. Foch
32. Steve Bauers, 600 N. Foch
33. Tannis Bauers, 600 N. Foch
34. Craig Caswell, 802 Foch
35. Denise Caswell, 802 N. Foch
36. Eileen Miller, 912 N. Foch St.
37. Gail Bartlett, 920 Foch
38. Lana Darlene Taylor, 921 N. Foch
39. Susan Christie, 905 N. Foch St.
40. James Boyd, 419 N. Birch St.
41. Joseph R. Garcia, 509 Marr
42. Mary D. Tyll, 509 Marr
43. Rosie P. Bernall, 520 E. 8<sup>th</sup>
44. Beverley Manley, 710 N. Caballo Rd.
45. Debra L. De Vault, 601 N. Broadway
46. Steven Jerrick, 613 Marr St.
47. Debra J. Shepard, 630 Marr
48. Bethann Jenkins, 313 N. Birch St.
49. Roy W. Ryden, 1048 E. Riverside #7
50. James E. Thompson, 616 Van Patten
51. Charlotte Terrill, 315 W. 6th Ave.
52. Marilyn L. Bush, 614 Kruger
53. John Tate, 1215 Ore St.
54. John Bush, 614 Kruger St.
55. Helen Tate, 1215 Ore St.
56. Patricia Smithpeter, 2708 W. Riverside Dr.
57. Eric M. Molina, 116 N. Foch St.
58. Eric Wagner, 116 N. Foch
59. Lenetta Wagner, 116 N. Foch
60. Carla Perkins, 116 N. Foch St.
61. Tobi Varnell, 224 Ivy St.
62. Carolyn Peterson, 302 Ivy St.
63. Dixie Trujillo, 302 Ivy #C
64. Jean Cofield, 406 Ivy
65. Dixie Lee, 413 Ivy
66. Malvin Cofield, 406 Ivy
67. Susan Montgomery, 505 Ivy
68. Ariel Dougherty, 1580 Caballo Rd.
69. Vernon Roark, 1703 S. Broadway
70. M Arran, 1302 Tungsten St.
71. David Garcia, 509 Marr Street
72. Myra Vandy, 502 Silver
73. David Vandy, 502 N Silver St.
74. Rebecca Speaks, 808 N. Pershing St.
75. Mary Murray, 208 Grape St.
76. April Allen, 2103 S. Broadway #21

**Names of Valid Signatures:**

77. Linda Downing, 612 W. 7<sup>th</sup> Ave.
78. Kathleen Everett, 701 Juniper
79. Susan Crow, 711 Kopra St.
80. Donald Florence, 512 N. Silver
81. Alicia Culpeper, 706 Kopra
82. Bertis Lawyer, 511 Kopra
83. Gayle Cooper, 410 Kopra
84. Ralph Cooper, 410 Kopra
85. Mike P. Doyle, 416 Juniper
86. Pauline Raedeke, 919 Kopra
87. Linda Thacker, 909 Juniper
88. Judy Abers, 904 Juniper St.
89. Marcy Rizzo, 609 Ivy Street
90. Rebecca Anderson, 810 Ivy
91. Brenda Bitkoff, 919 Locust
92. Mary Kinninger, 602 Wyona
93. Wayne E. Goffena, 608 Sierra Vista
94. Orlando Resendez, 1800 E. 3rd Space 10
95. Karina Angeles, 120 N. Pershing
96. Louise L. Hewett, 313 N. Foch St.
97. Gregory K. Koerber, 208 Grape Street
98. Salella. S. Marshall, 100 N. Pershing
99. Julia Hernandez, 125 S. Cedar
100. Michelle Martin, 225 S. Birch #43
101. Patsy Rubio, 150 S. Cedar St. #67
102. Richard Wright, 504 Camino Del Cielo
103. Mary Owens Hess, 365 W. 6th Ave
104. Edward J. Rodriguez, 110 N. Pershing
105. Marilyn L. Luna, 700 Juniper St.
106. Janet Hulse-Smith, 210 Juniper
107. Ann Swanson, 310 Birch
108. Manuel Martinez, 302 N. Birch
109. Linda Scott, 508 S. Pershing
110. Bryan Lopez, 608 N. Pershing
111. Joanna Espino, 608 N. Pershing
112. Eigen Eigen Virtualiser, 405 N. Cedar
113. Lynette R. Beach, 710 N. Cedar
114. Richard Dumiak, 705 Charles
115. Danielle Perry, 614 Charles St.
116. Susan Smith, 721 Charles St.
117. Nicholas Russett, 501 Gray St.
118. June Russett, 501 Gray St.
119. Collette Rogers, 601 Broadway
120. Evelyn M. Wheeler, 450 Wyona St.
121. Adrian Tann, 1206 Copper St #2
122. Beatrice Sanders, 1310 Tin St.
123. Phillip Sanders Jr., 1310 Tin St.



**Names of Valid Signatures:**

124. Roxanne VanWormer, 529 Van Patten St. #1
125. Barbara Morrow, 1520 Mercury St.
126. Kathleen Gurnsey, 1180 E. Riverside Dr.
127. Julie Wian, 505 E. 3<sup>rd</sup>
128. John Vance Lee, 1004 Parway
129. Kathryn A. Lee, 1004 Parway
130. Glenda Cummings, 165 N. Silver #24
131. Carmen A. Sostre, 165 N. Silver #34
132. Joseph Carrasquer, 165 N. Silver #37
133. Burl Kenyon, 165 N. Silver #43
134. Walter Lott, 165 N. Silver
135. Patricia Medina, 165 N. Silver #18
136. James Aguirre, 125 Cedar #6
137. Suan P. Fesler, 105 S. Birch St. Apt #28
138. Patrick B. Murphy, 119 Birch St.
139. Jeffrey Barbour, 717 Van Patten
140. Thomas G. Murphy, 610 ½ W. 3<sup>rd</sup> St.
141. Carol A. Donovan, 211 N. Silver St.
142. Duane K. Hinkle, 200 Lane
143. Roger T. Rotter, 312 Corona
144. Michael W. Mattingly, 300 N. Foch
145. Kathleen B. Burris, 302 Ivy Apt. B
146. Jeanne E. Sellars, 920 N. Pershing St.
147. Carol Kirikos, 303 N. Cedar
148. Mercy Howell, 1011 Spruce
149. Daniel G. Griego, 708 Palo Verde
150. Consuelo Griego, 708 Palo Verde
151. Claude R. Downs, 418 Locust
152. Linda F. Downs, 418 Locust
153. Sally A. Row, 590 Mims #3
154. Rebecca Otero, 5580 Mims St.
155. Gregory Koerber, 208 Grape
156. Maryam Aghamiri, 900 Juniper St.
157. Ashley M. Ferguson, 217 N. Foch
158. Estille Deaton, 911 Yucca St.
159. Carl M. Amin, 914 Yucca
160. Paul E. Tooley, 916 Yucca St.
161. Daniel W. Mason, 811 Yucca
162. Deborah Mason, 811 Yucca
163. Ronald J. Golubski, 1005 Locust St.
164. LaVonda R. Golubski, 1005 Locust St.
165. Roy D. Moore, 302 Ivy St.
166. Curtis W. Molina, 1047 E. Riverside Dr.
167. Blanca H. Forth, 1201 Caballo Rd. Trailer #9
168. Michele Foss, 1517 Broad
169. Paul E. Johnson, 926 N. Caballo
170. John Keim, 1611 Corzine

**Names of Valid Signatures:**

171. John Barbarich, 526 Marr St.
172. Roselyn Fortner, 588 Grape
173. Jeffrey Brush, 701 Grape St.
174. David S. Walker, 812 N. Foch
175. Phillip Reedy, 718 Grape St.
176. Robin Kurth, 718 Grape
177. Cynthia Ludvigson, 950 Hillcrest
178. Kenneth Olivas, 107 Hillcrest
179. Linda Johnson, 840 Hillcrest
180. Robert Wiley, 102 Hillcrest
181. Korrie K. Scott, 508 S. Pershing
182. Barbara Dewell, 510 Corona St.
183. Jeanna Garcia, 610 Corona St.
184. Richard L. Henson, 805 Camino De Mesa
185. Ashley G. Mattingly, 300 N. Foch
186. Carl C. Heydt, 149 B. S. Date
187. Robert L. Taylor, 111 W. 2<sup>nd</sup> Ave.
188. Karin Taylor, 111 W. 2<sup>nd</sup> Ave.
189. Ronald Pacourek, 603 N. Riverside
190. Kevin L. Zelenka, 515 Van Patten St.
191. Nora Shank, 1207 Ore St.
192. Jason Monroe, 725 Wyona St.
193. Scott Evans, 1003 Kopra
194. Lori J. Melvin, 400 Camino Del Cielo
195. Elizabeth Midland, 165 N. Silver St. #5
196. Mary Ann Lopez, 165 N. Silver Apt. 17
197. Elaine M. Root, 165 N. Silver St. #73
198. Paul Lester, 165 N. Silver St. #59
199. Barbara Vezzani, 165 N. Silver #54
200. Candace Browne, 165 N. Silver St. #4
201. Jessie L. Emerson, 165 N. Silver #2
202. Phillip Adams, 165 N. Silver St. #6
203. Christopher Julian, 165 N. Silver St. #15
204. Wendy S. Nine, 165 N. Silver St. #23
205. Linda Allen, 505 Corona
206. Victoria Koontz, 707 Sierra Vista Dr.
207. Margaret Haworth, 1408 Aluminum
208. Daniel Steele, 112 W. 3<sup>rd</sup> St. #1
209. Julie J. Harris, 111 Hillcrest
210. Israel Davis, 810 Sierra Vista
211. David Janos, 804 Sierra Vista
212. Susan Lee, 802 Sierra Vista
213. Mary Chapman, 800 Sierra Vista
214. Kay Goffena, 608 Sierra Vista
215. Kim C. Audette, 618 Van Patten
216. Phillip Davis, 1505 Steel St.
217. Shelby Schue, 216 E. 2<sup>nd</sup> Ave.

**Names of Valid Signatures:**

- 218. John Schue, 511 Gray
- 219. Alan J. Buckridge 618 Marr #5
- 220. Barbara Portillo, 611 Marr St.
- 221. Fritz Doeffinger, 210 N. Riverside Dr.
- 222. Robert Beck, 902 B. N Pershing
- 223. Edna Beck, 902 B. N. Pershing
- 224. Cynthia Jane Collins, 175 S. Birch St. Apt 39
- 225. Raymond Chavez, 760 W. 5<sup>th</sup> Ave.
- 226. Kathleen Nielsen, 785 W. 5<sup>th</sup>
- 227. Yair Gandara, 861 W. 5<sup>th</sup> Ave.
- 228. Raven Willow, 861 W. 5<sup>th</sup> Ave.
- 229. Heather J. Willey, 850 W. 6<sup>th</sup> Ave.
- 230. Maireni Ramirez, 803 W. 6<sup>th</sup>
- 231. Eve Hayes, 780 W. 6<sup>th</sup> Ave.
- 232. Lynn Osterberg, 765 W. 6<sup>th</sup> Ave.
- 233. Ray A. Hess, 365 W. 6<sup>th</sup> Ave.
- 234. Geneva Pryor, 865 W. 4<sup>th</sup> Ave.
- 235. Laura Barragan, 785 W. 4<sup>th</sup> Ave.
- 236. Terrence D. Schade, 314 Juniper
- 237. Janina Akin, 255 W. 4<sup>th</sup>
- 238. David Davila, 255 W. 4th
- 239. Melanie Shade, 235 W. 5<sup>th</sup>
- 240. Dale Manning, 405 W. 5<sup>th</sup>
- 241. Harry Kirk, 660 W. 5<sup>th</sup>
- 242. Mickey Montgomery, 505 Ivy St.
- 243. Claire Margaret Avallone, 735 W. 5th Ave.
- 244. Anthony Bastine, 202 E. 4<sup>th</sup> Ave.
- 245. Serif Bastine, 202 E. 4<sup>th</sup> Ave.
- 246. Kathleen A. O'Bryan, 402 Ivy St.
- 247. Katherine Horodowich, 822 N. Pershing
- 248. Susan B. Miller, 402 Ivy St.
- 249. Samuel R. Harris, 314 Ivy St.
- 250. Dora Harris, 314 Ivy St.
- 251. John R. Mickey, 196 Cedar Apt. 62
- 252. Isabelle Court, 1301 N. Pershing #G28
- 253. Jennifer Hopkins, 1301 N. Pershing #E20
- 254. Jayden Sheele, 1301 N. Pershing #E20
- 255. Christine Romero, 1301 N. Pershing #D15
- 256. Robert Childress, 608 N. Gold St.
- 257. Norma Childress, 608 N. Gold St.
- 258. Rosanne Schillalies, 450 Morgan St.
- 259. Guenter Schillalies, 450 Morgan St.
- 260. Larry Mitchell, 1425 E. 2<sup>nd</sup> 386
- 261. Deborah Pannella, 1415 Lead
- 262. Nick Pannella, 1415 Lead
- 263. Kathleen M. Gee. 1417 Lead St.
- 264. Sharon K. Thomas, 1417 Lead St.



**Names of Valid Signatures:**

- 265. Steven Kilmer, 1419 Lead St.
- 266. Dolores Garcia, 1419 Lead St.
- 267. James McAfoos, 1207 Lead
- 268. James Hasty, 718 Pine
- 269. Phillip Sanders Sr. 1310 Tin Street
- 270. Loraine Hayes, 235 W. 7<sup>th</sup> Ave.
- 271. Michael Sisson, 700 Fir St.
- 272. Peter Lawton, 520 Grape
- 273. Emeli Dominguez, 865 W. 6<sup>th</sup> Apt. #1
- 274. Waymon Hensley, 980 W. 7<sup>th</sup>
- 275. Florence Hensley, 980 W. 7<sup>th</sup>
- 276. Wendy Stilwill, 865 W. 7<sup>th</sup> Ave.
- 277. Jane Holland, 865 W. 7<sup>th</sup> Ave.
- 278. Gayla Hubble, 380 W 6th Ave

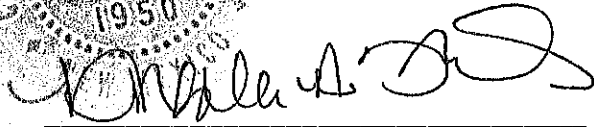
**Signatures purged from petition as per NM State Statute 3-1-5 (H3):**

- 1. Barbara L. Teater, 523 Gray: **Name was not listed on Voter Registration List provided by County Clerk**
- 2. Richard Plaatje, 301 Austin Apt #3: **Name was not listed on Voter Registration List provided by County Clerk**
- 3. Richard Abers, 910 Juniper: **Address does not match Voter Registration List provided by County Clerk**
- 4. David Brown, 818 Juniper: **Name was not listed on Voter Registration List provided by County Clerk**
- 5. Joseph ???, 920 Ivy: **Last name was illegible, and first name couldn't be matched to an address on the Voter Registration List provided by County Clerk**
- 6. Salella. S. Marshall, 100 N. Pershing: **Duplicate Signature. Only one signature was accepted**
- 7. Karina Angeles, 120 N. Pershing: **Duplicate Signature. Only one signature was accepted**
- 8. John Schue, 511 Gray St.: **Duplicate Signature. Only one signature was accepted**
- 9. Shelby Schue, 216 E. 2<sup>nd</sup> Ave.: **Duplicate Signature. Only one signature was accepted**
- 10. Ronnie W. May, 505 E. 3rd Ave. C5: **Name was not listed on Voter Registration List provided by County Clerk**
- 11. Julia Hernandez: 125 S. Cedar #5: **Duplicate Signature. Only one signature was accepted**
- 12. Mary Owens Hess, 365 W. 6<sup>th</sup> Ave: **Name was not listed on Voter Registration List provided by County Clerk**
- 13. Patsy Rubio, 150 S. Cedar St. #67: **Duplicate Signature. Only one signature was accepted**
- 14. Mitchell Brown, 405 Main: **Address does not match Voter Registration List provided by County Clerk**
- 15. Kristina Rhoades, 403 Camino Del Cielo: **Name was not listed on Voter Registration List provided by County Clerk**
- 16. Florence Davis, 1505 Steel: **Name was not listed on Voter Registration List provided by County Clerk**
- 17. Robert Beck, 902 B. N Pershing: **Duplicate Signature. Only one signature was accepted**
- 18. Edna Beck, 902 B. N. Pershing: **Duplicate Signature. Only one signature was accepted**
- 19. Brandon Faith, 904 N. Pershing: **Duplicate Signature. Only one signature was accepted**

**Signatures purged from petition as per NM State Statute 3-1-5 (H3):**

20. Mary E. Summers, 226 S. Cedar #5: **Address does not match Voter Registration List provided by County Clerk**
21. Tyler Godwin, address illegible: **Name was not listed on Voter Registration List provided by County Clerk**

**Verified on Thursday, September 19, 2024.**



Angela A. Torres, City Clerk-Treasurer

**SPECIAL ELECTION PROCLAMATION/RESOLUTION  
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO**

**ENGLISH RESOLUTION NO. 15 24/25**

**A PROCLAMATION RESOLUTION CALLING A SPECIAL ELECTION ON  
THURSDAY, FEBRUARY 13, 2025**

**Whereas**, a referendum petition has been submitted to the Governing Body of the City of Truth or Consequences, New Mexico, seeking a special election on the subject matter of this Resolution pursuant to Section 3-14-17 NMSA 1978; and

**Whereas**, the Governing Body of the City of Truth or Consequences, New Mexico wishes to call a special election at the earliest opportunity consistent with present law; and

**Whereas**, the earliest date upon which a special election may be called pursuant to Section 1-24-1 NMSA 1978 is February 13, 2025.

**Now Therefore Be It Resolved** by the Governing Body of the City of Truth or Consequences that:

The City Commission of the City of Truth or Consequences, New Mexico hereby PROCLAIMS:

- A. A Special Election will be held by mail through the Office of the County Clerk, 1712 N. Date Suite A, Truth or Consequences, New Mexico, on Thursday, February 13, 2025. It shall be conducted by mail ballot (ONLY) to all City of Truth or Consequences qualified registered electors.
- B. Voters shall be asked whether the following measure shall be adopted:

**ORDINANCE NO. 767: AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND INTERCEPT AGREEMENT BY AND BETWEEN THE CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO (THE "GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY (THE "FINANCE AUTHORITY"), EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF NOT TO EXCEED \$2,000,000, TOGETHER WITH INTEREST THEREON, FOR THE PURPOSE TO (1) ACQUIRE, CONSTRUCT, RENOVATE, FURNISH, EQUIP, BEAUTIFY AND IMPROVE A PUBLIC SAFETY BUILDING FOR THE BENEFIT OF THE CITY AND ITS RESIDENTS, (2) FUND A DEBT SERVICE RESERVE ACCOUNT, AND (3) PAY COSTS OF ISSUANCE; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE DISTRIBUTIONS OF THE REVENUES RECEIVED BY THE GOVERNMENTAL UNIT PURSUANT TO SECTION 7-1-6.4, NMSA 1978 (THE "STATE-SHARED GROSS RECEIPTS TAX"); APPROVING THE DELEGATION OF AUTHORITY TO MAKE CERTAIN DETERMINATIONS REGARDING THE LOAN PURSUANT TO THE SUPPLEMENTAL PUBLIC SECURITIES ACT PROVIDING FOR THE DISTRIBUTIONS OF THE REVENUES OF THE STATE-SHARED GROSS RECEIPTS TAX FROM THE STATE TAXATION AND REVENUE DEPARTMENT TO BE**



**REDIRECTED TO THE FINANCE AUTHORITY OR ITS ASSIGNS PURSUANT TO THE INTERCEPT AGREEMENT FOR THE PAYMENT OF PRINCIPAL AND INTEREST DUE ON THE LOAN AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT AND THE INTERCEPT AGREEMENT**

FOR THE ABOVE MEASURE  
AGAINST THE ABOVE MEASURE

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|  |
|  |

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

That the City Clerk and the Office of the County Clerk are hereby authorized to do all deeds necessary in the accomplishment of the herein above.

**PASSED, APPROVED and ADOPTED this 24<sup>th</sup> day of September, 2024.**

\_\_\_\_\_  
Rolf Hechler, Mayor

ATTEST:

\_\_\_\_\_  
Angela A. Torres, City Clerk

**PROCLAMACIÓN/RESOLUCIÓN DE ELECCIONES ESPECIALES  
CIUDAD DE TRUTH OR CONSEQUENCES, NUEVO MÉXICO**

**RESOLUCIÓN ESPOANOL NUM. 15 24/25**

**UNA RESOLUCIÓN DE PROCLAMACIÓN QUE CONVOCA A UNA ELECCIÓN ESPECIAL EL  
JUEVES, 13 DE FEBRERO DE 2025**

**Considerando que**, se presenta una petición de referéndum a el consejo administración de la ciudad de Truth or Consequences, Nuevo México, buscando una elección especial sobre el objeto de esta resolución de conformidad con la sección 3-14-17 NMSA 1978; y

**Considerando que**, el consejo administración de la ciudad de Truth or Consequences, Nuevo México desea llamar una elección especial a la mayor brevedad posible, de conformidad con la legislación vigente;

**Considerando que**, la fecha más temprana en la que se puede convocar a una elección especial de conformidad con la sección 1-24-1 NMSA 1987 es el día 13 de Febrero del 2025.

**Ahora, Pues, Resuevas** por el consejo de administración de la ciudad de Truth or Consequences ese:

La Comisión de la ciudad Truth or Consequences, Nuevo México por la presente PROCLAMA:

1. Se llevará a cabo una Elección Especial por correo a través de la Oficina del Secretario del Condado, 1712 N. Date Suite A, Truth or Consequences, Nuevo México, el **Jueves 13 de Febrero de 2025.** Se llevará a cabo por correo (SOLAMENTE) a todos los electores registrados calificados de la Ciudad de Truth or Consequences.
1. Se preguntará a los electores si se adopta la siguiente medida:

**ORDENANZA NO. 767: QUE AUTORIZA LA EJECUCIÓN Y ENTREGA DE UN CONTRATO DE PRÉSTAMO Y ACUERDO DE INTERCEPCIÓN ENTRE LA CIUDAD DE TRUTH OR CONSEQUENCES, NUEVO MÉXICO (LA "UNIDAD GUBERNAMENTAL") Y LA AUTORIDAD FINANCIERA DE NUEVO MÉXICO (LA "AUTORIDAD FINANCIERA"), QUE EVIDENCIA UNA OBLIGACIÓN ESPECIAL Y LIMITADA DE LA UNIDAD GUBERNAMENTAL DE PAGAR UN MONTO PRINCIPAL QUE NO EXCEDA LOS \$2,000,000, JUNTO CON LOS INTERESES CORRESPONDIENTES, CON EL PROPÓSITO DE (1) ADQUIRIR, CONSTRUIR, RENOVAR, AMUEBLAR, EQUIPAR, EMBELLECER Y MEJORAR UN EDIFICIO DE SEGURIDAD PÚBLICA PARA EL BENEFICIO DE LA CIUDAD Y SUS RESIDENTES, (2) FINANCIAR UNA CUENTA DE RESERVA PARA EL SERVICIO DE LA DEUDA, Y (3) PAGAR LOS COSTOS DE EMISIÓN; DISPONER EL PAGO DEL PRINCIPAL Y LOS INTERESES ADEUDADOS EN VIRTUD DEL CONTRATO DE PRÉSTAMO ÚNICAMENTE DE LAS DISTRIBUCIONES DE LOS INGRESOS RECIBIDOS POR LA UNIDAD GUBERNAMENTAL DE CONFORMIDAD CON LA SECCIÓN 7-1-6.4, NMSA 1978 (EL "IMPUESTO SOBRE LOS INGRESOS BRUTOS COMPARTIDOS POR EL ESTADO"); APROBAR LA DELEGACIÓN DE AUTORIDAD PARA TOMAR CIERTAS**

**DETERMINACIONES CON RESPECTO AL PRÉSTAMO DE CONFORMIDAD CON LA LEY DE VALORES PÚBLICOS SUPLEMENTARIOS QUE ESTABLECE QUE LAS DISTRIBUCIONES DE LOS INGRESOS DEL IMPUESTO SOBRE LOS INGRESOS BRUTOS COMPARTIDOS POR EL ESTADO DEL DEPARTAMENTO DE IMPUESTOS E INGRESOS DEL ESTADO SE REDIRIJAN A LA AUTORIDAD FINANCIERA O SUS CESIONARIOS DE CONFORMIDAD CON EL ACUERDO DE INTERCEPCIÓN PARA EL PAGO DEL PRINCIPAL Y LOS INTERESES ADEUDADOS EN EL ACUERDO DE PRÉSTAMO; RATIFICAR LAS MEDIDAS ADOPTADAS HASTA AHORA; DEROGAR TODAS LAS ACCIONES INCONSISTENTES CON ESTA ORDENANZA; Y AUTORIZAR LA ADOPCIÓN DE OTRAS ACCIONES EN RELACIÓN CON LA EJECUCIÓN Y ENTREGA DEL CONTRATO DE PRÉSTAMO Y DEL CONTRATO DE INTERCEPTACIÓN**

PARA LA MEDIDA ANTERIOR

☐

CONTRA LA MEDIDA ANTERIOR

☐

**AHORA, POR LO TANTO, SEA RESUELTO POR LA COMISIÓN MUNICIPAL DE LA CIUDAD DE TRUTH OR CONSEQUENCES.**

Que el Secretario de la Ciudad y la Oficina del Secretario del Condado están autorizados por la presente a realizar todas las acciones necesarias para el cumplimiento de lo aquí mencionado.

**APROBADO, APROBADO y ADOPTADO el 24 de Septiembre de 2024.**

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Rolf Hechler, Mayor

ATESTIGUAR:

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Angela A. Torres, City Clerk





## CITY OF TRUTH OR CONSEQUENCES

### AGENDA REQUEST FORM

**MEETING DATE:** September 24, 2024

*Agenda Item #: F.3*

**SUBJECT:** Publication of Ordinance No. 769 Authorizing the Issuance of The City of Truth or Consequences, New Mexico Water System Improvement Revenue Bonds, Series 2024B, In the Principal Amount of One Million Sixty-Five Thousand Nine Hundred Eighty-three Dollars and Thirty-Six cents (\$1,065,983.36) For the Purpose of Predevelopment Financing

**DEPARTMENT:** Assistant City Manager

**DATE SUBMITTED:** September 18, 2024

**SUBMITTED BY:** Traci Alvarez

**WHO WILL PRESENT THE ITEM:** Chris Muirhead

**Summary/Background:** First reading of Bond Ordinance and approval to publish Notice of Meeting and Intent to Adopt Ordinance related to \$1,065,983.36 loan with Bank of the Southwest for the pre-development financing of the Water System Improvement as approved by USDA Letter of Conditions, dated 7-30-2024. The financing will pay for costs incurred for all pre-development activities including preparation of PER/ER, design, final plans and specifications, obtained required easements and prepare bid documents.

**Recommendation:** The City Staff recommends approval of first reading of bond ordinance and publication of Notice of Meeting and Intent to Adopt Bond Ordinance.

**Attachments:**

- Bond Ordinance No. 769
- USDA Project Letter of Conditions
- Project Description and Map

**Fiscal Impact (Finance):** Yes

**Legal Review (City Attorney):** Yes

**Approved For Submittal By:** ☐ Department Director

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

**Final Approval:** ☐ City Manager

#### CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

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

Continued To: - Referred To: -

☐ Approved ☐ Denied ☐ Other: -

File Name: CC Agendas 9-24-24

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

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

Present: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Absent: \_\_\_\_\_  
\_\_\_\_\_

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

CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO  
ORDINANCE NO. 769

AUTHORIZING THE ISSUANCE OF THE CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO WATER SYSTEM IMPROVEMENT REVENUE BONDS, SERIES 2024B, IN THE PRINCIPAL AMOUNT OF ONE MILLION SIXTY-FIVE THOUSAND NINE HUNDRED EIGHTY-FOUR DOLLARS (\$1,065,984) FOR THE PURPOSE OF CONSTRUCTION FINANCING FOR ACQUIRING, EXTENSION, ENLARGING, BETTERING, REPAIRING OR OTHERWISE IMPROVING THE CITY'S WATER SYSTEM; PROVIDING FOR THE ISSUANCE AND SALE OF THE BONDS; PROVIDING THAT THE BONDS WILL BE PAYABLE AND COLLECTIBLE SOLELY FROM NET REVENUES TO BE DERIVED FROM THE OPERATION OF THE CITY'S WATER SYSTEM; PROVIDING FOR THE TERMS AND CONDITIONS OF THE BONDS, THE MANNER OF THEIR EXECUTION, THE METHOD OF PAYING THE BONDS AND OTHER DETAILS CONCERNING THE BONDS AND SUCH SYSTEM, INCLUDING BUT NOT LIMITED TO COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION THEREWITH AND APPERTAINING THERETO.

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

WHEREAS, the City of Truth or Consequences, Sierra County, New Mexico, is a legally and regularly created, established, organized and existing municipal corporation under the general laws of the State of New Mexico; and

WHEREAS, the City now owns, operates and maintains a public water utility, and which the City hereby declares shall be continued to be operated as a public utility; and

WHEREAS, the City has heretofore provided for the imposition of rates and charges against users of the System; and

WHEREAS, the City is authorized under the Act to issue revenue bonds for the Project and the Series 2024B Bonds shall be issued pursuant to the Act; and

WHEREAS, the issuance of the Series 2024B Bonds will provide for the preservation of the public health, peace and safety; and

WHEREAS, it is in the best interest of the City that the Series 2024B Bonds be issued with a first lien on the Net Revenues; and

WHEREAS, the Bank of the Southwest has offered to purchase the Series 2024B Bonds, in the principal amount of \$1,065,984 at par and at an interest rate of 5.00% per annum pursuant to this Ordinance, plus accrued interest, if any, to the date of delivery; and

WHEREAS, all required authorizations, consents or approvals of any state, governmental body, agency or authority, in connection with the authorization, execution and delivery of the



Series 2024B Bonds which are required to have been obtained by the date hereof have been obtained, and which will be required to be obtained prior to the date of the issuance of the Series 2024B Bonds, will have been obtained by such date.

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

Section 1. Definitions. In addition to words and terms elsewhere defined in this Ordinance, the following words and terms shall have the following meanings:

“Act” means the powers of the City under the authority given by the provisions of Sections 3-31-1 through 3-31-12 NMSA 1978, as amended and supplemented, and all enactments of the Commission relating to the issuance of the Series 2024B Bonds.

“Bond Fund” means the “City of Truth or Consequences, New Mexico Water System Improvement Revenue Bonds, Series 2024B, Interest and Bond Retirement Fund” created by Section 16 hereof.

“Bondholder”, “holder” or “owner” means any registered owner of the Series 2024B Bonds.

“City” means the municipal corporation, a body corporate and politic known as the “City of Truth or Consequences, New Mexico.”

“Commission” means the City Commission, or any succeeding legislative body of the City, as such governing body from time to time may be constituted and authorized to act and approve actions by a properly constituted quorum.

“Consulting Engineer” means any registered or licensed professional engineer or firm of such engineers having a wide and favorable reputé for skill and experience in the field of designing, preparing plans and specifications for, and supervising construction of water systems and facilities entitled to practice and practicing as such under the laws of the State of New Mexico.

“Debt Service Schedule” means the payment schedule for the Series 2024B Bonds as provided by the Purchaser, as the same may be revised in the event of partial prepayment of the Series 2024B Bonds.

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

“Herein” or “hereby” or “hereunder” or “hereof” or “hereinbefore” or “hereinafter” refers to this Ordinance and not solely to the particular portion thereof in which such word is used.

“Income Fund” means the “Water Utility System Gross Income Fund” continued by Section 16 hereof.

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

“Insured Bank” means a bank or savings and loan association insured by an agency of the United States and which invests public funds in accordance with the provisions of Section 6-10-10 NMSA 1978, as amended.

“Mayor” means the Mayor of the City, or if the form of government of the City is changed, the presiding officer of the City no matter how such officer may be designated.

“Net Revenues” means the Gross Revenues of the System less Operation and Maintenance expenses, which net revenues are pledged to the payment of the Series 2024B Bonds are provided herein.

“NMSA 1978” means the compilation of the laws of the State of New Mexico known as New Mexico Statutes Annotated, 1978 Compilation, as from time to time amended and supplemented.

“Operation and Maintenance Fund” means the “Operation and Maintenance Fund” continued herein.

“Operation and Maintenance Expenses” means all reasonable and necessary current expenses of the City, paid or accrued, of operating, maintaining and repairing the System, and shall include without limiting the generality of the foregoing, insurance premiums, reasonable charges of depository banks, paying agents and bond registrars, contractual services, professional services required by this Ordinance, salaries and System administrative expenses, labor, cost of materials and supplies used for current operations, legal and overhead expenses of the various City departments directly related and reasonably allocable to the administration of the System, any payments made to the City's general fund as payments in lieu of franchise taxes or fees or other City taxes or fees or other similar payments or transfers to other funds of the City, but shall not include any allowance for depreciation, liabilities incurred by the City as the result of negligence in the operation of the System, costs of improvements, extensions, enlargements or betterments, or any charges for the accumulation of reserves for capital replacements.

“Ordinance” means this ordinance.

“Outstanding” or “outstanding” means, on any particular date, the aggregate of such bonds issued and delivered under the City ordinance authorizing the issuance of such bonds except:

A. Those cancelled at or prior to such date or delivered to or acquired by the City at or prior to such date for cancellation;

B. Those which have been paid or are deemed to be paid in accordance with the City ordinance authorizing the issuance of the applicable bonds or otherwise relating thereto; and

C. Those in lieu of or in exchange or substitution for which other bonds have been delivered, unless proof satisfactory to the City and paying agent for the applicable bonds is presented that any bond for which a new bond was issued or exchanged is held by a bona fide holder in due course.

“Parity Obligations” or “Parity Bonds” means any other bonds and other obligations now or hereafter issued or incurred payable from the Net Revenues and issued or incurred with a lien on the Net Revenues on parity with the Series 2024B Bonds.

“Paying Agent” means the City Clerk-Treasurer or any successor thereto designated by the Commission to act in such capacity for the Series 2024B Bonds.

“Project” means construction financing for acquiring, extending, enlarging, bettering, repairing or otherwise improving the System.

“Project Fund” means the “City of Truth or Consequences, New Mexico Water System Improvement Revenue Bonds, Series 2024B, Project Fund” created by Section 14 hereof.

“Purchaser” means the Bank of the Southwest to whom the Series 2024B Bonds are to be originally sold and delivered.

“Registrar” means the City Clerk-Treasurer or any successor thereto designated by the Commission to act in such capacity for the Series 2024B Bonds.

“Revenues”, “Gross Revenues”, “income” or “gross income” means all income and revenues (including but not limited to interest income from the investment of System revenues) derived by the City from the operation of the System, or any part thereof, whether resulting from improvements, extensions, enlargements, repairs or betterments to the System, or otherwise, and includes all revenues derived by the City or any municipal corporation succeeding to the rights of the City, from the System and from the sale and use of water service and facilities, or any combination thereof, to the residents of what is now the City (including all territorial annexations which may be made while the Series 2024B Bonds or any part thereof are outstanding), or from the sale and use of water service and facilities, by means of the System owned and operated by the City as the same may at any time exist to serve customers outside the City limits as well as customers within the City limits.

“Series 2024B Bonds” means the “City of Truth or Consequences, New Mexico Water System Improvement Revenue Bonds, Series 2024B” authorized by Section 5 hereof.



“System” or “Utility” means the municipally owned public utility designated as the City's water utility system, consisting of all properties, real, personal, mixed or otherwise, now owned or hereafter acquired by the City through purchase, condemnation, construction or otherwise, including all expansions, extensions, enlargements and improvements of or to the water utility system, and used in connection therewith or relating thereto, and any other related activity or enterprise of the City designated by the Commission as part of the water utility system, whether situated within or without the limits of the City.

Section 2. Ratification. All action heretofore taken (not inconsistent with the provisions of this Ordinance) by the Commission and the officers of the City directed toward the Project and toward the issuance of the Series 2024B Bonds and the sale of the Series 2024B Bonds to the Purchaser is hereby ratified, approved and confirmed.

Section 3. Authorization of Project. The Project shall be constructed and acquired at a total estimated cost not exceeding \$1,065,984 with costs in excess of the amount of the purchase price of the Series 2024B Bonds to be defrayed from sources other than proceeds from the issuance of the Series 2024B Bonds.

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

A. It is in the best interest of the City and its residents to undertake the sale of the Series 2024B Bonds.

B. Moneys available for the Project from all sources other than the issuance of the Series 2024B Bonds are not sufficient to accomplish the Project.

C. The issuance by the City of the Series 2024B Bonds under the Act to provide funds for the Project is necessary and in the interest of the public health, safety, morals and welfare of the residents of the City.

D. The Net Revenues may lawfully be pledged to secure the payment of the Series 2024B Bonds as set forth herein.

E. The net effective interest rate on the Series 2024B Bonds of 5.00% is less than the statutory maximum of 12% per annum.

Section 5. The Series 2024B Bonds.

A. Authorization. Pursuant to the findings of Section 4 hereof, it is hereby declared that the City, pursuant to the Act, shall issue and sell the Series 2024B Bonds. The Series 2024B Bonds, in the principal amount of \$1,065,984, are hereby authorized to be issued and sold at par to the Purchaser.

B. Details of the Series 2024B Bonds. There are hereby authorized and created a series of bonds designated as the "City of Truth or Consequences, New Mexico Water System Improvement Revenue Bonds, Series 2024B."

The Series 2024B Bonds shall be dated as of the date of issuance and delivery, shall be originally issued as one bond in the denomination of \$1,065,984, numbered R-1, shall be payable to the registered owner, and shall bear interest on the outstanding principal amount advanced under the Series 2024B Bonds at a rate of 5.00% per annum calculated from the date of each advance to the repayment of each advance, calculated on the basis of a 365-day year, actual number of days elapsed. Interest payments shall be due monthly after the first advance until final maturity of the Series 2024B Bonds. Principal on the Series 2024B Bonds shall become due and payable upon maturity of the Bonds, which shall be on or about December 1, 2026 (i.e., twenty-four months after issuance of the Series 2024B Bonds).

The form, term, and provisions of the Series 2024B Bonds, in the form set forth in Section 12 hereof are hereby approved with only such changes therein as are not inconsistent with this Ordinance.

Section 6. Prior Redemption.

A. Optional Redemption, Date and Price. The Series 2024B Bonds are subject to prior redemption at the option of the City on any date, in whole or in part, as the City may determine, at a redemption price equal to the principal amount being redeemed, plus accrued interest to the date fixed for redemption. Any partial redemption of the Series 2024B Bonds shall be in inverse order of principal maturity and, after principal redemptions, if any, interest thereafter shall accrue only upon the then outstanding principal amount of Series 2024B Bonds.

B. Notice. Notice of redemption shall be given by the Registrar by sending a copy of such notice by first-class, postage prepaid mail, or by electronic transmission, at least thirty (30) days prior to the redemption date to the registered owner of the Series 2024B Bonds to be redeemed at the address shown on the registration books kept by the Registrar as of the close of business of the Registrar on the fifth day prior to the mailing of notice. Notice of redemption shall specify the principal amount to be redeemed, the date fixed for redemption, and that on such redemption date there will become and be due and payable at the office of the Paying Agent the principal amount to be redeemed plus accrued interest to the redemption date and that from and after such date interest will cease to accrue on such amount. Notice having been given in the manner provided above, the principal amount of the Series 2024B Bonds so called for redemption shall become due and payable on the redemption date so designated and if an amount of money sufficient to redeem the principal amount of the Series 2024B Bonds called for redemption shall on the redemption date be on deposit with the Paying Agent, the principal amount of the Series 2024B Bonds to be redeemed shall be deemed not outstanding and shall cease to bear interest from and after such redemption date. Upon presentation of the Series 2024B Bonds to be redeemed at the office of the Paying Agent, the Paying Agent will pay the principal amount of the Series 2024B Bonds so called for redemption plus accrued interest to the redemption date.

Section 7. Signatures, Execution and Authentication of Series 2024B Bonds.

A. Filing of Signatures. Prior to the execution of any Series 2024B Bond, the Mayor and City Clerk-Treasurer may each file with the New Mexico Secretary of State his or her manual signature certified by him or her under oath pursuant to Sections 6-9-1 to 6-9-6 NMSA 1978, as amended; provided that filing shall not be necessary for any officer where any previous filing may have legal application to the Series 2024B Bonds.

B. Execution. The Series 2024B Bonds shall be signed with the engraved, imprinted, stamped or otherwise reproduced facsimile of the signature, or the manual signature, of the Mayor and shall be attested with the facsimile or the manual signature of the City Clerk-Treasurer. There shall be affixed to each Series 2024B Bond the printed, engraved, stamped or otherwise placed facsimile of, or imprint of, the City's corporate seal. The Series 2024B Bonds shall be authenticated by the manual signature of an authorized officer of the Registrar. The Series 2024B Bonds when authenticated and bearing the manual or facsimile signature of the officers in office at the time of signing thereof shall be valid and binding special obligations of the City, notwithstanding that before delivery thereof and payment therefor, any or all of the persons whose signatures appear thereon shall have ceased to fill their respective offices. The Mayor and City Clerk-Treasurer, at the time of the execution of the Series 2024B Bonds and the signature certificate, each may adopt as and for his or her own facsimile signature, the facsimile signature of his or her predecessor in office if such facsimile signature appears upon any of the Series 2024B Bonds or certificates pertaining to the Series 2024B Bonds.

C. Authentication. No Series 2024B Bond shall be valid or obligatory for any purpose unless the certificate of authentication has been duly executed by the Registrar. The Registrar's certificate of authentication shall be deemed to have been fully executed if manually signed and inscribed by an authorized officer of the Registrar, but it shall not be necessary that the same officer sign the certificate of authentication on all of the Series 2024B Bonds issued hereunder.

Section 8. Negotiability. The Series 2024B Bonds shall be fully negotiable and shall have all the qualities of negotiable paper, and the Bondholder shall possess all rights enjoyed by the holders of negotiable instruments under the provisions of the Uniform Commercial Code--Investment Securities.

Section 9. Payment and Presentation of Series 2024B Bonds for Payment. Principal and interest on the Series 2024B Bonds shall be payable in lawful money of the United States of America, without deduction for exchange or collection charges. Principal and interest on the Series 2024B Bonds shall be payable by check or draft mailed to the registered owner thereof (or in such other manner as may be agreed upon by the Paying Agent and the registered owner), as shown on the registration books maintained by the Registrar at the address appearing therein on the 5<sup>th</sup> calendar day next preceding the payment date (the "Record Date"). If any payment on the Series 2024B Bonds remains unpaid when due, the payment shall continue to bear interest at the rate or rates designated in, and applicable to, the Series 2024B Bonds. The records of the Paying Agent and the Registrar with respect to payments paid to the registered owners of the Series 2024B Bonds shall be conclusive and no posting or notation of payments on the Series 2024B Bond forms shall be required.



Section 10. Registration, Transfer, Exchange and Ownership of Series 2024B Bonds.

A. Registration, Transfer and Exchange. The City shall cause books for registration, transfer, and exchange of the Series 2024B Bonds as provided herein to be kept at the principal office of the Registrar. Upon surrender for transfer or exchange of the fully registered Series 2024B Bonds at the principal office of the Registrar duly endorsed by the registered owner or his attorney duly authorized in writing, or accompanied by a written instrument or instruments of transfer or exchange in form satisfactory to the Registrar and duly executed, the Registrar shall, without cost to the registered owner, authenticate and deliver, not more than three (3) business days after receipt of the Series 2024B Bonds to be transferred, in the name of the transferee or registered owner, as appropriate, a new Series 2024B Bond or Series 2024B Bonds in authorized denominations, in fully registered form of the same aggregate principal amount, maturity and interest rate.

B. Limitations. The Registrar shall not be required to transfer or exchange any Series 2024B Bonds (i) during the period of fifteen (15) days next preceding mailing of notice calling the Series 2024B Bonds for prior redemption as herein provided, or (ii) after mailing to the registered owner of notice calling such Series 2024B Bonds for prior redemption as herein provided. The Registrar shall close books for change of registered owners' addresses five (5) days prior to each payment date. Transfers shall be permitted within the five (5) days prior to each payment date; such transfer shall not include a transfer of the principal and interest payable on such payment date.

C. Owner of Series 2024B Bonds. The entity in whose name the Series 2024B Bonds are registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of either the principal or interest on the Series 2024B Bonds shall be made only to or upon the order of the registered owner thereof or his legal representative as stated herein, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Series 2024B Bonds to the extent of the sum or sums so paid.

D. Lost Series 2024B Bonds. If the Series 2024B Bonds shall be lost, stolen, destroyed or mutilated, the Registrar shall, upon receipt of such Series 2024B Bonds, if mutilated, and such evidence, information or indemnity relating thereto as the Registrar may reasonably require, authenticate and deliver replacement Series 2024B Bonds of a like aggregate principal amount and of the same series, maturity and interest rate, bearing a number or numbers not contemporaneously outstanding. If any such lost, stolen, destroyed or mutilated Series 2024B Bonds shall have matured, the Registrar may request the Paying Agent to pay such bond in lieu of replacement.

Section 11. Special Obligations. The Series 2024B Bonds, together with interest accruing thereon, shall be payable and collectible solely out of Net Revenues, the revenues of which are so pledged, and the Bondholders may not look to any general or other municipal fund for the payment of principal and interest on such obligations, except the designated special funds pledged therefor. The Series 2024B Bonds shall not constitute indebtedness or a debt within the

meaning of any constitutional or statutory provision or limitation, nor shall they be considered or held to be general obligations of the City. Nothing herein shall prevent the City from using any other legally available funds for the payment of the principal of and interest on the Series 2024B Bonds, in its sole discretion.

Section 12. Form of Series 2024B Bonds. The Series 2024B Bonds and the forms of authentication and assignment to be attached thereto shall be in substantially the following form with such changes therein as are not inconsistent with this Ordinance.

(Form of Series 2024B Bonds)

UNITED STATES OF AMERICA  
STATE OF NEW MEXICO COUNTY OF SIERRA  
CITY OF TRUTH OR CONSEQUENCES  
WATER SYSTEM IMPROVEMENT REVENUE BONDS  
SERIES 2024B

**No. R-1** **\$1,065,984**

| Interest Rate | Maturity Date      | Date of Bonds     |
|---------------|--------------------|-------------------|
| 5.00%         | [December 1], 2026 | December __, 2024 |

REGISTERED OWNER: BANK OF THE SOUTHWEST

PRINCIPAL AMOUNT: ONE MILLION SIXTY-FIVE THOUSAND NINE HUNDRED EIGHT-FOUR DOLLARS

The City of Truth or Consequences, New Mexico (the "City") for value received, hereby acknowledges itself indebted and promises to pay, but only from the sources and in the manner provided for herein, to the Registered Owner stated above, or its registered assigns, in lawful money of the United States of America the principal amount stated above, together with interest thereon, in the amounts and on the dates set forth in the debt service schedule provided by the Registered Owner, until full payment of the principal amount plus accrued interest has been made. This bond shall bear interest on the outstanding principal advanced on the Series 2024B Bonds at the rate of 5.00% per annum, calculated from the date of each advance on the basis of a 365-day year, actual number of days elapsed. Interest payments shall be due monthly after the first advance until final maturity of the Series 2024B Bonds. Principal on the Series 2024B Bonds shall become due and payable on the Maturity Date. Payment on the Series 2024B Bonds shall be payable upon presentation and surrender of the Series 2024B Bonds to the City Clerk-Treasurer, as Paying Agent. If any payment of this bond is not made as herein provided, the payment shall continue to bear interest at the Interest Rate stated above until the payment is paid in full. The principal and interest on this bond are payable in lawful money of the United States of America, without deduction for the services of the Paying Agent or Registrar.

This bond is a fully registered bond of the City in the aggregate principal amount of \$1,065,984, designated as the "City of Truth or Consequences, New Mexico Water System

Improvement Revenue Bonds, Series 2024B” (the “Series 2024B Bonds”) issued under and pursuant to City Ordinance No. 769 (the “Bond Ordinance”).

This bond may be redeemed, in whole or in part, at the option of the City on any date on at a redemption price equal to the principal amount being redeemed, plus accrued interest to the date fixed for redemption.

Notice of redemption will be given by providing at least thirty (30) days prior written notice by first-class, postage prepaid mail to the owner of the Series 2024B Bonds, to be redeemed at the address shown on the registration books as of the close of business of the Registrar on the fifth day prior to the mailing of notice. The notice of redemption shall specify the redemption date and the principal amount thereof, plus accrued interest to the redemption date, and that from and after such date interest will cease to accrue. Notice having been given in the manner provided above, the Series 2024B Bonds so called for redemption shall become due and payable on the redemption date so designated and if an amount of money sufficient to redeem the Series 2024B Bonds called for redemption shall on the redemption date be on deposit with the Paying Agent, the Series 2024B Bonds to be redeemed shall not be deemed to be outstanding and shall cease to bear interest from and after such redemption date.

Upon surrender for transfer or exchange of this bond at the principal office of the Registrar duly endorsed by the registered owner or his attorney duly authorized in writing, or accompanied by a written instrument of transfer or exchange in form satisfactory to the Registrar and duly executed, the Registrar will authenticate and deliver in the name of the transferee or registered owner, as appropriate, a new bond in fully registered form of the same outstanding principal amount, maturity and interest rate, in an authorized denomination. The person in whose name any Bond is registered will be deemed and regarded as the absolute owner thereof for all purposes, and payment of principal of and interest on the Series 2024B Bonds will be made only to or upon the order of the registered owner thereof or his legal representative. All such payments will be valid and effectual to satisfy and discharge the liability upon the Series 2024B Bonds to the extent of the sum so paid.

This bond and the payments of principal hereof and interest hereon do not constitute indebtedness of the City within the meaning of any constitutional or statutory provision or limitation, shall not be considered or held to be a general obligation of the City and is payable and collectible solely out of the net revenues of the City’s water utility system (the “Net Revenues”) as more particularly described in the Bond Ordinance. The holder of this bond may not look to any general or other municipal fund for payment of the principal of or interest on this bond. The City has covenanted to pay the Net Revenues an amount sufficient to pay specified operation and maintenance expenses of the System, and the regularly scheduled payments on the Series 2024B Bonds and other Parity Obligations when due. For a more complete description of the nature and extent of the security, reference is made to the Bond Ordinance.

The Series 2024B Bonds are issued by the City for the purpose of construction financing for acquiring, extending, enlarging, bettering, repairing or otherwise improving the City's Water Utility System (the “Project”).



The Series 2024B Bonds are secured by a pledge of the Net Revenues. The Series 2024B Bonds constitute an irrevocable first lien (but not an exclusive first lien) upon the Net Revenues on parity with the lien thereon of the City's outstanding Parity Obligations (as defined in the Bond Ordinance). Additional bonds may be issued and made payable from the Net Revenues, subject to express conditions, having a lien thereon on parity with the lien of the Series 2024B Bonds in accordance with the provisions of the Bond Ordinance. The City covenants and agrees with the owner of this bond and with each and every person who may become the owner hereof that it will keep and perform all of the covenants of the Bond Ordinance.

The Series 2024B Bonds will not be entitled to any benefit under the Bond Ordinance or become valid or obligatory for any purpose until an authorized officer of the Registrar has manually signed the Certificate of Authentication hereon.

It is hereby certified that all acts and conditions necessary to be done or performed by the City or to have happened precedent to and in the issuance of the Series 2024B Bonds to make them legal, valid and binding special obligations of the City have been performed and have happened, as required by law, and that the Series 2024B Bonds do not exceed or violate any constitutional, statutory or charter limitation. No member of the City Commission, or any officer or employee of the City, including those executing this bond, shall be personally liable on any Series 2024B Bonds.

IN WITNESS WHEREOF, the City of Truth or Consequences, in the State of New Mexico, has caused this bond to be signed and executed on the City's behalf by the signatures of its Mayor and City Clerk-Treasurer and has caused the seal of the City to be affixed hereon all as of the Date of Bond specified above.

CITY OF TRUTH OR CONSEQUENCES  
NEW MEXICO

By \_\_\_\_\_  
Mayor

[SEAL]

By \_\_\_\_\_  
Clerk-Treasurer

(Form of Certificate of Authentication)

Date of Registration: \_\_\_\_\_

This bond is one of the Series 2024B Bonds authorized to be issued by and under the provisions of the Bond Ordinance.

By \_\_\_\_\_  
Clerk-Treasurer  
Truth or Consequences, New Mexico

(End of Form of Certificate of Authentication)

(Form of Assignment)

ASSIGNMENT CLAUSE

For value received, the undersigned sells, assigns and transfers unto \_\_\_\_\_, whose social security or tax identification number is \_\_\_\_\_, the within bond and all rights thereunder, and does hereby irrevocably constitute and appoint \_\_\_\_\_ as legal representative to transfer the within bond on the books of the Registrar, with full power of substitution in the premises.

DATED: \_\_\_\_\_

NOTE: The above signature must correspond with the name as written on the face of the within bond in every particular.

(End of Form of Assignment)

(End of Form of Bonds)

Section 13. Sale of Series 2024B Bonds. The sale and award of the Series 2024B Bonds to the Purchaser are hereby ratified, approved and confirmed. The Mayor and other City officers are hereby authorized to do all things necessary and consistent with this Ordinance in connection with the sale, issuance and delivery of the Series 2024B Bonds.

Section 14. Delivery of the Series 2024B Bonds and Disposition of Proceeds. When the Series 2024B Bonds have been duly executed and authenticated, they shall be delivered to the

Purchaser. By purchasing the Series 2024B Bonds, the Purchaser agrees to pay to the City the principal amount of the Series 2024B Bonds.

The City shall account for the proceeds of the Series 2024B Bonds as follows:

A. Accrued Interest. The Series 2024B Bonds shall be dated as of the date of actual issuance and delivery and no accrued interest shall be payable by the Purchaser for the period prior to the date of actual issuance and delivery of the Series 2024B Bonds.

B. Sale Proceeds. The proceeds from the sale of the Series 2024B Bonds, as advanced by the Purchaser, shall be deposited by the City promptly upon the receipt thereof in a separate account in an Insured Bank, designated by the City, which account is hereby created and shall be known as the "City of Truth or Consequences, New Mexico Water System Improvement Revenue Bonds, Series 2024B, Project Fund." The Insured Bank shall be required to pledge collateral security for all deposits in the Project Fund in accordance with the laws of the State of New Mexico, and laws and regulations of the United States of America. The monies in the Project Fund, except as herein otherwise specifically provided, shall be used and paid out solely for the purposes specified in this Ordinance.

C. Purchaser Not Responsible. The Purchaser of the Series 2024B Bonds shall not be responsible for the application or disposal by the City or by its officers of the funds derived from the sale thereof or of any other funds herein designated.

#### Section 15. The Project Fund.

A. Withdrawals. Monies shall be withdrawn from the Project Fund for the Project by the Mayor and the City Manager.

B. Disposition of Unspent Amounts in the Project Fund. When all work on the Project is completed in accordance with the plans and specifications and all amounts due therefor are paid, the Consulting Engineer shall file with the City a certificate so stating, and thereupon the City shall cause the Insured Bank to transfer to the Bond Fund all funds remaining in the Project Fund, if any, and such proceeds shall be promptly used to pay debt service on the Series 2024B Bonds.

#### Section 16. Special Funds.

A. The Income Fund is hereby continued. The Water Utility System Gross Income Fund shall be used for the deposit of the Gross Revenues of the System and shall be a special fund, not part of the general treasury or general fund of the City.

B. The Operation and Maintenance Fund is hereby continued as a separate account in the Income Fund and shall be used for the deposit of revenues of the System to be used for the payment of Operation and Maintenance Expenses of the System as set forth in Section 17 of this Ordinance.



C. The Bond Fund is hereby created as a separate account in the Income Fund and shall be used for deposit of Net Revenues of the System to be used for the payment of principal and interest on the Series 2024B Bonds as set forth in Section 17 hereof.

Section 17. Administration of Income Fund. So long as the Series 2024B Bonds shall be outstanding either as to principal or interest, or both, the Gross Revenues of the System shall be set aside and deposited into the Income Fund and the following monthly payments shall be made from the Income Fund:

A. Operation and Maintenance Expenses. Money in the Income Fund shall first be disbursed to make deposits into the Operation and Maintenance Fund. There shall be deposited in the Operation and Maintenance Fund each month an amount sufficient to meet the current Operation and Maintenance Expenses of the month.

B. Bond Fund. Second and concurrently with the monthly payments required by paragraph C of this Section, and subject to and after the payments required by paragraph A of this Section, from any moneys remaining in the Income Fund there shall be deposited to the Bond Fund the following:

(1) Monthly, commencing on the first of the month immediately succeeding the issuance and delivery of the Series 2024B Bonds, an amount which is necessary, together with any moneys therein and available therefor, to pay the payment of principal on the Series 2024B Bonds at the Maturity Date and to pay interest monthly based on advances of Bond proceeds; and

(2) If prior to the Maturity Date, there has been accumulated in the Bond Fund the entire amount necessary to pay the principal and interest due on the Maturity Date, the payment required in subparagraph (1) of this subsection, may cease or be appropriately reduced.

Except as provided in paragraph 1 of this Section, the moneys in the Bond Fund shall be used only to pay the principal of and interest on the Series 2024B Bonds as the same become due.

C. Payment of the Additional Parity Obligations. Concurrently with the payments required by paragraph B of this Section, and subject to and after the payments required by paragraph A of this Section, any balance remaining in the Income Fund shall be used by the City for the payment of principal of and interest on the Parity Obligations (including, in each case, reserves therefor), if any, issued and payable from the Net Revenues, as the same accrue.

D. Payment of Subordinate Obligations. Third, and subject to and after the payments required by paragraphs A through C of this Section, from any monies remaining in the Income Fund, there shall be made the payment of interest on and principal of, and reserves for, additional bonds or other obligations hereafter authorized to be issued and payable from the Net Revenues with a lien thereon which is subordinate and junior to the lien thereon of Parity Obligations.

E. Use of Surplus Revenues. Gross Revenues accumulated over and above that needed to pay Operating and Maintenance Expenses and debt service for any outstanding obligations may only be retained or used to make prepayments on the Parity Obligations or subordinate obligations or for System improvements. Gross Revenues cannot be used to pay any expenses which are not directly incurred for the System.

Section 18. General Administration of Funds. The funds designated in Sections 16 and 17 shall be administered and invested as follows:

A. Places and Times of Deposits. The funds shall be separately maintained as a trust fund or funds for the purposes established and shall be deposited in one or more bank accounts in an Insured Bank or Banks. Each fund shall be continuously secured to the extent required by law and shall be irrevocable and not withdrawable by anyone for any purpose other than the stated purpose. Payments shall be made into the proper account not later than the first day of the month except when the first day shall be a Sunday or legal holiday, and then payment shall be made on the next succeeding business day. No later than three (3) days prior to each payment date, moneys sufficient to pay interest and principal then due on the Series 2024B Bonds shall be transferred to the Paying Agent. Nothing in this Ordinance shall prevent the Commission from establishing one or more bank accounts in an Insured Bank or Insured Banks for all the funds required by this Ordinance or, except for the Project Fund which must be maintained as a separate account, shall prevent the combination of such funds and accounts with any other bank account or accounts for other funds and accounts of the City.

B. Investment of Moneys. Moneys in any fund or account not immediately needed may be invested in any investment permitted by law. The obligations so purchased as an investment of moneys in any fund or account shall be deemed to be part of such fund or account, and the interest accruing thereon and any profit realized therefrom shall be credited to such fund or account, and any loss resulting from such investment shall be charged to such fund or account. The City Clerk-Treasurer shall present for redemption or sale on the prevailing market any obligations so purchased as an investment of moneys in the fund or account whenever it shall be necessary to do so in order to provide moneys to meet any payment or transfer from such fund.

Section 19. Lien on Net Revenues. The Series 2024B Bonds shall constitute an irrevocable first lien (but not an exclusive first lien) on, and the City hereby grants to the owners of the Series 2024B Bonds a security interest in, the Net Revenues as set forth herein and on parity with any existing Parity Obligations or future Parity Obligations which may be issued. The Net Revenues are hereby authorized to be pledged and are hereby pledged and the City grants a security interest therein and in the funds on deposit in the Bond Fund and Project Fund for the payment of the principal of and interest on the Series 2024B Bonds.

Section 20. Additional Bonds or Other Obligations Payable from Net Revenues.

A. Earnings Test. Nothing in this ordinance contained shall be construed to prevent the issuance by the City of additional Parity Obligations payable from the Net Revenues and constituting a lien upon said revenues on a parity with, but not prior or superior to the lien of the Series 2024B Bonds, nor to prevent the issuance of bonds or other obligations refunding all or

a part of the Series 2024B Bonds, provided, however, that before any such additional Parity Obligations are authorized or actually issued, the following tests shall be satisfied:

(1) The City is not, and has not been in default as to making any payments required by Section 17 hereof during the twelve months immediately preceding the issuance of such additional Parity Obligations, or if none of the Series 2024B Bonds have been issued and Outstanding for a period of at least twelve months, then for the longest period of time any of such Series 2024B Bonds have been issued and Outstanding; and

(2) The Net Revenues for the Fiscal Year immediately preceding the date of issuance of such additional Parity Obligations shall have been sufficient to pay an amount representing one hundred twenty percent (120%) of the combined average annual principal and interest requirements coming due in any subsequent Fiscal Year on the then outstanding Parity Obligations payable from and constituting a lien upon the Net Revenues and the additional Parity Obligations proposed to be issued (excluding any reserves therefor).

B. Certification or Opinion of Earnings. A written certification or opinion by an Independent Accountant or the City Manager that Net Revenues for the Fiscal Year immediately preceding the date of issuance of the proposed additional Parity Obligations are sufficient to pay said amounts, shall be conclusively presumed to be accurate in determining the right of the City to authorize, issue, sell and deliver the proposed additional Parity Obligations on a parity with the Series 2024B Bonds.

C. Consideration of Additional Revenue Permitted. In determining whether or not additional Parity Obligations may be issued as aforesaid, consideration may be given to any probable increase in the estimated Net Revenues of the System that may result from the expenditure of funds proposed to be derived from the issuance and sale of the proposed additional Parity Obligations or an increase in System rates.

D. Subordinate Obligations Permitted. Nothing herein contained shall be construed to prevent the City from issuing bonds or other obligations payable from the revenues of the System and having a lien thereon subordinate, inferior and junior to the lien of the Series 2024B Bonds.

E. Superior Obligations Prohibited. Nothing herein contained shall be construed to permit the City to issue bonds or other obligations payable from the revenues of the System and having a lien thereon prior and superior to the lien of the Series 2024B Bonds.

Section 21. Refunding Bonds. The provisions of Section 20 hereof are subject to the following exceptions:

A. Privilege of Issuing Refunding Obligations. If at any time the Commission shall find it desirable to refund the Outstanding Series 2024B Bonds, the Series 2024B Bonds may be refinanced and paid, in whole or in part, in advance of their maturity.



B. Limitations upon Issuance of Parity Refunding Obligations. No refunding bonds or other refunding obligations payable from any revenues of the System shall be issued on a parity with the Series 2024B Bonds, unless the refunding bonds or other refunding obligations are issued in compliance with paragraph A of Section 20 hereof.

C. Limitations upon Issuance of any Refunding Obligations. Any refunding bonds or other refunding obligations payable from any revenues of the System shall be issued with such details as the Commission may provide by ordinance.

Section 22. Protective Covenants. The City covenants and agrees with each and every holder of the Series 2024B Bonds:

A. Public Utility. The municipal water facilities of the City shall continue to constitute a public utility designated as the System and shall hereafter be operated and maintained as a public utility.

B. Use of Series 2024B Bonds Proceeds. The City, with the proceeds derived from the sale of the Series 2024B Bonds, shall proceed to complete and acquire the Project without delay.

C. Payment of the Series 2024B Bonds. The City shall promptly pay the principal of and interest on the Series 2024B Bonds at the place, on the dates, and in the manner specified herein. Principal and interest on the Series 2024B Bonds are payable solely from Net Revenues, and the special funds herein authorized for such purpose.

D. City's Existence. The City shall maintain its corporate identity and existence so long as the Series 2024B Bonds remain outstanding, unless another political subdivision or authority by operation of law succeeds to the liabilities and rights of the City, without adversely affecting to any substantial degree the privileges and rights of the holder of the Series 2024B Bonds.

E. Impairment of Contract. Except with the approval of the holder of the Outstanding Series 2024B Bonds, the City agrees that this Ordinance shall not be repealed or otherwise directly or indirectly modified, in such a manner as to adversely affect the Outstanding Series 2024B Bonds.

F. Use Charges. Rates for services rendered by the System shall be reasonable and just, taking into account the cost and value of the System, Operation and Maintenance Expenses, proper allowances for depreciation and the amounts necessary to retire all bonds payable from Net Revenues, and any reserves therefor. There shall be charged against all users, including the City, rates and amounts, which shall be increased from time to time if necessary, sufficient to produce revenues to pay the annual Operation and Maintenance Expenses, and 120% of the combined average annual principal and interest requirements on all outstanding Parity Bonds and other obligations payable from Net Revenues. No free services of the System shall be furnished by the City. Any use of the System by the City shall be paid for from the City's general fund at the reasonable value of the use so made. Income so derived from the City shall be treated in the

same manner as any other System income. The City is granted a statutory lien upon realty for unpaid rates and charges pursuant to Section 3-23-6 NMSA 1978. The City covenants and agrees that it will cause any lien on each property to be perfected and enforced in accordance with the provisions of Sections 3-23-6 and 3-36-1 through 3-36-7 NMSA 1978.

G. Levy and Reduction of Charges. Prior to the delivery of the Series 2024B Bonds, the City has established and levied the required rates and charges for use of the System. No reduction in any initial rate schedule may be made unless:

(1) The City has complied with Section 17 hereof for at least one Fiscal Year immediately preceding such reduction; and

(2) The audit for the one full Fiscal Year immediately preceding such reduction discloses that the estimated revenues resulting from the proposed rate schedule will be sufficient to meet the requirements of paragraph F of this Section.

H. Efficient Operation. The City shall operate the System as long as the Series 2024B Bonds are outstanding and shall make such improvements and repairs to the System as may be necessary to insure its economical and efficient operation and its ability to meet demands for service and its continual operation and maintenance in good condition.

I. Records of System. Separate records will be kept showing complete and correct entries of all transactions relating to the System. Such records shall include monthly entries showing the number of customers, the revenues received, a detailed statement of expenses, and such other items as deemed relevant.

J. Right to Inspect. The Purchaser or any other owner of the Series 2024B Bonds or their duly authorized agents shall have the right at all reasonable times to inspect the System and all records, accounts and data relating thereto.

K. Audits and Budgets. So long as the Series 2024B Bonds shall be Outstanding, the City shall furnish to the Purchaser, and to any owner or owners or insurers of the Series 2024B Bonds who has requested the same, not later than thirty (30) days after the close of each three-month fiscal period, complete operating and income statements of the System in reasonable detail covering such three-month period, and, not later than sixty (60) days after the close of each fiscal year, complete financial statements of the System to the owner of the Series 2024B Bonds covering such fiscal year. In addition, the City will prepare and adopt prior to the beginning of each fiscal year, a budget for the ensuing fiscal year for the System, such budget to include an estimate of revenues and expenses during such fiscal year.

L. Billing Procedure and Discontinuance of Service. All System bills shall be sent out on a regularly established day of each month in advance or after service is rendered. If bills are not paid within a reasonable time after such date, they shall be collected in any lawful manner. Upon nonpayment of charges, water service will be discontinued if permitted by law and will be restored only upon payment of the delinquent amounts plus the cost of restoration.

M. Use of Bond Fund. The Bond Fund shall be used solely and only, and said funds are hereby pledged, for the purposes set forth in this Ordinance.

N. Charges and Liens upon System. The City, from Revenues, will pay all taxes and governmental charges lawfully levied in respect of the System when due. The City will comply with all valid requirements of any governmental authority relative to the System and will not create or permit to be created any lien or charge on the System or the Revenues except as permitted herein. The City will satisfy within sixty days after the same shall accrue all lawful claims and demands which might by law become a lien on the System or upon the Revenues unless the validity thereof is being contested in good faith by appropriate legal proceedings.

O. Insurance. The City, in its operation of the System, will carry fire and extended coverage insurance, public liability insurance and other types of insurance in such amounts and to such extent as is normally carried by private corporations operating facilities of the same type. The City will also maintain, as provided by law, a self-insurance fund to cover workmen's compensation insurance or will carry equivalent insurance. The cost of insurance shall be considered one of the Operation and Maintenance Expenses of the System. In the event of property loss or damage, insurance proceeds shall be used first for the purpose of restoring or replacing the property lost or damaged, any remainder shall be treated as Net Revenues, and shall be subject to distribution in the manner provided hereinabove in Section 17, for Net Revenues derived from the operation of the System. Nothing herein shall prevent the City from establishing a funded self-insurance program.

P. Competing System. The City shall not grant any franchise or license to a competing system, or permit any person or organization to sell water service and facilities within the City (unless required to do so by law). To the extent permitted by law, the City will require all residents to connect to the System facilities.

Q. Alienating System. While the Series 2024B Bonds are outstanding, the City will not sell, lease, mortgage, pledge or otherwise alienate the System, or any part thereof. In the event of any sale as aforesaid, the proceeds of such sale shall be distributed as Net Revenues in the manner provided hereinabove in Section 17 hereof.

R. Extension of Interest Payments. The City will not extend or be a party to the extension of the time for paying any claim for interest on the Series 2024B Bonds. Any installment of interest so extended shall not be entitled in case of default hereunder to the benefit or security of this Ordinance except subject to the prior payment in full of the principal of all Series 2024B Bonds and interest which has not been extended.

S. Management of the System. The City shall employ competent and experienced management personnel for the System. If an "event of default" shall occur and continue for a period of sixty (60) days or if the Net Revenues in any Fiscal Year fail to equal principal, interest and reserve requirements for all Outstanding Parity Obligations and other obligations payable from the Net Revenues, the City shall retain an independent consultant who is qualified in the management of facilities similar to the System, to assist in the management of the



System so long as such event of default continues or the Net Revenues are less than the amount designated.

T. Fidelity Bonds. Each municipal official responsible for receiving income and maintaining the accounts of the System shall be bonded at all times, which bond shall be conditioned upon the proper allocation of such income. The cost of each bond shall be considered one of the Operation and Maintenance Expenses of the System.

U. Performing Duties. To the extent permitted by applicable law, the City will faithfully and punctually perform all duties with respect to the System required by the Constitution and laws of the State of New Mexico and the ordinances and resolutions of the City, including but not limited to, the making and collecting of reasonable and sufficient rates and charges for services rendered or furnished by the System as hereinbefore provided.

V. Service Connections. The City shall provide adequate service to all persons within the service area of the System who can feasibly and legally be served.

Section 23. Events of Default. It is an "event of default" if:

A. Nonpayment of Principal. Payment of principal of any Series 2024B Bonds is not made when due either at maturity or by proceedings for prior redemption, or otherwise; or

B. Nonpayment of Interest. If payment of any installment of interest shall not be made when the same becomes due and payable; or

C. Incapable to Perform. The City becomes incapable of fulfilling its obligations hereunder; or

D. Default of any Provision. The City defaults in the punctual performance of any other of its covenants hereunder for sixty (60) days after written notice shall have been given to the City by the holders of twenty-five percent (25%) of the principal amount of the Series 2024B Bonds then outstanding.

Section 24. Remedies on Default. Upon the happening and continuance of any event of default, the holder or holders of not less than twenty-five percent (25%) of the principal amount of the Series 2024B Bonds then outstanding, or a trustee therefor, may protect and enforce the rights of any owner of Series 2024B Bonds by proper legal or equitable remedy deemed most effectual including mandamus, specific performance of any covenant, the appointment of a receiver (the consent to such appointment being hereby granted), injunctive relief or requiring the Commission to act as if it were the trustee of an express trust, or any combination of such remedies. All proceedings shall be maintained for the equal benefit of all owners of Series 2024B Bonds. Any receiver appointed to protect the rights of owners of Series 2024B Bonds may take possession and operate and maintain the System in the same manner as the City itself might do. The failure of the owner of the Series 2024B Bonds to proceed does not relieve the City or any person of any liability for failure to perform any duty hereunder. The foregoing rights are in addition to any

other rights and the exercise of any right by any owner of the Series 2024B Bonds shall not be deemed a waiver of any other right.

Section 25. Duties upon Default. Upon the happening of any event of default, the City will perform all proper acts to protect and preserve the security created for the prompt payment of the principal of and interest on the Series 2024B Bonds. The holders of not less than twenty-five percent (25%) in the principal amount of the Series 2024B Bonds, after written demand, may proceed to protect and enforce the rights provided by this Section and by Section 24.

Section 26. Amendment of Ordinance. This Ordinance may not be amended without the written consent of the owner of the Series 2024B Bonds.

Section 27. Delegated Powers. The officers of the City be, and they hereby are, authorized and directed to take all action required by this Ordinance, and all such other action as may be necessary or appropriate to effectuate the provisions of this Ordinance, including, without limiting the generality of the foregoing, any required printing of the Series 2024B Bonds and the execution of such certificates as may be required by the Purchaser or bond counsel.

Section 28. Repeal. This Ordinance shall not be repealed unless the Series 2024B Bonds have been discharged in full or provision has been fully made therefor.

Section 29. Limitation of Action. After the passage of 30 days from the publication required by Section 32 hereof, any action attacking the validity of any proceedings had or taken by the City preliminary to and in the authorization and issuance of the Series 2024B Bonds, shall be perpetually barred.

Section 30. Severability Clause. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 31. Effective Date. Upon its adoption, final passage and approval, this Ordinance shall be recorded in the book of ordinances of the City kept for that purpose and authenticated by the signatures of the Mayor and the City Clerk-Treasurer and the seal of the City affixed hereto. The title and general summary of the subject matter contained in this Ordinance (set out in Section 32 hereof) shall be published in a newspaper which is of general circulation in the City in accordance with law, and the Ordinance shall be in full force and effect five days after such publication and posting as provided by law.

Section 32. General Summary for Publication. The title and a general summary of the subject matter contained in this Ordinance shall be published in substantially the following form:

(Form of Summary of Ordinance for Publication)

CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO  
NOTICE OF ADOPTION OF ORDINANCE

Notice is hereby given of the title and of a general summary of the subject matter contained in Ordinance No. 769 (the "Ordinance") duly adopted and approved by the City Commission of the City of Truth or Consequences, New Mexico, on October \_\_, 2024. Complete copies of the Ordinance are available for public inspection during the normal and regular business hours of the City Clerk-Treasurer, 505 Sims Street, Truth or Consequences, New Mexico. The title of the Ordinance is:

AUTHORIZING THE ISSUANCE OF THE CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO WATER SYSTEM IMPROVEMENT REVENUE BONDS, SERIES 2024B, IN THE PRINCIPAL AMOUNT OF ONE MILLION SIXTY-FIVE THOUSAND NINE HUNDRED EIGHTY-FOUR DOLLARS (\$1,065,984) FOR THE PURPOSE OF CONSTRUCTION FINANCING FOR ACQUIRING, EXTENSION, ENLARGING, BETTERING, REPAIRING OR OTHERWISE IMPROVING THE CITY'S WATER SYSTEM; PROVIDING FOR THE ISSUANCE AND SALE OF THE BONDS; PROVIDING THAT THE BONDS WILL BE PAYABLE AND COLLECTIBLE SOLELY FROM NET REVENUES TO BE DERIVED FROM THE OPERATION OF THE CITY'S WATER SYSTEM; PROVIDING FOR THE TERMS AND CONDITIONS OF THE BONDS, THE MANNER OF THEIR EXECUTION, THE METHOD OF PAYING THE BONDS AND OTHER DETAILS CONCERNING THE BONDS AND SUCH SYSTEM, INCLUDING BUT NOT LIMITED TO COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION THEREWITH AND APPERTAINING THERETO.

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

(End of Form of Summary of Ordinance for Publication)



PASSED, APPROVED, AND ADOPTED THIS \_\_\_\_ DAY OF OCTOBER, 2024.

CITY OF TRUTH OR CONSEQUENCES,  
NEW MEXICO

\_\_\_\_\_  
MAYOR

[SEAL]

ATTEST:

\_\_\_\_\_  
CLERK-TREASURER

Commissioner \_\_\_\_\_ then moved adoption of the foregoing ordinance, duly seconded by Commissioner \_\_\_\_\_. The motion to adopt said ordinance, as amended, upon being put to a vote, was passed and adopted on the following recorded vote:

Those Voting Aye:

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Those Absent:

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\_\_\_\_\_ ( ) Commissioner having voted in favor of said motion, the motion to suspend the rules was thereupon declared by the Mayor to have passed.

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

Dated this \_\_\_\_\_ day of October, 2024.

CITY OF TRUTH OR CONSEQUENCES,  
NEW MEXICO

\_\_\_\_\_  
MAYOR

[SEAL]

ATTEST:

\_\_\_\_\_  
CLERK-TREASURER





Member FDIC

**True to you.**

September 4, 2024

City of Truth or Consequences  
505 Sims St.  
Truth or Consequences, NM 87109

Dear City Officials,

Thank you for considering Bank of the Southwest (BOSW) for your financing needs. BOSW is pleased to submit the following terms in which Bank of the Southwest would purchase a Bond from the City of Truth or Consequences., for the Water System Performance Improvements-2 Engineering Contract.

**Requested Loan Amount**

**and Purpose:** \$1,065,983.36 For the Pre-Development financing of the Water System, Improvement-Phase 2 Water Application, approved by USDA Letter of Conditions, dated 7/30/24.

**Interest Rate:** 5.00%, calculated from the date of each advance until the repayment of each advance

**Terms:** 24-month interim line of credit

**Repayment:** Monthly Interest payments and one Principal payment due at Maturity

**Closing Costs:** All ordinary and customary closing costs such as a 1% origination fee.

**Collateral:** City of Truth or Consequences Bond

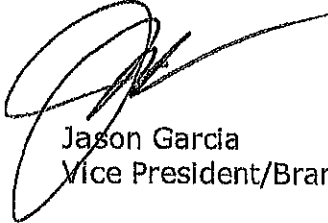
Terms proposed herein shall expire thirty (30) days from the date of this letter. Bank of the Southwest will require various conditions precedent to each advance as detailed by USDA Letter of Conditions dated 7/30/24.

These elements include certain customary representations and warranties as well as the above-described conditions, including documentation requested by legal review. Those matters which are not covered by or made clear herein are subject to mutual agreement of the parties and all matters are subject to amplification in the legal documentation.

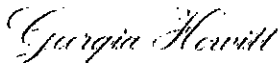
We look forward to working with the City of Truth or Consequences on this project. If you have any questions or concerns, please feel free to call anytime. Once again, the staff of BOSW would like to express appreciation to you for giving Bank of the Southwest this opportunity.

Sincerely,

---

A handwritten signature in black ink, appearing to read 'Jason Garcia', with a large, stylized initial 'J'.

Jason Garcia  
Vice President/Branch Manager

A handwritten signature in black ink, appearing to read 'Georgia Hewitt', in a cursive script.

Georgia Hewitt  
Executive Vice President/Chief Lending Officer



United States Department of Agriculture

**Rural Development**

July 30, 2024

New Mexico  
State Office

One Sun Plaza  
100 Sun Ave NE  
Suite 130  
Albuquerque, NM  
87109

Voice (505) 761-4950  
Fax (855) 543-9499

City of Truth or Consequences  
Amanda Forrister, Mayor  
505 Sims Street  
Truth or Consequences, NM 87901

**SUBJECT:** Letter of Conditions  
Project Name: Water System Performance Improvements - 2  
CFDA NUMBER: 10.770 -  
Water and Waste Disposal Loans and Grants  
(Section 306C)

Agency Loan: \$2,673,000  
Agency Grant: \$1,652,891.01 – Section 306(C), Colonias  
Agency Grant: \$5,574,109 – Section 306(C), Colonias

Dear Mayor Forrister:

This letter establishes conditions which must be understood and agreed to by you before further consideration may be given to your application. The loan and grant will be administered on behalf of the Rural Utilities Service (RUS) by the State and Area staff of USDA Rural Development (RD), both of which are referred to throughout this letter as the Agency. Any changes in project cost, source of funds, scope of project, or any other significant changes in the project or applicant must be reported to and concurred with by the Agency by written amendment to this letter. This includes any significant changes in the Applicant's financial condition, operation, organizational structure or executive leadership. Any changes made without Agency concurrence shall be cause for discontinuing processing of the application.

This letter does not constitute loan and grant approval, nor does it ensure that funds are or will be available for the project. The funding is being processed on the basis of a loan not to exceed \$2,673,000 and a grant not to exceed \$7,227,000.01. The loan and grant will be considered approved on the date Form RD 1940-1, "Request for Obligation of Funds" is signed by the Agency approval official.

The applicant will ensure projects are completed in a timely, efficient, and economical manner. You must meet all conditions set forth under Section III – Requirements Prior to Advertising for Bids within 1 year of this letter. If you do not meet the conditions of this letter, the Agency reserves the right to withdraw Agency funding.

USDA is an equal opportunity provider, employer, and Lender.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: mail at U.S. Department of Agriculture, Office of the Secretary for Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov).



If you agree to meet the conditions set forth in this letter and desire further consideration, be given to your application, please complete and return the following forms within 1 days:

Form RD 1942-46, "Letter of Intent to Meet Conditions"  
Form RD 1940-1, "Request for Obligation of Funds"

All parties may access information and regulations referenced in this letter at our website located at: [Water and Environmental Programs | Rural Development \(usda.gov\)](https://www.usda.gov/water-and-environmental-programs/rural-development)

The conditions are as follows:

### **SECTION I - PROJECT SCOPE**

**1. Project Description** – Funds will be used to rehabilitate the City of Truth or Consequences' water distribution system by replacing roughly 13,983 linear feet of existing water lines with new and larger diameter sized pipe as well as the installation of new meter cans and water service lines.

Facilities will be designed and constructed in accordance with sound engineering practices and must meet the requirements of Federal, State, and local agencies. The proposed facility design must be based on the Preliminary Engineering Report (PER), prepared by Wilson & Company, Engineers & Architects, Inc. amended August 16, 2023, as concurred with by the Agency.

**2. Project Funding** – The Agency is offering the following funding for your project:

|                             |                        |
|-----------------------------|------------------------|
| Agency Loan -               | \$ 2,673,000           |
| Agency Grant -              | \$ 7,227,000.01        |
| <b>TOTAL PROJECT COST -</b> | <b>\$ 9,900,000.01</b> |

Any changes in funding sources following obligation of Agency funds must be reported to the processing official. Prior to loan closing, any increase in non-Agency funding will be applied first as a reduction to Agency grant funds, up to the total amount of the grant, and then as a reduction to Agency loan funds.

The applicant must certify that they have exhausted all other funding avenues and have no pending funding considerations from any other sources. Further, the applicant must certify that they do not intend to apply anywhere else for funding for this project. If, after obligation of Agency funds, other funding becomes available, the Agency reserves the right to deobligate any and all funding for this project and to re-underwrite. This may result in the offering of a different funding package to for this project.

Prior to advertisement for construction bids, you must provide evidence of applicant contributions and other funding sources. This evidence should include a copy of the commitment

letter. Agency funds will not be used to pre-finance funds committed to the project from other sources.

**3. Project Budget** – Funding from all sources has been budgeted for the estimated expenditures as follows:

| <b><u>Project Costs:</u></b>                            | <b><u>Total Budgeted:</u></b> |
|---------------------------------------------------------|-------------------------------|
| Development                                             | \$6,834,703                   |
| Contingency                                             | \$683,470                     |
| GRT – Development                                       | \$629,647                     |
| Engineering Fees                                        | \$1,536,494                   |
| Includes:                                               |                               |
| Engineering Admin.                                      | \$186,000                     |
| Preliminary Engineering Report/<br>Environmental Report | \$60,000                      |
| Design                                                  | \$789,108                     |
| Construction Inspection                                 | \$265,000                     |
| Construction Admin.                                     | \$125,254                     |
| GRT - Engineering                                       | \$111,132                     |
| Interest – Pre-Dev./Interim                             | \$171,252.01                  |
| Legal Fees - Local Attorney                             | \$44,434                      |
| <b>TOTAL</b>                                            | <b>\$9,900,000.01</b>         |

Project feasibility and funding will be reassessed if there is a significant change in project costs after bids are received. Obligated loan and/or grant funds not needed to complete the proposed project will be deobligated. Any reduction will be applied to Agency grant funds first. If actual project costs exceed the project cost estimates, an additional contribution by the Owner may be necessary. An “Amended Letter of Conditions” will be issued for any changes to the total project budget.

**4. Project Timeline** – To ensure that the project proceeds in a timely manner, key processing milestones have been established in accordance with the PER or other Agency approved documentation. **Projects should be completed and Agency funds fully disbursed within three years of obligation.** By agreeing to the terms herein, you agree to comply with the milestones identified below. If, for any reason, one or more of the milestones cannot be met, you must notify the Agency in writing at least 30 days prior to the referenced date. Should your final completion date become more than three years after obligation the written request will follow the procedures outlined in Section VI of this letter, including the submission of not less than 90 days prior to the benchmark. The correspondence must contain a valid explanation as to why the milestone cannot be met and include a proposed revised project completion schedule. If the Agency agrees to the modification, a written confirmation will be issued. The Agency reserves the right to de-obligate loan and/or grant funds, or take other appropriate action, if the established or amended deadlines are not met.

| <u>Milestone</u>                            | <u>Date</u> |
|---------------------------------------------|-------------|
| Plans & Specifications, and Design Complete | 11/2/2024   |
| Initial Advertisement for Bids              | 1/01/2025   |
| Award Contract(s)/Initiate Construction     | 3/3/2025    |
| Substantial Completion                      | 11/28/2025  |
| Final Completion                            | 12/31/2025  |

## **SECTION II – RATES & TERMS**

**5. Interest Rates and Loan Terms** – The interest rate will be the lower of the rate in effect at the time of loan approval or the time of loan closing, unless you request otherwise. Should the interest rate be reduced, the payment will be recalculated to the lower amount. The payment due date will be established as the day that the loan closes.

Your loan will be scheduled for repayment over a period of 40 years. Payments will be equal monthly amortized installments, beginning one month after closing. For planning purposes, use a 2.125% interest which provides for a monthly payment of \$8,287. The precise payment amount will be based on the interest rate at which the loan is closed and may be different than the one above.

**6. Security** – The loan will be secured by a Revenue bond with first lien position in the amount of \$2,673,000. The bond will be fully registered as to both principal and interest in the name of the “United States of America, Acting through the United States Department of Agriculture.” Bond Counsel will be utilized in preparation of these documents.

The bond instrument and any ordinance or resolution relating thereto must not contain any provision in conflict with the Agency Loan Resolution, applicable regulations, or associated laws. There must be no defeasance or refinancing clause in conflict with the graduation requirements of 7 U.S.C. 1983.

Additional security requirements are contained in RUS Bulletin 1780-27, “Loan Resolution (Public Bodies) and RUS Bulletin 1780-12, “Water and Waste System Grant Agreement”. A draft of all security instruments, including draft bond resolution, must be reviewed, and concurred in by the Agency prior to advertising for bids. Bond/loan resolutions must be duly adopted and executed prior to loan closing.

The Grant Agreement will be executed prior to the first disbursement of grant funds. The grantee understands that any property acquired or improved with Federal grant funds may have use and disposition conditions which apply to the property as provided by 2 CFR part 200 in effect at this time and as may be subsequently modified. The grantee understands that any sale or transfer of property is subject to the interest of the United States Government in the market value in proportion to its participation the project.



**7. Reserves** – Reserves must be properly budgeted and set aside to maintain the financial viability and sustainability of any operation. Reserves are important to fund unanticipated emergency repairs, to assist with debt service should the need arise, and for the replacement of assets which have a useful life less than the repayment period of the loan. The following reserves are required to be established as a condition of this loan:

- a. **Debt Service Reserve** – As a part of this Agency loan proposal, you must establish a debt service reserve fund equal to at least one annual loan installment that accumulates at the rate of 10% of one annual payment per year for ten years or until the balance is equal to one annual loan payment. For planning purposes, 10% of the proposed loan installment would equal \$832 per month; this amount should be deposited monthly until a total of \$99,890 has accumulated. Prior written concurrence from the Agency must be obtained before funds may be withdrawn from this account during the life of the loan. When funds are withdrawn during the life of the loan, deposits will continue as designated above until the fully funded amount is reached.
- b. **Short-Lived Asset Reserve** – In addition to the debt service reserve fund, you must establish a short-lived asset reserve fund. Based on the PER, you must deposit at least \$182,347 into the short-lived asset reserve fund annually for the life of the loan to pay for repairs and/or replacement of major system assets. It is your responsibility to assess your facility's short-lived asset needs on a regular basis and adjust the amount deposited to meet those needs.

### **SECTION III – REQUIREMENTS PRIOR TO ADVERTISING FOR BIDS**

**8. Organization** – The Bond Counsel transcripts of proceedings must show that your organization is a duly incorporated public body and has continued legal existence. Your organization must have the authority to own, construct, operate, and maintain the proposed facility, as well as for borrowing money, pledging security and raising revenues.

**9. Suspension and Debarment Screening** – You will be asked to provide information on the principals of your organization. Agency staff must conduct screening for suspension and debarment of the entity, as well as its principals through the Do Not Pay Portal.

Principal –

- i. An officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or
- ii. A consultant or other person, whether or not employed by the participant or paid with federal funds, who –
  1. Is in a position to handle federal funds;
  2. Is in a position to influence or control the use of those funds; or,
  3. Occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction. (2 CFR §180.995)

**10. Environmental Requirements** – At the conclusion of the proposal's environmental review process, specific action(s) were determined necessary to avoid or minimize adverse environmental impacts.

The project, as proposed, has been evaluated to be consistent with the National Environmental Policy Act. Other Federal, State, tribal, and local laws, regulations and/or permits may apply or be required. If the project or any project element deviates from or is modified from the originally approved project, additional environmental review may be required.

**11. Engineering Services** – You have been required to complete an Agreement for Engineering Services, which should consist of the Engineers Joint Contract Documents Committee (EJCDC) documents as indicated in RUS Bulletin 1780-26, "Guidance for the Use of EJCDC Documents on Water and Waste Projects with RUS Financial Assistance," or other approved form of agreement. The Agency will provide concurrence prior to advertising for bids and must approve any modifications to this agreement.

**12. Contract Documents, Final Plans, and Specifications**- All development will be completed by contract in accordance with applicable provisions of RUS Instruction 1780, Subpart C – Planning, Designing, Bidding, Contracting, Constructing and Inspections, (copy available upon request), and in compliance with all statutory requirements. You are responsible to share this with your engineer before pre-design.

- a. The plans and specifications and all proposals required by law must be approved by
- b. In preparing final design and providing service to the planned project area, you and your engineer will comply with all zoning and planning requirements of the appropriate governing bodies where service is to be provided.
- c. The Agency will need to concur in the plans and specifications prior to advertising for bids. The Agency may require an updated cost estimate if a significant amount of time has elapsed between the original project cost estimate and advertising for bids.
- d. The use of any procurement method other than competitive sealed bids must be requested in writing and approved by the Agency.
- e. The contract documents must consist of the EJCDC construction contract documents as indicated in RUS Bulletin 1780-26 or other Agency-approved forms of agreement.

**13. Build America, Buy America (BABAA) Requirements** - Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

- a. all iron and steel permanently installed in the project are produced in the United States-- this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

- b. all manufactured products permanently installed in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
- c. all construction materials permanently installed are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

The BABAA requirement applies to the entirety of an infrastructure project even if only a portion of the project is funded by Federal funds.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

#### *Waivers*

When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements. The agency should notify the recipient for information on the process for requesting a waiver from these requirements.

When the Federal agency has made a determination that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which the agency determines that:

- a. applying the domestic content procurement preference would be inconsistent with the public interest;
- b. the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- c. the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

A request to waive the application of the domestic content procurement preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials



required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office.

### *Definitions*

“Construction materials” includes an article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives—that is or consists primarily of:

- non-ferrous metals;
- plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- glass (including optic glass);
- lumber; or
- drywall.

“Domestic content procurement preference” means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.

“Infrastructure” includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.

“Project” means the construction, alteration, maintenance, or repair of infrastructure in the United States.

Owners are ultimately responsible for compliance with the evidence standards as outlined in the Build America Buy America (BABAA) appendix to this Letter. Owners are required to maintain records as specified in their loan or grant agreement, but in all cases, they should maintain records for a minimum of three years after the final expenditure report. Minimum records include certifications from manufacturers, the architect/engineer, and the prime contractor. Supporting documentation includes purchasing records and notes and photos taken by the Resident Project Representative (RPR). Further guidance regarding certifications will be provided by the Agency.

**14. Legal Services**—A legal services agreement is required with your attorney and bond counsel, if applicable, for any legal work needed in connection with this project. The agreement should stipulate an hourly rate for the work, with a “not to exceed” amount for the services, including reimbursable expenses. RUS Bulletin 1780-7, “Legal Services Agreement,” or similar format may be used. The Agency will provide concurrence prior to advertising for bids. Any changes to the fees or services spelled out in the original agreement must be reflected in an amendment to the agreement and have prior Agency concurrence.

**15. Property Rights** - Prior to advertising for bids, you and your legal counsel must furnish satisfactory evidence that you have adequate continuous and valid control over the lands and rights-of-way needed for the project. Acquisitions of necessary land and rights must be accomplished in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act. Such control over the lands and rights will be evidenced by the following:

- a. **Right-of-Way Map** – Your engineer will provide a map clearly showing the location of all lands and rights-of-way needed for the project. The map must designate public and private lands and rights and the appropriate legal ownership thereof.
- b. **Form RD 442-20, “Right-of-Way Easement”** – This form, or similar format, may be used to obtain any necessary easements for the proposed project.
- c. **Form RD 442-21, “Right-of-Way Certificate”** – You will provide a certification on this form that all right-of-way requirements have been obtained for the proposed project.
- d. **Form RD 442-22, “Opinion of Counsel Relative to Rights-of-Way”** – Your attorney will provide a certification and legal opinion on this form addressing rights-of-way, easements, and title.

The approving official may waive title defects or restrictions, such as utility easements, that do not adversely affect the suitability, successful operation, security value, or transferability of the facility. Any such waivers must be provided by the approving official in writing prior to closing or the start of construction, whichever occurs first.

You are responsible for the acquisition of all property rights necessary for the project and for determining that prices paid are reasonable and fair. The Agency may require an appraisal by an independent appraiser or Agency employee in order to validate the price to be paid.

**16. System Policies, Procedures, Contracts, and Agreements** – The facility must be operated on a sound business plan which involves adopting policies, procedures, and/or ordinances outlining the conditions of service and use of the proposed system. Mandatory connection policies should be used where enforceable. The policies, procedures, and/or ordinances must contain an effective collection policy for accounts not paid in full within a specified number of days after the date of billing. They should include appropriate late fees, specified timeframes for disconnection of service, and reconnection fees. A draft of these policies, procedures, and/or ordinances must be submitted for Agency review and concurrence, along with the documents below, before closing instructions may be issued unless otherwise stated.

- a. **Conflict of Interest Policy** – Prior to obligation of funds, you must certify in writing that your organization has in place up-to-date written standards of conduct covering conflict of interest. The standards of conduct must include disciplinary actions in the event of a violation by officers, employees, or agents of the borrower. The standards identified herein apply to any parent, affiliate or subsidiary organization of the borrower that is not a state or local government, or Indian Tribe. Policies and accompanying documents shall be furnished to Rural Development upon request.

You must also submit a disclosure of planned or potential transactions related to the use of Federal funds that may constitute or present the appearance of personal or organizational conflict of interest. Disclosure must be in the form of a written letter signed and dated by the applicant's official. A negative disclosure in the same format is required if no conflicts are anticipated.

Sample conflict of interest policies may be found at the National Council of Nonprofits website, <https://www.councilofnonprofits.org/tools-resources/conflict-of-interest>, or in Internal Revenue Service Form 1023, Appendix A, "Sample Conflict of Interest Policy," at <http://www.irs.gov/pub/irs-pdf/i1023.pdf>. Though these examples reference non-profit corporations, the requirement applies to all types of Agency borrowers.

Assistance in developing a conflict of interest policy is available through Agency-contracted technical assistance providers if desired.

- #b. Water User Agreement** – Projects not involving mandatory connection require users to execute a Water Users Agreement. The draft agreement must receive Agency concurrence prior to advertising for bids. RUS Bulletin 1780-9, "Water Users Agreement," or similar format may be used.
- #c. Contracts for Other Services/Lease Agreement** – Drafts of any contracts or other forms of agreements for other services, including audit, management, operation, and maintenance, or lease agreements covering real property essential to the successful operation of the facility, must be submitted to the Agency for review and concurrence prior to advertising for bids.
- #d. Parity/Intercreditor Agreement** – Projects with parity liens must have in place a written agreement between the parity lenders. The draft agreement must receive Agency concurrence prior to advertising for bids.
- #e. Other agreements** with governments or other entities regarding joint operation of facilities, granting authority to Agency borrower for providing service within another entity's service area, etc. – Utility service Agreement with the Village of Williamsburg – The draft agreement must receive Agency concurrence prior to advertising for bids.

Fully executed copies of any policies, procedures, ordinances, contracts, or agreements above must be submitted prior to loan closing, with the exception of the conflict of interest policy, which must be in place prior to obligation of funds.

**17. Closing Instructions** – The Agency will prepare closing instructions as soon as the requirements of the previous paragraphs are complete, as well as a draft of the security instrument(s). Both your bond and legal counsel must comply with these instructions when closing the Agency loan/grant.

**18. System Users** – This letter of conditions is based upon your indication at application that there will be at least 2828 residential users, 514 non-residential users, on the existing system when construction is completed.



Before the Agency can agree to the project being advertised for construction bids, you must certify that the number of users indicated at application are currently using the system or signed up to use the system once it is operational.

If the actual number of existing and/or proposed users that have signed up for service is less than the number indicated at the time of application, you must provide the Agency with a written plan on how you will obtain the necessary revenue to adequately cash flow the expected operation, maintenance, debt service, and reserve requirements of the proposed project (e.g., increase user rates, sign up an adequate number of other users, reduce project scope, etc.). Similar action is required if there is cause to modify the anticipated flows or volumes presented following approval.

If you are relying on mandatory connection requirements, you must provide evidence of the authorizing ordinance or statute along with your user certification.

**19. Construction Account** – A separate construction account is not required for project funds. However, the recipient must be able to separately identify, report and account for all Federal funds, including the receipt, obligation and expenditure of funds, in accordance with 2 CFR 200.305. These funds must be deposited in a bank with Federal Deposit Insurance Corporation (FDIC) insurance coverage. **If the balances at the financial institution where federal funds will be deposited exceeds the FDIC insurance coverage, the excess amount must be collaterally secured up to 100 percent of the highest amount of funds expected to be deposited in the account at any one time, per the Department of Treasury regulations and requirements.**

**20. Interim Financing** – The Agency's policy is to utilize interim financing for all loans exceeding \$500,000. Prepayment penalties on interim financing are not allowed. Borrowers are required to seek interim financing initially from private or cooperative lenders if funds can be borrowed at reasonable interest rates on an interim basis from those sources for the construction period. The fact that a commercial lender's rates are higher than current Agency interest rates does not necessarily mean that the commercial rate is not reasonable.

**21. Proposed Operating Budget** – You must establish and/or maintain a rate schedule that provides adequate income to meet the minimum requirements for operation and maintenance (O and M), debt service, and reserves. Prior to advertising for bids, you must submit a proposed annual operating budget to the Agency, as well as your proposed rate schedule. The operating budget should be based on a typical year cash flow after completion of the construction phase and should be signed by the appropriate official of your organization. Form RD 442-7, "Operating Budget," or similar format may be utilized for this purpose. It is expected that O and M expenses will change over each successive year and user rates will need to be adjusted on a regular basis.

Technical assistance is available at no cost to help you evaluate and complete a rate analysis on your system. This assistance is available free to your organization. If you are interested, please contact our office for information.

**22. Permits** –The owner or responsible party will be required to obtain all applicable permits for the project, prior to advertising for bids. The consulting engineer must submit written evidence that all applicable permits required prior to construction have been obtained with submission to the Agency of the final plans, specifications, and bid documents.

**23. Risk and Resilience Assessment/Emergency Response Plan (RRA/ERP)** –The Agency requires all financed water and wastewater systems to have a RRA/ERP in place. New water or wastewater systems must provide a certification that an ERP is complete prior to the start of operation, and a certification that an RRA is complete must be submitted within one year of the start of operation. Borrowers with existing systems must provide a certification that an RRA/ERP has been completed prior to advertising for bids. Technical assistance is available in preparing these documents at no cost to you.

Before funds are drawn, you should have in place a cybersecurity plan, a supply chain plan, and a plan to comply with cybersecurity requirements of the National Institute of Science and Technology and the Cybersecurity and Infrastructure Security Administration. These items should be addressed in the RRA/ERP.

The RRA/ERP documents themselves are not submitted to the Agency. The RRA/ERP must address potential impacts from natural disasters and other emergency events. It should include plans to address impacts of flash flooding in areas where severe drought or wildfires occur. The documents should be reviewed and updated every five years at a minimum.

**24. Bid Authorization** - Once all the conditions outlined in Section III of this letter have been met, the Agency will authorize you to advertise the project for construction bids. Such advertisement must be in accordance with applicable State statutes.

#### **SECTION IV - REQUIREMENTS PRIOR TO START OF CONSTRUCTION**

**25. Disbursement of Agency Funds** - Agency funds will be disbursed electronically into the construction account as they are needed. SF 3881, "ACH Vendor/Miscellaneous Payment Enrollment Form," must be completed and submitted to the Agency prior to commencement of construction.

The order of disbursement is as follows: 1) Applicant contribution, 2) other funding sources, 3) interim financing or Agency loan funds, and 4) Agency grant funds. Interim financing or Agency loan funds will be expended after all other funding sources unless a written agreement is reached with all other funding sources on how funds are to be disbursed prior the first disbursement. Interim financing funds or Agency loan funds must be used prior to the use of Agency grant funds. Agency Grant funds must not be disbursed prior to loan funds except as authorized in 7 CFR 1780.45(d).

Grant funds are to be deposited in an interest-bearing account (exception provided below) in accordance with 2 CFR Part 200 and interest in excess of \$500 per year remitted to the Agency.

The funds should be disbursed by the recipient immediately upon receipt, and there should be little interest accrual on the Federal funds. Recipients shall maintain advances of Federal funds in interest-bearing accounts, unless:

- The recipient receives less than \$120,000 in Federal awards per year.
- The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances.
- The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.
- A foreign government or banking system prohibits or precludes interest-bearing accounts.

**26. Bid Tabulation** – Immediately after bid opening, you must provide the Agency with the bid tabulation and your engineer's evaluation of bids and recommendations for contract awards. If the Agency agrees that the construction bids received are acceptable, adequate funds are available to cover the total project costs, and all the requirements of Section III of this letter have been satisfied, the Agency will authorize you to issue the Notice of Award.

- a. **Cost Overruns** – If bids are higher than expected, or if unexpected construction problems are encountered, you must utilize all options to reduce cost overruns. Negotiations, redesign, use of bidding alternatives, rebidding or other means will be considered prior to commitment of subsequent funding by the Agency. Any requests for subsequent funding to cover cost overruns will be contingent on the availability of funds. Cost overruns exceeding 20 percent of the development cost at time of loan or grant approval or where the scope of the original purpose has changed will compete for funds with all other applications on hand as of that date.
- b. **Excess Funds** - If bids are lower than anticipated at time of obligation, excess funds must be deobligated prior to start of construction except in the cases addressed in this paragraph. In cases where the original PER for the project included items that were not bid, or were bid as an alternate, the State Office official may modify the project to fully utilize obligated funds for those items. Amendments to the PER, ER, and Letter of Conditions may be needed for any work not included in the original project scope. In all cases, prior to start of construction, excess funds will be deobligated, with grant funds being deobligated first. Excess funds do not include contingency funds as described in this letter.

**27. Suspension and Debarment Screening** – In accordance with 2 CFR Part 180, Subpart C, as a condition of the transaction and the responsibilities to persons at the next lower tier with whom you enter into transactions, you must conduct screening for suspension and debarment of lower tier recipients (e.g., vendors, contractors, etc.).

**28. Contract Review** – Your attorney will certify that the executed contract documents, including performance and payment bonds, if required, are adequate and that the persons executing these documents have been properly authorized to do so in accordance with 7 CFR 1780.61(b).



Once your attorney has certified that they are acceptable, the contract documents will be submitted to the Agency for concurrence. Construction cannot commence until the Agency has concurred in the construction contracts.

**29. Final Rights of Way** – Your attorney or title company must furnish a separate final title opinion or Title Insurance Policy on all real property related to the facility, now owned and to be acquired for this project, as of the day of loan closing or start of construction, whichever occurs first. Form RD 1927-10, “Final Title Opinion” may be used.

If any of the right-of-way forms listed previously in this letter contain exceptions that do not adversely affect the suitability, successful operation, security value, or transferability of the facility, the approving official must provide a written waiver prior to the issuance of the Notice to Proceed.

**30. Insurance and Bonding Requirements** - Prior to the start of construction or loan closing, whichever occurs first, you must acquire and submit to the Agency proof of the types of insurance and bond coverage for the borrower shown below. The use of deductibles may be allowed, providing you have the financial resources to cover potential claims requiring payment of the deductible. The Agency strongly recommends that you have your engineer, attorney, and insurance provider(s) review proposed types and amounts of coverage, including any exclusions and deductible provisions. It is your responsibility and not that of the Agency to assure that adequate insurance and fidelity bond coverage is maintained.

- a. **General Liability Insurance** – Include vehicular coverage.
- b. **Workers’ Compensation** – In accordance with appropriate State laws.
- c. **Guaranty or Fidelity Insurance**—Coverage for all persons who have access to funds, including persons working under a contract or management agreement. Coverage may be provided either for all individual positions or persons, or through “blanket” coverage providing protection for all appropriate employees. Each position is to be insured in an amount equal to the maximum amount of funds expected to be under the control of that position at any one time. The minimum coverage allowed will be an amount equal to the total annual debt service payment on the Agency loans. The coverage may be increased during construction based on the anticipated monthly advances.
- d. **National Flood Insurance** - If the project involves acquisition or construction in a designated special flood area, the community in which the acquisition or construction is situated must be currently participating in the national flood insurance program. Additionally, if the project involves acquisition or construction in designated special flood or mudslide prone areas, a flood insurance policy must be in place at the time of loan closing.
- e. **Real Property Insurance** – Fire and extended coverage will normally be maintained on all structures except reservoirs, pipelines and other structures if such structures are not normally insured, and subsurface lift stations except for the value of electrical and pumping equipment. The Agency will be listed as mortgagee on the policy when the Agency has a lien on the property. Prior to the acceptance of the facility from the

contractor(s), you must obtain real property insurance (fire and extended coverage) on all facilities identified above.

The Agency is to be listed as “Other Insured” so as to receive notifications on all insurance, regardless of security. Insurance types described above are required to be continued throughout the life of the loan. See Section VII.

**31. Initial Civil Rights Compliance Review** – The Agency will conduct an initial civil rights compliance review of the borrower prior to loan closing or start of construction, whichever occurs first, in accordance with 7 CFR 1901, Subpart E. You are expected to comply with the completion of the review, including the furnishing of any documents, records, or other applicable material.

## **SECTION V – REQUIREMENTS PRIOR TO CLOSING**

**32. Interim Financing**. Interim financing is being used. Generally, loan closing will occur near the end of construction when interim funds are fully disbursed. Documents detailed above from Sections II and III regarding security, electronic payments (Form 3550-28), and system policies, procedures, contracts, and agreements must be adopted and/or executed and submitted to the Agency prior to loan closing.

**33. Electronic Payments** – Payments will be made through an electronic preauthorized debit system. You will be required to complete Form RD 3550-28, “Authorization Agreement for Preauthorized Payments,” for all new and existing indebtedness to the Agency prior to loan closing.

**34. Other Requirements** – All requirements contained in the Agency’s closing instructions, as well as any requirements of your bond counsel and/or attorney, must be met prior to loan closing.

- a. **System for Award Management**. You will be required to maintain a Unique Entity ID (UEI) and maintain an active registration in the System for Award Management (SAM) database. Renewal can be completed online at: <http://sam.gov>. This registration must be renewed and revalidated every 12 months for as long as there is an active loan, grant, or guaranteed loan with the Agency.

To ensure the information is current, accurate and complete, and to prevent the SAM account expiration, the review and updates must be performed within 365 days of the activation date, commonly referred to as the expiration date. The registration process may take up to 10 business days. (See 2 CFR Part 25 and the “Help” section at <http://sam.gov>).

- b. **Litigation**. You are required to notify the Agency within 30 days of receiving notification of being involved in any type of litigation prior to loan closing or start of construction, whichever occurs first. Additional documentation regarding the situation and litigation may be requested by the Agency.

- c. **Certified Operator.** Evidence must be provided that your system has or will have a certified operator, as defined by applicable State or Federal requirements, available prior to the system becoming operational, or that a suitable supervisory agreement with a certified operator is in effect.

## **SECTION VI – REQUIREMENTS DURING CONSTRUCTION AND POST CONSTRUCTION**

**35. Construction Completion Timeframe** – Following the benchmarks established in Section I, Item 4, Project Timeline, all projects should be completed and Agency funds fully disbursed within three years of the date of obligation. If funds are not disbursed within three years of obligation and you have not already done so per Section I, Item 4, you must submit a written request for extension of time to the Agency with adequate justification of the circumstances, including any beyond your control. The request must be submitted at least 90 days prior to the end of the three-year timeframe and include a revised estimated date of completion. The Agency will typically only allow one extension. Subsequent requests for waivers beyond the initial extension or requests that exceed five years from the initial date of obligation will be submitted to the RUS, Water and Environmental Programs for consideration. The Agency retains the right to de-obligate any loan and/or grant monies, or take other appropriate action, related to unliquidated funds that exceed the timeframes above and are not under an active extension.

**36. Resident Inspector(s)** – Full-time inspection is required unless you request an exception. Such requests must be made in writing and the Agency must provide written concurrence. Inspection services are to be provided by the consulting engineer unless other arrangements are requested in writing and concurred with by the Agency. A resume of qualifications of any resident inspector(s) will be submitted to the owner and Agency for review and concurrence prior to the pre-construction conference. The resident inspector(s) must attend the preconstruction conference.

**37. Preconstruction Conference** – A preconstruction conference will be held prior to the issuance of the Notice to Proceed. The consulting engineer will review the planned development with the Agency, owner, resident inspector, attorney, contractor, other funders, and other interested parties, and will provide minutes of this meeting to the owner and Agency.

**38. Inspections** - The Agency requires a preconstruction conference, pre-final, final, and warranty inspections. Your engineer will schedule a warranty inspection with the contractor and the Agency before the end of the 11- month warranty period to address and/or resolve any outstanding warranty issues. The Agency will conduct an inspection with you of your records management system at the same time and will continue to inspect the facility and your records system every three years for the life of the loan. See Section VII of this letter.

**39. Change Orders** – A Change Order must be submitted for all modifications to the approved scope of work, including existing contracts. This includes non-physical modifications such as



any time extension requests. Prior written Agency concurrence is required for all Change Orders.

**40. Payments** – Prior Agency concurrence is required for all invoices and requests for payment before Agency funds will be released. Requests for payment related to a contract or service agreement will be signed by the owner, project engineer, and contractor or service provider prior to Agency concurrence. Invoices not related to a construction contract or service agreement will include the owner's written concurrence.

**41. Use of Remaining Funds** – As stated above, applicant contribution and connection or tap fees will be the first funds expended in the project. Funds remaining after all costs incident to the basic project have been paid or provided will be handled as follows:

- a. Funds remaining after the applicant contribution and connection fees may be considered in direct proportion to the amounts of funding obtained from each source. The use of Agency funding will be limited to eligible loan and grant purposes, provided the use will not result in major changes to the original scope of work and the purpose of the loan and grant remains the same.
- b. Any reductions in the Agency funding will be first applied to the grant funds.
- c. Grant funds not expended for authorized purposes will be cancelled (de-obligated) within 30 days of final completion of project. Prior to actual cancellation, you, your attorney and engineer will be notified of the Agency's intent to cancel the remaining funds and given appropriate appeal rights.
- d. Under no circumstances is it appropriate to use remaining funds as contributions to a new project outside the scope of the funded project.
- e. Loan funds that are not needed will be cancelled (de-obligated) prior to loan closing.

**42. Technical, Managerial and Financial Capacity** - It is required that members of the Board of Directors, City Council members, trustees, commissioners and other governing members possess the necessary technical, managerial, and financial capacity skills to consistently comply with pertinent Federal and State laws and requirements. It is recommended members receive training within one year of appointment or election to the governing board, and a refresher training for all governing members on a routine basis. The content and amount of training should be tailored to the needs of the individual and the utility system. Technical assistance providers are available to provide this training for your organization, often at no cost. Contact the Agency for additional information.

**43. Reporting Requirements Related to Expenditure of Funds** -- An annual audit under 2 CFR 200 is required if you expend \$750,000 or more in Federal financial assistance per fiscal year. The total Federal funds expended from all sources shall be used to determine Federal financial assistance expended. Expenditures of interim financing are considered Federal expenditures.

All audits are to be performed in accordance with 2 CFR Part 200, as adopted by USDA through 2 CFR Part 400. Further guidance on preparing an acceptable audit can be obtained from the

Agency. The audit must be prepared by an independent licensed Certified Public Accountant, or a State or Federal auditor if allowed by State law and must be submitted within 9 months of your fiscal year end. Both the audit and accompanying management report must be submitted for review.

If an audit is required, you must enter into a written agreement with the auditor and submit a copy of that agreement to the Agency prior to the advertisement of construction bids. The audit agreement may include terms and conditions that the borrower and auditor deem appropriate; however, the agreement should include the type of audit to be completed, the time frame in which the audit will be completed, and how irregularities will be reported.

## **SECTION VII – SERVICING REQUIREMENTS DURING THE TERM OF THE LOAN**

**44. Prepayment and Extra Payments** - Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of borrower, with no penalty.

Security instruments, including bonding documents, must contain the following language regarding extra payments, unless prohibited by State statute:

*Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of borrower. Refunds, extra payments and loan proceeds obtained from outside sources for the purpose of paying down the Agency debt, shall, after payment of interest, be applied to the installments last to become due under this note and shall not affect the obligation of borrower to pay the remaining installments as scheduled in your security instruments.*

**45. Annual Financial Reporting/Audit Requirements** – You are required to submit an annual financial report at the end of each fiscal year. The annual report will be certified by the appropriate organization official, and will consist of financial information, a current rate schedule, and listing of board members with their terms. Financial statements must be prepared on an accrual basis of accounting in accordance with generally accepted accounting principles (GAAP). The annual report will include separate reporting for each water and waste disposal facility, and itemized cash accounts by type (debt service, short-lived assets, etc.) under each facility. All records, books and supporting material are to be retained for three years after the issuance of the annual report. Technical assistance is available, at no cost, with preparing financial reports.

The type of financial information that must be submitted is specified below:

- a. **Audits** – An audit under the Single Audit Act is required if you expend \$750,000 or more in Federal financial assistance per fiscal year. The total Federal funds expended from all sources shall be used to determine Federal financial assistance expended. Expenditures of interim financing are considered Federal expenditures.

See Section VI for additional information regarding audits.

- b. **Financial Statements** – If you expend less than \$750,000 in Federal financial assistance per fiscal year, you may submit financial statements in lieu of an audit which include, at a minimum, a balance sheet and an income and expense statement. You may use Form RD 442-2, “Statement of Budget, Income and Equity,” and 442-3, “Balance Sheet,” or similar format to provide the financial information. The financial statements must be signed by the appropriate borrower official and submitted within 60 days of your fiscal year end.
- c. **Quarterly Reports** – Quarterly Income and Expense Statements will be required until the processing office waives this requirement. You may use Form RD 442-2, “Statement of Budget, Income and Equity,” or similar format to provide this information. The reports are to be signed by the appropriate borrower official and submitted within 30 days of each quarter’s end. The Agency will notify you in writing when quarterly reports are no longer required.

**46. Annual Budget and Projected Cash Flow** - Thirty days prior to the beginning of each fiscal year, you will be required to submit an annual budget and projected cash flow to this office. The budget must be signed by the appropriate borrower official. Form RD 442-2, “Statement of Budget, Income and Equity,” or similar format may be used.

Technical assistance is available at no cost to help you evaluate and complete a rate analysis on your system, as well as completing the annual budget.

**47. Graduation** - By accepting this loan, you are also agreeing to refinance (graduate) the unpaid loan balance in whole, or in part, upon request of the Government. If at any time the Agency determines you can obtain a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms, you will be requested to refinance. Your ability to refinance will be assessed every other year for those loans that are five years old or older.

**48. Security/Operational Inspections** -- The Agency will inspect the facility and conduct a review of your operations and records management system and conflict of interest policy every three years for the life of the loan. You must participate in these inspections and provide the required information.

**49. System for Award Management**. You will be required to maintain a Unique Entity ID (UEI) and maintain an active registration in the System for Award Management (SAM) database. Further information can be found at paragraph 33 of this letter.

**50. Risk and Resiliency Assessment/Emergency Response Plan (RRA/ERP)** – The RRA/ERP is further outlined under Section III of this letter. You will be required to submit a certification to the servicing office every five years that the RRA/ERP is current and covers all sites related to the facility. The RRA/ERP documents themselves are not submitted to the Agency. The RRA/ERP must address potential impacts from natural disasters and other emergency events. It



should include plans to address impacts of flash flooding in areas where severe drought or wildfires occur. Technical assistance is available in preparing these documents at no cost to you.

**51. Insurance.** – Insurance requirements are further outlined in Section IV of this letter. You will be required to maintain insurance on the facility and employees as previously described in this letter for the life of the loan.

**52. Statutory and National Policy Requirements** – As a recipient of Federal funding, you are required to comply with U.S. statutory and public policy requirements, including but not limited to:

- a. **Section 504 of the Rehabilitation Act of 1973** – Under Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), no handicapped individual in the United States shall, solely by reason of their handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Agency financial assistance.
- b. **Civil Rights Act of 1964** – All borrowers are subject to, and facilities must be operated in accordance with, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and 7 CFR 1901, Subpart E, particularly as it relates to conducting and reporting of compliance reviews. Instruments of conveyance for loans and/or grants subject to the Act must contain the covenant required by Paragraph 1901.202(e) of this Title.
- c. **The Americans with Disabilities Act (ADA) of 1990** – This Act (42 U.S.C. 12101 et seq.) prohibits discrimination on the basis of disability in employment, State and local government services, public transportation, public accommodations, facilities, and telecommunications.
- d. **Age Discrimination Act of 1975** – This Act (42 U.S.C. 6101 et seq.) provides that no person in the United States shall on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
- e. **Limited English Proficiency (LEP) under Executive Order 13166** - LEP statutes and authorities prohibit exclusion from participation in, denial of benefits of, and discrimination under Federally-assisted and/or conducted programs on the ground of race, color, or national origin. Title VI of the Civil Rights Act of 1964 covers program access for LEP persons. LEP persons are individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English. These individuals may be entitled to language assistance, free of charge. You must take reasonable steps to ensure that LEP persons receive the language assistance necessary to have meaningful access to USDA programs, services, and information your organization provides. These protections are pursuant to Executive Order 13166 entitled, “Improving Access to Services by Persons with Limited English Proficiency” and further affirmed in the USDA Departmental Regulation 4330-005, “Prohibition Against National

Origin Discrimination Affecting Persons with Limited English Proficiency in Programs and Activities Conducted by USDA.”

- f. **Controlled Substances Act** - Even though state law may allow some activities, as a recipient of Federal funding, you are subject to the Controlled Substances Act. Specific questions about the Controlled Substances Act should be directed to the Servicing Official who will contact the Office of General Counsel, as appropriate.

**53. Compliance Reviews and Data Collection** – Agency financial programs must be extended without regard to race, color, religion, sex, national origin, marital status, age, or physical or mental handicap. You must display posters (provided by the Agency) informing users of these requirements, and the Agency will monitor your compliance with these requirements during regular compliance reviews.

The Agency will conduct regular compliance reviews of the borrower and its operation in accordance with 7 CFR Part 1901, Subpart E, and 36 CFR 1191, Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities; Architectural Barriers Act (ABA) Accessibility Guidelines. Compliance reviews will typically be conducted in conjunction with the security inspections described in this letter.

If beneficiaries (users) are required to complete an application or screening for the use of the facility or service that you provide, you must request and collect data by race (American Indian or Alaska Native, Asian, Black or African American, White); ethnicity (Hispanic or Latino, Not Hispanic or Latino); and by sex. The Agency will utilize this data as part of the required compliance review.

## **SECTION VIII – REMEDIES FOR NON-COMPLIANCE**

Non-compliance with the conditions in this letter or requirements of your security documents will be addressed under the provisions of Agency regulations, statutes, and other applicable policies.

We look forward to working with you to complete this project. If you have any questions, please contact Elizabeth Ybarra at (505) 761-4963 or by e-mail at [elizabeth.ybarra@usda.gov](mailto:elizabeth.ybarra@usda.gov).

Sincerely,

**ELIZABETH  
YBARRA**

Digitally signed by ELIZABETH YBARRA  
Date: 2024.08.02 15:59:09 -06'00'

Christine Griego by Elizabeth Ybarra Acting  
Community Programs, Program Director

Attachments:

T or C\_WSPI-2\_Form RD 1942-46\_Letter of Intent to Meet Conditions  
T or C\_WSPI-2\_Form RD 1940-1\_Request for Obligation of Funds\_306(C)  
T or C\_WSPI-2\_Form RD 1940-1\_Request for Obligation of Funds\_Loan

cc: USDA - Community Programs Director, Christine Griego  
USDA - Community Programs Interim Engineer, Lam Ho  
Angela Gonzales – City Manager – City of Truth or Consequences  
Traci Alvarez – Asst. City Manager  
Wilson & Company - Engineer



FORMS and BULLETINS:

Form AD-3031 "Assurance Regarding Felony Convictions or Tax Delinquent Status for Corporate Applicants" – Item 30  
 Internal Revenue Service Form 1023, Appendix A, "Sample Conflict of Interest Policy" - Item 15  
 Form RD 440-22, "Promissory Note" – Item 6  
 Form RD 442-2, "Statement of Budget, Income and Equity" – Items 45 and 46  
 Form RD 442-3, "Balance Sheet" – Item 45  
 Form RD 442-7, "Operating Budget" – Item 20  
 Form RD 442-20, "Right-of-Way Easement" – Item 14  
 Form RD 442-21, "Right-of-Way Certificate" – Item 14  
 Form RD 442-22, "Opinion of Counsel Relative to Rights-of-Way" – Item 14  
 Form RD 1927-9, "Preliminary Title Opinion" – Item 14  
 Form RD 1927-10, "Final Title Opinion" – Item 28  
 Form RD 1940-1, "Request for Obligation of Funds" – Pages 1 and 2  
 Form RD 1942-8, "Resolution of Members or Stockholders" – Item 6  
 Form RD 1942-46, "Letter of Intent to Meet Conditions" – Page 2  
 Form RD 3550-28, "Authorization Agreement for Preauthorized Payments" – Items 32 and 33  
 Form UCC-1, "Financing Statement" – Item 6  
 Form UCC-1Ad, "UCC Financing Statement Addendum" – Item 6  
 SF 3881, "ACH Vendor/Miscellaneous Payment Enrollment Form" – Item 24  
 RUS Bulletin 1780-7, "Legal Services Agreement" – Item 13  
 RUS Bulletin 1780-9, "Water Users Agreement" - Items 15 and 17  
 RUS Bulletin 1780-12, "Water and Waste System Grant Agreement" – Item 6  
 RUS Bulletin 1780-26, "Guidance for the Use of EJCDC Documents on Water and Waste Projects with RUS Financial Assistance" – Items 11 and 12  
 RUS Bulletin 1780-27, "Loan Resolution (Public Bodies)" – Item 6  
 RUS Bulletin 1780-28, "Loan Resolution Security Agreement" – Item 6

**Appendix A**  
**(INSTRUCTIONS TO FIELD)**

**A. Reporting Total Compensation of Recipient Executives**

In the rare instance in which all of the following apply, please contact your POB Specialist for language to include in the LOC:

1. The total Federal funding authorized to date under this award is \$30,000 or more;
2. In the preceding fiscal year, the applicant received—
  - (A) 80 percent or more of their annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
  - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
3. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

**B. Subaward and Subrecipients**

In the rare instance in which there is a subrecipient in the project, please contact your POB Specialist for language to include in the LOC:

Subrecipient means an entity that:

- i. Receives a subaward from the recipient under this award; and

- ii. Is accountable to the recipient for the use of the Federal funds provided by the subaward.
  - a. Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.





## **Appendix B**

### **Build America, Buy America Evidence Standards**

#### *Manufacturers*

For each item to which BABAA applies (every item permanently installed on the project, except for aggregate and aggregate binding materials), a manufacturer's certification letter or other document demonstrating compliance is required. It must, at a minimum, identify the item being certified (short written description as well as part number, if applicable) and affirm that the item complies with BABAA. This document must be signed by an authorized company representative.

#### *Architects and Engineers*

Compliance with BABAA will be spelled out in agreements for services, construction contracts, and procurement contracts. Generally, the A/E contract should include, as a basic service, obtaining and maintaining all BABAA documentation (particularly manufacturers' certifications) during construction, which shall be transferred to the Owner upon completion of the project. The architect or engineer will need to certify to this action at the project's end.

#### *Resident Project Representative / Resident Inspector*

As part of their duties, Resident Project Representative/Resident Inspector should be instructed to verify items delivered to the site and installed are accompanied by documentation of compliance with BABAA. They should photograph items as appropriate. RPR/RI daily logs and photographs will become part of the construction record and can be used as supporting information during audits, providing evidence for items that are buried or otherwise inaccessible.

#### *Contractors*

Construction contract(s) must include a requirement to procure and install only items that comply with BABAA or are subject to an approved waiver. Contractors must provide manufacturers' certifications for all BABAA compliant items to the responsible party before a request for reimbursement to the Agency is made. At completion, the contractor will be required to certify that all items used on the contract complied with BABAA and that all manufacturers' certifications were provided.

## **Appendix B**

### **Build America, Buy America Evidence Standards**

#### *Manufacturers*

For each item to which BABAA applies (every item permanently installed on the project, except for aggregate and aggregate binding materials), a manufacturer's certification letter or other document demonstrating compliance is required. It must, at a minimum, identify the item being certified (short written description as well as part number, if applicable) and affirm that the item complies with BABAA. This document must be signed by an authorized company representative.

#### *Architects and Engineers*

Compliance with BABAA will be spelled out in agreements for services, construction contracts, and procurement contracts. Generally, the A/E contract should include, as a basic service, obtaining and maintaining all BABAA documentation (particularly manufacturers' certifications) during construction, which shall be transferred to the Owner upon completion of the project. The architect or engineer will need to certify to this action at the project's end.

#### *Resident Project Representative / Resident Inspector*

As part of their duties, Resident Project Representative/Resident Inspector should be instructed to verify items delivered to the site and installed are accompanied by documentation of compliance with BABAA. They should photograph items as appropriate. RPR/RI daily logs and photographs will become part of the construction record and can be used as supporting information during audits, providing evidence for items that are buried or otherwise inaccessible.

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## Water System Performance Improvements (WSPI-2)

Funded by USDA

\$9,900,891

\$7,227,891 Grant/\$2,673,000 Loan

Oct 2023/est. August 2024

**Pending USDA Final Grant Funding (\$5,575,000)**

### FULL PROJECT SCOPE:

Design & Construction of approx. 13,983 LF waterline replacements east of the MSD area on Riverside Dr. with a new 10-in mainline loop to feed Village of Williamsburg and provide hydraulic resiliency to the area. Improvements include gate valves, new service lines, meters, hydrants and accompanying appurtenances.

Design Phase – Anticipate 12 months

Anticipated Construction start date: Fall 2025

Anticipated Construction end date: Summer 2026

### FINAL PROJECT SCOPE

IN PROGRESS/COMPLETED

Engineering Agreement to follow USDA Grant Agreement.





# CITY OF TRUTH OR CONSEQUENCES

## AGENDA REQUEST FORM

MEETING DATE: September 24, 2024

Agenda Item #: G.1

**SUBJECT:** Discussion/Action: Best Friends Animal Society Grant Agreement

**DEPARTMENT:** Animal Shelter

**DATE SUBMITTED:** September 18, 2024

**SUBMITTED BY:** Tara Manning

**WHO WILL PRESENT THE ITEM:** Tara Manning, Animal Shelter Supervisor

**Summary/Background:**

The Animal Shelter has been awarded a grant from the Best Friends Animal Society in the amount of \$5,000 for fee-waived adoptions.

**Recommendation:**

Approval

**Attachments:**

- Best Friends Animal Society Grant Agreement

-

**Fiscal Impact (Finance):** Choose an item.

[Click here to enter text.](#)

**Legal Review (City Attorney):** Choose an item.

.

**Approved For Submittal By:** ☒ Department Director

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

**Final Approval:** ☐ City Manager

### CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

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

Continued To: - Referred To: -

☐ Approved ☐ Denied ☐ Other: -

File Name: CC agendas 9-24-24



Atlanta • Kanab • Los Angeles • New York City • Salt Lake City

## BEST FRIENDS ANIMAL SOCIETY GRANT AGREEMENT

### BACKGROUND

Best Friends Animals Society (“Best Friends” OR “BFAS”) is a 501(c)(3) nonprofit corporation based in Kanab, Utah, whose mission is No More Homeless Pets®. Best Friends feels privileged to help save lives by working with organizations and agencies by providing funding for specific projects and/or needs in our commitment to No Kill 2025.

Recipient is a 501(c)(3) nonprofit animal welfare charity or a municipal shelter which has submitted a grant request to Best Friends requesting to be awarded a grant pursuant to the scope of the program below. The funds shall be disbursed upon receipt of the signed agreement and copy of the Recipient’s [IRS FORM W9](#).

This grant agreement (“Agreement”) will govern the terms of the Grant. The Parties hereby agree to the following terms and conditions as of the date on which it is fully executed by both parties (the “Effective Date”).

### Grant Agreement Reference:

Recipient Organization Business Name: Truth or Consequences Animal Shelter

Recipient Organization Contact Name: Tara Manning

EIN:

Grant Name: Adoption Stipend

Amount: \$5,000

Grant Term: October 1, 2024 – September 30, 2025

Best Friends Representative: Desiree Triste-Aragon

### Section 1. Use of Grant Fund.

Provide adoption stipend for fee-waived adoptions for Truth or Consequences Animal Shelter.

The Term of this Agreement, unless terminated pursuant to the language below will be from October 1, 2024

Grants will be provided in one-time payment with Best Friends’ obligation to disburse funds conditional upon receipt of Recipient’s IRS Form W-9.

### Section 2. Grantee Requirements (Customizable except SPDA reporting)

- A. Recipient agrees to provide final grant report using provided by Best Friends outline the use of the Grant funds. These grant reports must include: details on grant outcomes, shelter statistics of the municipal shelter(s) impacted by the grant (if applicable), amount of funding spent to date/itemized

accounting of how funds have been spent, the number of cats or dogs positively impacted and examples of successes. With the final grant report, Recipient will provide any relevant success stories of animals helped through the program, or descriptions of how the Grant has impacted the target community.

- B. Recipient is registered or will become registered with SHELTER PET DATA ALLIANCE (SPDA) website and submit MONTHLY DATA REPORTING INTO SPDA through the terms of this Agreement.
- C. Recipient is a member or will become a member of the Best Friends Network.

### **Section 3. Grant Branding Terms and Promotion**

Recipient shall cooperate with Best Friends regarding the promotion of the Grant. Both Parties may issue reports or statements to its members, the media, and the public about the Grant. This includes, but is not limited to websites, newsletters, press releases, magazine articles, blogs, and podcasts. Recipient shall reasonably cooperate with Best Friends staff, volunteer team leaders, and news or magazine writers in the production of such news content. Recipient agrees to cooperate with Best Friends and facilitate promotion of the Grant through the Best Friends website, newsletters, electronic news distributions, press releases, and other media outlets.

### **Section 4. Photo, Video, Digital and Audio Release**

Recipient grants to BFAS permission and rights to photograph, video, and audio record any of Recipient's programs or events for the duration of the Grant. Recipient grants BFAS the right to indefinitely use such photographs, videos or digital images and voices. This release covers all photos, videos, and audio recordings made by BFAS or its employees, contractors, or agents. Recipient understands and agrees that these photographs, videos, or digital images and recordings may be used by BFAS in its sole discretion including for identification purposes, to promote or report about BFAS events, activities, and mission; to raise donations, or for other purposes. This includes, but is not limited to, any royalties, proceeds, or other benefits derived from such images or recordings. This release remains in effect even after the end of the Grant Period.

Recipient further agrees not to make any claim against BFAS or its employees, contractors, or agents for the use of these photographs, videos or digital image or voice recordings. Recipient understands this agreement releases and forever discharges BFAS from any liability to Recipient, its successors, and assigns with respect to personal injury, property damage or other loss or damages that may result as a result from the making and use of photographs, videos or digital image or voice recordings.

### **Section 5. Non-Disparagement**

During the term of this agreement and for a period of one year after, Recipient agrees to take reasonable commercial measures to ensure that its representatives and official media outlets do not make statements, including but not limited to social media posts, regarding the activities covered by this Agreement that are intended to or likely to bring Best Friends into disrepute.



## **Standard Terms and Agreement**

### **Section 6. Grant Recipient Representations and Warranties Recipient represents and warrants as follows during the Term of this Agreement:**

- A. Recipient is a qualified 501(c)(3) entity or government organization.
- B. Recipient acknowledges that its animal welfare activities may be governed by a variety of federal, state, and local laws. Recipient hereby warrants that it shall use its best efforts to comply with all applicable laws and shall not knowingly violate same.
- C. There are no claims, investigations, or proceedings in progress, pending or threatened against Recipient which, if determined adversely, would have a material effect on Recipient's ability to fulfill its obligations pursuant to this Agreement and there are no claims, investigations, or proceedings in progress, pending or threatened against Recipient which involve animal neglect or abuse.
- D. The individual signing this Agreement on behalf of Recipient is legally competent to enter into this Agreement duly authorized to do so by the Recipient.

### **Section 7. Grant Restrictions**

In addition to abiding by the requirement that the Grant funds be used in furtherance of the program described in Recipient's grant application, Recipient specifically agrees that no portion of the Grant funds will be used for any of the following: (i) to lobby or otherwise attempt to influence legislation; (ii) to influence outcome of any specific public election or participate or intervene in any political campaign on behalf of any candidate for public office or conduct, directly or indirectly; (iii) to support or oppose any elected official or candidate for public office or on any particular issue.

### **Section 8. Termination**

Recipient may terminate this Agreement upon providing ten (10) business days written notice to Best Friends in the event of the following events of default:

- (i) By its actions or statements, Best Friends materially harms Recipient as determined by Recipient in its reasonable judgment;
- (ii) Best Friends files for bankruptcy, sells, assigns, or transfers the majority of its assets to another entity, or ceases to operate as a nonprofit corporation.

Best Friends may terminate this Agreement upon providing ten (10) business days written notice to the Recipient in the event of the following events of default:

- (i) By its actions or statements, Recipient materially harms Best Friends as determined by Best Friends in its reasonable judgment;
- (ii) Recipient files for bankruptcy, sells, assigns, or transfers the majority of its assets to another entity, or ceases to operate as a nonprofit corporation (if a nonprofit corporation); or
- (iii) Recipient fails to perform its commitments as set out in this Agreement, including, in the reasonable judgment of Best Friends, failing to carry out the Project with reasonable diligence to meet the goal of saving as many animal lives as possible or has not worked in good faith with professionalism to achieve the mutually agreed upon Goals.

[In the event Best Friends terminates this Agreement pursuant to this section, Best Friends, has no obligation to pay Recipient any grant payment not yet due at the time of the notice of such termination.]

## **Section 9. Intellectual Property License**

For the Term of this Agreement, Recipient grants Best Friends a non-exclusive, royalty free license to use Agency's name and/or logo to promote Agency's lifesaving activities associated with the Grant. Other than the forgoing, neither Party may use the other Party's logos, trademarks, or other intellectual property without express written permission of the other Party.

## **Section 10. Release**

To the full extent permitted by law, the Grant Recipient, their directors, officers, employees, representatives, agents, successors, and assigns, agree never to bring a claim or suit against Best Friends relating to the Grant and its receipt of service. The Recipient agrees Best Friends and its directors, officers, employees, representatives, agents, contractors, successors and assigns ("Releasees") are not responsible for any of the decisions, plans, guidelines, work, or activities related to or arising from the Grant. The Recipient releases Best Friends and its directors, founders, employees, officers, agents, representatives, contractors, volunteers, successors and assigns from all liability arising from any work or activities related to the Grant. The Recipient understands this agreement discharges Releasees from any liability to the Recipients with respect to bodily injury, personal injury, illness, death, property damage or other loss of any kind or nature whatsoever, direct, or indirect, known or unknown, that may result as a result of the Recipient's work, participation and activities related to this Grant.

## **Section 11. Indemnity Agreement**

To the full extent permitted by law, the Recipient and its directors, officers, agents, employees, representatives, successors and assigns, agree to indemnify and hold Releasees harmless for all bodily injury, personal injury, illness, death, property damage or other losses of any kind or nature whatsoever, direct or indirect, known or unknown, including attorney's fees and costs of litigation that result to anyone else or any other entity because of Recipient's actions or omissions related to the Project or any breach by Recipient of this Agreement. This includes lone acts or omissions by the Recipient as well as the combined acts of the Recipient with others.

## **Section 12. Proprietary Information**

Recipient acknowledges and agree that the following constitute "Proprietary Information": any secret or proprietary information relating direction to Best Friends business, including, but not limited to, the Best Friends Network and donation process, services, members, donor and volunteer lists, business policies, employment records and policies, operational methods, marketing plans and strategies, business development plans, new personnel acquisition plans, technical processes, designs and design projects, inventions and research programs, trade know-how, trade secrets, specific software, algorithms, computer processing systems, object and source codes, user manuals, systems documentation, and other business and financial affairs of Best Friends. It is not anticipated that Recipient will have access to Best Friends proprietary information as a result of this Agreement. Nonetheless, Recipient acknowledges and agrees that in the event Recipient learns of or come into possession of any Best Friends proprietary information, Recipient will notify Best Friends and return said information. Recipient agrees that they will not use,

supply or disclose any Proprietary Information it happens to learn of to any third party.

### **Section 13. No Third-Party Beneficiaries**

Nothing in this Agreement shall be construed to give any person or entity other than the Parties to this Agreement any legal or equitable claim, right or remedy; rather, this Agreement is intended to be for the sole and exclusive benefit of the Parties hereto.

### **Section 14. Survival of Terms**

The intellectual property rights, including the rights to use photos, digital, audio and video materials, agreed to in this agreement are perpetual. The releases are perpetual. The agreement to maintain Proprietary Information confidential is perpetual. The Non-Disparagement clause survives for one year following the terms of the Agreement.

### **Section 15. Other Terms**

The provisions in this Agreement bind the successors and assigns of Recipient. Each term of this Agreement is material. Recipient agrees that in the event that any clause or provision of this agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not otherwise affect the remaining provisions of this agreement. This is the entire agreement between the Parties and supersedes any other verbal or written statements, representations, or promises.

This Agreement shall not be construed to constitute any form of partnership, agency, or joint venture between BFAS and Recipient. Neither Party is responsible in any way for the debts of the other or any other party, or any breach of any law, rule, regulation, complaint, grievance, custom, or guideline of the other. Neither Party has authority to bind the other to any contractual or other agreements and in no event shall either Party represent or hold itself out as acting on behalf of the other Party hereto.

[IF THERE IS AN AWKWARD PAGE BREAK BEFORE THE SIGNATURE BLOCK PUT THE FOLLOWING IN BRACKETS CENTERED ON THE PAGE: The remainder of this page is left intentionally blank. The signature page follows.]

By signing below, Recipient and Best Friends acknowledge and agree to the terms of this Agreement. If signing electronically, the Parties acknowledge that they have read this Agreement and indicate their intent to electronically sign and be bound by the terms and conditions therein. They agree that their electronic signatures are intended to authenticate this writing and to have the same force and effect as a manual signature for purposes of validity, enforceability, and admissibility.

Truth or Consequences Animal Shelter

Signature:

Printed Name:

Title:

Date:

Best Friends Animal Society

Signature: [electronic signature of authorized representative]

Printed Name:

Title:

Date:





# CITY OF TRUTH OR CONSEQUENCES

## AGENDA REQUEST FORM

MEETING DATE: September 24, 2024

*Agenda Item #: G.2*

**SUBJECT:** Discussion/Action: Variance request and Special Use Permit for Parcel 3021077414340 for the placement of Shipping Containers

**DEPARTMENT:** Community Development

**DATE SUBMITTED:** September 18, 2024

**SUBMITTED BY:** Traci Alvarez

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

***Summary/Background:***

P & Z Commission recommended approval to the City Commission for a Variance request and Special Use Permit.

***Recommendation:***

Final Determination

***Attachments:***

- P & Z Agenda Packet
- Draft minutes applicable section highlighted

***Fiscal Impact (Finance):*** Choose an item.

[Click here to enter text.](#)

***Legal Review (City Attorney):*** Yes

***Approved For Submittal By:*** ☐ Department Director

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

***Final Approval:*** ☐ City Manager

**CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN**

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

Continued To: - Referred To: -

☐ Approved ☐ Denied ☐ Other: -

File Name: CC Agenda 9-24-24



**CITY OF TRUTH OR CONSEQUENCES**  
**PLANNING AND ZONING COMMISSION ACTION FORM**  
**DATE: 9-9-2024**

**ITEM:**

Public Hearing/Discussion/Action: Variance request and Special Use Permit for Parcel 3021077414340 for the placement of Shipping Containers

**BACKGROUND:**

Applicant wishes to place shipping containers on the property to be used as storage units. Property will be fenced, security cameras and lighting will be installed. Property is located in R-3 District. Variance is needed for placement of multiple shipping containers not subordinate to a structure; Special Use permit is required to allow for Storage Units in R-3.

*Placement of storage units/shipping containers within Residential Districts is allowed as accessory storage units as long as they are not used for dwelling purposes and with the following exceptions:*

- 1. Conditional Use Permit is required for placement of all storage units/shipping containers within the following districts: R-1, R-2, R-3, R-4 and RR-1.*
- 3. Must be a subordinate use or structure customarily incidental to and located on the same lot with the principal use or building.*

*Sec. 11-5-6. - Special Use Permit.*

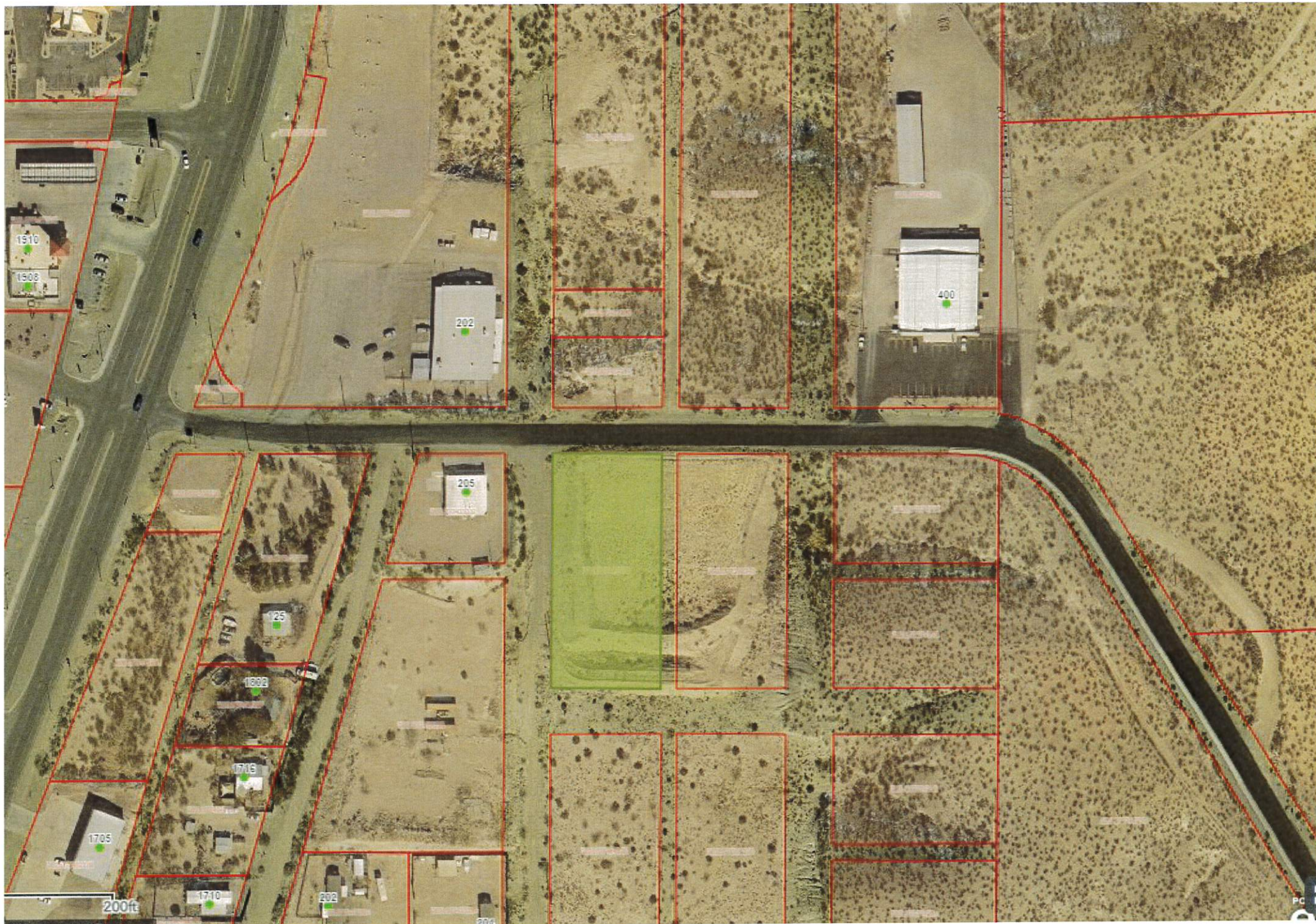
*A special use permit may be authorized by the City Commission after hearing the recommendation of the Planning and Zoning Commission. A special use permit is required for a special land use, which is not permitted by right within the district wherein it is requested*

**SUPPORT INFORMATION:**

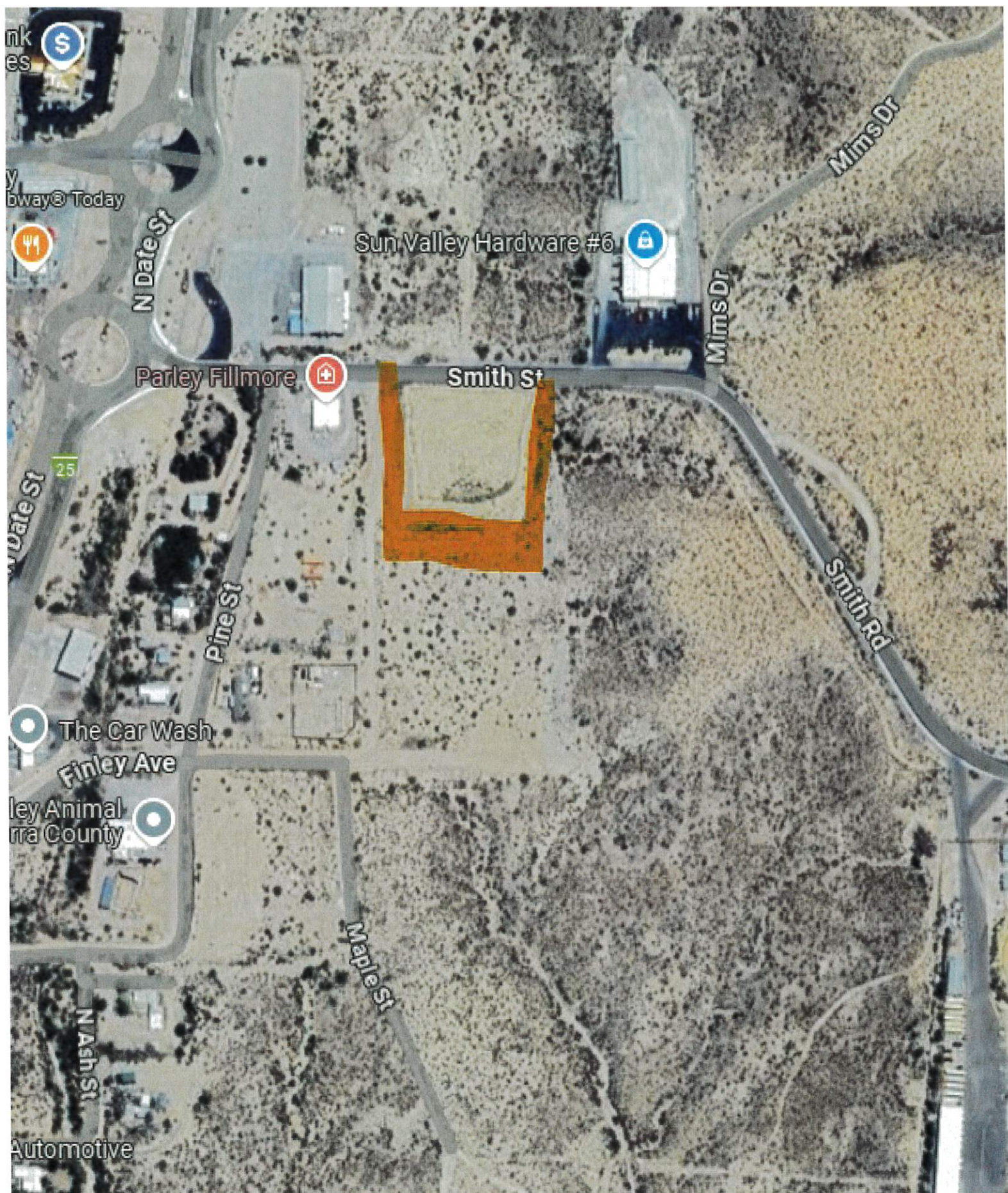
- Parcel Maps
- Zoning Map
- Code References
- Findings of Facts Checklist

|                                                                      |                          |  |
|----------------------------------------------------------------------|--------------------------|--|
| Name of Drafter: Traci Alvarez                                       | : Assistant City Manager |  |
| E-mail: <a href="mailto:talvarez@torcnm.org">talvarez@torcnm.org</a> | Phone: 575-894-6673      |  |











# Legend

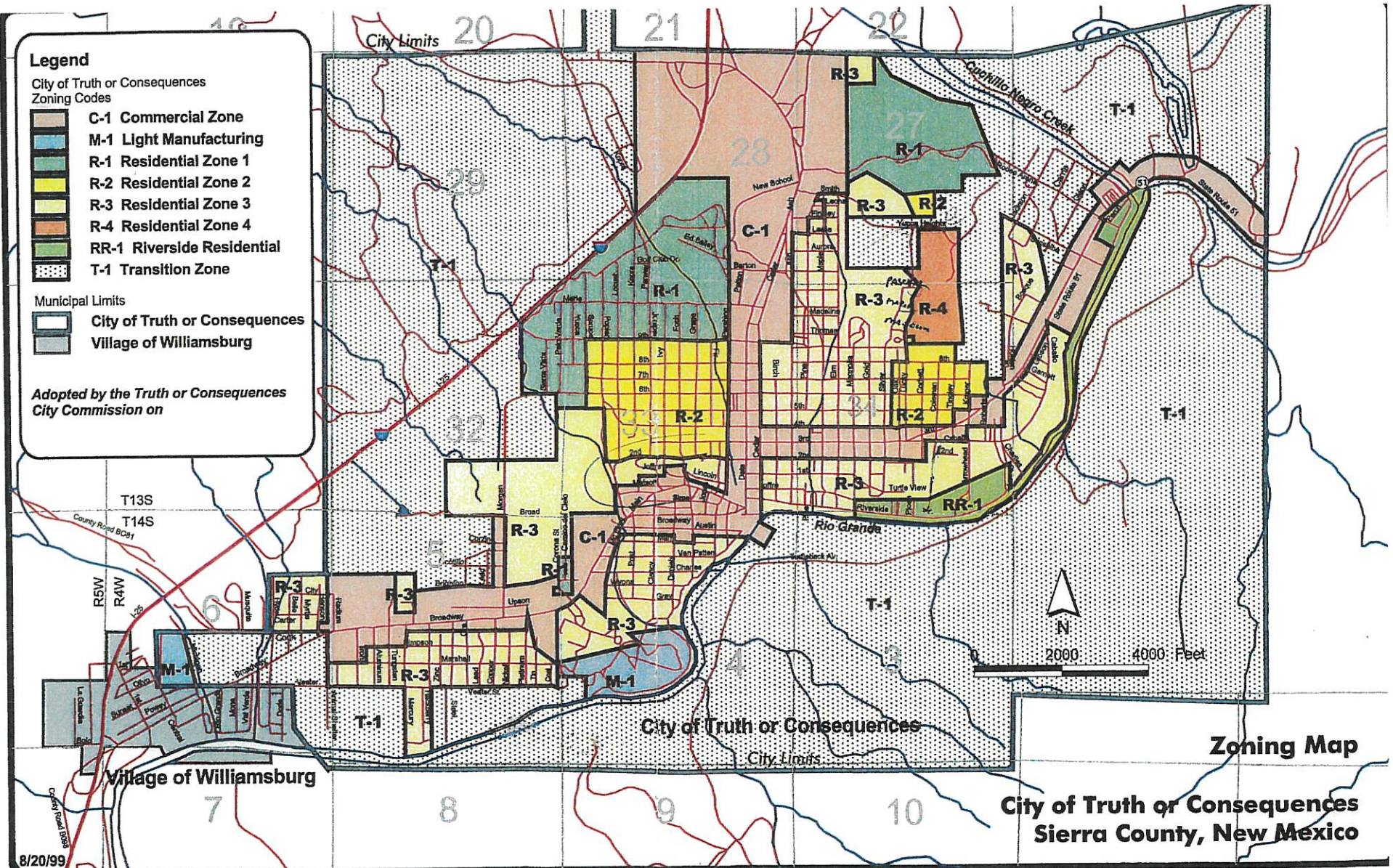
City of Truth or Consequences  
Zoning Codes

- C-1 Commercial Zone
- M-1 Light Manufacturing
- R-1 Residential Zone 1
- R-2 Residential Zone 2
- R-3 Residential Zone 3
- R-4 Residential Zone 4
- RR-1 Riverside Residential
- T-1 Transition Zone

Municipal Limits

- City of Truth or Consequences
- Village of Williamsburg

Adopted by the Truth or Consequences  
City Commission on



**Zoning Map**

**City of Truth or Consequences  
Sierra County, New Mexico**



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### **Sec. 11-5-5. Variance.**

A Variance may be authorized by the City Commission after hearing the recommendation of the Planning and Zoning Commission. The variance shall provide relief from the strict application of dimension, distance, parking or setback requirements of this Code.

A. *Provisions for variance.*

1. The subject property must be irregular, narrow, shallow, or steep or otherwise, have physical conditions where application of the requirements of this Code would result in practical difficulty or unnecessary hardship to the owner in the use of his land or building.
2. The applicant shall notify all property owners of his/her intent in a manner specified in Section 11-7-2 and shall be subject to a public hearing as specified therein.
3. Variance shall not be granted in such cases where it would adversely affect adjoining properties, impair established property values, or endanger public safety.
4. Variances shall not be granted where spot zoning would occur.

B. *Fee.* A non-refundable application fee as set by City Commission Resolution must accompany each application.

C. *Submission requirements.* The application for variance shall be in the format stipulated by the City and shall contain plans and other information as required by the designated Zoning Administrator. The completed application for a variance, shall be submitted to the City Clerk for placement upon the agenda of the Planning and Zoning Commission.

D. *Revocation.* A variance shall be automatically revoked in the event of building permit for the approved Variance has not been obtained within ninety (90) days, or construction has not begun within one hundred eighty (180) days after the building permit has been issued. The Planning and Zoning Commission may grant ninety (90) days extension if deemed appropriate.

E. *Re-application for variance.* In the event of a denial decision by the City Commission, there shall be no re-application for the same variance for a period of one (1) year after the date of the decision of the Commission.

### **Sec. 11-5-6. Special Use Permit.**

A special use permit may be authorized by the City Commission after hearing the recommendation of the Planning and Zoning Commission. A special use permit is required for a special land use, which is not permitted by right within the District wherein it is requested.

A. *Provisions for special use permit.*

1. In making a decision on a Special Use Permit, the Planning and Zoning Commission and the City Commission shall review the following factors and accord each factor the necessary weight on a case-by-case basis.
  - a. The increase in congestion of streets and other rights-of-way;
  - b. Diminishment of safety from fire, panic and other dangers;
  - c. Diminishment to the health and general welfare of the public;
  - d. Degradation of light and air for all properties in the immediate area of the proposed Permit; increases of overcrowding of land and undue concentrations of populations;

- 
- e. Adverse affects on provisions for transportation, water, sewer, schools, parks and other public facilities or increases in the effects of natural hazards;
  - f. Increases or facilitation of the unlawful use of structures, buildings or land; and
  - g. Promote the use or waste of energy in the use of structures, buildings, and land.
2. Special Use Permits shall not be granted in such cases where the use will result in negative impacts, which substantially outweigh the positive impacts of the purposed use.
- B. *Fee.* A non-refundable application fee to be set by City Commission Resolution must accompany each application.
- C. *Submission requirements.* The application for a special use permit shall be in the format stipulated by the City. There shall be a comprehensive statement included with each application indicating in detail the reason for the request, the purpose and proposed use of the property, all improvements to be made, and a site plan including the following:
- 1. Location of existing and proposed structures including the dimensions of setbacks;
  - 2. Existing and proposed vehicular circulation systems, including parking areas, storage areas, service areas, loading areas, and major points of access, including street pavement width and right-of-way;
  - 3. Location and treatment of open spaces including landscaping plan and schedule;
  - 4. Lighting;
  - 5. Signage;

A drainage plan, site plan and grading plan shall be required for all developments exceeding one (1) acre and to all new and all re-development within the C-1 and M-1 Planning and Zoning Districts, to all manufactured home parks, manufactured home subdivisions, recreational vehicle parks, and to all special and conditional uses in other Districts. For lesser developments when the designated Zoning Administrator determines said plans to be necessary, the designated Zoning Administrator shall so inform the applicant prior to accepting an application.

- D. *Public hearing and notice procedure.* A public hearing shall be held by the Planning and Zoning Commission for all special use permits. All property owners shall be notified in accordance with the provisions of Article 7 of this Code.
- E. *Review and approval.* The City Commission may deny special use permits, or may grant final approval in accord with certain conditions, with right of appeal in accordance with Article VII of this Code. Approval may also be granted with additional conditions imposed, which are deemed necessary to insure that the purpose and intent of this Code is met and to protect and provide safeguards for persons and property in the vicinity.
- F. *Time limitation and revocation.* If a special use is not initiated within one (1) year following approval or if a special use is discontinued for a period of one (1) year, said permit shall be automatically revoked. The City Commission may impose a different time limitation on a special use permit. All improvements shall be in accord with the development standards of the District except as otherwise authorized by the special use permit. Significant variation from the approved special use and related improvements shall result in the automatic revocation of the special use permit.
- G. *Re-submittal of application for special use permit.* Application for a special use permit shall not be resubmitted or reconsidered for a period of one (1) year after it has been acted upon by the City Commission except that an application may be made for a different special use permit on the same parcel of land six (6) months after such previous action has been taken.



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H. *Special use.* Special uses shall not be considered a District boundary change.

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#### **Sec. 11-10-4. Storage Units/Shipping Containers.**

The regulation of storage units/shipping containers within the city limits of the City of Truth or Consequences shall be controlled by and shall conform to the regulations prescribed in this section. A storage unit/shipping container means a unit originally or specifically designed or used to store goods or merchandise during shipping or hauling by container ships, rail, commercial trucks, or other types of transportation.

- A. Placement of storage units/shipping containers within C-1, M-1 and T-1 districts are permitted as accessory storage units as long as they are not used for dwelling purposes and with the following exceptions:
  - 1. Conditional Use Permit is required for placement of all storage units/shipping containers within the boundaries of the Metropolitan Redevelopment Area (MRA) and Historic MainStreet District Area defined in the Downtown Master Plan.
  - 2. Containers may not exceed 46 feet in length and 10 feet in height
  - 3. Must be a subordinate use or structure customarily incidental to and located on the same lot with the principal use or building
  - 4. Interior lot: No less than ten (10) feet from main use or structure and in conformance with the front setback for that district and no less than five (5) feet from the property lines of side and rear yards
  - 5. Lots with more than one street frontage: No less than ten (10) feet from main use or structure, and no less than five (5) feet from the property line of yards without street frontage.
  - 6. May not encroach in the clear-sight triangle.
  - 7. Shall not create unsanitary or hazardous premises as outlined in Sec 6-74 and 6-75.
- B. Placement of storage units/shipping containers within Residential Districts is allowed as accessory storage units as long as they are not used for dwelling purposes and with the following exceptions:
  - 1. Conditional Use Permit is required for placement of all storage units/shipping containers within the following districts: R-1, R-2, R-3, R-4 and RR-1.
  - 2. Containers may not exceed 46 feet in length and 10 feet in height
  - 3. Must be a subordinate use or structure customarily incidental to and located on the same lot with the principal use or building
  - 4. Interior lot: No less than ten (10) feet from main use or structure and in conformance with the front setback for that district and no less than five (5) feet from the property lines of side and rear yards
  - 5. Lots with more than one street frontage: No less than ten (10) feet from main use or structure, and no less than five (5) feet from the property line of yards without street frontage.
  - 6. May not encroach in the clear-sight triangle.
  - 7. Shall not create unsanitary or hazardous premises as outlined in Sec 6-74 and 6-75.
- C. Temporary placement of storage containers within Conditional Use Areas are allowed through written approval of the Designated Zoning Official as long as they are not used for dwelling purposes for:
  - 1. The purpose of moving household contents in to or out of a house are allowed for up to 30 days in any 12-month period and can only be on the property or driveway.

- 
2. The purpose of construction projects are allowed up to 3 months in any 12-month period from the time it's put on the construction site. The designated zoning official or designee may grant an extension but only if it is determined that:
- a. The storage unit/shipping container is located on a site with an active building permit
  - b. The storage container is necessary part of the construction process
  - c. Not be allowed in public right-of-way
  - d. Construction is moving forward in a timely manner and in accordance with generally accepted industry standards.

(Ord. No. 731, § 1, 8-10-22)



# PLANNING AND ZONING COMMISSION

## FINDINGS OF FACTS CHECKLIST

Request Date\_\_\_\_\_ Address\_\_\_\_\_

Findings of facts for recommendations and decisions.

In considering all requests, the Planning and Zoning Commission shall review applicable plans and determine whether the request will:

1. Impair an adequate supply of light and air to adjacent property;
2. Unreasonably increase the traffic in public streets;
3. Increase the danger of fire or endanger the public safety;
4. Deter the orderly and phased growth and development of the community;
5. Unreasonably impair established property values within the surrounding area;
6. In any other respect impair the public health, safety and general welfare of the City; or
7. Constitute a spot zone\* and therefore adversely affect adjacent property values.

***All actions or recommendations by the Planning and Zoning Commission shall be based on Findings of Facts as to the impacts of the proposal, using the criteria listed in numbers 1 through 7, above. The Planning and Zoning Commission shall review each of the above listed factors and accord each factor the necessary weight on a case-by-case basis in making its determination.***

\*Spot Zoning: The singling out of a lot or small area for a District change, which is out of harmony with the comprehensive plan and surrounding land to secure special benefits for a particular property owner without regard for the rights of adjacent landowners.

**CITY OF TRUTH OR CONSEQUENCES  
PLANNING & ZONING COMMISSION  
MINUTES  
MONDAY, SEPTEMBER 9, 2024**

**REGULAR MEETING**

Regular meeting of the Planning & Zoning Commission of the City of Truth or Consequences, New Mexico to be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico, on Monday, September 9, 2024 at 4:00 p.m.

**INTRODUCTION:**

**ROLL CALL:**

Chris Sisney, Chairman  
Susan Buhler, Vice Chairman  
Esther Luchini, Member  
Lisa Kent, Member Via Phone

**ALSO PRESENT:**

Traci Alvarez, Assistant City Manager  
Katy Martinez, Deputy City Clerk

**1. APPROVAL OF AGENDA:**

Vice Chairman Buhler made a motion to approve the agenda. Member Luchini seconded the motion. Motion carried unanimously.

**2. APPROVAL OF MINUTES:**

a) August 12, 2024.

Member Luchini made a motion to approve the minutes. Vice Chairman Buhler seconded the motion. Motion carried unanimously.

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

There were no comments from the public.

Deputy City Clerk Martinez swore in the participants for the public hearings.

4. PUBLIC HEARINGS (5 Minute Rule Applies)

**a) Public Hearing/Discussion/Action: Variance request and Special Use Permit for Parcel 3021077414340 for the placement of Shipping Containers.**

Assistant City Manager Alvarez: Unfortunately, the applicant was not able to attend, he is at the state fair. When we schedule these sometimes, we are scheduling 30,60,90 days out. So, we weren't necessarily thinking of his needed attendance at the state fair due to his children showing animals. The applicant is wishing to place shipping containers on the property that parcel number can be used as storage units. The property will be fenced, security cameras and lighting will all be installed. The property is located in the R3 district. With in your packet, I also included a zoning map so that you can see it is next to a commercial district as well. If he was in the commercial district storage units would be allowed and he would just be requesting to be able to use shipping containers for those storages units would be all we would be here about but because it's in R3 he is requesting both the variance and the special use so that they can be placed with in that property. The variance is because we got storage units going in with no main dwelling unit which is what our code says. The special use is to allow the storage units in an R3. We do have an applicant representative here David Bean is part owner of the property.

Chairman Sisney: The shipping containers are they specialized or are they just standard shipping containers?

David Bean Applicant Representative: These will be containers that has individual storage, and they come in 20-foot and 40-foot, but I believe what he is using I might be speaking out of turn here because I am not sure he was leaning towards 20-foot containers which would have a depth, and they are about 8-foot wide.

Chairman Sisney: Can we call these conics is that what we are talking about?

David Bean: It's been called conics, shipping containers it's in the same.

Chairman Sisney: What are they going to sit them on?

David Bean: I believe dirt because they have a floor and skids.



Assistant City Manager Alvarez: He is a partial property owner, so he is approving as property owner not necessarily as the applicant.

Chairman Sisney: We know that lot. I remember when you guys leveled it.

David Bean: Yes, it's been some years. I have owned that property for probably close to 30 years.

Assistant City Manager Alvarez: With in your agenda packet don't forget you do have your findings of facts. What you should be doing is reviewing the request based on those 7 findings of facts.

Vice Chairman Buhler: Will they be new?

David Bean: I'm not sure I know he was leaning towards what we call a one trip unit so they are normally brand new or only been used once. They will not have graffiti on them, they will be painted and look professional. We won't have rusted containers there.

Chairman Sisney: Do you know if they are going to enclose the property?

Assistant City Manager Alvarez: They are going to have fencing.

David Bean: They will probably have controlled access going in. The tenants that are renting will have access.

Chairman Sisney: Do you know if you could see through the fencing is it going to hide the containers?

David Bean: That I don't know.

Lisa Kent: Do we know how many containers?

David Bean: Mr. Bartoo is mostly doing this project there. I think 10 units may be 20. I'm not sure so I can't give you a direct answer to that.

Member Luchini: So, we are going from residential R3.

Assistant City Manager Alvarez: Yes, the property is in R3 but as you can see from the zoning map it's surrounded commercial buildings.

Chairman Sisney opened the public hearing.

**Proponents:**

No Proponents

**Opponents:**

NO Opponents

Chairman Sisney closed the public hearing.

**Chairman Sisney made a motion to recommend approval to the City Commission for a Variance request and Special Use Permit for Parcel 3021077414340 for the placement of Shipping Containers. Member Kent seconded the motion. Roll call vote was taken. Motion carried unanimously.**

b) Public Hearing/Discussion/Action: Conditional Use Permit 808 Maple for the placement of a shipping container.

Assistant City Manager Alvarez: This is a conditional use permit. Per our municipal code, the applicant is requesting permission for a place for personal use shipping container there on the property. We do have the applicant here. As we revised that municipal code it does a conditional use permit is required for the placement of the shipping containers within those following districts, and she is also in the R3 district as well. She is following the process set by the municipal code.

Kim Birdsall Applicant: I am part owner of the property in question. I am here to answer any questions you may have.

Chairman Sisney: Is this the lot that we split?

Kim Birdsall Applicant: You actually merged the parcels.

Assistant City Manager Alvarez: They went through the summary plot process and combined the lots.

Kim Birdsall Applicant: We are planning on building a home on that property and we just need some extra storage in between the moves.

Chairman Sisney: You are on the property?

Kim Birdsall Applicant: Yes.

Chairman Sisney: It looks like there is a container on there now.

Kim Birdsall Applicant: Yes.

Chairman Sisney: Where are you going to place the other one?

Kim Birdsall Applicant: That is the container.

Assistant City Manager Alvarez: The applicant had the container placed there before they realized what the process was.

Chairman Sisney: Is that a 20 foot versus a 40 foot?

Kim Birdsall Applicant: Yes, that is a 20 foot. It is used, it's not exactly what I would call aesthetically pleasing but I do intend on making that happen because I don't like the way it looks myself.

Member Luchini: We appreciate your efforts to do things right.

Kim Birdsall Applicant: I so apologize for that I had no idea.

Member Luchini: I don't think a lot of people do. There are a lot of shipping containers in town.

Assistant City Manager Alvarez: This one is a real positive for the city. It's one that the city abated, and we put a lien on it and obtained it. We then put it up for sale and they purchased the lot, and they have been making improvements to it. That is always nice moving forward.

Chairman Sisney opened the public hearing.

**Proponents:**

No Proponents

**Opponents:**

No Opponents

Chairman Sisney closed the public hearing.

**Vice Chairman Buhler made a motion to recommend approval to the City Commission for a Conditional Use Permit 808 Maple for the placement of a shipping container. Member Luchini seconded the motion. Roll call vote was taken. Motion carried unanimously.**

## **5. REPORTS FROM THE BOARD:**

No Reports from the board.



**6. REPORTS FROM STAFF:**

No reports from staff.

**7. ADJOURNMENT:**

**Chairman Sisney adjourned the meeting at 4:18 p.m.**

**PASSED AND APPROVED ON THIS 14<sup>th</sup> DAY OF OCTOBER, 2024.**

---

Chris Sisney, Chairman  
Planning & Zoning Board



# CITY OF TRUTH OR CONSEQUENCES

## AGENDA REQUEST FORM

MEETING DATE: September 24, 2024

*Agenda Item #: G.3*

**SUBJECT:** Discussion/Action: Conditional Use Permit 808 Maple for the placement of a shipping container

**DEPARTMENT:** Community Development

**DATE SUBMITTED:** September 18, 2024

**SUBMITTED BY:** Traci Alvarez

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

**Summary/Background:**

P & Z Commission recommended approval to the City Commission for a Conditional Use Permit.

**Recommendation:**

Final Determination

**Attachments:**

- P & Z Agenda Packet
- Draft minutes applicable section highlighted

**Fiscal Impact (Finance):** Choose an item.

[Click here to enter text.](#)

**Legal Review (City Attorney):** Yes

**Approved For Submittal By:** ☐ Department Director

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

**Final Approval:** ☐ City Manager

### CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

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

Continued To: - Referred To: -

☐ Approved ☐ Denied ☐ Other: -

File Name: CC Agendas 9-24-24



**CITY OF TRUTH OR CONSEQUENCES**  
PLANNING AND ZONING COMMISSION ACTION FORM  
DATE: 9-9-2024

**ITEM:**

Public Hearing/Discussion/Action – Conditional Use Permit 808 Maple for the placement of a shipping container.

**BACKGROUND:**

The applicant is requesting a Conditional Use Permit for the placement of a Shipping Container at 808 Maple for personal use. Per City Code of Ordinances Sec. 11-10-4. Storage Units/Shipping Containers. Storage Units/Shipping Containers - B. Placement of storage units/shipping containers within Residential Districts is allowed as accessory storage units as long as they are not used for dwelling purposes and with the following exceptions:

1. Conditional Use Permit is required for placement of all storage units/shipping containers within the following districts: R-1, R-2, R-3, R-4 and RR-1.

Applicant is in the R-3 District

**SUPPORT INFORMATION:**

- Parcel Maps
- Code References
- Findings of Facts Checklist

|                                                                      |                          |  |
|----------------------------------------------------------------------|--------------------------|--|
| Name of Drafter: Traci Alvarez                                       | : Assistant City Manager |  |
| E-mail: <a href="mailto:talvarez@torcnm.org">talvarez@torcnm.org</a> | Phone: 575-894-6673      |  |











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#### **Sec. 11-10-4. Storage Units/Shipping Containers.**

The regulation of storage units/shipping containers within the city limits of the City of Truth or Consequences shall be controlled by and shall conform to the regulations prescribed in this section. A storage unit/shipping container means a unit originally or specifically designed or used to store goods or merchandise during shipping or hauling by container ships, rail, commercial trucks, or other types of transportation.

- A. Placement of storage units/shipping containers within C-1, M-1 and T-1 districts are permitted as accessory storage units as long as they are not used for dwelling purposes and with the following exceptions:
  - 1. Conditional Use Permit is required for placement of all storage units/shipping containers within the boundaries of the Metropolitan Redevelopment Area (MRA) and Historic MainStreet District Area defined in the Downtown Master Plan.
  - 2. Containers may not exceed 46 feet in length and 10 feet in height
  - 3. Must be a subordinate use or structure customarily incidental to and located on the same lot with the principal use or building
  - 4. Interior lot: No less than ten (10) feet from main use or structure and in conformance with the front setback for that district and no less than five (5) feet from the property lines of side and rear yards
  - 5. Lots with more than one street frontage: No less than ten (10) feet from main use or structure, and no less than five (5) feet from the property line of yards without street frontage.
  - 6. May not encroach in the clear-sight triangle.
  - 7. Shall not create unsanitary or hazardous premises as outlined in Sec 6-74 and 6-75.
- B. Placement of storage units/shipping containers within Residential Districts is allowed as accessory storage units as long as they are not used for dwelling purposes and with the following exceptions:
  - 1. Conditional Use Permit is required for placement of all storage units/shipping containers within the following districts: R-1, R-2, R-3, R-4 and RR-1.
  - 2. Containers may not exceed 46 feet in length and 10 feet in height
  - 3. Must be a subordinate use or structure customarily incidental to and located on the same lot with the principal use or building
  - 4. Interior lot: No less than ten (10) feet from main use or structure and in conformance with the front setback for that district and no less than five (5) feet from the property lines of side and rear yards
  - 5. Lots with more than one street frontage: No less than ten (10) feet from main use or structure, and no less than five (5) feet from the property line of yards without street frontage.
  - 6. May not encroach in the clear-sight triangle.
  - 7. Shall not create unsanitary or hazardous premises as outlined in Sec 6-74 and 6-75.
- C. Temporary placement of storage containers within Conditional Use Areas are allowed through written approval of the Designated Zoning Official as long as they are not used for dwelling purposes for:
  - 1. The purpose of moving household contents in to or out of a house are allowed for up to 30 days in any 12-month period and can only be on the property or driveway.

- 
2. The purpose of construction projects are allowed up to 3 months in any 12-month period from the time it's put on the construction site. The designated zoning official or designee may grant an extension but only if it is determined that:
- a. The storage unit/shipping container is located on a site with an active building permit
  - b. The storage container is necessary part of the construction process
  - c. Not be allowed in public right-of-way
  - d. Construction is moving forward in a timely manner and in accordance with generally accepted industry standards.

(Ord. No. 731, § 1, 8-10-22)



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### **Sec. 11-5-3. Conditional Use Permit.**

A permit may be authorized by the Planning and Zoning Commission for uses stipulated as conditional within specific Districts and as presented in Article IX of this Code.

- A. *Provisions for conditional use.*
  - 1. The use must be desirable or essential to the public welfare, safety, health, morals or convenience of the residents in that District.
  - 2. The use must be compatible to the existing uses in that District.
  - 3. The use may be important to the development of an undeveloped area.
  - 4. The applicant shall notify all property owners of his/her intent in a manner specified in Section 11-7-2 and shall be subject to a public hearing as specified therein.
- B. *Fee.* A non-refundable application as set by City Commission Resolution must accompany each application.
- C. *Submission requirements.* The application for a conditional use permit shall be in the format stipulated by the City and shall contain plans and other information as required by the City. The completed application for a conditional use permit,, shall be submitted to the City Clerk for placement upon the agenda of the Planning and Zoning Commission.
- D. *Review.* A conditional use permit shall be subject to review on each annual anniversary following its approval. If it is determined from the review that the current use is significantly different or larger in scale than that originally approved, the conditional use permit may be revoked by the Planning and Zoning Commission.
- E. *Transferal.* Conditional use permits shall not be transferable from location to location, building owner to building owner, or applicant to other party.

# PLANNING AND ZONING COMMISSION

## FINDINGS OF FACTS CHECKLIST

Request Date \_\_\_\_\_ Address \_\_\_\_\_

Findings of facts for recommendations and decisions.

In considering all requests, the Planning and Zoning Commission shall review applicable plans and determine whether the request will:

1. Impair an adequate supply of light and air to adjacent property;
2. Unreasonably increase the traffic in public streets;
3. Increase the danger of fire or endanger the public safety;
4. Deter the orderly and phased growth and development of the community;
5. Unreasonably impair established property values within the surrounding area;
6. In any other respect impair the public health, safety and general welfare of the City; or
7. Constitute a spot zone\* and therefore adversely affect adjacent property values.

***All actions or recommendations by the Planning and Zoning Commission shall be based on Findings of Facts as to the impacts of the proposal, using the criteria listed in numbers 1 through 7, above. The Planning and Zoning Commission shall review each of the above listed factors and accord each factor the necessary weight on a case-by-case basis in making its determination.***

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**CITY OF TRUTH OR CONSEQUENCES  
PLANNING & ZONING COMMISSION  
MINUTES  
MONDAY, SEPTEMBER 9, 2024**

**REGULAR MEETING**

Regular meeting of the Planning & Zoning Commission of the City of Truth or Consequences, New Mexico to be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico, on Monday, September 9, 2024 at 4:00 p.m.

**INTRODUCTION:**

**ROLL CALL:**

Chris Sisney, Chairman  
Susan Buhler, Vice Chairman  
Esther Luchini, Member  
Lisa Kent, Member Via Phone

**ALSO PRESENT:**

Traci Alvarez, Assistant City Manager  
Katy Martinez, Deputy City Clerk

**1. APPROVAL OF AGENDA:**

Vice Chairman Buhler made a motion to approve the agenda. Member Luchini seconded the motion. Motion carried unanimously.

**2. APPROVAL OF MINUTES:**

a) August 12, 2024.

Member Luchini made a motion to approve the minutes. Vice Chairman Buhler seconded the motion. Motion carried unanimously.

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

There were no comments from the public.



Deputy City Clerk Martinez swore in the participants for the public hearings.

**4. PUBLIC HEARINGS (5 Minute Rule Applies)**

- a) Public Hearing/Discussion/Action: Variance request and Special Use Permit for Parcel 3021077414340 for the placement of Shipping Containers.**

Assistant City Manager Alvarez: Unfortunately, the applicant was not able to attend, he is at the state fair. When we schedule these sometimes, we are scheduling 30,60,90 days out. So, we weren't necessarily thinking of his needed attendance at the state fair due to his children showing animals. The applicant is wishing to place shipping containers on the property that parcel number can be used as storage units. The property will be fenced, security cameras and lighting will all be installed. The property is located in the R3 district. With in your packet, I also included a zoning map so that you can see it is next to a commercial district as well. If he was in the commercial district storage units would be allowed and he would just be requesting to be able to use shipping containers for those storages units would be all we would be here about but because it's in R3 he is requesting both the variance and the special use so that they can be placed with in that property. The variance is because we got storage units going in with no main dwelling unit which is what out code says. The special use is to allow the storage units in an R3. We do have an applicant representative here David Bean is part owner of the property.

Chairman Sisney: The shipping containers are they specialized or are they just standard shipping containers?

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Member Luchini: So, we are going from residential R3.

Assistant City Manager Alvarez: Yes, the property is in R3 but as you can see from the zoning map it's surrounded commercial buildings.

Chairman Sisney opened the public hearing.

**Proponents:**

No Proponents

**Opponents:**

NO Opponents

Chairman Sisney closed the public hearing.

**Chairman Sisney made a motion to recommend approval to the City Commission for a Variance request and Special Use Permit for Parcel 3021077414340 for the placement of Shipping Containers. Member Kent seconded the motion. Roll call vote was taken. Motion carried unanimously.**

**b) Public Hearing/Discussion/Action: Conditional Use Permit 808 Maple for the placement of a shipping container.**

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Chairman Sisney opened the public hearing.

**Proponents:**

No Proponents

**Opponents:**

No Opponents

Chairman Sisney closed the public hearing.

**Vice Chairman Buhler made a motion to recommend approval to the City Commission for a Conditional Use Permit 808 Maple for the placement of a shipping container. Member Luchini seconded the motion. Roll call vote was taken. Motion carried unanimously.**

## **5. REPORTS FROM THE BOARD:**

No Reports from the board.

**6. REPORTS FROM STAFF:**

No reports from staff.

**7. ADJOURNMENT:**

**Chairman Sisney adjourned the meeting at 4:18 p.m.**

**PASSED AND APPROVED ON THIS 14<sup>th</sup> DAY OF OCTOBER, 2024.**

---

Chris Sisney, Chairman  
Planning & Zoning Board



## City of Truth or Consequences

### AGENDA REQUEST FORM

MEETING DATE: September 24, 2024

Agenda Item #: G.4

**SUBJECT:** Approval of Purchase Requisitions Over \$20,000  
**DEPARTMENT:** Finance  
**DATE SUBMITTED:** September 16, 2024  
**SUBMITTED BY:** Leiandra Guerra, CPO  
**WHO WILL PRESENT THE ITEM:** Jocelyn Holguin, Finance Director

#### **Summary/Background:**

Per Resolution No 46 20/21 Execution of Contracts; Grant Agreements; Memoranda of Understanding; Joint Powers Agreements; Settlement Agreements; Purchases (Contract and Purchases More Than \$20,000)

#### **Recommendation:**

Approval Recommended by Finance Director

#### **Attachments:**

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

**Fiscal Impact (Finance):** Choose an item.

As Per Total on Listing of Purchase Requisitions

**Legal Review (City Attorney):** Choose an item.

[Click here to enter text.](#)

**Approved For Submittal By:** ☒ Department Director

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

**Final Approval:** ☒ City Manager

#### **CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN**

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

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

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

File Name: CC agendas 9-24-24



**PURCHASE REQUISITION APPROVAL 2024-25 Fiscal Year  
COMMISSION MEETING 09/24/2024**

| Number | Vendor Name                   | Description                              | Requested By  | Department            | Total Amount | Procurement Type      |
|--------|-------------------------------|------------------------------------------|---------------|-----------------------|--------------|-----------------------|
| 92684  | WILSON & COMPANY INC ENGINEER | ADDITIONAL COORDINATION AND CONSULTATION | TRACI ALVAREZ | COMMUNITY DEVELOPMENT | \$ 23,000.00 | CHANGE ORDER INCREASE |
|        |                               |                                          |               |                       |              |                       |
|        |                               |                                          |               |                       |              |                       |
|        |                               |                                          |               |                       |              |                       |
|        |                               |                                          |               |                       |              |                       |
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|        |                               |                                          |               |                       |              |                       |

|              |
|--------------|
| \$ 23,000.00 |
|--------------|

ATTEST:

|                                |       |
|--------------------------------|-------|
| _____                          | _____ |
| Angela Torres, Clerk-Treasurer | Date  |

|                     |       |
|---------------------|-------|
| _____               | _____ |
| Rolf Hechler, Mayor | Date  |

**PURCHASE REQUISITION APPROVAL  
COMMISSION MEETING 09/24/2024**

2024-25 Fiscal Year

[illegible]

ATTEST:

Angela Torres, Clerk-Treasurer

Date \_\_\_\_\_

Rolf Hechler, Mayor

Date \_\_\_\_\_

**PURCHASE REQUISITION APPROVAL 2024-25 Fiscal Year  
COMMISSION MEETING 09/24/2024**

| Number | Vendor Name          | Description                                         | Requested By  | Department            | Total Amount | Procurement Type             |
|--------|----------------------|-----------------------------------------------------|---------------|-----------------------|--------------|------------------------------|
| 92952  | Armijo's Casa Bonita | SJOA Renovations-Change Order Additional Work Added | Traci Alvarez | Community Development | \$ 31,916.44 | Small Purchase Determination |
|        |                      |                                                     |               |                       |              |                              |
|        |                      |                                                     |               |                       |              |                              |
|        |                      |                                                     |               |                       |              |                              |
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|                     |
| <b>\$ 31,916.44</b> |

ATTEST:

|                                |       |
|--------------------------------|-------|
| _____                          | _____ |
| Angela Torres, Clerk-Treasurer | Date  |

|                     |       |
|---------------------|-------|
| _____               | _____ |
| Rolf Hechler, Mayor | Date  |





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

September 20, 2024

Dear Mayor Hechler, Mayor Pro-Tem Forrister and City Commissioners:

**RE: ARMIJO'S CASA BONITA- SJOA RENOVATIONS**

The Community Development Department, would like to utilize their Senior Grant Fund, to increase Casa Bonita, to cover additional improvements. These items are subject to approval based on the requirement for approvals over the \$20,000 Dollar threshold.

I am requesting our City Commission to publicly approve this purchase and allow me to move forward with this procurement.

Please, see attached:

**Fund: 304-4903-43403**

**Before: \$ 11,921.25**

**Increase: \$ 19,995.19**

**Total Cost: \$31,916.44**

Respectively,

Leiandra Guerra,  
Chief Procurement Officer

**ROLL CALL APPROVED OR DENIED:**

Mayor, Rolf Hechler: Approved: \_\_\_\_/Denied: \_\_\_\_

Mayor Pro Tem, Amanda Forrister: Approved: \_\_\_\_/Denied: \_\_\_\_

Commissioner, Destiny Mitchell: Approved: \_\_\_\_/Denied: \_\_\_\_

Commissioner, Merry Jo Fahl: Approved: \_\_\_\_/Denied: \_\_\_\_

Commissioner, Ingo Hoepfner: Approved: \_\_\_\_/Denied: \_\_\_\_

Final Motion: Approved: \_\_\_\_/Denied: \_\_\_\_

**Date:\_\_\_\_\_Purchase Order No. #\_\_\_\_\_**

**CITY OF TRUTH OR CONSEQUENCES**

505 Sims St.  
Truth or Consequences, NM 87901  
PH: (575) 894-6673  
FAX: (575) 894-0363

**PURCHASE ORDER****PO Number:** 80701**Date:** 08/23/2024**Requisition #:** 92952**Vendor #:** 4025

**ISSUED TO:** ARMIJO'S CASA BONITA  
612 OAK  
T. OR C., NM 87901

**SHIP TO:** City of Truth or Consequences  
505 Sims St.  
Truth or Consequences, NM 87901

| ITEM | UNITS | VENDOR PART # | DESCRIPTION                                                                             | GL ACCT #      | PROJ ACCT # | PRICE | AMOUNT    |
|------|-------|---------------|-----------------------------------------------------------------------------------------|----------------|-------------|-------|-----------|
| 1    | 0     |               | COMMERCIAL DOOR INSTALLATION AND REPLACI<br>Grant Agreement A2112058 - SJOA Renovations | 304-4903-43403 |             | 0.00  | 11,921.25 |

Chief Purchasing Office

Date:

Director of Finance: Requisition approved electronically.City Manager: Requisition approved electronically.

|              |                  |
|--------------|------------------|
| SUBTOTAL:    | 11,000.00        |
| TOTAL TAX:   | 921.25           |
| SHIPPING:    | 0.00             |
| <b>TOTAL</b> | <b>11,921.25</b> |

1. Send INVOICE to Accounts Payable, address as noted above.
2. Prepay all transportation charges, and attach receipted freight bill to invoice.
3. Show our Purchase Order number on all invoices, Bills of Lading, Packages, etc.
4. This order must NOT be filled in greater or lesser quantities than shown without our written permission.
5. This order is issued with the understanding that if material is not according to our specifications, same will be returned at seller's expense.
6. The right is reserved to cancel this order if not filled within a reasonable length of time.
7. The City is exempt from all federal excise and state tax - ID# 01-405755-007

## We Do The Job's The Big Boys Don't Want



## Armijo's Casa Bonita Construction

612 Oak

Truth or Consequences, NM 87901

575-894-7553 fax 575-894-5151

Invoice No. 45526

License #81357

## Estimate

**Customer**

Name \_\_\_\_\_  
Address \_\_\_\_\_  
City T or C State NM ZIP 87901  
Phone \_\_\_\_\_

Date 8/22/2024

Rep Gene &amp; Carl

[illegible]

### Payment Details

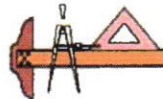
- ☐ Cash  
☐ Check  
☐ Other

Name \_\_\_\_\_

Date \_\_\_\_\_

**Prices Good for Thirty Days.**

*All Prices Include Labor & Materials*



*Thank You For Your Business*

## We Do The Job's The Big Boys Don't Want





## City of Truth or Consequences

505 Sims Street

Truth or Consequences, New Mexico 87901

City (575) 894-6673 • Fax (575) 894-7767

September 17, 2024

Dear Mayor Hechler, Mayor Pro-Tem Forrister and City Commissioners:

**RE: WILSON & COMPANY INC ENGINEER-9<sup>th</sup> STREET-TROUBLE  
SHOOTING PRESSURE ISSUES**

The Community Development Department, would like to increase **Purchase Order #80474**, to trouble shoot pressure issues on the 9<sup>th</sup> Street area roundabout. They initial cost is less than what is required to accomplish the task. These items are subject to approval based on the requirement for approvals over the \$20,000 Dollar threshold.

I am requesting our City Commission to publicly approve this purchase and allow me to move forward with this procurement.

Please, see attached:

**Community Development Fund: 101-1010-48598**

**Total Cost: \$23,000**

**Increased From: \$16,000.00/ Difference of \$7,000.00**

Respectively,

Leíandra Guerra,  
Chief Procurement Officer

ROLL CALL APPROVED OR DENIED:

Mayor, Rolf Hechler: Approved: \_\_\_\_/Denied: \_\_\_\_

Mayor Pro Tem, Amanda Forester: Approved: \_\_\_\_/Denied: \_\_\_\_

Commissioner, Destiny Mitchell: Approved: \_\_\_\_/Denied: \_\_\_\_

Commissioner, Merry Jo Fahl: Approved: \_\_\_\_/Denied: \_\_\_\_

Commissioner, Ingo Hoeppner: Approved: \_\_\_\_/Denied: \_\_\_\_

Final Motion: Approved: \_\_\_\_/Denied: \_\_\_\_

**Date: \_\_\_\_\_ Purchase Order No. #80474**



# REQUISITION

**Requisition #:** 92684

**Date:** 07/19/2024

**Vendor #:** 7982

**ISSUED TO:** WILSON & COMPANY INC ENGINEER  
4401 MASTHEAD ST NE SUITE 150  
ALBUQUERQUE, NM 87109-

**SHIP TO:** City of Truth or Consequences  
505 Sims St.  
Truth or Consequences, NM 87901

| ITEM                                                                                                                                                                                   | UNITS DESCRIPTION                   | PROJECT # | PRICE GL ACCOUNT NUMBER | AMOUNT   |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-----------|-------------------------|----------|
| 1                                                                                                                                                                                      | 0 TROUBLESHOOT PRESSURE ISSUES - RC |           | 0.00 101-1010-48598     | 1,000.00 |
| <b>PO Description:</b> ON CALL PRESSURE ISSUES TROUBLESHOOTING<br><b>Detailed Description:</b><br>OPEN PO<br>ASSIST WITH TROUBLESHOOTING PRESSURE ISSUES SMITH ROAD AREA TO 9TH STREET |                                     |           |                         |          |

**Authorized By:** \_\_\_\_\_

|                   |          |
|-------------------|----------|
| <b>SUBTOTAL:</b>  | 1,000.00 |
| <b>TOTAL TAX:</b> | 0.00     |
| <b>SHIPPING:</b>  | 0.00     |
| <b>TOTAL</b>      | 1,000.00 |



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

September 18, 2024

Dear Mayor Hechler, Mayor Pro-Tem Forrister and City Commissioners:

**RE: BANK OF THE SOUTHWEST-INTEREST PAYMENTS FOR WATER  
SYSTEM IMPROVEMENTS JULY-2024 & AUGUST-2024**

The, FINANCE DEPT. would like to utilize the Pledge State Debt Service Interest Fund, to pay the Interest Payments for the Water System Improvements. These items are subject to approval based on the requirement for approvals over the \$20,000 Dollar threshold.

I am requesting our City Commission to publicly approve this purchase and allow me to move forward with this procurement.

Please, see attached:

**Fund: PLEDGE STATE-DEBT SERVICE INTERST 403-1203-90910**

**Total Before Increase: \$6,794.91**

**Increase Amount: \$29,205.09**

**Total Cost: \$36,000**

Respectively,

Leianora Guerra,  
Chief Procurement Officer

ROLL CALL APPROVED OR DENIED:

Mayor, Rolf Hechler: Approved: \_\_\_\_/Denied: \_\_\_\_

Mayor Pro Tem, Amanda Forrister: Approved: \_\_\_\_/Denied: \_\_\_\_

Commissioner, Destiny Mitchell: Approved: \_\_\_\_/Denied: \_\_\_\_ 0

Commissioner, Merry Jo Fahl: Approved: \_\_\_\_/Denied: \_\_\_\_

Commissioner, Ingo Hoepfner: Approved: \_\_\_\_/Denied: \_\_\_\_

Final Motion: Approved: \_\_\_\_/Denied: \_\_\_\_

Date: \_\_\_\_\_ Purchase Order No. # 80654



# CITY OF TRUTH OR CONSEQUENCES

505 Sims St.

Truth or Consequences, NM 87901

PH: (575) 894-6673

FAX: (575) 894-0363

# PURCHASE ORDER

**PO Number:** 80654

**Date:** 08/19/2024

**Requisition #:** 92901

**Vendor #:** 2172

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

**SHIP TO:** City of Truth or Consequences  
505 Sims St.  
Truth or Consequences, NM 87901

| ITEM                                                                                          | UNITS | VENDOR PART # | DESCRIPTION                      | GL ACCT #      | PROJ ACCT # | PRICE | AMOUNT   |
|-----------------------------------------------------------------------------------------------|-------|---------------|----------------------------------|----------------|-------------|-------|----------|
| 1                                                                                             | 0     |               | INTER PYMNT WTR SYSTEM JULY 2024 | 403-1203-90910 |             | 0.00  | 3,795.81 |
| 2                                                                                             | 0     |               | INTER PYMNT WTR SYSTEM AUG 2024  | 403-1203-90910 |             | 0.00  | 2,999.10 |
| MONTHLY INTEREST PAYMENTS FOR WATER SYSTEM IMPROVEMENTS LOAN<br>#0000002001240173 \$4,811,000 |       |               |                                  |                |             |       |          |
| NOTE: PENDING APPROVALS FOR OPEN PO FY 24/25                                                  |       |               |                                  |                |             |       |          |

Chief Purchasing Office

Date:

Director of Finance:

Requisition approved electronically.

City Manager:

Requisition approved electronically.

|              |                 |
|--------------|-----------------|
| SUBTOTAL:    | 6,794.91        |
| TOTAL TAX:   | 0.00            |
| SHIPPING:    | 0.00            |
| <b>TOTAL</b> | <b>6,794.91</b> |

1. Send INVOICE to Accounts Payable, address as noted above.
2. Prepay all transportation charges, and attach receipted freight bill to invoice.
3. Show our Purchase Order number on all invoices, Bills of Lading, Packages, etc.
4. This order must NOT be filled in greater or lesser quantities than shown without our written permission.
5. This order is issued with the understanding that if material is not according to our specifications, same will be returned at seller's expense.
6. The right is reserved to cancel this order if not filled within a reasonable length of time.
7. The City is exempt from all federal excise and state tax - ID# 01-405755-007





# CITY OF TRUTH OR CONSEQUENCES

## AGENDA REQUEST FORM

MEETING DATE: September 24, 2024

Agenda Item #: G.5

**SUBJECT:** Review, Approve and/or Allocate Funds for MainStreet – Application #2 for “Redefine” Marketing Campaign

**DEPARTMENT:** City Manager’s Office

**DATE SUBMITTED:** September 18, 2024

**SUBMITTED BY:** Tammy Gardner

**WHO WILL PRESENT THE ITEM:** Tammy Gardner

**Summary/Background:**

Commission approval of MainStreet application #2 for “Redefine” Marketing Campaign.

**Recommendation:**

*The applicant requested \$48,403.00 and the LTAB recommended to fully fund the project with a 3-3 vote as two members were absent.*

**Attachments:**

- MainStreet Application
- MainStreet Contract
- Approved Scope of Work

**Fiscal Impact (Finance):** Yes

\$48,403.00

**Legal Review (City Attorney):** Yes

**Approved for Submittal By:** ☒ Department Director

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

**Final Approval:** ☐ City Manager

### CITY CLERK’S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. - Ordinance No. -

Continued To: - Referred To: -

☐ Approved ☐ Denied ☐ Other: -

File Name: CC Agendas 9-24-24

# FY25 Lodgers' Tax Award

## Approved Scope of Work

Lodgers' Tax Meeting Date: September 16, 2024

Applicant: MainStreet Truth or Consequences

Project(s) Applied For:

Amount Requested: \$48,403 Amount Approved: \$48,403

Approved x Postponed        Denied       

Reason for Postponement/Denial/Different Award Amount: n/a

Other LTAB notes: this plan will supplement the current marketing efforts that Sunny 505 is doing for the City.

| Scope of Work                                                                                                           | Award Amount Approved |
|-------------------------------------------------------------------------------------------------------------------------|-----------------------|
| 1) New Mexico Magazine Print & Digital                                                                                  | \$8635                |
| 2) Tucson Lifestyle Print & Digital                                                                                     | \$4898                |
| 3) Albuquerque The Magazine Print                                                                                       | \$1200                |
| 4) The City Magazine (El Paso/Las Cruces) print/digital                                                                 | \$1350                |
| 5) Lamar Outdoor digital billboards ABQ, Las Cruces, El Paso                                                            | \$9575                |
| 6) Facebook/Instagram/Youtube targeted ads                                                                              | \$ 500                |
| 7) Flimshark Productions filming/editing tv/social media ads                                                            | \$7500                |
| 8) Weaponize Photography photography for ads                                                                            | \$2000                |
| 9) Pamela Atherton commercial voice over, studio time                                                                   | \$1200                |
| 10) Charlie Heck graphic design, ad copy, website creation, relocation guide design, logistics for video & photo shoots | \$6000                |
| 11) Relocation guide writers                                                                                            | \$ 750                |
| 12) Printing Center: relocation guide printing                                                                          | \$ 300                |
| 13) Online vendors: promo items                                                                                         | \$3500                |
| 14) NPR stations: Tucson & Santa Fe advertising                                                                         | \$ 450                |
| Total:                                                                                                                  | \$48,403              |

## ADVERTISING & PROMOTION CONTRACT

**THIS AGREEMENT** is made and entered into by and between the City of Truth or Consequences, New Mexico, herein referred to as “City” and MAINSTREET (“Redefine” Marketing Campaign) herein referred to as “Contractor”.

**WHEREAS** the City and Contractor desire to enter into a Contract to provide Lodgers Tax funds to the Contractor to aid the Contractor’s promotion and advertising of the City as a tourist attraction which will aid in the economic growth of the City.

**NOW, THEREFORE, IN CONSIDERATION** of the mutual promises of the parties; it is hereby covenanted and agreed by and between the parties:

1. **The City shall** provide up to the sum of \$48,403.00 to the Contractor for a one (1) year period commencing on September 24, 2024 and continuing through June 30, 2025.
2. **The Contractor shall:**
  - a. Advertise, publicize and promote the City and its facilities as a tourism attraction. Such publicizing and promoting shall include but not be limited to the advertising of the fairgrounds, civic center, museums, convention center and other City and area resources and attractions.
  - b. Said promotion and advertising shall specifically consist of the plan as presented (and approved by the Lodgers Tax Board) in the Contractor’s application for Lodgers Tax Funds. The Scope of Work is set forth within the application.
3. **Fund Expenditures:** Funding under this contract is from Lodgers Tax. Such funds may be spent for promotion and advertising only.
4. **Procurement by Contractor:** The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for violation of this statute. Any property purchased by Contractor, the cost of which is to be paid under this agreement, shall be purchased in compliance with the Procurement Code.
  - a. The City and the Lodgers Tax Advisory Board shall determine which of these expenditures are allowable and are in compliance with the purpose of this contract.
  - b. If determined to be an eligible purchase, the City will pay the Contractor for reimbursement.
  - c. Since the purpose of the Tax is to bring visitors to town, the Contractor must use seventy-five percent (75%) of the funds outside the County. This will serve to increase the use of hotels, motels, and RV parks which will in turn yield more Lodgers Tax.



- d. All invoices must be turned into the City Manager's Office no later than the last business day of **May 2025**.
  - e. Invoices submitted after that date **WILL NOT BE PAID!** All unspent funds will revert to the City's Lodgers Tax Fund to be used for any purpose the City may deem eligible.
  - f. Reports are due sixty (60) days after completion of event/project.
5. **Termination:** Either party shall have the right to terminate this Contract without cause by giving thirty (30) days written notice to the other party.
6. **Records:** The Contractor agrees to keep accurate records of all time and expenses allocated to the performance of the agreed upon work. Such records shall be kept in the office of the Contractor and shall be made available to the City or its authorized representatives for inspection and copying upon reasonable request.
7. **Ownership of Documents:** All reports, maps, ads, logos, or documents prepared as a part of this Agreement, including original drawings, estimates, specifications, field notes, and data are the property of the City. The Contractor may retain reproducible copies of drawings and other documents.
8. **Claims:** The Contractor shall save and hold the City free from claims that might arise in connection with work the Contractor will perform under this Agreement. The Contractor also agrees to pay for staff time, at standard hourly billing rates, plus expenses at cost that might be required for expert testimony or any other court appearances, together with preparation time and legal costs that might arise because of Contractor's involvement in this assignment, whether subpoenaed by the City or any other group.
9. **Personnel:**
- a. The Contractor represents that they have, or will secure at their own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any Agreement relationship with the City.
  - b. All of the services required hereunder will be performed by the Contractor or under his/her supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local law to perform such services.
  - c. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the City and Lodgers Tax Advisory Board. Any work or services subcontracted hereunder be specified by written Subcontract and shall be subject to each provision of this Agreement.
10. **Assignability:** The Contractor shall not assign any interest on this Agreement, and shall not transfer any interest in the same (whether by assignment or notation), without the prior written consent of the Lodgers Tax Advisory



Board and City thereto: Provided, however, that claims for money by the Contractor from the City under the Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City.

11. **Authority:** Contractor agrees not to purport to bind the City to an obligation not herein assumed, unless Contractor has expressed written authority to do so, and then only within the strict limits of that authority.
12. **Reports and Information:** The Contractor, at such times and in such forms as the City may require, shall furnish the City such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement.
13. **Copyright:** No report, maps, ads, logos, or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the Contractor.
14. **Compliance with Local Laws:** The Contractor shall comply with all applicable laws, ordinances and codes of the State and the City and the Contractor shall save the City harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Agreement.
15. **Equal Employment Opportunity:** During the performance of this Agreement, the Contractor agrees as follows:
  - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, sex, color or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, sex, color or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause.
  - b. The Contractor will, in all solicitation or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, or national origin.
  - c. The Contractor will cause the foregoing provisions to be inserted in all Subcontracts for any work covered by this Agreement so that such

provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to Agreements or Subcontracts for standard commercial supplies or raw materials.

- d. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
  - e. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records and accounts by the City's representative, the funding agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
  - f. In the event of the Contractor's noncompliance with the equal opportunity clauses of this Agreement or with any of such rules, regulations or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further government Agreements in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
  - g. The Contractor will include the provisions of paragraphs (a) through (g) in every Subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any Subcontract or purchase order as the City's representative may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the City, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.
16. **Civil Rights Act of 1964:** Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
17. **Access to Records:**
- a. The State Auditor, the City's auditor, the City, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Contractor which are directly pertinent to this

specific Agreement, for the purpose of audits, examinations, and making excerpts and transcriptions.

- b. All records connected with this Agreement will be maintained in a central location by the City and will be maintained for a period of three (3) years from the official date of closeout of the contract.

- 18. **Third Party Rights:** The provisions of this agreement are for the sole benefit of the parties and shall not be construed as conferring rights on any other person or entity.
- 19. **Captions and Headings:** The captions and headings contained in this Agreement are provided for identification purposes only and shall not be interpreted to limit or define the content of the provisions described under the respective caption or heading.
- 20. **Severability:** If any one or more of the sentences, clauses, paragraphs or sections contained herein is declared invalid, void or unenforceable by a court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement, and shall not affect, impair or invalidate any of the remaining sentences, clauses, paragraphs or sections contained herein.
- 21. **Venue:** All proceedings involving disputes over the terms, provisions, covenants or conditions contained in this Agreement and all proceedings involving any enforcement action related to this Agreement shall be initiated and conducted in the applicable court or forum in Sierra County, New Mexico.
- 22. **Attorney Fees:** In the event any action, suit or proceeding is brought for the enforcement of, or the declaration of any right or obligation pursuant to this Agreement or as a result of any alleged breach of any provision of this Agreement, the prevailing party in such suit or proceeding shall be entitled to recover its costs and expenses, including reasonable attorneys' fees, from the losing party, and any judgment or decree rendered in such a proceeding shall include an award thereof.
- 23. **Authority to Sign Agreement:** The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties.
- 24. **Interest of Members of the City:** No member of the governing body of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Agreement; and the Contractor shall take appropriate steps to assure compliance.

25. **Interest of other Local Public Officials** - No member of the governing body of the City and no other public official of the City, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Agreement; and the Contractor shall take appropriate steps to assure compliance.

26. **Bribes, Gratuities and Kickbacks:** It is illegal in this state for any public employee to solicit or accept anything of value in connection with award of this Agreement and for any person to offer or pay anything of value to any such public employee (§30-24-1 through §30-24-2 NMSA 1978). Pursuant to §13-1-191 NMSA 1978 reference is made to the criminal laws of this state (including §30-41-1 through §30-41-3 NMSA 1978) which prohibit bribes, kickbacks, and gratuities and violation of which constitutes a felony. Further, the Procurement Code (§13-1-28 through §13-1-199 NMSA 1978) imposes civil and criminal penalties for its violation.

#### **CITY OF TRUTH OR CONSEQUENCES**

\_\_\_\_\_  
Angie Gonzales, City Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Finance Officer, Reviewed for Budgetary Sufficiency

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jaime Rubin, City Attorney, Reviewed for Legal Sufficiency

\_\_\_\_\_  
Date

#### **CONTRACTOR**

\_\_\_\_\_  
Authorized Representative (Signature & Printed Name)

\_\_\_\_\_  
Date



For a recipient of Lodgers Tax to be eligible for the City, acting as the fiscal agent, to reimburse their incurred financial obligations using Lodgers Tax, the following must be strictly adhered to:

Please initial each requirement:

- \_\_\_\_\_ PAID invoices must be presented to the City Manager's Office for reimbursement with a copy of the cancelled check (front & back) and a copy of the tear sheets or script within a timely manner so that we can maintain a good working relationship with the vendors. The tear sheets, scripts, and invoices are the responsibility of the Contractor. Please review invoices for accuracy. Do not assume that they are correct.
- \_\_\_\_\_ No bill will be reimbursed if it differs from the services agreed upon in the application and signed contract unless the change is requested in writing, recommended by the Lodgers Tax Advisory Board and approved by the City Manager.
- \_\_\_\_\_ It is the responsibility of the Contractor to keep a running total of their unused and available Lodgers Tax award.
- \_\_\_\_\_ It is the responsibility of the Contractor to notify the City as to who are the two (2) eligible people to turn in bills for reimbursement. (Please print names below.)  
Designee No. 1: \_\_\_\_\_ Phone No. \_\_\_\_\_  
Designee No. 2: \_\_\_\_\_ Phone No. \_\_\_\_\_
- \_\_\_\_\_ No bill will be reimbursed by the City unless it bears the signature of the City Manager or designee approving payment.
- \_\_\_\_\_ Reports are due 90 days after a project/event is completed. It is the responsibility of the Contractor to get reports in on time.
- \_\_\_\_\_ **By your signature on this contract, you have agreed to follow and implement all conditions within the time frame set forth and if you deviate without prior approval from the Lodgers Tax Advisory Board and the City Manager, then the City has no further fiscal responsibility per this contract.**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2024

CONTRACTOR:

BY: \_\_\_\_\_  
Printed Name of Authorized Representative

\_\_\_\_\_  
Signature of Authorized Representative

**CITY OF TRUTH OR CONSEQUENCES  
LODGERS TAX ADVISORY BOARD  
MINUTES  
MONDAY, SEPTEMBER 16, 2024**

**REGULAR MEETING**

Regular meeting of the Lodgers Tax Advisory Board of the City of Truth or Consequences, New Mexico to be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico, on Monday, September 16, 2024 at 12:00 pm.

**CALL TO ORDER:**

The meeting was called to order by Chairman Foerstner.

**ROLL CALL:**

Jake Foerstner, Chairman **Absent**  
Gina Kelley, Vice-Chairman  
Linda DeMarino, Member  
Victoria Harrington, Member  
Jessica MacKenzie, Member **Absent**

**ALSO PRESENT:**

Katy Martinez, Deputy City Clerk  
Tammy Gardner, Executive Assistant

**1. APPROVAL OF AGENDA:**

Member DeMarino made a motion to approve the agenda. Member Harrington seconded the motion. Motion carried unanimously.

**2. APPROVAL OF MINUTES:**

- a. Regular Meeting Minutes of July 22, 2024

Member Harrington made a motion to approve the minutes. Member Kelley seconded the motion.

Gina Kelley, Vice-Chairman voted aye  
Linda DeMarino, Member recused herself from the vote  
Victoria Harrington, Member voted aye

Motion died due to a 2-1 vote. Minutes will be presented at the next meeting where a full quorum will be present.

**3. COMMENTS FROM THE PUBLIC (3 minute rule applies)**

Cary "Jagger" Gustin: I am here to give you guys an update on the Artist of Sierra County Studio Tour. As of the 11<sup>th</sup> there are twenty-three confirmed studios that are going to participate. On the website the landing page has been up for a month. The full event will be up in 2 weeks this will include pages for each artist, a page for lodging opportunities and a page for galleries and other local businesses. The social part of it, we will start address with social media marketing campaign in about 2 weeks as well targeting audiences within a plausible day's drive of Sierra County who are interested in art, culture, and

travel. We will focus on featuring each artist individually, as well as highlighting the benefits of visiting Sierra County and in particular, Truth or Consequences.

Vice Chairman Kelley: What is the website address?

Member DeMarino: It is [www.aosc/studiotour.com](http://www.aosc/studiotour.com)

#### **4. NEW BUSINESS:**

##### **a. Discussion/Update: MainStreet TorC "Redefine" Marketing Campaign Grant Application. Becca Eza, Mainstreet.**

Member DeMarino: I am the president of MainStreet Truth or Consequences. Gina and I also serve on the lodger's tax board. What we want to say is we acknowledge our affiliation with MainStreet and saying that our appreciation has been created with the same critical nature that we use as the lodger's tax board and that we believe that MainStreet will be utilizing these taxes to promote the city in a way that is going to be a benefit to the city and also physically responsible. Gina and I will be making no money on this as a matter of fact MainStreet will take in no money either on this. Gina and I will make no money on this and that being said we will be voting on it. In a board meeting a long time ago Bruce Swingle made it very clear that it's not a conflict of interest to vote on an application if you are not receiving any money if there is no benefit coming into you. I just wanted to say that right up front.

Becca Eza: We are proposing a marketing campaign using the newish logo that has been in use for a while already. To really roll that out with print ads, digital billboards, social media, television advertising and all of this around the theme of redefining how people are seeing T or C. In the past it maybe not had much of a reputation, or it has sort of a negative reputation. We want everyone to redefine their image of T or C. With simple phrases like redefine office space so someone working on a laptop in a hot spring or redefining girls' weekend out. A lot of these things to tend to revolve around hot springs which is a big part of the culture here but some women enjoying their time in the hot springs.

Member DeMarino: Another one might be redefining traffic and a picture of people floating down the river but we are also really cognizant that we need to promote other parts of our city its not just the hot springs so there will be advertisement with things outside of hot springs.

Becca Eza: There will be shopping, dining, outdoor recreation, all the other amenities of town. This will include billboards and print advertising in regional markets to El Paso, Las Cruces, Santa Fe, Albuquerque, Tucson and essentially Austin, TX. Along with that we are looking to get some promotional items with the new logo such as shirts, bags, pens, little things to hand out to promote the city. We are also requesting funding to create a T or C specific tourism website. The thinking behind that a lot of people don't know that T or C is in Sierra County and so trying to google and find tourism info for T or C its kind of hard sometimes to get to the Sierra County tours page. Otherwise, you google T or C, and you end up on the city page which isn't really very interesting if you are looking to take a vacation. We want to have a T or C specific page that links to those other pages as well and makes it easier to showcase specifically what is going on in T or C. The last request is for funding to finish and publish the relocation guide which has been in the works for several years and is partially completed. It's a nice publication that showcases all of the amenities that T or C has to offer potential residence. There will be lots of pictures and articles about different things the town offers.

Member Harrington: How did you pick the cities to promote T or C?

Member DeMarino: Santa Fe, Albuquerque, and El Paso those are already our market. People are already coming from those places, so we just want more people to come from those places. Then a newer one to our list is Tucson, it's only 4 hours away, that is a totally perfect market, it's artsy they

have a lot of people. If people come from 4 hours away, they are not just going to come and go back home so it's definitely going to put them in a hotel.

Vice Chairman Kelley: I will add that every weekend I have people at the visitor's center from Tucson and so now I am asking them. I was told by a gentleman on Saturday that the only advertising for New Mexico he has ever seen in Tucson was for Silver City.

Member Harrington: How else do you track besides the visitor's center?

Member DeMarino: One of the things we are going to use is different web addresses. In the past everything has gone to the Go Sierra County so a lot of tracking is tied into there but to actually have a different website so that we know that the traffic coming in is coming in because of our advertising and of course we will put google analytics to that beyond that we will talk to business owners of course. We know by talking to business owners that this is really big need. This year has been really hard on a lot of people as was last year. Getting the word out about T or C is a good thing.

Vice Chairman Kelley: The digital marketing that is tied in we are going to do New Mexico Magazine print and digital, Tucson Lifestyle print and digital, Albuquerque Magazine, The City Magazine which is El Paso and Las Cruces. All these are lifestyle magazines, they are not cheap stuff they are high end going for a different demographic. All the digital advertising will also direct people to that website and so we can track off that. We will get analytics from those vendors.

Member Harrington: Does MainStreet have the money to put up.

Member DeMarino: It is a lot of money. We don't expect to pay \$48,000 upfront for everything. We are not paying in the very beginning for every single thing. We have enough money to be able to cover our expenses as they are phased. Which is kind of how it goes there are somethings we are going to have to pay up for right away, but we are also be able to get reimbursement back fairly quickly and cover those cost. We don't anticipate this being a problem.

Vice Chairman Kelly: I also contacted people like New Mexico Magazine and the billboard companies I wanted to make sure we weren't advertising at the same time as Sunny 505 campaign that the city is doing. I want to fill in where they aren't so that we are not stepping on each other and it is more of a constant flow of marketing.

Member DeMarino: We are really looking at from now until the end of the fiscal year. One of the things in here is a television ad also along with developing 15-minute segments that will really be good to put out on social media. The first part of this is going to be in the fall and early winter is going to be utilized for developing the graphics and putting them out early next year. If we get a lot of this going in January through April then our May, June, and July which are typically slower. People will now have T or C in their head, and I will up tourism for next year.

Member Harrington: I think we need to have more videos or pictures of art hop because people get here and have no idea what it is. But I know if people visually saw kind of what it was, they would want to come here. It is exciting and it is something fun and different. I think it would be something good to add later on a visual thing for people to get hyped up about.

Member DeMarino: I would think it would end up in one of our redefined pictures.

Becca Eza: Yes, redefined night life.

Member Harrington: Yes, something like that I think is really good. People get here and I ask them if they are here for the art hop, and they don't know what I'm talking about. I do know that it is fun and



different. I think people would drive 1-2 hours just to have something to do and escape from reality and go do something. I think this all really good its stuff people talk about but hasn't necessarily been done or they say we need it, but it hasn't happened.

Member DeMarino: MainStreet is really excited to do this. I was really a timing thing there for a while putting all the pieces in place that we needed to. Now the pieces are in place to be able to do this. We are looking forward to it and honestly, I have ideas. If this campaign goes well and I fully expect it to I think we can continue this campaign and next year come back to lodger's tax talk about this campaign, then talk about other opportunities for getting people into town. I don't mean to go into phase 2 right now but I'm going to like some of those things being how do we get the mid-week travelers and how do we get conferences and business retreat, and business meetings here because we have assets that those places need to host those things so that would be one of the things. Another thing would be focusing on how to get the people that are at elephant butte lake in the summer, what is it what we need to do to get those people into town. This is really the first step for us, and I look forward to having a successful campaign and then moving forward from there.

**Member Harrington made a motion to approve MainStreet TorC "Redefine" Marketing Campaign Grant Application. Member DeMarino seconded the motion. Motion carried unanimously.**

**5. COMMENTS FROM THE BOARD:**

There were no comments from the board at this time.

**6. COMMENTS FROM STAFF**

There were no comments from the staff at this time.

The board scheduled their next regular meeting at 12:00pm on Tuesday, November 12, 2024.

**7. ADJOURNMENT**

There being no further business, Vice Chairman Kelley adjourned the meeting.

PASSED AND APPROVED this 12<sup>th</sup> day of November 2024.

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Jake Foerstner, Chairman



# CITY OF TRUTH OR CONSEQUENCES

## AGENDA REQUEST FORM

MEETING DATE: September 24, 2024

Agenda Item #: G.6

**SUBJECT:** Discussion/Action -Turtleback Trails Network Outdoor Recreation Trails Grant Proposal and Letter of Support

**DEPARTMENT:** Community Services

**DATE SUBMITTED:** September 20, 2024

**SUBMITTED BY:** OJ Hechler

**WHO WILL PRESENT THE ITEM:** OJ Hechler Community Services Director

### Summary/Background:

Staff received an email request for Letter of Support for submission of Turtleback Trails Network Outdoor Recreation Trails Grant Proposal. The Turtleback Trails Network Concept Plan was approved by the City Commission at the regular meeting on 9-27-2023. Commission directive was "any specific project requiring investment of local government time through the development of contracts, grants, project administration or management should be presented to the Commission for discussion and approval before initiation."

### Recommendation:

Review request and give directive to staff

### Attachments:

- Email Request
- Grant Proposal
- Applicable Section of meeting minutes from 9-27-2023
- Turtleback Trails Network Concept Plan and complete meeting minutes available for download at: [Turtleback Trails Network \(torcnm.org\)](http://TurtlebackTrailsNetwork.org)

### Fiscal Impact (Finance): TBD

[Click here to enter text.](#)

### Legal Review (City Attorney): Yes

**Approved For Submittal By:** ☐ Department Director

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

**Final Approval:** ☐ City Manager

### CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

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

Continued To: - Referred To: -

☐ Approved ☐ Denied ☐ Other: -

File Name: CC agendas 9-24-24

**From:** [jornadaresourceconservationdev@gmail.com](mailto:jornadaresourceconservationdev@gmail.com) <[jornadaresourceconservationdev@gmail.com](mailto:jornadaresourceconservationdev@gmail.com)>  
**Sent:** Thursday, September 19, 2024 12:34 PM  
**To:** Amber Vaughn <[avaughn@sierraco.org](mailto:avaughn@sierraco.org)>; Angela Rael <[arael@sccog-nm.com](mailto:arael@sccog-nm.com)>; Attila Bality <[ab929ab@gmail.com](mailto:ab929ab@gmail.com)>; Becca Eza <[beccateland@gmail.com](mailto:beccateland@gmail.com)>; [businessmanager@sierrasoil.com](mailto:businessmanager@sierrasoil.com); Deb Stubblefield <[mayor@villageofwilliamsburg.com](mailto:mayor@villageofwilliamsburg.com)>; Demillion, Marcella (Marcy) <[marcy\\_demillion@nps.gov](mailto:marcy_demillion@nps.gov)>; Hannah Schechter <[hschechter@usbr.gov](mailto:hschechter@usbr.gov)>; Hoeppner, Ingo <[ihoeppner@torcnm.org](mailto:ihoeppner@torcnm.org)>; Jay Armijo <[jarmijo@sccog-nm.com](mailto:jarmijo@sccog-nm.com)>; John Haynes <[jhaynes@blm.gov](mailto:jhaynes@blm.gov)>; John Masterson <[magnafix@gmail.com](mailto:magnafix@gmail.com)>; Kim Skinner <[kimskinner111@gmail.com](mailto:kimskinner111@gmail.com)>; Mark Hedge <[hedgaterian@gmail.com](mailto:hedgaterian@gmail.com)>; [naturalresources@sierrasoil.com](mailto:naturalresources@sierrasoil.com); Hechler, Orrin <[orrin.hechler@torcnm.org](mailto:orrin.hechler@torcnm.org)>; Phyllis Mecca <[pmecca1450@yahoo.com](mailto:pmecca1450@yahoo.com)>; Sara Marta <[skmarta@nmsu.edu](mailto:skmarta@nmsu.edu)>; Tanzy, Brent <[btanzy@usbr.gov](mailto:btanzy@usbr.gov)>  
**Subject:** recreation trails grant

Good afternoon everyone

I have my proposal ready to submit; I have attached a word document with the questions the grant asks for and my responses.

I would appreciate letters of support from as many of as possible but most importantly from:

City of T or C OJ

|                         |        |
|-------------------------|--------|
| Village of Williamsburg | Deb    |
| County of Sierra        | Amber  |
| COG                     | Angela |
| MainStreet              | Becca  |

It would also be helpful to get ones from:

Sierra County Extension  
Sierra SWCD  
HSHS Scat Cats  
Western Trail Alliance  
Ultra Run

The proposal is due by the end of the month. I need to have the letters of support by Close of Business on Thursday the 26<sup>th</sup>. That will give me two business days to make sure everything is complete.

Do I need to send out a letter of support template? I will try to work on one this afternoon and send it out just in case some of you need a starting point.

Turtleback Trails Network  
Outdoor Recreation Trails Grant + proposal  
Phase I

Organization Overview- 2-3 sentences

The mission of the Jornada Resource Conservation & Development (RC&D) is to assist rural communities with natural resource conservation and enhance economic development through tourism. This non-profit has been in place since 1992 with members serving representing local governments and other non-profits encompassing seven counties in southwestern New Mexico. Past projects include Healing Waters Trail in Truth or Consequences, serving as the lead and completion and updates of the Sierra County Community Wildfire Protection Plan, administrative lead for the statewide New Mexico Watershed and Dam Owners Coalition, hazardous fuel reduction project in Grant County New Mexico, assist Truth or Consequences MainStreet in two USDA Rural Development grants, assist Catron County Clerk in securing a records retention grant and most recently serving as the lead in the five year process to complete the Turtleback Trail Network conceptual plan. The Jornada RC&D works closely with the two Council of Government entities that function within the RC&D project area and has partnered with both the Forest Service and the Bureau of Land Management, along with State Forestry and NM Environment Department offices in the past. Jornada RC&D has secured grants, and/or managed grants for other non-profits or soil and water conservation districts since our inception, along with working with the USDA Natural Resources Conservation Service. In addition, for the past 14 years the Jornada RC&D has served as the fiscal agent for the local high school New Mexico Envirothon Team and assisted with securing funds for their training and contests.

Project Abstract- 500 words ( full overview and primary goals)

The Turtleback Trail Network is a significant collaborative project aimed at developing outdoor recreation opportunities in Sierra County, particularly on the east side of the Rio Grande. The trail network encompasses the communities of Truth or Consequences and Williamsburg, enhancing both the recreational and economic opportunities in these areas. The project has been driven by the growing interest in outdoor activities, tourism, and community engagement within the region, and its long-term vision is to create a world-class trail system that attracts visitors and supports local residents alike.

The Turtleback Trail Network is the result of a five-year planning effort that culminated in the approval of a conceptual plan by both the City of Truth or Consequences and the Village of Williamsburg in 2024. This plan reflects the input and support of various stakeholders, including local governments, community organizations, and outdoor enthusiasts. The project's success is built on the idea that outdoor recreation is a vital asset to the local economy, helping to promote tourism while also providing residents with a well-maintained and accessible outdoor environment.

One of the key components of the Turtleback Trail Network is the construction of two footbridges that will provide access over the Rio Grande, connecting the communities on the



east side of the river with the broader network of trails. These footbridges will not only enhance accessibility but also open up new areas of the Rio Grande for recreational use. The bridges will be designed to withstand the natural elements and ensure safe passage for hikers, bikers, and other outdoor enthusiasts.

A major aspect of the plan is the implementation of a comprehensive signage system. Signage will be strategically placed along existing roads and trails to provide wayfinding for hikers, bikers, and other users of the network. This system will also include interpretive panels that offer historical and environmental insights about the surrounding area, as well as trailheads that clearly mark the entrances to various parts of the network. The Turtleback Trail is already recognized as part of the Rio Grande Trail System, further boosting its significance in the region's outdoor recreation landscape.

The project is designed to be implemented in phases, depending on available funding and the capacity of involved entities. Phase One of the project focuses on acquiring and installing signage along Sierra County Road A05. This phase includes the installation of interpretive panels, trailheads, and trail location mile markers to guide users and provide important context about the region.

Future phases will continue to build upon these foundational elements, with additional trail development, bridge construction, and recreational enhancements planned as funding becomes available. The phased approach ensures that the Turtleback Trail Network will grow and evolve over time, eventually becoming a cornerstone of Sierra County's outdoor recreation offerings. With continued community support and strategic partnerships, the Turtleback Trail Network promises to become a regional destination for both locals and visitors seeking to explore the natural beauty and recreational opportunities of the Rio Grande region.

What is the strategy for Ongoing Stewardship- 250 words (how we plan to maintain and recruit people

The Turtleback Trail Network in Sierra County spans roughly seven miles along the Rio Grande. Historically, maintenance of the A05 road has been a combined effort by the County and the City of Truth or Consequences. This road intersects with several historical roads primarily used for mining access in the nearby mountains, requiring regular upkeep to accommodate usage, including UTV activities. Efforts by the Bureau of Land Management (BLM) have been instrumental in this respect.

In our ongoing stewardship strategy, collaboration with community groups is pivotal. Signage will include information on stewardship, such as "Pack it in, Pack it out". Stakeholders such as 4-H groups, a local running group, and the high school may to assist with the long-term upkeep of trail signage and overall maintenance. Formal agreements with these groups are currently being developed.

Furthermore, we aim to establish a sponsorship program involving local businesses, offering them recognition along the trail for their support. This program will not only help fund

maintenance efforts but also foster a sense of community ownership. Combining community involvement with strategic partnerships will ensure the sustainable stewardship of Turtleback Trail Network, enhancing both its usability and local engagement.

Authorization-letter from County saying we can install signs on county road

Timeline- 150 words each

- 1- 6 months
  - a. Education group create verbiage for interpretive panels to include education on stewardship
  - b. Secure contractor to design panels, wayfinding signs and trailheads
  - c. Secure company to construct panels, trailheads and wayfinding signs
- 2- 7-12 month
  - a. Coordinate with volunteers to install signs and plan stewardship efforts
  - b. Secure equipment/tools needed to install signs
  - c. Install signage
  - d. Hold Community event to showcase installation of signage while recruiting volunteers for future stewardship projects
- 3- 13-18 months
  - a. Apply to local entities for Lodger's Tax advertising funds to create a brochure for trail
- 4- 19-24 months
  - a. Apply for NM River Stewardship Program

Total budget for Jornada

Project budget including match-create in excel to upload

1. How will project improve equitable outdoor use and access needs. Who are primary users and how they benefit will youth in particular benefit (250 words)

The Turtleback Trail Network plan is a broad recreation trail plan which incorporates a variety of opportunities for the public to enjoy the outdoors. Given that New Mexico is a minority-majority state, it is essential to engage and include underserved groups

The identified trail utilizes an existing Sierra County Road A05 which currently provides the opportunity for a variety of uses, including vehicles, UTV users, horseback, biking, hiking and walking. Any of those users have been able to also enjoy bird watching, hunting and wildlife viewing. This proposal, which is to purchase and install interpretive panels, wayfinding signs and trailheads, will only enhance the public's experience of the outdoors and the diverse cultural history of the area. With the planned activities for this section of the Turtleback Trail Network the enjoyment of current users of the area will be improved.

By prioritizing inclusive engagement, maintaining free access, and celebrating the diverse cultures within New Mexico, the Turtleback Trail Network aims to become a vibrant and welcoming destination for everyone, ensuring equitable access to the natural beauty and historical richness of the area.

2. How will this project enhance the regional recreation landscape-does it connect to other trails

Sierra County has such a diverse landscape with countless opportunities for outdoor recreation, including the largest lake in the State of New Mexico-Elephant Butte Lake. We also have another lake that is great for fishing-Caballo Lake and the Percha Dam Diversion. In addition the Gila National Forest is within 50 miles of both of the communities of Truth or Consequences and the Village of Williamsburg. Along with all of that land there are countless miles available for use on Bureau of Land Management land, Bureau of Reclamation land and New Mexico State Trust Lands. All of this public land provides ample places for people to enjoy the outdoors. The City of Truth or Consequences has several community parks, in addition to parks of the other government entities within the County. New Mexico State Parks and the Bureau of Reclamation also have countless trails within their jurisdiction and at the Damsite Historic District. The Rio Grande Trail has already incorporated the seven mile stretch of the Turtleback Trail Network into their Trail system. This project will just continue to enhance the enhance the great opportunities for outdoor recreation in Sierra County.

3. Describe the level of community en gagement in development of planning document (500 words)

This project initially began with an individual who was an avid runner and would like permanent access to the off side of the river and connected with the Jornada RC&D to help him find ways to achieve his goal. The RC&D said this needs to be a community project and immediately reached out to other potential stakeholders and the vision increased to creating two footbridges over the Rio Grande, one in Truth or Consequences and one in Williamsburg, along with improvements along the Rio Grande for folks who float the river and improvements along County Road A05 for hikers, runners and wildlife advocates. One primary focus of the group was to insure this was a community plan, led by local needs. The planning for this effort took over four years, with countless outreach activities. As the plan developed and ideas were tossed around the group established two community boards in prime locations to gather input from the community with different questions asked every couple of weeks. Specific planning groups were crated to focus on education/conservation needs, river floating needs and trail hiking needs. Many presentations were made to the community to gather more input from November of 2019 to March of 2022. Articles were provided to the local news media, presentations were made to civic organizations, youth groups, local

governmental entities, workshops were conducted, community events, brochures distributed to local businesses and meetings with federal and state agencies.

4. Attach plan-note when city and village approved the plan and where the signage is noted in the plan
5. What barriers or challenges might impede the project (250 words)

Through efforts of the trail steering committee the County of Sierra has always been a willing partner in this project. Placement of the signage along County Road A05 will not be an obstacle Overall implementation of the project does have challenges, including ownership where the proposed footbridges can be placed and easements to reach County Road A05.. Moving forward more work will need to be done to begin locating placements of the signage along the Rio Grande as the land ownership directly along the river is very complicated.

6. How will this connect members of the community to recreational opportunities and particularly connect to those who may not have had the same access don't usually do this (500 words)

The Turtleback Trail Network encompasses a seven mile stretch along the Rio Grande through the communities of Truth or Consequences and Williamsburg. This area is traversed via Sierra County Road A05. This road is currently utilized by a number of recreation minded people, including folks who use this road for access to float the Rio Grande, folks who use the road as avid runners, folks who enjoy wildlife and many UTV enthusiasts, along with the BLM livestock permittee. During the planning process the steering committee group strongly believed that helping the community understand the importance of recreational use and its impact on the community was of primary importance. In addition, the group wanted to take the opportunity to educate local residents and visitors on the history of this community and the history of the land and the water had on the growth of the area. Installing signage and then holding community events to showcase the trail and the interpretive panels will provide an opportunity for more local folks to realize the wonder of the outdoors and the peace it can bring. We may apply to the Outdoor Equity Fund, requesting assistance with field trips for local school students.

7. Describe what consideration has been made for accessibility is used for access and why or why not implemented (500 words) [current use and dam installed](#)

The Turtleback Trail Network for hiking access is totally located along Sierra County Road A05. It is a dirt road that is regularly maintained by the appropriate agencies. It is accessible for use by vehicles, bicycles, UTVs, hikers, horseback and portions of the road could potentially be used in portions by a wheelchair, if someone wanted to get out of their vehicle and view the interpretive panels.



8. How does the project restore, enhance and conserve natural lands or water resources ( 500 words)

Including stewardship information in the Turtleback Trail Network project will play a crucial role in restoring, enhancing, and conserving natural lands and water resources. Placement of interpretive panels and signs that provide stewardship information contributes to this goal in several meaningful ways.

Firstly, educational stewardship panels increase awareness among trail users about the importance of preserving the natural environment. By informing visitors about the local wildlife, plant species, and ecological systems, these panels foster a sense of responsibility and encourage behaviors that minimize human impact on these natural assets. Knowledge about sensitive areas, endangered species, and proper waste disposal can lead to more respectful and careful use of the trails, reducing wear and tear on natural lands and contamination of water resources.

The presence of these interpretive panels and signs also serves as a preventive measure against unintentional damage. For instance, wayfinding signs can direct visitors along designated paths, minimizing habitat disruption and erosion caused by off-trail excursions. By clearly marking trails and providing information on the best practices for interacting with the environment, the network helps to protect critical areas and reduce the likelihood of overuse and degradation.

Stewardship information often includes guidelines on how to participate in conservation efforts, such as reporting sightings of endangered species or volunteering for local conservation projects. This proactive engagement of the community in conservation activities helps in the actual restoration and enhancement of the natural resources. Community involvement not only augments the workforce needed for conservation tasks but also builds a deeper connection between people and nature, fostering long-term commitment to preservation efforts.

The Turtleback Trail Network plan specifically addresses the restoration and conservation of natural resources by identifying key concerns related to wildlife and plant life. Inclusion of stewardship information complements these efforts by ensuring that visitors actively contribute to these conservation goals. For instance, if the plan includes habitat restoration projects or native plant reintroduction efforts, informing the public about these initiatives can garner support and participation, thereby enhancing their success.

Additionally, partners identified in the plan who take the lead in conservation initiatives can use the trail network as a platform for broader outreach and engagement. Through coordinated efforts, such as organized clean-up days or educational workshops conducted at the trailheads,

these partners can extend their impact, promoting sustainable practices and conservation awareness on a larger scale.

In summary, while the placement of interpretive panels, signs, and trailheads might seem like minor additions, the integration of stewardship information can have profound effects on natural land and water resource conservation. By educating, guiding, and engaging the community, the Turtleback Trail Network harnesses the collective effort of its users to restore, enhance, and protect the environment.

9. Is this located near a sensitive or cultural area-yes so how will this enhance or protect that

Yes, portions of County Road A05 travel through an archaeological site spanning over 200 acres, once occupied by the Mogollon People. This site includes numerous significant locations and falls under the jurisdiction of the Bureau of Land Management. While the site has not been fully inventoried, the project aims to enhance and protect this sensitive cultural area through several key initiatives.

Firstly, the planning group is looking at re-routing the trail to prevent direct impact on the archaeological site. This preemptive action aims to minimize any potential disturbances to the area. By diverting traffic away from the sensitive site, the project ensures that the integrity and preservation of these cultural artifacts are maintained.

The introduction of stewardship information, interpretive panels, and educational materials will play a critical role in raising public awareness about the significance of the archaeological site. By educating trail users about the historical and cultural importance of the area, the project fosters respect and encourages behavior that protects the site. Informative panels can communicate the history of the Mogollon People and explain the importance of preserving such sites.

The establishment of a site stewards program is another proactive measure to enhance and protect this cultural area. Trained volunteers can monitor the site, report any unauthorized activities or disturbances, and conduct regular maintenance. This program can serve as an additional layer of protection, ensuring ongoing vigilance and responsiveness to any threats to the site's integrity.

Educational efforts through interpretive panels and stewardship information, these actions collectively contribute to the preservation of this significant archaeological site, ensuring that it remains undisturbed and respected for future generations.

10. How will this support and engage local business and be specific on economic impacts (500 words)

Over the past decade as the traveling public has trended towards a younger demographic, the concept has seen a shift away from sight-seeing to sight-doing. Within recent years the historic hot springs district has seen tremendous growth in visitation and the local bathhouses have evolved with the changes and many improvements have been made. That increased visitation has also shown an increased interest in trail use and other outdoor recreation activities. The Geronimo Springs Scenic By-ways visitor's center has seen an increase in visitors interest and questions also about trails that are close by. The U.S. Department of Commerce's Bureau of Economic Analysis (BEA) has released economic data for 2022 exhibiting outdoor recreation's powerful and positive economic impact on the U.S. economy. The outdoor recreation economy in New Mexico grew 1.8% from 2021 to 2022, according to the BEA. This year's report also shows that outdoor recreation creates \$2.4 billion in value added for New Mexico and accounts for 1.9% of state GDP, including nearly 28,000 jobs. Not only will trail development attract new visitor to Sierra County, it will also provide those who already visit regular with yet another amenity to experience. This can potentially increase the length of their stay in the County which will also result in increased revenues in GRT to local entities. Increase local revenues could be used to develop future recreation projects that would benefit residents and visitors alike. Additionally, the opportunity exists to organize more outdoor recreation events that would bring a more active demographic to our communities. Currently, there are several annual outdoor events, including a balloon regatta, T or C Fiesta and the Ultra Run. The addition of the Turtleback Trail Network and subsequent trail signage will provide another reason for visitors to

11. How many jobs will be created through this project and provide break down part time/full time/seasonal (250 words)

The potential of increased jobs, either full time, part time or seasonal through the creation of the Turtleback Trail would be realized through the increase in visitation to the communities of Truth or Consequences, Village of Williamsburg, City of Elephant Butte and the County of Sierra. Those jobs would most likely be created through the hospitality industry but in addition the community already has several businesses directly tied to recreation including hiking, biking and river floating. Jobs may also be created by securing future grants such as the outdoor equity fund and the River Stewardship Program.

Today the U.S. Department of Commerce's Bureau of Economic Analysis (BEA) [released economic data](#) from the Outdoor Recreation Satellite Account for the year 2022,

showing the largest economic impact in the history of the Account and outdoor recreation's powerful and positive economic impact on the U.S. economy. These new figures reveal that outdoor recreation generates \$1.1 trillion in economic output (2.2% of GDP), 4.98 million jobs and comprises 3.2% of U.S. employees

If outdoor recreation generates approximately 4.98 million jobs nationwide from \$1.1 trillion in economic output (about 1 job per \$220,000 of output), and if your project is expected to generate additional revenue (say \$1 million annually from tourism), the project could potentially create around 4-5 jobs directly or indirectly.

In summary, the job creation will depend on:

- The scale of the project and its phases.
- Increased visitation and the economic activity it generates.
- The capacity of local businesses and industries to respond to the increased demand.

## 12. How will this increase visitation( 250 words

Outdoor recreation is a large component of visitors to Sierra County with folks taking advantage of both Elephant Butte and Caballo Lakes, along with access to the Gila National Forest and public lands managed by the Bureau of Land Management. In addition, with the nationally known hot mineral waters available in Truth or Consequences, this community has benefited from the visitors who indulge in the hot water soaks. Based on information from the local Geronimo Springs Scenic By-way Visitors Center records many of the questions visitors to the area ask is where are there close hiking trails. Within the community of Truth or Consequences there is only one designated three mile trail but many visitors would like to utilize more than one trail or one that is more challenging. With the implementation of trail amenities and signage for the Turtleback Trails Network it is believed that this additional trail will encourage more visitors and to also have those visitors extend their stay in the County to be able to take advantage of all the various outdoor recreation opportunities available. In addition, the designation of this trail system will be included in the Rio Grande Trail system which will mean it will be included in all that trail system marketing programs. Marketing of this trail system will also be included in the City of Truth or Consequences website and the Sierra County Recreation and Tourism website which will provide opportunities for visitors to learn more about the Turtleback Trail Network.



CITY COMMISSION SEPTEMBER 27, 2023 REGULAR MEETING MINUTES

Patrick Oliver addressed the Commission with comments related to the following:

- He voiced one of the reasons he moved here were for the trails, and his experience on trails around the world. He goes on to show his support of Turtleback Trails Network Concept Plan.

Jessica Onieda addressed the Commission with comments related to the following:

- She voiced her support of Turtleback Trails Network Concept Plan as a local business owner.

**Item H2 was moved after public comment.**

**New Business:**

**H2. Discussion/Action: Turtleback Trails Master Plan.**

John Masterson via teleconference: He expressed his excitement for the Turtleback Trails Network Concept Plan. He explained errors in the documents given. He has been in the works with this plan for over 3 years, and he is very proud of the outcome so far. He then goes on to explain that there are 16 different funding sources for this project, as well as many others. He and the board appreciate all of the public input that has been given, and he feels better access to outdoors is beneficial to the community, as well as the economy.

City Attorney Rubin: I think by calling this a concept plan, we are not actually legally obligating ourself to anything particular, at any particular time. We are basically approving the concept of the plan, and we are going to be working on this, but we are not saying, okay, this is going to be done by a certain date, or anything like that. We are just going to look at each item as appropriate based upon certain circumstances. It will be a working document.

Mayor Pro-Tem Hechler: Atilla Bality was somewhat the author of this plan, and he said that ***"any specific project requiring investment of local government time through the development of contracts, grants, project administration or management should be presented to the Commission for discussion and approval before initiation."*** With that being said, we can essentially pick and choose the items that have priority that we need to get done for the community.

A copy of the updated conceptual plan attached hereto and made a part hereof.

**Commissioner Mitchell moved to approve the Turtleback Trails Concept Plan. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously**