Rolf Hechler
Mayor

Destiny Mitchell
Mayor Pro-Tem

Amanda Forrister
Commissioner

Ingo Hoeppner
Commissioner

Chaz M. Glines
Commissioner

Gary Whitehead
City Manager

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

REGULAR MEETING

THE REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO, TO BE HELD IN THE COMMISSION CHAMBERS, 405 W. 3RD ST., ON WEDNESDAY, JULY 22, 2026; TO START AT 4:00 P.M.

A. CALL TO ORDER

B. INTRODUCTION
   1. ROLL CALL
      Hon. Rolf Hechler, Mayor
      Hon. Destiny Mitchell, Mayor Pro-Tem
      Hon. Amanda Forrister, Commissioner
      Hon. Ingo Hoeppner Commissioner
      Hon. Chaz Glines, Commissioner
   2. SILENT MEDITATION
   3. PLEDGE OF ALLEGIANCE
   4. APPROVAL OF AGENDA
   5. COMMISSION COMMENTS
   6. STAFF COMMENTS

C. PUBLIC COMMENT (3 Minute Rule Applies)

D. CONSENT CALENDAR
   1. Acknowledge purchase report of items under $60,000
   2. Acknowledge Subrecipient FY 25/26 4th Quarter Reports
   3. Take Home Vehicle Form: Police Department

E. NEW BUSINESS
   1. Discussion/Action: Summary Plat Amendment at 1700 Corzine Street. Assistant City Manager Alvarez
   2. Discussion/Action: Vacation of Plats at 418 Locust Street. Assistant City Manager Alvarez
   3. Discussion/Action: Consider Approval of Proposed Changes to Animal Shelter Adoption Hours. Tara Manning, Animal Shelter Supervisor
   4. Discussion/Action: Consider Approval of Proposed Changes to Pool Hours. Steven Glines, Pool Manager
   5. Discussion/Action: Approval of executed grant agreement for the FY27 Clean & Beautiful Grant. OJ Hechler, Community Services Director

E. NEW BUSINESS Continued…

6. Discussion/Action: Agreement between Sierra County and the City of Truth or Consequences for floodplain management services. Assistant City Manager Alvarez
7. Discussion/Action: Memorandum of Understanding between Sierra County and the City of Truth or Consequences regarding coordination of development along shared boundaries. Assistant City Manager Alvarez
8. Discussion/Action: MOU between the City of Elephant Butte and the City of Truth or Consequences for Animal Control Services. City Manager Whitehead
9. Discussion/Action: Confirmation of South-Central Regional Transit District (SCRTD) Board Member/Alternate Designation and Approval of FY 2026-2027 Membership Fee. City Manager Whitehead
10. Discussion Action: Presentation of the Water and Wastewater Rate Study and Approval of FY 2026-2027 Water and Wastewater Rates Under Current Rate Policy. City Manager Whitehead
11. Discussion/Action: Approval of RFP# 2026-03-005 Agreement with J. Carrizal General Construction, Inc. for PNC Bank/PD Remodel. Jocelyn Holguin, Chief Financial Officer
12. Discussion/Action: Approval of Purchase Requisitions of $60,000 and over. Carlos Miyagishima, CPO
    a. Tyler Financial Services
    b. Cooperative Educational Services
    c. SCRDA
    d. Lonestar Freightliner Group LLC
    e. J. Carrizal General Construction Inc.
13. Discussion/Action: Request for USDA proposal requirements amending Section 14-35 Rules, and Regulations of City Manager. City Manager Whitehead

F. ORDINANCES/RESOLUTIONS/ZONING

1. Discussion/Action: Resolution No. 05 26/27 FY 27 NMDOT LGRF Grant Agreement. Brenden Anglin, Streets Department Supervisor
2. Discussion/Action: Resolution No. 06 26/27 FY 27 NMDOT Municipal Arterial Program Grant Agreement. Brenden Anglin, Streets Department Supervisor
3. Discussion/Action: Resolution No. 07 26/27 Authorizing Acceptance of Colonias Infrastructure Fund Project No. CIF-7113; Roads/Drainage Infrastructure and Marie Street Improvements. Assistant City Manager Alvarez
4. Discussion/Action: Resolution No. 08 26/27 Approving Participation in the South-Central Council of Governments (SCCOG) Program for FY 2026-2027. City Manager Whitehead

G. EXECUTIVE SESSION

1. Threatened & Pending Litigation (*Sean Barnes)* pursuant to 10-15-1(H.7).

H. ADJOURNMENT

The meeting will be streamed through YouTube Live at http://www.youtube.com/@CityofTorC.
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 AUGUST 12, 2026 AT 9:00 A.M.

City of Truth or Consequences

AGENDA REQUEST FORM

MEETING DATE: July 22, 2026

Agenda Item #: D.1

SUBJECT: Acknowledge purchase report of items under $60,000
DEPARTMENT: Procurement
DATE SUBMITTED: July 15, 2026
SUBMITTED BY: Carlos Miyagishima, Chief Procurement Officer
WHO WILL PRESENT THE ITEM: Consent Calendar

Summary/Background:

Per Resolution No 46 20/27 Execution of Contracts; Grant Agreements; Memoranda of Understanding; Joint Powers Agreements; Settlement Agreements; Purchases (Contract and Purchases Over $60,000).

Recommendation:

Items purchase requisitions between $20,000 and $59,999.99 thousand were City Manager reviewed and approved prior to issuing a purchase order.

Attachments:

- Listing of Purchase Requisition $20,000 - $60,000
  - 18 in packet

Fiscal Impact (Finance): **Yes**

- Yes, see attached:

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

None.

Approved For Submittal By: ☒ Department Director

Reviewed by: ☒ City Clerk ☒ Finance ☐ Legal ☒ Other: Carlos Miyagishima, Chief Procurement Officer

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 7/22/2026

PURCHASE ORDER FROM JULY 1, 2026-PRESENT-MANAGER APPROVED: $20,000 THROUGH $59,999.00. MANAGER APPROVED COMMISSION REPORT:

Number	Vendor Number	Ship To	Status	Total	Issue Date	Vendor Name	Description
13660	3886	CMO DEPT	Outstanding	$ 20,000.00	07/10/2026	KATHRYN ELLIOTT DBA CIVILITY GOVERNMENT RELATIONS	CIVILITY GOVERNMENT RELATIONS
13661	0210	SERVICE CENTER DE	Outstanding	$ 20,000.00	07/06/2026	SIERRA AUTO PARTS LLC	DROP DOWN PO FOR VEHICLE MAINT FY 26/27
13676	9322	FINANCE	Completed	$ 21,691.00	07/06/2026	DAUPLER INC	DAUPLER RESPONSE & CALLOUT MODULE FY25/27
13670	0249	FINANCE	Outstanding	$ 22,300.00	07/06/2026	TESTONS FREEWAY CHEVRON	GAS/DIESEL PURCHASES- OPEN PO FY 26/27
13672	9486	FINANCE	Outstanding	$ 22,320.00	07/06/2026	LANDIS+GYR TECHNOLOGY INC	L&G SAAS OPEN PO 26/27
13714	8807	FINANCE	Outstanding	$ 25,000.00	07/13/2026	INTEGRATED ENVIRONMENTAL SERVICES 002B LLC	FY 26/27 OPEN PO: RENTAL FEE 523 BROADWAY
13670	1565	CITY CLERK	Outstanding	$ 25,000.00	07/13/2026	SIERRA JOINT OFFICE ON AGING	FY 26/27 SUBRECIPIENT SIERRA JOINT OFFICE ON AGING
13665	0160	UTILITY	Outstanding	$ 25,000.00	07/10/2026	PITNEY BOWES INC	PITYNEY BOWES LEASED EQUIP. FY 2026 2027
13634	1956	FIRE DEPT	Outstanding	$ 30,000.00	07/06/2026	T CR C FIRE DEPARTMENT	FIRE DEPT ALLOTMENT Fy 26/27
13633	1009	FIRE DEPT	Outstanding	$ 30,000.00	07/06/2026	GENERAL FUND	STATE FIRE ADMIN DUE TO GENERAL FUND FY26-27
13596	3269	SERVICE CENTER DE	Outstanding	$ 30,000.00	07/06/2026	BORDER RECAPPING LLC	OPEN PO DRAWDOWN FOR VEHICLE TIRES&SUPPLIES
13674	9026	FINANCE	Outstanding	$ 30,000.00	07/06/2026	EUROFINS ENVIRONMENTAL TESTING SOUTH CENTRAL LLC	WEEKLY TESTING FY26/27
13673	0158	FINANCE	Partially Recem	$ 30,000.00	07/06/2026	BAKER UTILITY SUPPLY CORP	OPEN PO FOR FIELD SUPPLIES FY26/27
13671	7735	FINANCE	Partially Recem	$ 30,000.00	07/06/2026	TRIPLE H SOLAR LLC	TRIPLE H SOLAR OPEN PO FY 26/27
13666	0187	UTILITY	Outstanding	$ 35,000.00	07/10/2026	POSTMASTER	POSTAGE FOR MAIL/BILLING FY 2026 2027
13710	7466	ELECTRIC DEPT	Outstanding	$ 39,541.50	07/13/2026	WESTERN UNITED ELECTRIC	WOOD POLES
13612	9424	FINANCE	Outstanding	$ 55,441.00	07/06/2026	BEASLEY MITCHELL & CO LLP	AUDIT SERVICES FY 25/27
13676	9748	FINANCE	Outstanding	$ 59,606.25	07/06/2026	MARTO ENERGY	POLE REPLACEMENTS

Reviewed By City CPO On: 7/15/2026

ACCEPTED:

YES:

No:

Additional Comments:

Mayor Rolf Hechler

(If required.)

City Clerk Attest:

(If required.)

*See Attached POs

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: 83660 **Date:** 07/10/2026

Requisition #: 96510 **Vendor #:** 8986

ISSUED TO: CIVILITY GOVERNMENT RELATIONS
1421 N MAIN ST
CLOVIS, NM 88101-

SHIP TO: CMO
401 McAdoo St.
Truth or Consequences, NM 87901

ITEM	UNITS	VENDOR PART #	DESCRIPTION	GL ACCT #	PROJ ACCT #	PRICE	AMOUNT
1	0		GOVERNMENT RELATIONS LOBBYING FOR CITY OF T OR C CONTRACT APPROVED AT COMMISSION ON 7/23/2025	101-1000-43598		0.00	20,000.00

SUBTOTAL:	20,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	20,000.00

Chief Purchasing Office _____ **Date:** 7/10/2026

Director of Finance: Requisition approved electronically.

City Manager: Requisition approved electronically.

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

REQUISITION

Requisition #: 96510

Date: 07/01/2026

Vendor #: 8986

ISSUED TO: KATHRYN ELLIOTT DBA CIVILITY GOVERNMEN
1421 N MAIN ST
CLOVIS, NM 88101-

SHIP TO: CMO
401 McAdoo St.
Truth or Consequences, NM 87901

ITEM	UNITS	DESCRIPTION	PROJECT #	PRICE	GL ACCOUNT NUMBER	AMOUNT
1	0	GOVERNMENT RELATIONS		0.00	101-1000-43598	20,000.00

PO Description: CIVILITY GOVERNMENT RELATIONS

Detailed Description:

LOBBYING FOR CITY OF T OR C
CONTRACT APPROVED AT COMMISSION ON 6/10/2026
CONTRACT EXPIRES JUNE 30, 2027
$1500/MONTH ($18,000 ANNUALLY) PLUS GRT

SUBTOTAL:	20,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	20,000.00

Authorized By: _____

Civility
GOVERNMENT RELATIONS

Government Relations Contract

This contract is hereby made and entered into by the City of Truth or Consequences (hereinafter T or C) and Civility Government Relations (hereinafter Civility) on this 20th day of May, 2026.

Whereas, T or C has found it desirable to retain a firm to provide government relations services as further described below: and

Whereas T or C desires to hire Civility to provide said services, and

Whereas Civility desires to provide such services under the terms of this contract. Therefore, it is mutually agreed upon by both parties the following:

Scope of Work:

1. Represent T or C's interests from July 1, 2026 – June 30, 2027 including the regular session of the 2026 NM State Legislature, any special sessions and applicable Interim Committees.

2. Design and implement a campaign directed towards key state legislators, administration leadership and staff on important issues facing T or C.

3. Design and implement an aggressive funding request campaign to acquire funding appropriations as approved by T or C for substantial infrastructure improvements including landfill, water and wastewater roads updates and economic development initiatives.

4. Represent T or C at public hearings, committee meetings and/or meetings with government officials; present and defend T or C's proposed projects, scopes of work, and budgets.

5. Regularly consult with T or C manager and or mayor. Any action directed by the T or C manager or mayor shall be deemed authorized by T or C, pursuant to this contract.

6. T or C commissioners may change their designee at any time.

Terms:

1. Effective dates: July 1, 2026 – June 30, 2027. All parties must sign below for the contract to be in effect. At the mutual agreement of the parties, this contract may be extended beyond the termination date.

2. This contract can be terminated with the following provisions: The City of Truth or Consequences may with or without cause, terminate this contract.

3. T or C has the right to terminate this contract due to any action from Civility where the town determines in their sole discretion that actions publicly discredit the town. Notice of termination must be in writing and can either be emailed or mailed via certified mail to 1421 N Main St. Clovis NM 88101.

4. Civility may also terminate this contract if the T or C defaults on non-payment or non-disclosure of information. As above, Civility will be required to send written notice of their desire to terminate the contract by either electronic email or the post office. Cancellation date will be noted in the termination letter. The contract will be prorated for work done until that point.

Compensation:

T or C agrees to pay Civility $1500/month plus Curry County NM gross receipts tax.
Total yearly contract: $18,000 plus GRT
Monthly installments are due by the 20st of each month beginning July 1, 2026.
Civility will be reimbursed for any necessary expenses which are approved in advance by the T or C manager which may include travel and hotel expenses, not to exceed $2000 annually.

4. Disclaimer

Civility acknowledges that it is an independent contractor and as such neither it, nor its employees, agents or representatives shall be considered employees or agents of T or C nor shall Civility be eligible to accrue sick leave, retirement benefits, or any other benefits provided city employees.

Subcontracting: Civility shall not subcontract any portion of the services to be performed under this contract, without the prior written approval of T or C.

Assignment: Civility shall not assign or transfer any interest in the contract, or assign any claims for money due, or to become due, under this contract without the prior written approval of the city..

Conflict of Interest: Civility warrants that it presently has no interest or conflict of interest and shall not acquire any interest or conflict of interest which would conflict with its performance of services under this contract.

Non-discrimination: Civility agrees that it, its employee(s) and or agent(s) shall comply with all federal, state and local laws regarding equal employment opportunities, fair labor standards, and other non-discrimination and equal opportunity compliance laws, regulations and practices.

Entire contract: This contract represents the entire agreement of the parties and supersedes all prior oral or written agreements or understandings between the parties concerning the subject matter of this contract.

Amendment: This contract shall not be altered, changed, modified or amended, unless executed by both parties.

Applicable law: This contract shall be governed by the Laws of the State of New Mexico and the ordinances, resolutions, rules and regulations. The venue for any dispute arising from this contract shall be the District Court located in Curry County.

Attorney's fees: Should either party to this contract be obligated to seek enforcement of the terms of this contract through a court of law, the breaching party as determined by any judge or special master shall be responsible for all court costs and reasonable attorney's fees incurred by the non-breaching party as a result of the breach of this agreement.

Acknowledgments: Civility acknowledges that it is aware of the Procurement code, Sections 13-1-28 through 13-1-199, NMSA (1978), as amended, imposes civil and criminal penalties for its violation. Civility also agrees to comply with the requirements and guidelines of the New Mexico Lobbyist Registration Act. In addition, Civility acknowledges that it is aware that New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

Work products: All work and work products produced under this contract shall be and remain the exclusive property of T or C, and Civility. No one can use, sell, disclose or otherwise make available to anyone (individual, corporation or organization) any work and work product produced under the contract, other than to Clayton.

The below parties agree to the above contract and provisions:

T or C representative

Date: June 10, 2026

Kathy Elliott
Civility representative

May 20, 2026

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: 83601 **Date:** 07/08/2026

Requisition #: 96531 **Vendor #:** 0210

ISSUED TO: SIERRA AUTO PARTS LLC
400 AUSTIN ST
TRUTH OR CONSEQUENCES, NM 87901

SHIP TO: SERVICE CENTER
2700 South Broadway
Truth or Consequences, NM 87901

ITEM	UNITS	VENDOR PART #	DESCRIPTION	GL ACCT #	PROJ ACCT #	PRICE	AMOUNT
1	0		OPEN PO DRAWDOWN FOR VEHICLE MAINT (FY 2	600-7003-47420		0.00	20,000.00
	RECIEPTS/INVOICES ARE REQUIRED FOR PROCESSING						
	ALL DEPTS						
	SERVICE CENTER						

SUBTOTAL:	20,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	20,000.00

Chief Purchasing Office _____ Date: 7/8/2026

Director of Finance: Requisition approved electronically.

City Manager: Requisition approved electronically.

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

REQUISITION

Requisition #: 96531

Date: 07/01/2026

Vendor #: 0210

ISSUED TO: SIERRA AUTO PARTS LLC
400 AUSTIN ST
TRUTH OR CONSEQUENCES, NM 87901

SHIP TO: SERVICE CENTER
2700 South Broadway
Truth or Consequences, NM 87901

ITEM	UNITS	DESCRIPTION	PROJECT #	PRICE	GL ACCOUNT NUMBER	AMOUNT
1	0	OPEN PO DRAWDOWN FOR VEHICLE MAINT (FY 26/2		0.00	600-7003-47420	20,000.00

PO Description: DROP DOWN PO FOR VEHICLE MAINT FY 26/27

Detailed Description:

ALL DEPTS
SERVICE CENTER

SUBTOTAL:	20,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	20,000.00

Authorized By: _____

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: 83575 **Date:** 07/06/2026

Requisition #: 96554 **Vendor #:** 9022

ISSUED TO: DAUPLER INC
Attn: CHRIS PARROTT
8024 CONSER ST
OVERLAND PARK, KS 66204-

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		DAUPLER RESPONSE & CALLOUT MODULE FY26/;	504-3803-48598		0.00	10,845.50
				506-4005-48598			10,845.50

SUBTOTAL:	21,691.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	21,691.00

Chief Purchasing Office _____ Date: 7/6/2026

Director of Finance: Requisition approved electronically.

City Manager: Requisition approved electronically.

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

REQUISITION

Requisition #: 96554

Date: 07/01/2026

Vendor #: 9022

ISSUED TO: DAUPLER INC
Attn:CHRIS PARROTT
8024 CONSER ST
OVERLAND PARK, KS 66204-

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	DAUPLER RESPONSE & CALLOUT MODULE FY26/27		0.00	506-4005-48598	10,845.50
					504-3803-48598	10,845.50

PO Description: DAUPLER RESPONSE & CALLOUT MODULE FY26/27

Detailed Description:

DAUPLER RESPONSE & CALLOUT MODULE FY26/27

SUBTOTAL:	21,691.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	21,691.00

Authorized By: _____

daupler

INVOICE

INV-001515

Daupler, Inc.
8024 Conser St
Overland Park Kansas 66204
U.S.A

Balance Due
$21,691.00

Bill To
Truth or Consequences, NM
Attn:
505 Sims
Truth or Consequences, New Mexico 87901
U.S.A

Invoice Date :	01 Jun 2026
Terms :	Net 30
Due Date :	01 Jul 2026

#	Item & Description	Qty	Rate	Amount
1	Daupler Response Management & Callout Module - 07/01/2026-06/30/2027	1.00	16,241.00	16,241.00
2	Daupler Notify - 07/01/2026-06/30/2027	1.00	5,450.00	5,450.00
			Sub Total	21,691.00
			Total	**$21,691.00**
			Balance Due	**$21,691.00**

Crafted with ease using Zoho Invoice
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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: 83570 **Date:** 07/06/2026

Requisition #: 96497 **Vendor #:** 0249

ISSUED TO: TESTONS FREEWAY CHEVRON
PO BOX 3116
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		GAS/DIESEL PURCHASES- OPEN PO FY 26/27	503-3702-43316		0.00	22,300.00
	ELECTRIC DEPARTMENT OPEN PO FOR TESTONS FUEL						

SUBTOTAL:	22,300.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	22,300.00

Chief Purchasing Office _____ Date: 7/6/2026

Director of Finance: Requisition approved electronically.

City Manager: Requisition approved electronically.

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

REQUISITION

Requisition #: 96497

Date: 07/01/2026

Vendor #: 0249

ISSUED TO: TESTONS FREEWAY CHEVRON
PO BOX 3116
T OR C, NM 87901

SHIP TO: City of Truth or Consequences
505 Sims St.
Truth or Consequences, NM 87901

ITEM	UNITS	DESCRIPTION	PROJECT #	PRICE	GL ACCOUNT NUMBER	AMOUNT
1	0	GAS/DIESEL PURCHASES- OPEN PO FY 26/27		0.00	503-3702-43316	22,300.00

PO Description: GAS/DIESEL PURCHASES- OPEN PO FY 26/27

Detailed Description:

SUBTOTAL:	22,300.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	22,300.00

Authorized By: _____

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: 83572 **Date:** 07/06/2026

Requisition #: 96505 **Vendor #:** 8485

ISSUED TO: LANDIS+GYR TECHNOLOGY INC
30000 MILL CREEK AVENUE, SUITE 100
ALPHARETTA, GA 30022-

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		L&G SAAS OPEN PO 26/27	503-3702-43770		0.00	22,320.00
	ELECTRIC DEPARTMENT L&G SAAS OPEN PO 26/27						

SUBTOTAL:	22,320.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	22,320.00

Chief Purchasing Office _____ Date: 7/6/2026

Director of Finance: Requisition approved electronically.

City Manager: Requisition approved electronically.

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

REQUISITION

Requisition #: 96505

Date: 07/01/2026

Vendor #: 8485

ISSUED TO: LANDIS+GYR TECHNOLOGY INC
30000 MILL CREEK AVENUE, SUITE 100
ALPHARETTA, GA 30022-

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	L&G SAAS OPEN PO 26/27		0.00	503-3702-43770	22,320.00

PO Description: L&G SAAS OPEN PO 26/27

Detailed Description:

SUBTOTAL:	22,320.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	22,320.00

Authorized By: _____

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: 83714 **Date:** 07/13/2026

Requisition #: 96670 **Vendor #:** 8897

ISSUED TO: INTEGRATED ENVIRONMENTAL SERVICES QOZB LLC
Attn: INTEGRATED ENVIRONMENTAL SERVICES QOZ
362 ST. MARKS PLACE
STATEN ISLAND, NY 10301-

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		GERONIMO TRAIL SCENIC BYWAY RENT AT 523 BF	214-2540-60725		0.00	25,000.00

SUBTOTAL:	25,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	25,000.00

Chief Purchasing Office _____ Date: 7/14/2026

Director of Finance: Requisition approved electronically.

City Manager: Requisition approved electronically.

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

REQUISITION

Requisition #: 96670

Date: 07/10/2026

Vendor #: 8897

ISSUED TO: INTEGRATED ENVIRONMENTAL SERVICES QOZ
Attn:INTEGRATED ENVIRONMENTAL SERVICES
362 ST. MARKS PLACE
STATEN ISLAND, NY 10301-

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	GERONIMO TRAIL SCENIC BYWAY RENT AT 523 BROA		0.00	214-2540-60725	25,000.00

PO Description: FY 26/27 OPEN PO: RENTAL FEE 523 BROADWAY

Detailed Description:

SUBTOTAL:	25,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	25,000.00

Authorized By: _____

CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

Agenda Item #: F.4

MEETING DATE: June 10, 2026

SUBJECT: Discussion/Action – Lease Amendment for 523 Broadway, Suites B & C (Geronimo Museum/Visitors Center) – Integrated Environmental Services QOZB, LLC
DEPARTMENT: City Manager
DATE SUBMITTED: June 3, 2026
SUBMITTED BY: Johanna Muñoz – Executive Assistant
WHO WILL PRESENT THE ITEM: Gary Whitehead, City Manager

Summary/Background:
The City of Truth or Consequences entered into a Commercial Lease Agreement with Integrated Environmental Services QOZB, LLC (Landlord) on April 1, 2023, for the premises located at 523 Broadway, Suites B & C, Truth or Consequences, NM 87901, comprising 1,190 square feet of rentable floor area. The premises are used as a Museum and Visitors Center operating under the trade name Geronimo Museum.
The original lease term commenced June 1, 2023 and was set to expire June 1, 2026. The parties have executed an Amendment/Assignment to Lease Agreement, dated May 22, 2026, which extends the lease and modifies the monthly payment. The sole change to the lease terms is as follows: the new combined monthly Rent and CAM payment is $2,000.00, effective June 1, 2026, with the lease extended through May 31, 2029. The amendment also provides exit flexibility, allowing the Tenant to opt out at the end of any annual term with sixty (60) days' written notice. All other terms and conditions of the original lease remain in full force and effect.

Recommendation:Staff recommends the City Commission approve the Lease Amendment/Assignment to Lease Agreement with Integrated Environmental Services QOZB, LLC, for the premises at 523 Broadway, Suites B & C, establishing a new monthly Rent and CAM payment of $2,000.00 effective June 1, 2026, and extending the lease term through May 31, 2029, with all other original lease terms and conditions remaining in effect.

Attachments:
- Amendment/Assignment to Lease Agreement – 523 Broadway, Suites B & C (dated May 22, 2026)
- Commercial Lease Agreement – 523 Broadway, Suites B & C (original, dated April 1, 2023)

Fiscal Impact (Finance): Choose an item
Click here to enter text

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: City Manager

Final Approval: ☐ City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. Click here to enter text Ordinance No. -
Continued To: - Referred To: -
☐ Approved ☐ Denied ☐ Other: -
File Name: CC agendas 6-10-26

Amendment/Assignment to Lease Agreement

Between

Integrated Environmental Services QOZB, LLC of 362 St. Marks Place, Staten Island, NY 10301

And

City of Truth or Consequences of 523 Broadway, Suites B & C, Truth or Consequences, NM 87901

Re: 523 Broadway, Suites B & C, Truth or Consequences, NM 87901
Dated: May 22, 2026

This document amends and assigns the lease between The City of Truth or Consequences and Integrated Environmental Services QOZB, LLC, dated April 1, 2023.

The following terms are amended:

Lease Start Date: June 1, 2026

Lease End Date: May 31, 2029

Monthly Rent and CAM: $2,000.00

Exit Flexibility: Tenant may opt out at the end of any annual term with sixty (60) day's written notice.

All other terms and conditions of the original lease remain the same.

By: _____
Landlord: David Berman
For Integrated Environmental Services QOZB, LLC

Dated: 5/26/26

By: _____
Tenant: City of Truth or Consequences

Dated: 5.26.2026

COMMERCIAL LEASE

THIS LEASE is made this 12th day of April, 2023, by and between INTEGRATED ENVIRONMENTAL SERVICES QOZB, LLC., a New York Limited Liability Company ("Landlord"), and the City of Truth or Consequences, a Municipality("Tenant").

1. **DEMISE OF PREMISES.** On the terms and conditions of this Lease, Landlord leases to Tenant, and Tenant leases from Landlord, the retail shop premises at 523 South Broadway Suite B and Suite C, Truth or Consequences, New Mexico 87901-3701 (the "Premises"), as shown and described on **Exhibit A** attached and incorporated by reference. For all purposes of this Lease it is agreed that the Premises contain 1,190 square feet of rentable floor area.

2. **TERM OF THE LEASE.**

(a) The term of this Lease (the "Term") is a period of 3 years and 0 months, commencing on **6/1/2023** (the "Commencement Date") and ending on **6/1/2026** (the "Expiration Date").

~~(b)~~ If Landlord cannot deliver possession of the Premises to Tenant on the Commencement Date above, then this Lease will not be void or voidable, Landlord will be granted an automatic one-time 30-day extension to deliver premises without penalty. In the event landlord requires additional extensions they shall be granted by tenant in 30-day allotments however every additional day of extension shall result in one (1) additional day free of rent for the tenant which shall be added to the lease term.

(c) On the Commencement Date, Tenant will conduct a walk-through inspection of the Premises with Landlord and prepare a punch-list of any items constructed or installed by Landlord needing additional work by Landlord. Except as specified in the punch-list, by taking possession of the Premises, Tenant will be deemed to accept the Premises in as-is condition. The punch-list will not include any items for which Tenant is responsible, or damage to the Premises caused by Tenant. Damage caused by Tenant will be promptly repaired or corrected by Tenant at its own expense. If Tenant fails to submit a punch-list to Landlord within two (2) business days after the Commencement Date, it will be conclusively presumed that there are no items needing work or repair by Landlord. Landlord will complete all reasonable punch-list items within thirty (30) days after the walk-through inspection or as soon as reasonably practicable thereafter.

(d) "Lease Year" means the period beginning on the Commencement Date and ending twelve months later, and each following twelve-month period during the Term. However, if the Commencement Date is not the first day of a month, the first Lease Year will be the period from the Commencement Date through the end of the eleventh full month of the Term. The last Lease Year shall end on the last day of the Term.

3. **RENT**

(a) Tenant shall pay rent for the Premises as follows: Tenant is entitled to the first 6 months free of base rent. During this period only CAM and taxes shall be due.

Year	SqFt	Base Rent PSF	Annual Base Rent Due	Monthly Rent	Percentage	Annual Increase	CAM per sqft	Monthly CAM	Annual CAM
Year 1 Month 1-6	1190	0	$ -				$ 2.84	$ 281.85	$ 1,691.12
Year 1 Month 7-12	1190	18.6	$ 9,282.00	$ 1,547.00	3%		$ 2.84	$ 281.85	$ 1,691.11
Year 2	1190	16.06	$ 19,120.92	$ 1,593.41	3%	$ 578.62	$ 2.84	$ 281.85	$ 3,382.23
Year 3	1190	16.54	$ 19,682.60	$ 1,641.16	3%	$ 590.48	$ 2.84	$ 281.85	$ 3,382.23
		Total Base Rent Payments	$ 48,085.52				Total Estimated CAM Payments		$ 10,146.69

(b) Upon signing of this Lease, Tenant is paying the seventh month's rent and estimated CAM Charges and a security deposit equal to the first month's rent, for a total payment of $1,828.85.

(c) Tenant shall pay future rent and estimated CAM Charges in equal monthly installments in advance on or before the first day of each calendar month during the Term, without notice or demand. Tenant shall make all payments in lawful money of the United States to the order of **INTEGRATED ENVIRONMENTAL SERVICES QOZB, LLC. 362 St. Marks Place, Staten Island, NY 10301,** or at such other place as Landlord may designate from time to time for this purpose.

(d) Rent for any partial month shall be prorated based on a thirty (30) day month. Tenant shall not incur any expense on Landlord's account, and Tenant shall not reduce or withhold any rent payment for any claim against Landlord. Landlord may apply Tenant's payments against the earliest unpaid charges whether for Rent or other charges. In no event will a payment less than the full amount due be deemed an accord and satisfaction of Rent owed to Landlord.

4. **USE OF PREMISES.** Tenant shall use and occupy the Premises for the purposes of a Museum and Visitors Center, under the trade name Geronimo Museum (the "Permitted Use"), and for no other purpose or use and under no other trade name without Landlord's prior written consent. Tenant shall continuously maintain sufficient levels of staff and inventory and operate such business in the Premises throughout the Term, during at least the hours of TBD on Monday through Saturday, and TBD on Sunday, excluding only holidays identified by Landlord by written notice to Tenant. Notwithstanding any other provision, Tenant shall not sell or offer Products or Services outside of initially represented and approved use in any event. Tenant shall not install, maintain, or permit any vending machines, newspaper racks, or other such devices in or about the Premises without Landlord's prior written consent. If any Tenant use is permitted which includes a frying surface and/or deep fat fryer, Tenant must install flue fire extinguisher system approved by Landlord. Tenant is not granted any exclusive rights to carry on any particular type of business nor is the Landlord restricted to any existing or future tenant uses as a result of this lease in the Strip Center. Tenant shall comply with all applicable laws, ordinances and regulations.

5. **LATE FEES AND CHARGES.** Tenant acknowledges that late payments under this Lease will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which would be extremely difficult and impractical to determine. Such costs include, but are not limited

to, processing and accounting charges, and late charges that may be imposed on Landlord by the terms of any financing for the Strip Center. Therefore, in the event Tenant fails to pay to Landlord any installment of rent or any sum due hereunder when such amount is due, and remains in default for fourteen (14) business days after such payment is due, Tenant shall pay to Landlord as additional rent a late charge of five (5%) percent of each such installment. Any amount past due for more than 30 days shall be paid with interest at the rate of 1½% per month or fraction of a month from the date due until paid, as additional rent. If any check from Tenant is returned unpaid, Landlord may impose a forty dollar ($40.00) charge (or such greater amount as Landlord determines to be market-standard) and may require Tenant to make future payments by cashier's check or money order.

6. **CAM CHARGES**

(a) As additional rent, Tenant shall pay to Landlord Tenant's pro-rata share of the taxes, insurance, common area expenses and other expenses referenced below (together, the "CAM Charges") for each Lease Year (prorated on a time basis for partial Lease Years) Tenant's pro-rata share equates to 59% or 1,190 sq ft of the total strip center. Estimated charges above taxes and insurance are $1.00 per square foot. Subject to the below clarifications:

(i) Total ad valorem taxes (including assessments) for the Strip Center property (including land, buildings and equipment) for such year.

(ii) Total premiums paid by Landlord for liability insurance and for fire and casualty (including rent-loss) insurance for the Strip Center (including all buildings and common areas) for such year.

(iii) Total common area expenses, as follows:

(1) "Common area" means the building structures and exteriors, roofs, equipment, curbs, walkways, parking areas, plantings, landscaped areas, irrigation systems, lighting, common business signs, directional signs and other markers, fire protection systems, storm drainage systems and utility systems, and any other facilities or services provided for the common use or benefit of the Strip Center, tenants and invitees.

(2) "Common area expenses" means all expenses incurred by Landlord in connection with the common area, including without limitation, operations, maintenance, repairs, replacements, painting, re-striping, resurfacing, cleaning, sweeping, snow removal, irrigation, landscaping, janitorial and other services, sewer, water, electricity and other utilities, trash removal services, personnel to provide common area services (which may include the cost of security guards or any common security system for the Strip Center, if provided in Landlord's sole discretion), pest control, depreciation on maintenance and operating machinery and equipment (if owned), and rent paid for such machinery and equipment (if rented). Landlord may cause any or all of said services to be provided by independent contractors.

(iv) CAM Charges shall also include a fee to Landlord for supervision and administration of the common area and common area services in the amount of fifteen percent (15%) of the total of the expenses referenced in (i), (ii) and (iii) above.

(b) Tenant's pro-rata share. Tenant's pro-rata share of CAM Charges means the total of CAM Charges referenced in 6(a) above multiplied by a fraction. The numerator of the fraction shall be the Rentable floor area of the Premises and the denominator of the fraction shall be the Rentable floor area of all the areas available for exclusive use and occupancy by tenants of the Strip Center (whether or not actually occupied and opened for business). "Rentable floor area" means all areas in the Strip Center for exclusive use and occupancy by a tenant, measured from the exterior walls (or in the case of an opening, exterior wall lines extended through the opening), and from the center of the walls dividing the Premises from other premises.

(c) First Year: Until the first adjustment as provided below, Tenant will pay the estimated CAM Charge as stated in Article 3. Installments are due with the rent payments for the first month and each following month subject to adjustment as provided below.

(d) On or about January 1 of each year, Landlord shall at their discretion estimate the total CAM Charges for the coming year and send Tenant written notice of the estimated total and Tenant's pro-rata share. Tenant shall pay the adjusted estimated CAM Charges in twelve (12) equal monthly installments commencing on the first rent payment date after Landlord mails the written statement to Tenant. Tenant shall continue to pay the same amount each month during the Term until a new notice is received. Landlord reserves the right to recalculate estimated amounts if any significant unexpected increase in Common area expenses occurs during the year, and send written notice of the recalculation to Tenant. Tenant shall pay the estimated amounts stated in any such notice. In the event Landlord does not elect to send notice on January 1 Landlord reserves the right to reconcile CAM for any given year throughout the duration of the lease.

(e) Once a year, Landlord shall total the actual CAM Charges for the prior year and submit a written statement to Tenant for Tenant's pro-rata share of that amount, with credit to Tenant for the estimated amounts paid. Any overpayment will be credited against Tenant's next monthly estimated payment(s), and any underpayment will be due and payable to Landlord within 15 days after the statement is mailed. Delay in sending any notice under this Paragraph 6 shall not constitute a waiver of any amounts due.

(f) Final Year: Even though the Term has expired, and Tenant has vacated the Premises, when the final determination is made of Tenant's obligations under this Article for the final year, any overpayment will be refunded by Landlord or any underpayment will be paid by Tenant, within 15 days after a final accounting has been prepared and sent to Tenant.

(g) CAM Charges are additional rent due under this Lease, and any failure by Tenant to pay CAM Charges when due will be a Lease default the same as failure to pay other rent when due.

7. OTHER PAYMENTS BY TENANT

(a) Tenant shall pay prior to delinquency all taxes on Tenant's business and all fixtures, improvements, furnishings, equipment, inventory and other property of Tenant in the Premises.

(b) Utilities: Tenant shall pay all charges for separately metered gas, electric, water, sewer, data/communications and telephone, and any other utilities supplied to the Premises and

will indemnify Landlord against any liability for utility charges. If utilities are not separately metered, Tenant will pay Landlord on demand its share of any such utilities as submetered or otherwise reasonably determined or estimated by Landlord. Landlord will not be liable for any interruption of utilities unless caused by the wrongful act or gross negligence of Landlord, its agents or contractors.

8. **TENANT'S INSURANCE; INDEMNIFICATION.**

(a) Tenant shall carry and maintain, at its sole cost and expense, the following types of insurance, in the amounts specified and in the form provided hereafter.

(i) Public Liability – Bodily Injury and Property Damage – Combined Single Limit – with limits of liability not less than $1,000,000.00 per Occurrence and $2,000,000.00 General Aggregate, insuring against any and all liability of Tenant with respect to the Premises or the Strip Center, or arising out of the maintenance, use or occupancy of the Premises. Tenant's liability policy shall include a contractual liability endorsement identifying this Lease as an insured contract. Tenant shall also maintain workers' compensation and employer's liability insurance in at least the amounts required by New Mexico law.

(ii) "All risk" fire and casualty insurance with any endorsements Landlord may require, covering all of Tenant's work, alterations, fixtures, furnishings, floor coverings and equipment in the Premises in the amount of their replacement cost. Tenant may elect to self-insure exterior plate glass.

(iii) All policies of insurance provided by Tenant hereunder shall be issued by companies qualified to do business in the State of New Mexico, and shall name Landlord (and any mortgage lender, if required by Landlord and such lender) as additional insureds (and loss payees, as their interests appear, for fire and property damage claims). Such policies shall require at least 10 days' prior written notice to Landlord before cancellation. Certificates of such insurance shall be delivered to Landlord within ten (10) days after delivery of possession of the Premises to Tenant and thereafter within thirty (30) days prior to the expiration of the term of each such policy.

(b) Landlord and Tenant hereby waive any rights each may have against the other on account of any loss or damage arising from any risk generally covered by fire and casualty insurance policies then in use in the area where the Strip Center is situated. The parties each on behalf of the respective insurance companies insuring the property of either Landlord or Tenant against any such loss, waive any right of subrogation that such companies may have against the other party. To the extent a policy endorsement waiving any right of subrogation is available, Landlord and Tenant will each obtain for the benefit of the other such an endorsement from their respective insurers.

(c) Tenant agrees that Landlord shall not be liable for any damage or liability of any kind or for any injury to or death of persons or damage to property of Tenant or any other person during the Term, from any cause whatsoever, except for damage or injury resulting from wrongful actions or negligence of the Landlord, its employees or agents. Tenant shall indemnify and save harmless Landlord from all liability, loss, cost or expense, including court costs, attorneys' fees and other expenses of litigation, on account of any claim of damage to the property of, or injury

or death of, Tenant, Tenant's subtenants or its or their employees, agents, contractors or invitees; and from all liens, claims and demands arising out of the acts, omissions, or use of the Premises by Tenant, its subtenants, contractors, agents, employees or invitees, or any breach of this Lease by Tenant, except to the extent arising from the gross negligence or wrongful acts of Landlord, its employees or agents.

9. **DEPOSIT.** Tenant has paid Landlord a security deposit in the amount stated in Article 3. If any rent or other payment required in this Lease is past due or if Landlord incurs any expense due to a Tenant default, then Landlord may, at its option and without prejudice to any other remedy, apply the deposit up to the amount of Landlord's claim for rent, additional charges or other loss or damage sustained by Landlord, and Tenant shall restore the security deposit to the original amount on demand. Within 30 days after Tenant vacates the Premises at the end of the Term the security deposit or any remaining balance shall be refunded to Tenant.

10. **RULES AND REGULATIONS**

(a) Refuse containers: Tenant shall double bag all perishable waste to be deposited into the Strip Center refuse container and shall keep the refuse container enclosure locked at all times. Before depositing any boxes or packaging in the garbage receptacles Tenant shall flatten or otherwise break them down. If Tenant fails to comply with this rule, after reasonable notice, Landlord may clean the refuse container or enclosure and Tenant shall pay the cost on demand.

(b) The Premises may not be used for living quarters, whether temporary or permanent.

(c) Tenant shall have full responsibility for protecting the Premises, all contents of the Premises, and all of Tenant's and its invitees' property, from theft and robbery, and shall keep all doors and windows securely fastened when not open for business.

(d) Tenant shall not place anything on the roof. No aerial or antenna shall be erected on the roof, exterior walls or grounds of the Strip Center except with the prior written consent of Landlord. Tenant shall be responsible for any damage or leakage resulting from anything placed on the roof and for removal of same at the end of the Term.

(e) Tenant shall not do or permit anything to be done that would limit the availability of insurance for Landlord or other tenants, or increase Landlord's or other tenants' insurance premiums.

(f) Tenant shall maintain the inside of the Premises at a temperature sufficiently high to prevent freezing of water in pipes and fixtures in the Premises. Toilets, sinks and drains shall be used only for their ordinary and intended purposes, and not for trash of any kind. Tenant shall bear all expense arising from violation of this provision.

(g) Tenant shall not burn trash or garbage anywhere in the Strip Center.

(h) Tenant shall not emit any objectionable odors from the Premises and shall not vent any cooking fumes or odors into the interior of the Building. Typical odors from the Permitted Use shall not violate this Rule so long as Tenant uses ordinary care including outside venting or

other reasonable odor control methods that are standard for the Permitted Use. Kitchen exhaust fans must be in operation at all times during kitchen operations.

(i) Any public or private auction, "going out-of-business", bankruptcy, distress or liquidation sale in the Premises is prohibited. Tenant shall not conduct business in any manner that would create a public impression that it is about to cease operation.

(j) The parking lot, sidewalk, entrances, passages, walkways, patios, halls and other common areas shall be used only for their ordinary and intended purposes, and shall not be obstructed, littered, soiled or otherwise misused by Tenant or its invitees. Except as otherwise provided in this Lease, Tenant, its employees and other business invitees are authorized to use the parking and common areas in common with other persons during the Term. Landlord shall at all times have the sole and exclusive control of all common areas. Landlord may establish, amend from time to time, and enforce against Tenant and other users of the parking and common areas, such reasonable rules and regulations as Landlord deems necessary, including without limitation the designation of employee and tenant parking areas. Nothing in this Lease shall be deemed to create liability of Landlord for any damage to or loss of motor vehicles or other property, or other claims.

(k) No sales tables, merchandise displays, signs, or other articles shall be placed outside of the Premises in the common passageways, vestibules, walkways, patios or parking areas or other common areas without the prior written consent of Landlord.

(l) Tenant shall not erect or maintain any barricades or scaffolding which may obscure the signs, entrances or show windows of any other tenant in the Strip Center, or tend to interfere with any other tenant's business.

(m) No loudspeaker, jukebox, television, radio or other device may be used if it can be heard or seen outside of the Premises except with the prior written consent of Landlord. Tenant shall not create or maintain nor allow others to create or maintain, any nuisances, including, without limitation, loud noises, sound effects, bright lights, flashing lights, moving devices or similar distractions, smoke or dust, which is visible from outside of the Premises.

(n) Landlord reserves the right to amend and add rules to the extent Landlord, in its reasonable judgment, deems suitable for the safety, care and cleanliness of the Strip Center and the conduct of business in accordance with rules customarily found in similar office/ strip centers. Tenant shall be bound by any new or amended rules upon receiving written notice. Landlord is not responsible for any failure of other tenants or their employees or invitees to abide by any rules or other obligations.

11. **SIGNAGE.** Tenant will comply with the sign specifications in **Exhibit C** attached and incorporated by reference, and with City Ordinances. No signs will be attached or displayed at the Strip Center unless approved in writing by Landlord in a separate letter or document.

12. **GENERAL BUILDING AND EQUIPMENT MAINTENANCE AND REPAIR**

(a) Landlord shall, at all times, perform and comply with all building and equipment maintenance requirements as set forth in **Exhibit B** attached hereto.

(b) Tenant shall, at all times, perform and comply with all building and equipment maintenance requirements as set forth in **Exhibit B** attached hereto.

13. **ASSIGNMENT OR SUBLETTING.** Tenant shall not assign this Lease or any right hereunder or sublet the Premises or any part of the Premises, nor permit any persons other than Tenant and its employees to conduct business in the Premises without the prior written consent of Landlord which shall not be unreasonably withheld, so long as the proposed assignee or subtenant satisfies Landlord's requirements as to financial strength, business experience, proposed use and other criteria. Tenant shall have no right to assign or sublet while Tenant is in default. Landlord's consent to any assignment of this Lease or any subletting of the Premises shall not constitute a release of Tenant from this Lease, or a waiver or discharge of the provisions of this paragraph with respect to a subsequent assignment or subletting.

14. **SUBORDINATION**

(a) Tenant agrees that this Lease shall be subordinate to any mortgages, deeds of trust or other security instruments that now exist or may hereafter be placed upon the Premises, provided that Landlord shall use reasonable efforts to obtain an agreement from the holder of any future security instrument to recognize this Lease in the event of foreclosure, if Tenant is not in default.

(b) From time to time, upon not less than ten (10) days prior written request by Landlord, Tenant shall execute, acknowledge, and deliver to Landlord a statement in writing certifying (i) that this Lease is unmodified or identifying any modifications, (ii) that the Lease in full force and effect, (iii) the Commencement Date of the Term, (iv) the amounts of rent and other charges due hereunder and the amount of any credit claimed by Tenant whether for advance payments or otherwise, and (v) stating whether there are any uncured defaults by either party. Any such statement may be relied upon by Landlord and any prospective purchasers or mortgagees.

(c) In the event of a sale and assignment or other transfer to a new owner, Tenant agrees to attorn to the new owner and to recognize such new owner as Landlord for all purposes, and to pay the new owner rents and charges as provided in this Lease.

(d) The covenants in this Article are self-operative and require no further agreement by Tenant. However, if requested by Landlord, Tenant will execute further agreements to effectuate the Lease covenants, and will agree to reasonable Lease amendments or supplements if requested by a Lender, but will not be required to modify any monetary terms or material rights or obligations.

15. **EMINENT DOMAIN**

(a) In the event the entire Premises are appropriated or taken under the power of eminent domain, this Lease shall terminate and expire as of the date of such taking.

(b) Landlord agrees, promptly after learning of any appropriation or taking, to notify Tenant in writing. If (i) more than thirty-three (33%) percent of the Rentable floor area of the Premises is taken under the power of eminent domain, or if (ii) by reason of any appropriation or taking, regardless of the area taken, the remainder of the Premises is not reasonably usable for the Permitted Use, in Landlord's reasonable judgment, or if (iii) 20% or more of the total area of all the buildings in the Strip Center are so taken, or if (iv) any taking results in a loss of 20 % or more of parking, access or other areas, which in Landlord's reasonable judgment are necessary to continued operation of the Strip Center, then in any such case, either Landlord or Tenant shall have the right to terminate this Lease as of the date of the taking, provided that the terminating party shall send written notice of termination to the other party not later than thirty (30) days after receiving written notice of the planned taking and Landlord has not cured condition within 90 days of the taking. In the event of termination under this Article, both Landlord and Tenant shall be released from all obligations under this Lease arising after the termination date.

(c) Whether or not this Lease is terminated, Tenant shall be entitled to any award for Tenant's fixtures in the Premises and its personal property, and Landlord shall be entitled to the entire remainder of the award of compensation in such proceeding. The rent and other charges for the last month of Tenant's occupancy shall be prorated.

(d) If neither party elects to terminate this Lease based on the above criteria, then subject to availability of sufficient condemnation proceeds for the repair and restoration of the entire Strip Center, the Lease shall remain in force and effect.

16. **DESTRUCTION OF LEASED PREMISES**

(a) If the Premises or the building containing the Premises is/are destroyed or damaged by fire or other casualty, but in Landlord's opinion, can be repaired and restored within 120 days, Landlord shall diligently repair and restore the building and Premises to substantially their condition immediately prior to such damage or destruction. Rent during the period of such repair and restoration shall abate proportionately to the extent that the Premises are untenantable.

(b) If such repair and restoration cannot be completed within 120 days, in Landlord's opinion, or if the damage or destruction amounts to at least 33% of the Premises and occurs during the last year of the Term, then Landlord and Tenant shall each have the right and option, at the election of either of them, to terminate this Lease effective as of the date of such damage or destruction. If this Lease is not terminated as provided in this subparagraph, the building and Premises shall be repaired and restored as provided in subparagraph (a).

(c) If 50% or more of the total area of all the buildings in the Strip Center is damaged or destroyed by fire or other casualty, Landlord may, at Landlord's election, terminate this Lease by notice to Tenant at any time within 90 days from the date of such damage or destruction.

(d) Landlord's obligations to repair and restore shall be subject to availability of sufficient insurance proceeds for these purposes and available materials, provided that any deductible on Landlord's insurance shall be payable by Landlord, and any deductible on Tenant's insurance covering improvements to be restored will be payable by Tenant.

17. **BANKRUPTCY.** If the Tenant should be adjudged a bankrupt, either by voluntary or involuntary proceedings, and the Tenant or Tenant's trustee assumes and assigns this Lease, the assignee's use shall be the Permitted Use or other retail business which is acceptable to Landlord in its sole discretion, in order to preserve the tenant mix of the Strip Center. Further, as a condition to any such assignment, the assignee must demonstrate its financial strength and capability of future performance under the terms and conditions of the Lease all to Landlord's reasonable satisfaction.

18. **DEFAULT; RE-ENTRY; REMEDIES.** If (i) all or any part of the rent remains unpaid Fourteen (14) Business days after written demand for payment is sent to Tenant by Landlord, or (ii) if Tenant fails to provide any insurance coverage or evidence of insurance required hereunder and remains in default Fourteen (14) business days after written demand is sent to Tenant by Landlord, or if (iii) Tenant defaults under any of the other terms of this Lease, and such default continues for a period of fifteen (15) days after written notice of such violation or default is sent to Tenant by Landlord, then in any such case, Landlord may, as its option, declare this Lease forfeited and the Term ended and Landlord may re-enter the Premises, and remove all persons and property from the Premises and Landlord shall not be liable for damages by reason of such re-entry or forfeiture. Alternatively, Landlord may re-enter and retake possession of the Premises without terminating Tenant's continuing obligations, and try to re-let the Premises for Tenant's account. Landlord's failure to terminate this Lease for any one or more breaches or defaults shall not be deemed a consent to or waiver of any breach or default and shall not prevent Landlord from later terminating this Lease either for such breach or default or for any breach or default. While Tenant is in default Landlord may prevent removal of property from the Premises by any lawful means it deems necessary to protect its interests. All remedies shall be cumulative and not exclusive of any other remedy conferred in this Lease or available at law or in equity.

19. **SURRENDER OF PREMISES.** At the time of expiration or termination of the Term, Tenant shall quit and surrender the Premises with all of its fixtures, furnishings and other personal property and trash removed, thoroughly cleaned and in good order, condition and repair, subject only to reasonable wear and tear. If the Premises are not surrendered at the time and in the condition required, Tenant shall be liable for any damages or loss of income incurred by Landlord, including, without limitation, claims of any succeeding tenant. Tenant shall promptly surrender all keys for the Premises and inform Landlord of the combinations for any locks and safes in the Premises.

20. **HOLDING OVER.** If Tenant holds over after the Term with the express consent of Landlord, Tenant shall become a tenant on a month-to-month basis at a minimum rent equal to 125% of the amount payable at the end of the scheduled Term, payable in advance on the first day of each month, and otherwise upon all the terms, covenants and conditions of this Lease, including payment of expenses as set out in Article 6 and elsewhere, but not including any renewal or other options.

21. **LEASEHOLD IMPROVEMENTS**

(a) Leasehold improvements, if any, whether constructed prior to or during the Term, shall be constructed and installed by Landlord unless otherwise agreed, and paid for as set out in a separate document or work letter signed by Landlord and Tenant. No alterations, additions or

improvements to the Premises, except as may be provided for in this Lease, shall be made without Tenant first obtaining the written consent of Landlord, and any improvements, additions or alterations made by Tenant after such consent is given, including any fixtures installed (excepting trade fixtures), shall at the Landlord's option, remain on the Premises as the property of the Landlord, without compensation to Tenant, or shall be removed and the Premises restored to their original condition at Tenant's expense at the end of the Term.

(b) Landlord reserves the right to give permission to Tenant allowing Tenant to contract for improvements, alterations, or additions to the Premises. Such permission must be in writing, signed by Landlord. If Landlord gives its consent to improvements, alterations, or additions to the Premises, Tenant will, if required by Landlord, provide such lien waivers or bonds in form and with sureties satisfactory to the Landlord and provide liability insurance as specified and Landlord and workers compensation insurance as required by law.

22. **TRADE FIXTURES AND PERSONAL PROPERTY**

(a) Any trade fixtures, window coverings, signs and other personal property of Tenant not permanently affixed to the Premises shall remain the property of Tenant, and provided Tenant is not in default under the terms of this Lease, Tenant may at any time remove any and all of its trade fixtures, window coverings, signs and personal property which it may have stored or installed in the Premises, including counters, shelving, showcases, mirrors and other movable personal property.

(b) Tenant, at its expense, shall immediately repair any damage to the Premises arising from the removal of any improvements, or any trade fixtures, window coverings, signs and other personal property. All trade fixtures, signs and other personal property installed in or attached to the Premises by Tenant must be new when installed or attached.

23. **REIMBURSEMENT.** All of Tenant's obligations under this Lease shall be performed by Tenant at its sole expense, and if Landlord pays any sum of money or does any act requiring the payment of money because of the failure of Tenant to perform its obligations, the money so paid by Landlord shall be payable by Tenant to Landlord on demand, and shall be considered additional rent.

24. **CONSENTS BY LANDLORD.** Whenever Tenant is required under the terms of this Lease to secure the written consent or approval of Landlord, such consent or approval shall be effective only if in writing and, unless otherwise stated, shall not be unreasonably withheld.

25. **NOTICES.** Any notice required or permitted under this Lease shall be deemed sufficiently given or served if sent by certified mail, FedEx or UPS next business day, or delivered personally to Tenant at 523 S Broadway Suite B and Suite C Truth or Consequences NM 87901, or to Landlord at the address then in effect for the payment of rent. Either party may, by properly delivered written notice, at any time designate a different address to which notices to that party shall subsequently be sent.

26. **LITIGATION, COURT COSTS, ATTORNEYS FEES.**

(a) If Landlord is involuntarily made a party defendant in any litigation concerning this Lease or the Premises by reason of any act or omission of Tenant, then Tenant shall indemnify and hold Landlord harmless from all liability by reason of such litigation, including reasonable attorneys' fees and all costs incurred by Landlord in such litigation, including appeals.

(b) If any bankruptcy action is commenced by or against Tenant, then Tenant shall pay to Landlord on demand all of Landlord's reasonable attorneys' fees and costs incurred by Landlord in such bankruptcy proceeding, including appeals.

(c) In the event that either Landlord or Tenant institutes any action or proceeding against the other relating to the Premises or the provisions of this Lease, or any default hereunder, the prevailing party in such action or proceeding shall be entitled to recover from the other party its reasonable costs, expenses and attorneys fees, including appeals.

(d) Tenant shall pay all attorneys' fees incurred by Landlord arising out of (i) any breach by Tenant, whether or not any court action is filed, or (ii) any request by Tenant for a consent, amendment, waiver or other action by Landlord.

27. **RIGHT OF INSPECTION; NO OBLIGATION.** Landlord or Landlord's agent may at reasonable times, and with reasonable prior notice (except in an emergency or as otherwise provided in this Lease), enter the Premises for the purpose of inspecting the same, performing any required or permitted repairs or other work (provided that Landlord shall not be obligated to inspect or perform repairs or other work unless specifically so stated in this Lease), or showing the Premises to potential tenants, lenders, contractors, government representatives, or potential Strip Center purchasers.

28. **SALE OF PREMISES BY LANDLORD.** In the event of any sale or exchange of the Premises by Landlord and assignment by Landlord of this Lease, and assumption of Landlord's obligations under this Lease by the purchaser, Landlord shall be relieved of all liability under this Lease to the extent arising after the consummation of such sale or exchange and assignment.

29. **COMMON AREAS.** Landlord reserves the right to change the size, location, nature and use of any common areas, to withdraw, sell or lease any portion of the common areas, and to make and remove improvements in the common areas, without liability.

30. **ENTIRE AGREEMENT.** This Lease, including its Exhibits, contains the entire agreement between the parties, and may not be changed, modified, or discharged in whole or in part except by an agreement in writing signed by the affected party. This is the entire Lease agreement and the parties agree that there are no other agreements or understandings of any kind not contained in this Lease. Tenant represents and warrants to Landlord that Tenant has made its own investigation and examination of all relevant information relating to or affecting the Strip Center, the Premises and the Permitted Use, and is relying solely on its own judgment in entering into this Lease, except as to matters warranted in this Lease by Landlord, if any. Tenant acknowledges that except as specifically provided for in this Lease, neither Landlord nor its agents or employees have made any representations or warranties as to the Strip Center, the Premises or the Permitted Use, including the suitability or fitness of the Premises for the conduct of Tenant's business or for any other purpose, nor has Landlord or its agents or employees agreed to undertake

any alterations or construct any improvements to the Premises or the Strip Center except as expressly provided in this Lease.

31. GENERAL PROVISIONS

(a) Time is of the essence of this Lease. The terms and conditions of this Lease shall extend to and be binding upon the heirs, executors, personal representatives, successors and assigns of the parties hereto, and any mention of the singular shall include the plural and the plural shall include the singular. If any provision of this Lease is found to be invalid or unenforceable, the remainder of this Lease shall remain in full force and effect. Tenant shall not record this Lease, but the parties will execute a Memorandum of Lease for recording at the request of either party. The laws of the State of New Mexico shall govern this Lease.

(b) In the event of any apparent breach or default by Landlord, Tenant shall give Landlord prompt written notice, and may suggest steps to effect a cure. Landlord shall then have not less than thirty (30) days in which to cure any breach or default, or such longer period as is reasonably necessary in the circumstances, and Landlord shall be deemed to be in default under this Lease only if Landlord fails to commence and diligently complete any necessary cure after written notice as required in this Lease. If Landlord is held to be in default Tenant may pursue any remedy available at law or in equity, provided that Landlord shall not be liable to Tenant for incidental, consequential, indirect, punitive or exemplary damages. Except as provided in the following sentence, Landlord, its agents, partners, members, and it's or their officers, directors and employees, shall not be personally liable for any obligation or liability arising from this Lease. In the event of a judgment against Landlord, Tenant shall be limited in its recovery solely to the proceeds of any insurance carried by Landlord, and to the equity of Landlord in the Strip Center at the time of the alleged breach. Landlord shall maintain during the Term a commercial general liability insurance policy, including property damage, insuring Landlord against liability for injury to persons or property or the death of any person or persons occurring in, about or with respect to the Premises and Strip Center in the amount of at least $1,000,000 combined coverage for bodily injury and property damage for each occurrence.

(c) Landlord is represented by N/A ("Landlord's Broker"), pursuant to a separate agreement. Tenant is represented by _____ of _____ ("Tenant's Broker"), pursuant to a separate agreement. Landlord will pay Landlord's Broker a commission pursuant to a separate agreement, which may be shared with Tenant's Broker as they may agree. Each party will indemnify and hold the other harmless from any claims and expenses, including attorneys' fees, arising from any claim for a commission or finder's fee resulting from any agreement made by the indemnifying party with any real estate broker, agent or finder in connection with this transaction.

(d) As a condition precedent to the effectiveness of this Lease, Tenant has provided Landlord a Guaranty of Lease (the "Guaranty") from N/A (whether one or more, "Guarantors"), who are officers, directors, shareholders, members, managers, partners or other principals of Tenant. Landlord has entered into this Lease in reliance upon the Guaranty and in reliance upon the financial condition of Guarantors as represented in the financial statements dated _____, delivered to Landlord by Guarantors. Guarantee shall be found in Exhibit D.

(e) Landlord warrants that Tenant, on paying the Rent and performing the covenants of this Lease, shall and may peaceably and quietly have, hold and enjoy the Premises for the Term, free of disturbance by anyone claiming by, through or under Landlord.

(f) If Landlord or Tenant cannot perform any of their respective obligations under the terms of this Lease due to event(s) beyond their control, the time provided for performance of such obligations shall be extended by a period of time equal to the duration of such event(s). If either party to the Lease desires to invoke this Section, it shall provide written notice to the other party of the reasons for the delay and the invoking party shall use reasonable and diligent efforts to mitigate the effects of such occurrence. Event(s) beyond Landlord's or Tenant's control include, but are not limited to, acts of God, war, civil commotion, labor disputes, strikes, fire, flood or other casualty, shortages of labor and materials, government regulation or restriction and weather conditions. In no event will this provision excuse Tenant's failure to meet its payment obligations hereunder.

(g) Notwithstanding anything to the contrary contained in this Lease, to the extent, if at all, § 56-7-1 NMSA 1978, as amended, applies to any indemnification provisions in this Lease or any other agreement between Landlord and Tenant, including certain types of insurance coverage as set forth in § 56-7-1 NMSA 1978, such provisions will not extend to liability, claims, damages, losses or expenses, including attorneys'' fees, arising out of bodily injury to persons or damage to property caused by or resulting from, in whole or in part, the negligence, act or omission of the indemnitee or additional insured, as the case may be, its officers, employees or agents, and shall further be modified, if required, by the provisions of Section 56-7-1(B) NMSA 1978.

(h) All obligations of Tenant existing as of the expiration or termination of the Term shall survive expiration or termination.

32. **Environmental Matters.** Tenant shall not cause or permit any Hazardous Substance to be used, stored, generated or disposed of on or in the Premises or Strip Center by Tenant, Tenant's agents, employees, contractors or invitees. Tenant shall indemnify and hold harmless the Landlord and its agents, employees, lenders, successors and assigns, from any and all claims, damages, fines, judgments, penalties, costs, settlements, liabilities or losses, including reasonable attorneys' fees, arising as a result of any Hazardous Substances used, stored, generated or disposed of on or in or from the Premises, or by Tenant, Tenant's agents, employees, contractors or invitees elsewhere in the Strip Center, or of any lawsuit brought or threatened, settlement reached or government order relating to such Hazardous Substances, or of the Premises or Strip Center becoming contaminated in any manner for which Tenant is legally liable. As used in this Lease, "Hazardous Substance" means any substance which is toxic, ignitable, reactive, corrosive or otherwise deemed hazardous in the environment and which is regulated by any local government, the State of New Mexico, or the United States government, including asbestos and petroleum products. The provisions of this Section shall be in addition to any other obligations and liabilities Tenant may have to Landlord at law or in equity and shall survive the termination of this Lease.

IN WITNESS WHEREOF, the parties have executed this Lease as of the date first written above.

LANDLORD:

INTEGRATED ENVIRONMENTAL SERVICES QOZB, LLC.
A New York Limited Liability Company

By: _____

Name _____
Title _____

TENANT:

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

By: _____

Name: Amanda Forrister
Title: Mayor

EXHIBIT A

Description of Leased Area

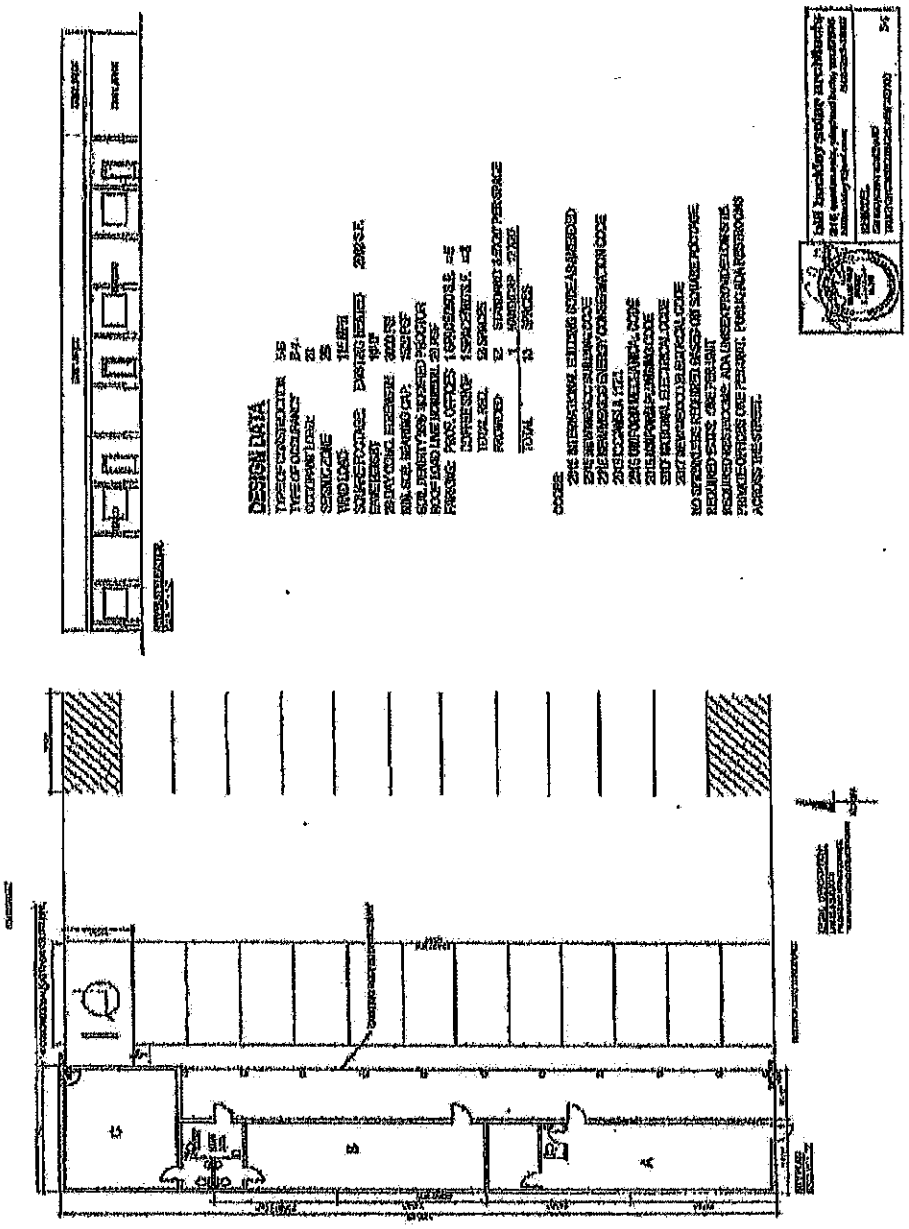


EXHIBIT B

Building and Equipment Maintenance Requirements

A. Tenant shall maintain, repair, replace as necessary, and keep in good, safe and attractive condition the entire Premises and the contents of the Premises, including without limitation:

(i) all interior portions of the Premises including without limitation floor coverings, ceilings, wall surfaces, paint, partitions, casework, and interior doors;

(ii) the exterior areas (sidewalks, stairs, loading docks, etc.) around all entries and exits to/from the Premises;

(iii) all doors, windows and plate glass of the Premises;

(iv) all electrical wiring, switches, outlets, circuit breakers, alarm systems and other security apparatus, and other electrical equipment serving only the Premises;

(v) all water lines, sewer lines, valves, drains, grease traps, toilets, sinks, sprinkler systems and other plumbing equipment and fixtures serving only the Premises. Without limitation, Tenant is responsible for all maintenance and clean-out of any grease trap and the sewage line from the Premises to the Strip Center's main sewage line;

(vi) all of Tenant's inventory and other personal property, furniture, fixtures (including trade fixtures), equipment, decorations, lighting and signage; and

(vii) all HVAC equipment serving the Premises (subject to Landlord's limited responsibility for HVAC equipment as provided in B. below). **Tenant shall at all times during the Term maintain and pay for a maintenance and service contract, in a form and with a service provider approved by Landlord, for the HVAC equipment serving the Premises, and shall perform all user responsibilities specified under such contract.**

B. Landlord shall provide all necessary repairs and replacements to the HVAC equipment serving the Premises during the one-year period beginning on the Commencement Date, provided that if any such repairs or replacements are necessitated by Tenant's failure to maintain the required maintenance and service contract or failure to perform all user responsibilities specified under such contract, Tenant shall be solely responsible for the cost of such repairs or replacements. Any HVAC repairs or replacements becoming necessary during this one-year period shall be arranged by Landlord as soon as reasonably practical after Landlord receives written notice from Tenant of the needed work. Commencing upon the 1st day of the 2nd year running throughout the balance of the primary term and all option periods tenant shall be responsible for all HVAC repairs, maintenance and replacements.

C. Landlord shall maintain, repair and replace, as necessary, the roof, exterior walls and structural elements of the Premises, the Common Areas, and the plumbing, sewage and electrical systems outside of Tenant's areas of responsibility as provided above. Any repairs or replacements of the roof, exterior walls or structural elements of the Premises, the Common Areas, or the plumbing, sewage and electrical systems outside of Tenant's areas of responsibility shall be arranged by Landlord as soon as reasonably practical after Landlord receives written notice from Tenant of the needed work, or telephone notice to Landlord's property management representative in the case of an emergency. Until further notice, Landlord's property management representative is _____, phone _____.

EXHIBIT C

Sign Specifications

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: 83670 **Date:** 07/13/2026

Requisition #: 96616 **Vendor #:** 1555

ISSUED TO: SIERRA JOINT OFFICE ON AGING
360 W FOURTH AVE
TRUTH OR CONSEQUENCES, 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		FY 26/27 SUBRECIPIENT SIERRA JOINT OFFICE ON	101-1000-60725		0.00	25,000.00
	CLERK						

SUBTOTAL:	25,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	25,000.00

Chief Purchasing Office _____ Date: 7/13/2026

Director of Finance: Requisition approved electronically.

City Manager: Requisition approved electronically.

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

REQUISITION

Requisition #: 96616

Date: 07/07/2026

Vendor #: 1555

ISSUED TO: SIERRA JOINT OFFICE ON AGING
360 W FOURTH AVE
TRUTH OR CONSEQUENCES, NM 87901-

SHIP TO: City of Truth or Consequences
505 Sims St.
Truth or Consequences, NM 87901

ITEM	UNITS	DESCRIPTION	PROJECT #	PRICE	GL ACCOUNT NUMBER	AMOUNT
1	0	FY 26/27 SUBRECIPIENT SIERRA JOINT OFFICE ON AG		0.00	101-1000-60725	25,000.00

PO Description: FY 26/27 SUBRECIPIENT SIERRA JOINT OFFICE ON AGING

Detailed Description:

CLERK

SUBTOTAL:	25,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	25,000.00

Authorized By: _____

SUBRECIPIENT AGREEMENT

THIS AGREEMENT is made and entered into by and between the City of Truth or Consequences, New Mexico, herein referred to as "City", and **Sierra Joint Office on Aging** herein referred to as "Contractor".

WHEREAS, the City and the Contractor desire to enter into an Agreement with the City to provide Subrecipient funds to the Contractor in exchange for needed services.

RECITALS

A. The City hereby declares that it is in need of certain services for its community. Those services are described in a portion of the Contractor's Subrecipient application, a copy of which is attached hereto as **EXHIBIT A.**

B. The City is willing to provide funding to the Contractor in exchange for these services. The City determines that the municipal public will benefit from these services.

NOW, THEREFORE, IN CONSIDERATION of the mutual promises of the parties; it is hereby covenanted and agreed by and between the parties:

1. The City shall provide up to the sum of $25,000 to the Contractor for a one (1) year period commencing on July 1, 2026 and continuing through June 30, 2027.

2. Contractor shall, at a minimum:

   A. Provide all of the services described in **EXHIBIT A,** which was included in the Contractor's Subrecipient application.

   B. Submit a written quarterly report to the City Commission via the City Clerk's Office in October 2026, January 2027, April 2027 and June 2027. Reports are due by the 15th of the month following the quarter. **Your report must be separate from your invoice; and your invoice detail**

alone will not suffice as your report. Contractor's report will be submitted to the City Commission. The reports must detail the progress made in providing the services. Failure to timely submit a detailed report will subject Contractor to having its funding decreased 50% for that particular quarter. The Contractor is responsible to get the reports in on time. No other notice will be given. Reports can be emailed to torcclerk@torcnm.org

C. Submit a written invoice in the amount of $6,250 on a quarterly basis to the City Clerk's Office for disbursement of funds at the same time the quarterly report is due. Failure to timely submit a detailed invoice will subject Contractor to having its funding decreased 50% for that particular quarter. **The fourth quarter invoice must be submitted by June 4, 2027.** The Contractor is responsible to get the invoices in on time. No other notice will be given. The quarterly report must be on file before the subsequent quarter's invoice is paid except for the 4th quarter report, of course, which is due in compliance with B above. Invoices can be emailed to torcclerk@torcnm.gov or kmartinez@torcnm.gov.

D. Organization's previous year's audit report or internal/informal financial statement is required no later than **June 30, 2027.**

E. Designate an alternate to serve as the point of contact and authorized to conduct business in the absence of the primary party.

1. Alternate's Name Lisa Mattingly
   Print Name
2. Alternate's Phone No. 575-854-6641
3. Alternate's E-mail finance_sjoa@seniorcenter-sjoa.org

3. Either party shall have the right to terminate this Contract without cause by giving thirty (30) days written notice to the other party. Upon termination neither party shall have any further obligation with respect to this agreement.

CITY OF TRUTH OR CONSEQUENCES

BY: _____ Date: 6/24/24

Gary Whitehead, City Manager

Reviewed for Budgetary Sufficiency:

BY: _____ Date: 6/25/24

Jocelyn Holguin, Chief Financial Officer

Reviewed by Legal Counsel

BY: _____ Date: 6/24/24

Jaime Rubin, City Attorney

SUBRECIPIENT

BY: _____ Date: 7-6-24

Signature of Primary Representative

Crystal Walton

Print Name of Primary Representative

_____ Date: _____

Signature of Alternate Representative

_____

Print Name of Alternate Representative

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: 83665 **Date:** 07/10/2026

Requisition #: 96606 **Vendor #:** 0180

ISSUED TO: PITNEY BOWES INC
P.O. BOX 981022
BOSTON, MA 02298-1022

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		UTILITY OFFICE PITNEY BOWES LEASED EQUIP FY	502-3601-43770		0.00	25,000.00
	CONTRACTS ADDED IN DOCUMENTS						
	RELAY 5000						
	POSTAGE MACHINE						
	UTILITY						

SUBTOTAL:	25,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	25,000.00

Chief Purchasing Office _____ **Date:** 7/10/2026

Director of Finance: Requisition approved electronically.

City Manager: Requisition approved electronically.

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

REQUISITION

Requisition #: 96606

Date: 07/06/2026

Vendor #: 0180

ISSUED TO: PITNEY BOWES INC
P.O. BOX 981022
BOSTON, MA 02298-1022

SHIP TO: City of Truth or Consequences
505 Sims St.
Truth or Consequences, NM 87901

ITEM	UNITS	DESCRIPTION	PROJECT #	PRICE	GL ACCOUNT NUMBER	AMOUNT
1	0	UTILITY OFFICE PITNEY BOWES LEASED EQUIP FY 26.		0.00	502-3601-43770	25,000.00

PO Description: PITYNEY BOWES LEASED EQUIP. FY 2026.2027

Detailed Description:

UTILITY

SUBTOTAL:	25,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	25,000.00

Authorized By: _____

pitney bowes

0041586624

NASPO ValuePoint FMV Rental Agreement (Option B)

Agreement Number

Your Business Information

Full Legal Name of Lessee / DBA Name of Lessee			Tax ID # (FEIN/TIN)
CITY OF TRUTH OR CONSEQUENCES			856000144
Sold-To: Address			
505 SIMS ST, TRUTH OR CONSEQUENCES, NM, 87901-2726, US			
Sold-To: Contact Name	**Sold-To: Contact Phone #**	**Sold-To: Account #**	
Sonya Renfro	5759520616	0012129668	
Bill-To: Address			
505 SIMS ST, TRUTH OR CONSEQUENCES, NM, 87901-2726, US			
Bill-To: Contact Name	**Bill-To: Contact Phone #**	**Bill-To: Account #**	**Bill-To: Email**
Sonya Renfro	5759520616	0012129668	srenfro@torcnm.org
Ship-To: Address			
505 SIMS ST, TRUTH OR CONSEQUENCES, NM, 87901-2726, US			
Ship-To: Contact Name	**Ship-To: Contact Phone #**	**Ship-To: Account #**	
Sonya Renfro	5759520616	0012129668	
PO #			

Your Business Needs

Qty	Item	Business Solution Description
1	RELAY5-8000	Relay 5000-8000 Inserting System
2	F780183	SheetFlat Envelope Tray
2	F780184	Insert Tray
1	F7SB	Barcode Scanning Software
1	F9PG	PowerGuard Service Package
1	STDSLA	Standard SLA-Equipment Service Agreement (for Relay 5000-8000 Inserting System)
1	TI2D	2D Tower Scanning
1	TI60	Relay 5000 Inserting System
1	TIVP	Vertical Power Stacker
1	RELAYINTEGRITYPRO	Relay Integrity Pro
1	CRM4	CRight Mailer Bus Services Suite (BSS)
1	CRM7	CRight Mailer Elec Delly Stand-alone SW
1	RIPC	RIP ConnectRight Mailer
1	RIPS	Relay Integrity Pro

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1	SMA_TIER1	SMA Tier 1 - Software Service Agreement

Your Payment Plan

Initial Term: 60 months	Initial Payment Amount:	
Number of Months	Monthly Amount	Billed Quarterly at*
60	$ 1,262.77	$ 3,788.31

*Does not include any applicable sales, use, or property taxes which will be billed separately.
If the equipment listed above is replacing your current meter, your current meter will be taken out of service once this lease commences.

( ) Tax Exempt Certificate Attached
( ) Tax Exempt Certificate Not Required

( ) Purchase Power® transaction fees included
( ) Purchase Power® transaction fees extra

Your Signature Below

By signing below, you agree to be bound by your State's/Entity's/Cooperative's contract, which is available at http://www.pb.com/states and is incorporated by reference. The terms and conditions of this contract will govern this transaction and be binding on us after we have completed our credit and documentation approval process and have signed below. If software is included in the Order, additional terms apply which are either (i) included in your State's contract which is available at http://www.pb.com/states or (ii) available by clicking on the hyperlink for that software located at https://www.neenovahepulnt.org/search/?term=pitney+bowes&page_rel=contractors. These additional terms are incorporated by reference.

NASPO VALUEPOINT CTR050809; BWPA020-00000-21-00005AF
State/Entity's Contract#

Authorized Signature

Print Name: Rachel Holguin

Title: Procurement Officer

Date: 12/1/2025

Email Address: rholguin@tarrant.org

Salvatore Polletta

Pitney Bowes Signature

Print Name: Salvatore Polletta

Title: VP, Risk Assurance & Operational Governance

Date: Wednesday, December 3, 2025

Sales Information

Francis Coffey	francis.coffey@pb.com	
Account Rep Name	Email Address	PBGFS Acceptance

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pitney bowes

NASPO ValuePoint FMV Rental Agreement (Option B)

9041466369
Agreement Number

Your Business Information

Full Legal Name of Lessee / DBA Name of Lessee			Tax ID # (FEIN/TIN)
CITY OF TRUTH OR CONSEQUENCES			856000144
Sold-To: Address			
505 SIMS ST, TRUTH OR CONSEQUENCES, NM, 87901-2726, US			
Sold-To: Contact Name	**Sold-To: Contact Phone #**	**Sold-To: Account #**	
Sonya Renfro	5759520616	0012129668	
Bill-To: Address			
505 SIMS ST, TRUTH OR CONSEQUENCES, NM, 87901-2726, US			
Bill-To: Contact Name	**Bill-To: Contact Phone #**	**Bill-To: Account #**	**Bill-To: Email**
Sonya Renfro	5759520616	0012129668	srenfro@torcnm.org
Ship-To: Address			
505 SIMS ST, TRUTH OR CONSEQUENCES, NM, 87901-2726, US			
Ship-To: Contact Name	**Ship-To: Contact Phone #**	**Ship-To: Account #**	
Sonya Renfro	5759520616	0012129668	
PO #			

Your Business Needs

Qty	Item	Business Solution Description
1	SENDPROCAUTO	SendPro C Auto
1	1E48	SP100 Label Printer
1	1FXA	Interface to InView Dashboard
1	7H00	C Series IMI Meter
1	993-4B	DM400C Return Kit - Upgrade to 9H00
1	APAC	Connect+ Accounting Weight Break Reports
1	APAX	Cost Acctg Accounts Level (100)
1	APKN	Account List Import/Export
1	C5CC	Sendpro C Auto 95
1	GAAB	Basic Cost Accounting
1	COVER-9PCA	Protective Dust Cover - SendPro C Auto
1	P9PG2	PowerGuard LE Service Package
1	ME1A	Meter Equipment - C Series
1	MP81	C Series Integrated Scale

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Pitney Bowes Confidential Information

1	MP8110	SendPro C Series Scale Upgrade
1	NV50	InView Dashboard 1 unit DM125/DM225
1	NV90	InView Subscription
1	NV90KIT	InView Welcome Kit
1	NV99	InView MMS Base Software
1	NV99KIT	InView Welcome Kit
1	PAB1	C Series Premium App Bundle
1	PTJ1	SendPro Online-PitneyShip
1	PTJA	SPO-PitneyShip Basic 1 User
1	PTJN	Single User Access
1	PTK1	Web Browser Integration
1	PTK2	SendPro C Series Shipping Integration
1	SJS2	Softguard For SendPro C500
1	STDSLA	Standard SLA-Equipment Service Agreement (for SendPro C Auto)
1	ZH24	Manual Weight Entry
1	ZH30	HZ03 120 LPM Speed
1	ZHC5	SendPro C500 Base System Identifier
1	ZHD5	USPS Rates with Metered Letter
1	ZHD7	E Conf Services for Metered LTR, BDL
1	ZHWM	10lb/5kg Weighing Option for MP81

Your Payment Plan

Initial Term: 60 months	Initial Payment Amount:	
Number of Months	Monthly Amount	Billed Quarterly at^
60	$ 213.33	$ 639.99

^Does not include any applicable sales, use, or property taxes which will be billed separately
If the equipment listed above is replacing your current meter, your current meter will be taken out of service once this lease commences.

( ) Tax Exempt Certificate Attached
( ) Tax Exempt Certificate Not Required

( ) Purchase Power® transaction fees included
(X) Purchase Power® transaction fees extra

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Pitney Bowes Confidential Information
See Pitney Bowes Terms for additional terms and conditions

Your Signature Below

By signing below, you agree to be bound by your State's/Entity's/Cooperative's contract, which is available at http://www.pb.com/states and is incorporated by reference. The terms and conditions of this contract will govern this transaction and be binding on us after we have completed our credit and documentation approval process and have signed below. If software is included in the Order, additional terms apply which are either (i) included in your State's contract which is available at http://www.pb.com/states or (ii) available by clicking on the hyperlink for that software located at https://www.naspovaluepoint.org/search/?term=pitney+bowes&page_id=contractors. Those additional terms are incorporated by reference.

NASPO VALUEPOINT CTR058809, SWPA#20-000000-21-00006AF
State/Entity's Contract#

Lessee Signature

Sonya Ranjha
Print Name

Utility Manager
Title

March 20, 2024
Date

sranjha@toronto.org
Email Address

Pitney Bowes Signature

Salvatore Polecka
Print Name

VP, Risk Assurance & Operational Governance
Title

4/1/2024
Date

Sales Information

Lori Damato	lori.damato@pb.com	
Account Rep Name	Email Address	PBGFS Acceptance

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See Pitney Bowes Terms for additional terms and conditions

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: 83634 **Date:** 07/09/2026

Requisition #: 96563 **Vendor #:** 1896

ISSUED TO: T OR C FIRE DEPARTMENT

SHIP TO: FIRE DEPT
401 McAdoo St.
Truth or Consequences, NM 87901

ITEM	UNITS	VENDOR PART #	DESCRIPTION	GL ACCT #	PROJ ACCT #	PRICE	AMOUNT
1	0		FIRE DEPT ALLOTMENT FY 26/27	101-1005-48599		0.00	30,000.00
	FIRE DEPARTMENT ALLOTMENT FY 26/27						

SUBTOTAL:	30,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	30,000.00

Chief Purchasing Office _____ **Date:** 7/9/2026

Director of Finance: Requisition approved electronically.

City Manager: Requisition approved electronically.

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

REQUISITION

Requisition #: 96563

Date: 07/01/2026

Vendor #: 1896

ISSUED TO: T OR C FIRE DEPARTMENT

SHIP TO: FIRE DEPT
401 McAdoo St.
Truth or Consequences, NM 87901

ITEM	UNITS	DESCRIPTION	PROJECT #	PRICE	GL ACCOUNT NUMBER	AMOUNT
1	0	FIRE DEPT ALLOTMENT FY 26/27		0.00	101-1005-48599	30,000.00

PO Description: FIRE DEPT ALLOTMENT FY 26/27

Detailed Description:

FIRE DEPARTMENT
ALLOTMENT FY 26/27

SUBTOTAL:	30,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	30,000.00

Authorized By: _____

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: 83633 **Date:** 07/09/2026

Requisition #: 96562 **Vendor #:** 1009

ISSUED TO: GENERAL FUND

SHIP TO: FIRE DEPT
401 McAdoo St.
Truth or Consequences, NM 87901

ITEM	UNITS	VENDOR PART #	DESCRIPTION	GL ACCT #	PROJ ACCT #	PRICE	AMOUNT
1	0		STATE FIRE ADMIN DUE TO GENERAL FUND FY26-	209-1603-47595		0.00	30,000.00
	STATE FIRE ADMIN DUE TO GENERAL FUND FY 26-27						
	FIRE DEPT						

SUBTOTAL:	30,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	30,000.00

Chief Purchasing Office _____ Date: 7/9/2026

Director of Finance: Requisition approved electronically.

City Manager: Requisition approved electronically.

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

REQUISITION

Requisition #: 96562

Date: 07/01/2026

Vendor #: 1009

ISSUED TO: GENERAL FUND

SHIP TO: FIRE DEPT
401 McAdoo St.
Truth or Consequences, NM 87901

ITEM	UNITS	DESCRIPTION	PROJECT #	PRICE	GL ACCOUNT NUMBER	AMOUNT
1	0	STATE FIRE ADMIN DUE TO GENERAL FUND FY26-27		0.00	209-1603-47595	30,000.00

PO Description: STATE FIRE ADMIN DUE TO GENERAL FUND FY26-27

Detailed Description:

STATE FIRE ADMIN DUE TO GENERAL FUND FY 26-27
FIRE DEPT

SUBTOTAL:	30,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	30,000.00

Authorized By: _____

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: 83596 **Date:** 07/08/2026

Requisition #: 96495 **Vendor #:** 8289

ISSUED TO: BORDER TIRE
12277 ROJAS DR
EL PASO, TX 79936-

SHIP TO: SERVICE CENTER
2700 South Broadway
Truth or Consequences, NM 87901

ITEM	UNITS	VENDOR PART #	DESCRIPTION	GL ACCT #	PROJ ACCT #	PRICE	AMOUNT
1	0		OPEN PO DRAWDOWN FOR TIRES & SUPPLIES (FY 600-7003-44626			0.00	30,000.00
	SERVICE CENTER						

SUBTOTAL:	30,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	30,000.00

Chief Purchasing Office [signature] Date: 7/8/2026

Director of Finance: Requisition approved electronically.

City Manager: Requisition approved electronically.

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

REQUISITION

Requisition #: 96495

Date: 07/01/2026

Vendor #: 8289

ISSUED TO: BORDER RECAPPING LLC
12277 ROJAS DR
EL PASO, TX 79936-

SHIP TO: SERVICE CENTER
2700 South Broadway
Truth or Consequences, NM 87901

ITEM	UNITS	DESCRIPTION	PROJECT #	PRICE	GL ACCOUNT NUMBER	AMOUNT
1	0	OPEN PO DRAWDOWN FOR TIRES & SUPPLIES (FY 26		0.00	600-7003-44626	30,000.00

PO Description: OPEN PO DRAWDOWN FOR VEHICLE TIRES&SUPPLIES

Detailed Description:

OPEN PO DRAWDOWN FOR VEHICLE TIRES AND SUPPLIES (FY 26/27)
SERVICE CENTER

SUBTOTAL:	30,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	30,000.00

Authorized By: _____

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: 83574 **Date:** 07/06/2026

Requisition #: 96520 **Vendor #:** 9026

ISSUED TO: EUROFINS ENVIRONMENTAL TESTING SOUTH CENTRAL
4901 HAWKINS NE
ALBUQUERQUE, NM 87109-

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		WEEKLY TESTING FOR WASTEWATER	506-4005-44605		0.00	30,000.00

SUBTOTAL:	30,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	30,000.00

Chief Purchasing Office _____ Date: 7/6/2026

Director of Finance: Requisition approved electronically.

City Manager: Requisition approved electronically.

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

REQUISITION

Requisition #: 96520

Date: 07/01/2026

Vendor #: 9026

ISSUED TO: EUROFINS ENVIRONMENTAL TESTING SOUTH
4901 HAWKINS NE
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	WEEKLY TESTING FOR WASTEWATER		0.00	506-4005-44605	30,000.00

PO Description: WEEKLY TESTING FY26/27

Detailed Description:

WEEKLY TESTING FOR WASTE WATER FY26/27

SUBTOTAL:	30,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	30,000.00

Authorized By: _____

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: 83573 **Date:** 07/06/2026

Requisition #: 96519 **Vendor #:** 0198

ISSUED TO: BAKER UTILITY SUPPLY CORP
4320 2ND STREET NW
ALBUQUERQUE, NM 87107

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		OPEN PO FOR FIELD SUPPLIES	504-3803-44607		0.00	30,000.00

SUBTOTAL:	30,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	30,000.00

Chief Purchasing Office _____ Date: 7/6/2026

Director of Finance: Requisition approved electronically.

City Manager: Requisition approved electronically.

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

REQUISITION

Requisition #: 96519

Date: 07/01/2026

Vendor #: 0198

ISSUED TO: BAKER UTILITY SUPPLY CORP
4320 2ND STREET NW
ALBUQUERQUE, NM 87107

SHIP TO: City of Truth or Consequences
505 Sims St.
Truth or Consequences, NM 87901

ITEM	UNITS	DESCRIPTION	PROJECT #	PRICE	GL ACCOUNT NUMBER	AMOUNT
1	0	OPEN PO FOR FIELD SUPPLIES		0.00	504-3803-44607	30,000.00

PO Description: OPEN PO FOR FIELD SUPPLIES FY26/27

Detailed Description:

OPEN PO FOR FIELD SUPPLIES FY26/27

SUBTOTAL:	30,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	30,000.00

Authorized By: _____

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: 83571 **Date:** 07/06/2026

Requisition #: 96504 **Vendor #:** 7735

ISSUED TO: TRIPLE H SOLAR, LLC
6639 PINERY VILLA PL
PARKER, CO 80134-

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		TRIPLE H SOLAR OPEN PO FY 26/27	503-3702-48598		0.00	30,000.00
	ELECTRIC DEPARTMENT OPNE PO FOR TRIPLE H SOLAR FY 26/27						

SUBTOTAL:	30,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	30,000.00

Chief Purchasing Office _____ Date: 7/6/2026

Director of Finance: Requisition approved electronically.

City Manager: Requisition approved electronically.

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

REQUISITION

Requisition #: 96504

Date: 07/01/2026

Vendor #: 7735

ISSUED TO: TRIPLE H SOLAR LLC
6639 PINERY VILLA PL
PARKER, CO 80134-

SHIP TO: City of Truth or Consequences
505 Sims St.
Truth or Consequences, NM 87901

ITEM	UNITS	DESCRIPTION	PROJECT #	PRICE	GL ACCOUNT NUMBER	AMOUNT
1	0	TRIPLE H SOLAR OPEN PO FY 26/27		0.00	503-3702-48598	30,000.00

PO Description: TRIPLE H SOLAR OPEN PO FY 26/27

Detailed Description:

SUBTOTAL:	30,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	30,000.00

Authorized By: _____

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: 83666 **Date:** 07/10/2026

Requisition #: 96607 **Vendor #:** 0187

ISSUED TO: POSTMASTER
Attn: CMRS-PB
PO BOX 0566
CAROL STREAM, IL 60132-0566

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		UB POSTAGE FOR CITY OF T.ORC	502-3601-43735		0.00	35,000.00
	OPEN PO POSTAGE FOR MAIL/BILLING (FY26/27) RECIEPTS/INVOICES ARE REQUIRED FOR PROCESSING						
	UTILITY						

SUBTOTAL:	35,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	35,000.00

Chief Purchasing Office _____ **Date:** 7/10/2026

Director of Finance: Requisition approved electronically.

City Manager: Requisition approved electronically.

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

REQUISITION

Requisition #: 96607

Date: 07/06/2026

Vendor #: 0187

ISSUED TO: POSTMASTER
Attn:CMRS-PB
PO BOX 0566
CAROL STREAM, IL 60132-0566

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	UB POSTAGE FOR CITY OF T.ORC		0.00	502-3601-43735	35,000.00

PO Description: POSTAGE FOR MAIL/BILLING FY 2026.2027

Detailed Description:

UTILITY

SUBTOTAL:	35,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	35,000.00

Authorized By: _____

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: 83710 **Date:** 07/13/2026

Requisition #: 96611 **Vendor #:** 7498

ISSUED TO: WESTERN UNITED ELECTRIC
SUPPLY CORPORATION
100 BROMLEY BUSINESS PKWY
BRIGHTON, CO 80603

SHIP TO: ELECTRIC
404 E Joffre
Truth or Consequences, NM 87901

ITEM	UNITS	VENDOR PART #	DESCRIPTION	GL ACCT #	PROJ ACCT #	PRICE	AMOUNT
1	20		35' CLASS 4 DF WOOD POLE	503-3702-44607		736.50	14,730.00
2	15		40' CLASS 2 DF WOOD POLE	503-3702-44607		1,187.25	17,808.75
3	5		45' CLASS 2 DF WOOD POLE	503-3702-44607		1,400.55	7,002.75

SUBTOTAL:	39,541.50
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	39,541.50

Chief Purchasing Office _____ Date: 7/13/2026

Director of Finance: Requisition approved electronically.

City Manager: Requisition approved electronically.

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

REQUISITION

Requisition #: 96611

Date: 07/07/2026

Vendor #: 7498

ISSUED TO: WESTERN UNITED ELECTRIC
SUPPLY CORPORATION
100 BROMLEY BUSINESS PKWY
BRIGHTON, CO 80603

SHIP TO: ELECTRIC
404 E Joffre
Truth or Consequences, NM 87901

ITEM	UNITS	DESCRIPTION	PROJECT #	PRICE	GL ACCOUNT NUMBER	AMOUNT
1	20	35' CLASS 4 DF WOOD POLE		736.50	503-3702-44607	14,730.00
2	15	40' CLASS 2 DF WOOD POLE		1,187.25	503-3702-44607	17,808.75
3	5	45' CLASS 2 DF WOOD POLE		1,400.55	503-3702-44607	7,002.75

PO Description: WOOD POLES

Detailed Description:

SUBTOTAL:	39,541.50
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	39,541.50

Authorized By: _____

QUOTATION

Western United Electric Supply Corp

7311 La Morada Pl NW
Albuquerque, NM 87120
US
505-346-9572

Order Number	
2133036	
Order Date	Page
06/24/2026 11:26:37	1 of 1

Quote Expires On: 07/01/2026

Pricing and lead times are subject to change at time of shipment due to market volatility and potential tariff impacts.

Bill To:

City of Truth or Consequences
505 SIMS STREET
TRUTH OR CONSEQUENCES, NM 87901
US

575-894-6675
Attn: INVOICES .

Ship To:

City of Truth or Consequences
505 SIMS STREET
TRUTH OR CONSEQUENCES, NM 87901
US

Requested By: Bo Easley

Customer ID: 10250

PO Number	*Ship Route*	*Taker*
Poles	NORTE	ESISNEROS

Quantities					*Item ID* / *Item Description*	*Pricing UOM* / *Unit Size*	*Unit Price*	*Extended Price*
Ordered	*Allocated*	*Remaining*	*UOM* / *Unit Size*	*Disp.*				
					Delivery Instructions: 15-16 weeks			
20.00	0.00	20.00	EA		35FT CLASS 4 DF	EA	736.500000	14,730.00
				1.0	POLE WOOD W1.1G	1.0		
15.00	0.00	15.00	EA		40FT CLASS 2 DF	EA	1,187.250000	17,808.75
				1.0	POLE WOOD 40 FT DF	1.0		
5.00	0.00	5.00	EA		45FT CLASS 2 DF	EA	1,400.543478	7,002.72
				1.0	Pole Wood 45' Class 2 DF Penta	1.0		

Total Lines: 3

SUB-TOTAL:	39,541.47
TAX:	0.00
AMOUNT DUE:	**39,541.47**
	U.S. Dollars

Effective July 1, 2025, Colorado imposes a retail delivery fee of $0.28 on all deliveries by motor vehicle to a location in Colorado with at least one item of tangible personal property subject to state sales or use tax. The fee will be assessed at the time of shipment and included on your invoice.

Bell

SINCE 1909

Bell Lumber & Pole Company
778 - 1st Street NW New
Brighton MN, 55112-0024
651-633-4334
www.blpole.com

City of Truth or Consequences
Bo Easley
beasley@torcnm.gov

Date: 26-Jun-2026
Reference: Email
Bell Quote: 171096

Douglas Fir Poles per RUS Bulletin 1728F-700, pressure treated with Pentachlorophenol or DCOI and oil per RUS Bulletin 1728F-700, Use Area 2. Wood Quality Control (WQC) inspection charges are included.

Quantity	Species	Class/Length	Framing	Price Each	Extended
20	DF	4/35	PW dtd 4/19/94 - 35'	$790.00	$15,800.00
15	DF	2/40	PW dtd 4/19/94 - 40'+	$1,257.00	$18,855.00
5	DF	2/45	PW dtd 4/19/94 - 40'+	$1,524.00	$7,620.00

FOB: Self-Unloading Truck - Truth Or Consequences NM

Total Quantity: 40 **Total Bid: $42,275.00**

Shipment: Commencing 3-4 week(s) after receipt of order via self-unloading truck.
Terms: Net 30 Days

Freight and treating solution are subject to diesel surcharges at the time of shipment.
When framing is required, delivery lead time is subject to receipt of approved framing prints no less than 4 week(s) prior to commencing delivery date. When line staked delivery is required, line staking sheets must be provided no less than 4 week(s) prior to commencing delivery date.
Stock is subject to availability at the time of the order placement.
The quoted prices do not include, and are subject to, applicable tariffs in place at the time of shipment.
This quotation is valid for acceptance through the end of business day on Aug 07, 2026 and is being offered on the basis of order placement for all/or a proportionate share of each class and length protecting full truckload quantities. Receipt of Purchase Order after validity date is subject to price and lead time review.
Thank you for the opportunity to quote on your wood pole requirements. We look forward to being of service.

Bell Lumber & Pole Company

Jared Lambertson, Western
Region Sales Representative

This quote does not include any sales, use or other tax that may apply to the customer. Customer will provide specific sales, use or other tax documentation, including tax resale or exemption certificates for all shipment destinations. In the absence of receiving resale or exemption certificates from the customer, Bell Lumber & Pole Company will charge sale or use tax on invoices, when required by law.

By accepting this quote and ordering the products described above, Customer agrees to the following: Bell Lumber & Pole Company ("Bell") will manufacture the utility poles to the specifications stipulated in this quote. In addition, utility poles are treated with a chemical preservative, to the extent assignable, Bell shall assign and pass through to Customer, the benefit of all rights & remedies, including warranties, acceptance rights, rights of return, and rights of recovery Bell may have with any other party from which it receives preservative with regard to defect, non-conformity, or any other condition that may exist or arise involving the chemical preservative (the "Warranty"). THE WARRANTY IS CUSTOMER'S SOLE RIGHT, UNDER WARRANTY UNDER THIS AGREEMENT AND IS IN LIEU OF ALL OTHER WARRANTIES, WRITTEN, ORAL, EXPRESSED, OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, AND OF NON-INFRIGEMENT, AND OF ANY CLAIM OF NEGLIENT DESIGN OR MANUFACTURE. Customer hereby grants Bell a purchase money security interest in the poles sold hereunder, together with all products and proceeds thereof, and authorizes Bell to file financing statements with respect thereto. The terms and conditions set forth herein contain the entire agreement between Customer and Bell with respect to the subject matter hereof, supersede all other written and oral communications, and may not be modified or waived except in writing. This agreement shall be deemed to have been made in the State of Minnesota, shall be governed by Minnesota law, and the parties agree to jurisdiction and venue in any federal or state court located in Hennepin County, Minnesota, with respect to any dispute hereunder. Bell is not liable to Customer for any incidental, consequential, special or punitive damages relating to the poles and this agreement shall in no event exceed the price paid by Customer to Bell hereunder. Any payment not made when due shall accrue a late charge of one and one-half percent (1.5%) per month or, if lower, the maximum rate permitted by law. Customer shall reimburse Bell for any expenses, including reasonable attorneys' fees incurred by Bell in enforcing its rights hereunder.

STELLA JONES

QUOTATION

Company Name: City of Truth or Consequences

Customer Reference: T OR C, NM
Customer Contact: Bo Easley
Phone: 575-740-3824
Fax:Email: beasley@torcnm.gov

Ship To:
City of Truth or Consequences
JOBSITE
TRUTH OR CONSEQUENCES NM 87901 US

Quotation Number: 20538603
Quotation Date: 06/23/2026

Sales Manager: JON DYESS
Email: JDyess@stella-jones.com

Ship From: Silver Springs - Plant S NV US
Ship Via: Self Loader Truck
Shipping Condition: Truck TM
Incoterm: FOB DESTINATION

Estimated Delivery: 15-16 Weeks ARO

Quotation Expiration Date: 07/03/2026

COASTAL DOUGLAS FIR POLES, FULL LENGTH PENTA/DCOI TREATED TO A FINAL NET RETENTION OF .15# PER CUBIC FOOT, FRAMED, PLANT INSPECTION CTR REQUIRED, CONFORMING TO CITY OF TRUTH OR CONSEQUENCES SPECIFICATIONS

Item No	Material	Description	QTY Weight	Unit Price	Freight	Gross Price
				Currency: USD		
10	10048980	POLE DF 35/4 PENTA OR DCOI TORC	20 EA	777.58/EA		15,551.60
			15,006.000 LB			
20	10048981	POLE DF 40/2 PENTA OR DCOI TORC	15 EA	1,292.27/EA		19,384.05
			18,142.500 LB			
30	10048983	POLE DF 45/2 PENTA OR DCOI TORC	5 EA	1,588.50/EA		7,942.50
			7,134.000 LB			
			Gross Total			42,878.15
			Net Value			42,878.15
			TOTAL VALUE			**42,878.15**

Total Weight: 40,282.500 LB
Total Volume: 982.500 FT3

Payment Terms: Net 30 Days

PRICES BASED ON SHIPPING FULL TRUCKLOAD QUANTITIES. FREIGHT AND DELIVERY CHARGES INCLUDED. PLEASE REFERENCE THIS QUOTE NUMBER UPON ORDERING. PLEASE SEE ATTACHED TERMS AND CONDITIONS. *FINAL LEAD TIME FOR ORDER WILL BE AT TIME OF ORDER RECEIPT*

** FUEL SURCHARGES ARE DETERMINED BY THE PREVAILING RATE AT THE TIME OF SHIPMENT **

Sales Manager: JON DYESS

Unless otherwise stated herein, this quotation is submitted subject to our confirmation upon receipt of your order. Any applicable taxes and/or duties are for the buyer's account. All Taxes subject to change based on final delivery destination at time of order. All agreements are contingent upon strikes, accidents, acts of God, or other delays whatsoever kind occasioned by circumstances beyond our control. Unless otherwise stated ,prices are valid for 30 days from quotation date. Freight is based on quantities quoted and is subject to review should the quantity change. Scheduled delivery is conditional on truck/railcar availability. Inspection and final acceptance is to be made at our plant, concurrently with treating, by mutually satisfactory parties, for your account, unless otherwise stated. Payment terms are net 30 days after date of shipment, based on approved credit. All credit card payments will be assessed an additional processing fee. Interest will be charged at a rate of 1.5% per month on overdue accounts.

STELLA JONES

QUOTE TERMS AND CONDITIONS

These Pole Quote Terms and Conditions ("Terms and Conditions") govern the purchase and sale of wood poles or similar products (hereinafter, "Materials") by Stella-Jones Corporation ("Stella-Jones") to the purchaser listed on the attached Quote (hereinafter, "Buyer"). If these Terms and Conditions are not acceptable to Buyer, Stella-Jones reserves the right to increase the prices or otherwise modify this Quote to adequately address the additional risk and expense to Stella-Jones.

Partial award is subject to negotiation. Prices are firm until the expiration date set forth in the attached Quote and subject to adjustment thereafter. Prices may be adjusted if the specifications or delivery schedule is modified.

Materials subject to availability at time of firm order placement. Unless paid in advance, all orders are subject to Stella-Jones' approval of Buyer's credit.
Materials supplied will equal or exceed specification quoted. Larger sizes may be provided at no additional cost.
Materials covered by this Quote are subject to the following terms and conditions unless explicitly amended by the parties in writing signed by both parties at time of final order placement:

- Buyer is responsible for the Materials' design including selection of the material type, size, preservative and all other aspects of its design and specification.
- Materials covered by this quotation are warranted to comply with Buyer's specifications, or where no detailed specifications are provided the minimum referenced industry standards, if applicable, at time of sale.
- Stella-Jones excludes any implied warranties, including without limitation, warranties of merchantability or fitness for a particular purpose.
- Buyer has sole responsibility for installation and engineering, including delivery location and location suitability for storage and installation. Risk of loss or damage to the Materials shall transfer from Stella-Jones to Buyer upon delivery to Buyer or Buyer's specified destination.
- Buyer has responsibility for occupational safety and health issues related to its employees and any other claims resulting therefrom or that are related to delivery location, storage, theft, installation, use or any other claims, liabilities, or fines of any type.
- In no event will Stella-Jones be liable to Buyer in an amount exceeding the purchase price of the subject Materials. In no event will Stella-Jones be liable for indirect, special, incidental, exemplary or consequential damages of any kind sustained from any cause or arising out of any legal theory, whether contract, negligence, strict tort liability, contribution, indemnity, or otherwise. Stella-Jones limits all claims to the value of the Materials supplied. Buyer shall make all claims within ten days of receipt regarding delivery quantity or quality after which the Materials shall be deemed to have been received and accepted by the Buyer. Any lawsuit by Buyer against Stella-Jones will be filed within one year from delivery of the subject Materials. The remedies provided herein shall be Buyer's sole and exclusive remedies with respect to the Materials.

Sales or other applicable taxes will be added to the quoted prices unless customer supplies a resale or exemption certificate valid to the delivery location of the Materials covered by the Quote. Any sales or other taxes that are found to be applicable to the transaction shall be the liability of the Buyer at time of sale or at any time thereafter. Nothing contained in this Acknowledgement grants Buyer audit rights to inspect Stella-Jones' records with respect to this transaction.

This Quote does not provide any form of indemnification except to the extent caused solely by Stella-Jones, nor does this Quotation provide for the payment of any liquidated and/or consequential damages.

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: 83612 **Date:** 07/08/2026

Requisition #: 96609 **Vendor #:** 9424

ISSUED TO: BEASLEY MITCHELL & CO LLP
509 S. MAIN, STE. A
LAS CRUCES, NM 88001-

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		GENERAL/SINGLE AUDIT SERVICES	101-1018-48596		0.00	55,441.00
	FINANCE						

SUBTOTAL:	55,441.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	55,441.00

Chief Purchasing Office _____ Date: 7/8/2026

Director of Finance: Requisition approved electronically.

City Manager: Requisition approved electronically.

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

REQUISITION

Requisition #: 96609

Date: 07/06/2026

Vendor #: 9424

ISSUED TO: BEASLEY MITCHELL & CO LLP
509 S. MAIN, STE. A
LAS CRUCES, NM 88001-

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	GENERAL/SINGLE AUDIT SERVICES		0.00	101-1018-48596	55,441.00

PO Description: AUDIT SERVICES FY 25/27

Detailed Description:

AUDIT SERVICES FOR FY 25/26
COST BASED ON INTERNAL TRANSFERS FROM ENTERPRISE FUNDS IN THE 1018

SUBTOTAL:	55,441.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	55,441.00

Authorized By: _____

JOSEPH M.MAESTAS, P.E., CFE
STATE AUDITOR

DONNA MONTOYA TRUJILLO, CPA
DEPUTY STATE AUDITOR

State of New Mexico
Office of the State Auditor
CONSTITUENT SERVICES
(505) 476-3821

2026-05-13T15:49:30.830Z

Gary Whitehead
Manager
City of Truth or Consequences
gwhitehead@torcnm.gov

Dear Gary Whitehead,

Pursuant to NMSA 1978, Sections 12-6-3 and -14, and any applicable provisions of the Audit Rule, the Office of the State Auditor (OSA) hereby approves the request and contract for Beasley, Mitchell & Co., LLP (the "IPA") to conduct the Fiscal Year 2026 annual audit or agreed-upon procedures engagement for City of Truth or Consequences (the "Agency"). This approval is contingent upon the following:

- The IPA and the Agency must use the form of contract from the OSA-Connect online portal, with no changes. If any changes are required, a contract amendment will need to be completed and submitted in OSA-Connect for approval.
- The contract price and all other terms of the contract must be identical to the information submitted through the OSA-Connect portal.
- If applicable, the Agency will submit the contract for any additional required approvals from an oversight authority, including any approvals by the Public Education Department or Higher Education Department required by NMSA 1978, Section 12-6-14.
- If applicable, the Agency will submit to the General Services Division Contracts Review Bureau the required number of signed contracts, a copy of this letter and any other required documentation.
- Once you have received all signatures, please login to OSA-Connect and upload your fully executed contract. If you do not upload your fully executed contract, your report release will be delayed.

If any of these conditions is not satisfied, this approval will be void, and the Agency will be required to commence the contracting process again with the submission of new information through the OSA-Connect portal.

If you have any questions, please contact the OSA at (505) 476-3800.

Sincerely,
Office of The State Auditor

Contract No.

STATE OF NEW MEXICO
AUDIT CONTRACT

City of Truth or Consequences

hereinafter referred to as the "Agency," and

Beasley, Mitchell & Co., LLP

hereinafter referred to as the "Contractor," agree:

As required by the Audit Rule, Section 2.2.2.1 NMAC *et seq.*, Contractor agrees to, and shall, inform the Agency of any restriction placed on Contractor by the Office of the State Auditor pursuant to Section 2.2.2.8 NMAC, and whether the Contractor is eligible to enter into this Contract despite the restriction.

1. **SCOPE OF WORK** (Include in Paragraph 25 any expansion of scope)

A. The Contractor shall conduct a financial and compliance audit of the Agency for Fiscal Year **2026** in accordance with auditing standards generally accepted in the United States of America, *Government Auditing Standards, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, the Audit Act, Sections 12-6-1 through 12-6-15, NMSA 1978, and the Audit Rule (Section 2.2.2.1 NMAC *et seq.*).

2. **DELIVERY AND REPRODUCTION**

A. In order to meet the delivery terms of this Contract, the Contractor shall deliver the documents required by Section 2.2.2.9 NMAC to the State Auditor on or before the deadline set forth for the Agency in Section 2.2.2.9 NMAC.

B. Reports uploaded into OSA Connect by 5:00 pm of the Agency's due date will be considered received by the due date for purposes of Section 2.2.2.9 NMAC. Unfinished or excessively deficient reports will not satisfy this requirement; such reports will be rejected and returned to the Contractor and the State Auditor may take action in accordance with Section 2.2.2.13 NMAC. If the State Auditor does not receive copies of the management representation letter and the completed Report Review Guide with the audit report or prior to delivery of the audit report, the State Auditor will not consider the report submitted to the State Auditor.

C. As soon as the Contractor becomes aware that circumstances exist that will make the Agency's audit report late, the Contractor shall immediately provide written notification of the situation to the State Auditor in accordance with Section 2.2.2.9 NMAC.

D. Pursuant to Section 2.2.2.10 NMAC, the Contractor shall prepare a written and dated engagement letter that identifies the specific responsibilities of the Contractor and the Agency.

E. After its review of the audit report pursuant to Section 2.2.2.13 NMAC, the State Auditor shall authorize the Contractor to print and submit the final audit report. Within five business days after the date of the authorization to print and submit the final audit report, the Contractor shall provide the State Auditor an electronic version of the audit report, in PDF format, and the electronic copy of the Excel version of the Summary of Findings Form, and any other required electronic schedule (if applicable). After the State Auditor officially releases the audit report by issuance of a release letter, the Contractor shall deliver **10** copies of the audit report to the Agency. The Agency or Contractor shall ensure that every member of the Agency's governing authority shall receive a copy of the report.

3. **COMPENSATION**

A. The total amount payable by the Agency to the Contractor under this Contract shall not exceed **$55,441.00** including applicable gross receipts tax.

B. Contractor agrees not to, and shall not, perform any services in furtherance of this Contract prior to approval by the State Auditor. Contractor acknowledges and agrees that it will not be entitled to payment or compensation for any services performed by Contractor pursuant to this Contract prior to approval by the State Auditor.

C. Total Compensation will consist of the following:

SERVICES	AMOUNTS

(1) Financial statement audit	$37,950.00
(2) Federal single audit	$6,600.00
(3) Financial statement preparation	$6,600.00
(4) Other nonaudit services, such as depreciation schedule updates	$0.00
(5) Other (i.e., component units, specifically identified)	$0.00

Gross Receipts Tax = $4,291.00

Total Compensation = $55,441.00 including applicable gross receipts tax

D. The Agency shall pay the Contractor the New Mexico gross receipts tax levied on the amounts payable under this Contract and invoiced by the Contractor. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below.

E. The State Auditor may authorize progress payments to the Contractor by the Agency; pursuant to Section 2.2.2.8(M)(3) NMAC; provided that the authorization is based upon evidence of the percentage of audit work completed as of the date of the request for partial payment. State Auditor approval after being approved by the Agency. If requested by the State Auditor, the Agency shall provide a copy of the progress billings. Final payment for services rendered by the Contractor shall not be made until a determination and written finding is made by the State Auditor in the release letter that the audit has been made in a competent manner in accordance with the provisions of this Contract and applicable rules of the State Auditor.G. The State Auditor may authorize progress payments to the Contractor by the Agency; pursuant to Section 2.2.2.8(M)(3) NMAC; provided that the authorization is based upon evidence of the percentage of audit work completedas of the date of the request for partial payment. If requested by the State Auditor, the Agency shall provide a copy of the progress billings. Final payment for services rendered by the Contractor shall not be made until a determination and written finding is made by the State Auditor in the release letter that the audit has been made in a competent manner in accordance with the provisions of this Contract and applicable rules of the State Auditor.

4. **TERM.** Unless terminated pursuant to Paragraphs 5 or 19, this Contract shall terminate one calendar year after the latest date on which it is signed.

5. **TERMINATION, BREACH AND REMEDIES**

A. This Contract may be terminated:

1. By either party without cause, upon written notice delivered to the other party and the State Auditor at least ten (10) days prior to the intended date of termination.

2. By either party, immediately upon written notice delivered to the other party and the State Auditor, if a material breach of any of the terms of this Contract occurs. Unjustified failure to deliver the report in accordance with Paragraph 2 shall constitute a material breach of this Contract.

3. By the Agency pursuant to Paragraph 19, immediately upon written notice to the Contractor and the State Auditor.

4. By the State Auditor, immediately upon written notice to the Contractor and the Agency after determining that the audit has been unduly delayed, or for any other reason.

B. By termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. If the Agency or the State Auditor terminates this Contract, the Contractor shall be entitled to compensation for work performed prior to termination in the amount of earned, but not yet paid, progress payments, if any, that the State Auditor has authorized to the extent required by Paragraph 3(E). If the Contractor terminates this Contract for any reason other than Agency's breach of this Contract, the Contractor shall repay to the Agency the full amount of any progress payments for work performed under the terms of this Contract.

C. Pursuant to Section 2.2.2.8 NMAC, the State Auditor may disqualify the Contractor from eligibility to contract for audit services with the State of New Mexico if the Contractor knowingly makes false statements, false assurances or false disclosures under this Contract. The State Auditor on behalf of the Agency or the Agency may bring a civil action for damages or any other relief against a Contractor for a material breach of this Contract.

D. THE REMEDIES HEREIN ARE NOT EXCLUSIVE, AND NOTHING IN THIS SECTION 5 WAIVES OTHER LEGAL RIGHTS AND REMEDIES OF THE PARTIES.

6. **STATUS OF CONTRACTOR**

The Contractor and its agents and employees are independent contractors performing professional services for the Agency and are not employees of the Agency. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles or any other benefits afforded to employees of the Agency as a result of this Contract. The Contractor agrees not to purport to bind the State of New Mexico to any obligation not assumed under this Contract unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. **ASSIGNMENT**

The Contractor shall not assign or transfer any interest in this Contract or assign any claims for money due or to become due under this Contract.

8. **SUBCONTRACTING**

The Contractor shall not subcontract any portion of the services to be performed under this Contract without the prior written approval of the Agency and the State Auditor. An agreement between the Contractor and a subcontractor to subcontract any portion of the services under this Contract shall be completed on a form prescribed by the State Auditor. The agreement shall be an amendment to this Contract and shall specify the portion of the audit services to be performed by the subcontractor, how the responsibility for the audit will be shared between the Contractor and the subcontractor, the party responsible for signing the audit report and the method by which the subcontractor will be paid. Pursuant to Section 2.2.2.8 NMAC, the Contractor may subcontract only with independent public accounting firms that are on the State Auditor's List of Approved Firms, and that are not otherwise restricted by the State Auditor from entering into such a contract.

9. **RECORDS**

The Contractor shall maintain detailed time records that indicate the date, time, and nature of services rendered during the term of this Contract. The Contractor shall retain the records for a period of at least five (5) years after the date of final payment under this contract. The records shall be subject to inspection by the Agency and the State Auditor. The Agency and the State Auditor shall have the right to audit billings both before and after payment. Payment under this Contract shall not foreclose the right of the Agency or the State Auditor on behalf of the Agency to recover excessive or illegal payments.

10. **RELEASE**

The Contractor, upon receiving final payment of the amounts due under the Contract, releases the State Auditor, the Agency, their respective officers and employees and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Contract. This paragraph does not release the Contractor from any liabilities, claims or obligations whatsoever arising from or under this Contract.

11. **CONFIDENTIALITY**

All information provided to or developed by the Contractor from any source whatsoever in the performance of this Contract shall be kept confidential and shall not be made available to any individual or organization by the Contractor, except in accordance with this Contract or applicable standards, without the prior written approval of the Agency and the State Auditor.

12. **PRODUCT OF SERVICES; COPYRIGHT AND REPORT USE**

Nothing developed or produced, in whole or in part, by the Contractor under this Contract shall be the subject of an application for copyright by or on behalf of the Contractor. The Agency and the State Auditor may post an audited financial statement on their respective websites once it is publicly released by the State Auditor. For District Courts and District Attorneys only, the contractor agrees that the Financial Control Division of the Department of Finance and Administration (DFA) is free to use the audited financial statements in the statewide Comprehensive Annual Financial Report and that the Contractor's audit report may be relied upon during the audit of the statewide Comprehensive Annual Financial Report , if applicable. However, DFA should not provide to any third party, other than the Comprehensive Annual Financial Report auditor, the District Courts' or District Attorneys' draft audit reports or their opinion letters or findings.

13. **CONFLICT OF INTEREST**

The Contractor represents and warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Contract. Each of the Contractor and the Agency certifies that it has followed the requirements of the Governmental Conduct Act, Section 10-16-1, *et seq.*, NMSA 1978, regarding contracting with a public officer, state employee or former state employee, as required by the applicable professional standards.

14. **INDEPENDENCE**

The Contractor represents and warrants its personal, external and organizational independence from the Agency in accordance with the *Government Auditing Standards* , issued by the Comptroller General of the United States, and Section 2.2.2.8 NMAC. The Contractor shall immediately notify the State Auditor and the Agency in writing if any impairment to the Contractor's independence occurs or may occur during the period of this Contract.

15. **AMENDMENT**

This Contract shall not be altered, changed or amended except by prior written agreement of the parties and with the prior written approval of the State Auditor. Any amendments to this Contract shall comply with the Procurement Code, Sections 13-1-28 through 13-1- 199, NMSA 1978.

16. **MERGER**

This Contract supersedes all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Contract. Contractor and Agency shall enter into and execute an engagement letter pursuant to Section 2.2.2.10 NMAC, consistent with

Generally Accepted Auditing Standards (GAAS) and Government Auditing Standards (GAGAS). **The engagement letter and any associated documentation included with or referenced in the engagement letter shall not be interpreted to amend this Contract. Conflicts between the engagement letter and this Contract are governed by this Contract, and shall be resolved accordingly.**

17. APPLICABLE LAW

The laws of the State of New Mexico shall govern this Contract. By execution of this Contract, Contractor irrevocably consents to the exclusive personal jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising from or related to this Contract.

18. AGENCY BOOKS AND RECORDS

The Agency is responsible for maintaining control of all books and records at all times and the Contractor shall not remove any books and records from the Agency's possession for any reason.

19. APPROPRIATIONS

The terms of this Contract are contingent upon sufficient appropriations and authorization being made by the legislature or the Agency's governing body for the performance of this Contract. If sufficient appropriations and authorization are not made by the legislature or the Agency's governing body, this Contract shall terminate upon written notice being given by the Agency to the Contractor. The Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. This section of the Contract does not supersede the Agency's requirement to have an annual audit pursuant to Section 12-6-3(A) NMSA 1978.

20. PENALTIES FOR VIOLATION OF LAW

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for certain violations. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

21. EQUAL OPPORTUNITY COMPLIANCE

The Contractor shall abide by all federal and state laws, rules and regulations, and executive orders of the Governor of the State of New Mexico pertaining to equal employment opportunity. In accordance with all such laws, rules, regulations and orders, the Contractor assures that no person in the United States shall, on the grounds of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap or serious medical condition, spousal affiliation, sexual orientation or gender identity be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Contract. If the Contractor is found not to be in compliance with these requirements during the life of this Contract, the Contractor shall take appropriate steps to correct these deficiencies.

22. WORKING PAPERS

A. The Contractor shall retain its working papers of the Agency's audit conducted pursuant to this Contract for a period of at least five (5) years after the date shown on the opinion letter of the audit report, or longer if requested by the federal cognizant agency for audit, oversight agency for audit, pass through-entity or the State Auditor. The State Auditor shall have access to the working papers at the State Auditor's discretion. When requested by the State Auditor, the Contractor shall deliver the original or clear, legible copies of all working papers to the requesting entity.

B. The Contractor should follow the guidance of AU-C 210 A.27 to A.31 and AU-C 510 .A3 to .A11 in communications with the predecessor auditor and to obtain information from the predecessor auditor's audit documentation.

23. DESIGNATED ON-SITE STAFF

The Contractor's on-site individual auditor responsible for supervision of work and completion of the audit is Dalhlia Garcia. The Contractor shall notify the Agency and the State Auditor in writing of any changes in staff assigned to perform the audit.

24. INVALID TERM OR CONDITION

If any term or condition of this Contract shall be held invalid or unenforceable, the remainder of this Contract shall not be affected.

25. OTHER PROVISIONS

SIGNATURE PAGE

This Contract is made effective as of the date of the latest signature.

AGENCY		CONTRACTOR	
City of Truth or Consequences		Beasley, Mitchell & Co., LLP	
PRINTED NAME:	Jocelyn Holguin	PRINTED NAME:	Dahlia Garcia
TITLE:	Chief Financial Officer	TITLE:	Partner
Electronically Signed on 05/14/2026 2:45:09 PM		Electronically Signed on 2026-05-14 14:45:49	

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: 83576 **Date:** 07/06/2026

Requisition #: 96575 **Vendor #:** 8748

ISSUED TO: MARTO ENERGY
PO BOX 20651
ALBUQUERQUE, NM 87154-

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	1		N CABALLO AUGER 8' NEUT	503-3702-47415		5,000.00	5,000.00
2	1		GEOFFERY AUGER	503-3702-47415		5,000.00	5,000.00
3	1		COOK	503-3702-47415		9,000.00	9,000.00
4	1		CLANCEY & GRAY DEFOLIATE	503-3702-47415		9,000.00	9,000.00
5	1		CLANCEY & CHARLES DEFOILATE	503-3702-47415		9,000.00	9,000.00
6	1		DANIELS & AUSTIN I CONCRETE	503-3702-47415		6,000.00	6,000.00
7	1		DANIELS & AUSTIN II CONCRETE	503-3702-47415		6,000.00	6,000.00
8	1		STATE POLICE I AUGER, 45'	503-3702-47415		6,000.00	6,000.00
9	1		LABOR TAXES	503-3702-47415		4,606.25	4,606.25

SUBTOTAL:	59,606.25
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	59,606.25

Chief Purchasing Office _____ Date: 7/6/2026

Director of Finance: Requisition approved electronically.

City Manager: Requisition approved electronically.

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

REQUISITION

Requisition #: 96575

Date: 07/02/2026

Vendor #: 8748

ISSUED TO: MARTO ENERGY
PO BOX 20651
ALBUQUERQUE, NM 87154-

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	1	N CABALLO AUGER 8' NEUT		5,000.00	503-3702-47415	5,000.00
2	1	GEOFFERY AUGER		5,000.00	503-3702-47415	5,000.00
3	1	COOK		9,000.00	503-3702-47415	9,000.00
4	1	CLANCEY & GRAY DEFOLIATE		9,000.00	503-3702-47415	9,000.00
5	1	CLANCEY & CHARLES DEFOILATE		9,000.00	503-3702-47415	9,000.00
6	1	DANIELS & AUSTIN I CONCRETE		6,000.00	503-3702-47415	6,000.00
7	1	DANIELS & AUSTIN II CONCRETE		6,000.00	503-3702-47415	6,000.00
8	1	STATE POLICE I AUGER, 45'		6,000.00	503-3702-47415	6,000.00
9	1	LABOR TAXES		4,606.25	503-3702-47415	4,606.25

PO Description: POLE REPLACEMENTS

Detailed Description:

SUBTOTAL:	59,606.25
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	59,606.25

Authorized By: _____

Proposal

MARTO ENERGY

DATE 6/26/2026

proposal # 062626-04

P.O. Box 20651
Albuquerque, NM 87154
505.550.8658

Bill To: City of T or C
Elec dept

Job Site: City of T or C

Job Description: Pole replacement s

Date	Qty	Units	Description	Charges	Total
Labor					
	1.00		N Cabello auger 8' neut	$5,000.00	$5,000.00
	1.00		Geoffery auger	$5,000.00	$5,000.00
	1.50		Cook	$6,000.00	$9,000.00
	1.50		Clancey & Gray defollate	$6,000.00	$9,000.00
	1.50		Clancey & Charles defollate	$6,000.00	$9,000.00
	1.00		Daniels & Austin I concrete	$6,000.00	$6,000.00
	1.00		Daniels & Austin II concrete	$6,000.00	$6,000.00
Item					$6,000.00
	1		State police I auger , 45'	$6,000.00	$6,000.00
					$0.00
					$0.00
					$0.00
					$0.00
					$0.00
					$0.00
					$0.00
					$0.00
					$0.00
					$0.00
					$0.00
					$0.00
					$0.00
					$0.00
			Subtotal:		$55,000.00
			Labor Tax:	8.3750%	$4,606.25
			Sales Tax:	8.3750%	$0.00
			Total Service Charges:		**$59,606.25**

LICENSE 406330

Please **reference your invoice number** above on all payments.

Precision Service Electric, LLC

PSE

Allan C. Durbin, Owner
COMMERCIAL • INDUSTRIAL • SERVICE
LICENCE NO. 368653
allan@pse88208.com

965 West Bosque Loop
Bosque Farms, NM 87068

(505) 554-3995 Office
(505) 884-1658 Fax
(505) 259-4709 Cell

P.O. Box 3228
Taos, NM 87571

Proposal

ESTIMATE NO. One
DATE 7/2/2026
CUSTOMER ID TC
EXPIRATION DATE

City of T or C

ATTN: City of T or C

SALESPERSON	PROJECT	PAYMENT TERMS	DUE DATE
	Pole Replacements	Due upon receipt	

QUANTITY	DESCRIPTION	UNIT PRICE	LINE TOTAL
	We propose to furnish all labor, material, equipment, and		
	supervision necessary to install:		
	N Cabello	$ 5,750.00	$ 5,750.00
	Geoffery	$ 5,750.00	$ 5,750.00
	Clancy & Gray	$ 10,530.00	$ 10,530.00
	Clancy & Charles	$ 10,530.00	$ 10,530.00
	Daniels & Austin I	$ 10,530.00	$ 10,530.00
	Daniels & Austin II	$ 7,020.00	$ 7,020.00
	State police I	$ 7,020.00	$ 7,020.00
	Cook	$ 7,020.00	$ 7,020.00
		8.38%	
		SUBTOTAL	$ 58,400.00
		SALES TAX	4,891.00
		TOTAL	**$ 63,291.00**

Quotation prepared by:

Allan Durbin

This quotation is subject to the specific conditions noted below:
Insert Conditions or specific exclusions here.

To accept this quotation, sign here and return:

AUTHORIZED REPRESENTATIVE DATE

& Industries, Inc.
Whatever it takes.

NEW MEXICO
9720 Bell Ave SE
Albuquerque, NM 87123
Phone: (505) 299-4464
(866) 315-8349
Fax: (505) 298-2114

BRANCH OFFICES

NEW MEXICO
101 DP Rd
Los Alamos, NM 87544
Phone: (505) 661-8336
Fax: (505) 661-8337

5920 N. Lovington Hwy,
Hobbs, NM 88240
Phone: (505) 780-0410

2885 Industrial Rd.
Santa Fe, NM 87505
Phone: (505) 559-2585
Fax: (505) 559-2589

ARIZONA
3001 South 35th
Street #C10
Phoenix, AZ 85034
Phone: (480) 632-4002

NEW YORK
65 Washington Street
Rensselaer, NY 12144
Phone: (518) 400-7412

June 29, 2026

Attn: Bo Easley

Re: City of T or C – Pole Replacements

Priced per Statewide Price Agreement - # 40-00000-24-00074

Thank you for the opportunity to provide a price for this project.

Price: **$69,229.95 (includes NMGRT)**

Scope of work: Pole replacement at (8) locations

Inclusions:

1. N. Cabello
2. Geoffery
3. Cook
4. Clancey & Gray
5. Clancey & Charles
6. Daniels & Austin I
7. Daniels & Austin II
8. State Police I
9. **NMGRT @ 8.375% ($5,349.95)**

Exclusions:

1. Payment & performance bond (Add 1% if required)
2. Testing
3. All permits, plan review, and utility fees
4. General site conditions
5. Shift work and overtime work
6. Rental of temp. equipment
7. Demo of any existing electrical
8. Saw cutting, coring, and patching of concrete, asphalt, etc.
9. Painting of any conduit, raceway, or equipment
10. Painting and patching of any walls, ceiling, sheetrock, and/or any other surface
11. Patching of any block, concrete, or asphalt
12. Architect design and engineering services
13. Asbestos and lead paint removal
14. HVAC Controls and EMS electrical installation
15. Spare material, lamps and fuses
16. Fixture support wires

B&D Industries, Inc.
Whatever it takes.

NEW MEXICO
9720 Bell Ave SE
Albuquerque, NM 87123
Phone: (505) 299-4464
(866) 315-8349
Fax: (505) 298-2114

BRANCH OFFICES

NEW MEXICO
101 DP Rd
Los Alamos, NM 87544
Phone: (505) 661-8336
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5920 N. Lovington Hwy,
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Phone: (505) 780-0410

2885 Industrial Rd.
Santa Fe, NM 87505
Phone: (505) 559-2585
Fax: (505) 559-2589

ARIZONA
3001 South 35th
Street #C10
Phoenix, AZ 85034
Phone: (480) 632-4002

NEW YORK
65 Washington Street
Rensselaer, NY 12144
Phone: (518) 400-7412

17. Temporary power
18. Unforeseen site conditions that are irregular or unusual circumstances and may incur additional cost such as harder than usual digging conditions, hidden items, etc.
19. Repair of existing code violations
20. Any electrical not specifically addressed in this narrative

If you have any questions or concerns, please feel free to email or call.

Best Regards,

Shane Lewis
Area Manager
slewis@banddindustries.com
(505)-903-9940

This cost proposal is valid for 30 days following issuance by B&D Industries, Inc. If the proposal is accepted after 30 days, B&D reserves the right to revise the price in accordance with commodity pricing changes including, but not limited to, copper, conduit and steel materials. If awarded, B&D reserves the right to review all contract documents associated with the project.

CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: July 22, 2026

Agenda Item #: D.2

SUBJECT: Acknowledge Subrecipient FY 25/26 4th Quarter Reports
DEPARTMENT: City Clerk's Office
DATE SUBMITTED: July 16, 2026
SUBMITTED BY: Angela A. Torres, City Clerk
WHO WILL PRESENT THE ITEM: Consent Calendar

Summary/Background:

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

Recommendation:

Acknowledge the 4th Quarter Reports

Attachments:

- Checklist
- Reports

-

Fiscal Impact (Finance): Choose an item.

-

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

None.

Approved For Submittal By: ☒ Department Director

Reviewed by: ☒ City Clerk ☐ Finance ☐ Legal ☐ Other: Click here to enter text.

Final Approval: ☐ City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. Click here to enter text. Ordinance No. Click here to enter text.
Continued To: Click here to enter a date. Referred To: Click here to enter text.
☐ Approved ☐ Denied ☐ Other: Click here to enter text.
File Name: CC Agendas 7-22-26

SUBRECIPIENT QUARTERLY REPORTS **FISCAL YEAR:** 2025-26

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

NAME OF ORGANIZATION	ALLOTMENT	1ST QTR. REPORT YES	1ST QTR. REPORT NO	2ND QTR. REPORT YES	2ND QTR. REPORT NO	3RD QTR. REPORT YES	3RD QTR. REPORT NO	4TH QTR. REPORT YES	4TH QTR. REPORT NO
(SUBRECIPIENT FUNDS)									
Companion Animal Action Team/CAAT Majie Powey 740-0421	$1,500.00		x	x		x		x	
Domestic Abuse Intervention Center Blanca Chavez 894-3557	$3,500.00	x		x		x		x	
Matthew 25 Food Pantry laura Ploushe (480) 267-3535	$10,000.00	x		x		x		x	
SJOA / Sierra Joint Office on Aging Lisa Mattingly 894-6641	$25,000.00	x		x		x		x	
The Club of Sierra County Charis Baxter 505-446-0032	$10,000.00	x		x		x		x	
GENERAL FUND									
Geronimo Springs Museum Merry Jo Fahl 575-740-7723	$6,500.00	x		x		x			x
Geronimo Trail Scenic Byway Gina Kelley 894-2255	$31,000.00	x		x		x		x	
MainStreet Truth or Consequences Becca Eza (575) 208-4093	$85,000.00	x		x		x		x	

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

Take to Commission 2nd meeting in October
Take to Commission 2nd meeting in January
Take to Commission 2nd meeting in April
Take to Commission 2nd meeting in June

SUBRECIPIENT QUARTERLY REPORT
FY: 2025/2026

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

ORGANIZATION: *Companion Animal Action Team*

ALLOCATION: *$1500.00* (FY Allotment) *$375.00* (Quarterly Draw) **QUARTER:** *4th* (1st/2nd/3rd/4th)

SUBMITTED BY: *Majorie Powey* (Print Name) Majorie E. Powey (Signature)

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

We have been working with Dr. Allred since mid April 2025 to provide spay/neuter services for Sierra County dogs and cats. We have an application form that the client fills out. The individual then pays us and we issue a voucher. The individual can take that voucher to the clinic and receive an appointment or can call for and appointment.

Our fees are the same as we charged for clinics with Dr.Starr. Cats are $30 for males and $40 for females. We pay for vaccines including Rabies and FVRCP (the respiratory complex and panleukopenia) . For dogs we charge $50 for males and $60 for females. We include Rabies and DHPP for dogs as well as cones and pain meds as extra services at no charge.

The Clinic receives a check list of the vouchers we issue every week. Normal sign up is 2 to 4 on Saturday. We also have provided a free visit for a diabetic cat to check on their disease. We have also assisted several families with free food which we purchase at Tractor Supply.

This quarter we did not have as many signups –in part because the shelter was using the grant from the New Mexico Veterinary Board to provide free spay neuter for dogs and cats. InApril we providrd spay neuter service for 3 female cats and 2 female dogs.In May we provided vouchers for 4 female dogs, 1 male dog, 1 female cat and 1 male cat. In June we have provided vouchers for 2 female cats and 1 female dog.
We have also provideded emergency services for 1 cat that had to go to Deming because he had a blockage to his urinary system. On that we worked with SCARS to provide $400.00 dollars. We also provided an emergency euthanasia for a man who did not have funding for euthanasia or burial at Desert Haven. In addition we provided emergency services for a cat that had undergone an amputatin but was still having problems.

S

SUBRECIPIENT QUARTERLY REPORT
FY: 2025/2026

ORGANIZATION: *Domestic Abuse Intervention Center*

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

ALLOCATION: *$3500.00* (FY Allotment) *$875.00* (Quarterly Draw) **QUARTER:** *4th* (1st/2nd/3rd/4th)

SUBMITTED BY: *Blanca Chavez* (Print Name) Blanca Chavez (Signature)

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

Statistical Information:

Years	Victimization	Referral
Female-10	Anglo- 8	18-21- 1	Emotional - 12	Police-1	Sheriff-2
Male- 4	Hispanic-3	22-40- 8	Physical- 10	Hospital-	Self Referral-5
	Other- 3	41-59- 3	Sexual- 1	Courts-2	Friends-
		60-74- 2	Stalking-	Family-	Other-6
		Unknown-	Unknown-	CYFD-	

Type of Contact:

Orders of Protection – 4

Individual Support Sessions –13.5

Group – 108

Victim Advocacy – 10.25

Crisis Intervention- 1

Shelter - 1 Transportation -

Food-

CCR -8

Case Management - 67.5

DVOTI Individual Sessions- 0

Volunteer Hours: Total -1132

Cell Phone - 1130

Administrative -

Crisis-

Office-

Direct Client Contact (Crisis) 2

SUBRECIPIENT QUARTERLY REPORT
FY: 2025/2026

ORGANIZATION: Matthew 25 Food Pantry, Inc

ALLOCATION: $ 10,000 (FY Allotment) $ 2,500 (Quarterly Draw) **QUARTER:** 4th (1st/2nd/3rd/4th)

SUBMITTED BY: Laura Ploughe (Print Name) Laura Ploughe (Signature)

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

Compliance

Matthew 25 Food Pantry, a 501(c)3, graciously appreciates the grant award from the City for the direct services we provide to benefit the community through our weekly free food distribution. Our mission is to serve the community without discrimination based on age, race, color, sex, religion, national origin, disability, or sexual orientation. Our commitment to the City is to maintain complete and accurate records of our performance and this **Quarterly Report (Q4)** is being submitted to the City for public record of such compliance.

This City grant assists in our ability to indirectly promote the City in the services we provide. We provide these services with a working team of all volunteers (approximately 15) and are governed by a volunteer Board of Directors. The Board Officers include a President, a Secretary/Treasurer, and Directors who have signatory and fiscal authority. We maintain an active Non-Profit good standing with the Office of the Secretary of State (SOS), the Internal Revenue Service (IRS), and the New Mexico Office of the Attorney General (AG).

Through the volunteers at Matthew 25 we work hard to operate under the highest standards and promote transparency. Not only do we open our statistics and our finances to the public, but proudly provide food safety compliance, guidelines, and our standards of conduct as we serve others.

2025/2026 Funding Purpose/Financial Performance

Because this report is due prior to the full end of the fiscal year Quarter 4 (Q4) actuals are estimated.

Matthew 25 is not affiliated with any religious organization unlike other food pantries in the community. Matthew 25 relies solely on grants and private monetary donations as well as contributions from local retailers (business-to-business (B2B)) to cover all of our operating costs and be able to provide services back to others in need. Expected grants of $10,000 (TorC), $2,500 (Sierra County), and $2,000 (B2B) were budgeted however an unexpected $5,000 grant and several smaller grants have resulted in our **Q4** actual grant totals above what was budgeted by $5,400. A nearly 50/50 split of grants and donations was realized for our revenues. While grants covered most of our fixed costs of $19,700, private contributions and local B2B contributions were used on discretionary spend, most of which was for food. Current **Quarter 4 (Q4)** ***estimates*** show that we will end the fiscal year ahead of budget in revenues. A one-time transfer-in of $15,000 from an investment reserve was planned in June 2025 and accrued into the FY25/26 for a July purchase of all new commercial refrigerator/freezer appliances. This is shown as a transfer in and not counted as a part of revenues.

Our budgeted expenses are made up of rent and utilities which are 67% while insurance is 6%, totaling 73% that are fixed costs in our expense budget. Food costs are 18% of budget while the remaining budget is professional services, maintenance, and office expenses. Some discretionary miscellaneous building improvement expenditures were done in this fiscal year as well. Our **Q4** ***estimated*** fiscal year end shows that expenses are in line with what is budgeted.

Matthew 25 strives to maintain a near zero balance budget and the one-time transfer in from investment reserves for the major capital expenditures means that a transfer out of this years' budget is projected for late **Q4** of $5,000 to replace some of the reserves we used.

Appendix A *provides our current Matthew 25 Budget/Actual Summary for to-date income and expenses.*
Appendix B *provides our detailed financial balance sheet for to-date Actuals to Budget with Net and percentages.*

Scope of Work/CommunityBenefit Performance

Matthew 25 has actually seen a decrease in the numbers we distribute food to weekly/monthly over the last fiscal year but not by much. Last fiscal year numbers were higher than this year by 454. Assumptions were originally that Mathew 25 distributed less number of days however federal population statistics indicate a population decline in Sierra County. The county declined by 146 between 2024 and 2025 and seems to continue to decline slightly. Changes in population reflect birth and death rates, immigration patterns, regional shifts, and even the overall health of the economy. New Mexico's -1.5% annual decrease was primarily driven by people moving to other states.

Our statistics still show that Matthew 25 feeds an average of 800 people per month of our total population of Sierra county of 11,395. This equates to an average of 100 households per week who receive free food of which Seniors account for our highest percentage of food insecure and average almost 48% of those who participate.

The Matthew 25 mobile food distribution once a month in the Sierra Vista Hospital has been suspended. Matthew 25 and the Sierra Vista Hospital staff will reassess the need at a future date.

Matthew 25 has signed a new 3 year lease which will allow us to remain at 405 Austin through June 2029 but future strategic planning must include a search and a re-location and probable capital improvements to accommodate our inventory and refrigeration needs.

Appendixes C, and D *provide our participant statistics in detail, and in a trend chart for Matthew 25 over a two year period.*

Matthew 25 strives to serve in our community while always remaining diligent in best practices and not burdening limited resources and we provide this report as proof of our performance as a benefit to the community.

SUBMITTED BY: Laura Ploughe (Typed Name) /Phone: (480) 267-3535 **SIGNATURE/INITIALS** LP

SUBRECIPIENT QUARTERLY REPORT
FY: 2025/2026

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

ORGANIZATION: Sierra Joint Office on Aging

ALLOCATION: $25,000 (FY26 Allotment) $6,250 (Quarterly Draw)

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

SUBMITTED BY: Lisa Mattingly (Print Name) (Signature)

Please confine on one page "narrative" for each quarter.

We provided the following service units in the current quarter through 5/31/2026:

- 5,632 Congregate meals in the dining room
- 6,043 Meals delivered to Homebound seniors
- 2,290 rides for Transportation
- 90 rides for Assisted Transportation
- 1,308.75 hours Homemaking services provided
- 116.75 hours provided for Respite

We are still working to acquire a new wheelchair van with a higher lift capacity; We have recently replaced the first set of our walk-in refrigerator/freezers purchased through emergency capital outlay funds. We would like to thank the City Manager and Assistant City Manager for all their help making these capital outlay projects a success.

Total Expenses for April 1, 2026 through May 31, 2026:

- $ 43,284.81 Congregate meals in the dining room
- $ 51,887.20 Meals delivered to Homebound seniors
- $ 30,108.80 Transportation
- $ 3,395.22 Assisted Transportation
- $ 48,021.95 Homemaking Services
- $ 4,310.29 Respite

SUBRECIPIENT QUARTERLY REPORT
FY: 2025/2026

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

ORGANIZATION: *The Club*

ALLOCATION: *$10,000* (FY Allotment) *$2,500* (Quarterly Draw) **QUARTER:** *4th* (1st/2nd/3rd/4th)

SUBMITTED BY: *Charis Baxter* (Print Name) (Signature)

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

Program Overview

During the fourth quarter, The Club continued providing consistent after-school and out-of-school-time programming for K–12 youth. Activities focused on academic support, enrichment, physical activity, and social-emotional development. Attendance remained steady, and student engagement increased as we transitioned into summer programming preparation.

Participation & Attendance

- **Total youth served:** 66 unduplicated participants
- **Average Daily Attendance (ADA):** 25
- **Age range:** 12–18

City support helped maintain stable attendance and ensured youth had access to a safe, supervised environment during critical hours.

Key Services Provided

- **Academic Support:** Daily homework help, tutoring, and targeted middle school interventions in math, reading, and executive functioning.
- **Enrichment:** STEM (robotics, coding, science labs), arts (visual arts, music, creative writing), leadership groups.
- **Social-Emotional Learning:** Weekly SEL lessons and activities promoting communication, teamwork, and conflict resolution.
- **Field trip planning:** completed for summer (electric playhouse, Fort Lone Tree, etc.)

Family & Community Engagement

- Ongoing collaboration with schools, behavioral health providers, and local agencies

These efforts strengthened family connections and increased community trust in youth services.

Use of City Funds

City funding supported:

- Curriculum and enrichment materials
- Transportation support
- Facility operations and safety improvements
- Training for staff on Capturing Kids Hearts curriculum for use with teens

---

Outcomes & Impact

City investment contributed to:

- Safe, supervised OST programming for 86 youth
- Improved academic engagement through daily tutoring
- Expanded enrichment opportunities that build skills and confidence
- Stronger family engagement and community partnerships

Continuous Improvement

- Monthly staff meetings used to review attendance, behavior trends, and activity quality
- Quarterly leadership review to adjust programming and resource allocation
- Data used to refine summer planning and strengthen youth engagement strategies

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: 82399 **Date:** 08/20/2025

Requisition #: 95140 **Vendor #:** 8187

ISSUED TO: THE CLUB OF SIERRA COUNTY
1300 S. BROADWAY
TRUTH OR CONSEQUENCES, 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		FY25/26 SUBRECIPIENT AGREEMENT	214-2540-60725		0.00	10,000.00
	CITY CLERK						

SUBTOTAL:	10,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	10,000.00

Chief Purchasing Office _____ Date: 8/20/25

Director of Finance: Requisition approved electronically.

City Manager: Requisition approved electronically.

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

SUBRECIPIENT QUARTERLY REPORT FY: 2025/2026

ORGANIZATION: MainStreet Truth or Consequences

ALLOCATION: $50,000 (yearly) $12,500 (quarterly draw)

SUBMITTED BY: Becca Eza 5/21/2026

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

This quarter saw significant progress in the Foch Street Great Blocks Renovation Project, as we continue to partner with the city on outreach and communication with impacted businesses. We look forward to the completion of the project next quarter, and for the renovated stretch of road to become a pedestrian-friendly thruway connecting the two major business districts of downtown.

In April, we partnered with the City on a litter clean-up as part of our jointly funded Clean & Beautiful grant - we held this event to coincide with the county-wide Earth Day Cleanup, which we also helped to plan. Turnout was lower than our normal cleanup events, likely due to many volunteers engaged in other cleanup activities across the county on that day, but our crew collected 100 lbs of litter and helped to improve the appearance of Ralph Edwards Park and the downtown area in advance of Fiesta

Fiesta was a successful and enjoyable event for the community, thanks largely to the dedicated efforts of our coordinator, interns, and volunteers on the Fiesta committee, as well as many volunteers who stepped in the weekend of the event. The event received lots of positive feedback from the community, and we held a thorough debrief to record notes of what went well and how we can continue to improve next year.

We are partnering with the City to put on a summer concert series, *Dancing in the Streetlight*, which will take place on the First Friday of each summer month at Healing Waters Plaza. Our lineup is set and we're beginning our advertising this week in the Sentinel, on radio, and with flyers around town. The July event will also include an Independence Day Parade, and the road closure permit has been submitted to the NMDOT for this event.

We continue to host the Second Saturday Art Hop each month. This well-attended event brings vibrancy to downtown, with galleries and businesses staying open late to feature art openings, live music, refreshments, and special programming.

We received notification that we were awarded a $5,000 grant from the New Mexico Resiliency Alliance to fund a social media training program, "Socially Savvy T or C", to help downtown businesses learn best practices in social media posting and video creation. The project will take place in late summer and through the fall, and include an initial seminar open to anyone in the community, followed by the opportunity for downtown businesses to apply to be part of a cohort for more intense training and feedback. The goal of this project is to flood social media with high-quality content about everything happening in downtown T or C, right at the beginning of the busy fall-winter tourism season.

SUBRECIPIENT QUARTERLY REPORT

FY: 2025/2026

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

ORGANIZATION: ***Geronimo Trail Scenic Byway***

ALLOCATION: ***$5600.*** ***$2033.36*** **QUARTER:** *4th*

(Quarterly Draw) (FY Allotment) (1st/2nd/3rd/4th)

SUBMITTED BY: ***Gina Kelley*** 7/3/26

Print Name Signature

In the 4th quarter of this fiscal year, we had 757 interactions with visitors – this includes walk-in visitors, email requests for information and telephone calls. We responded to inquiries requesting info on our hot springs, restaurants, galleries, shopping, events and attractions.

On behalf of the Sierra County Recreation & Tourism Advisory Board we distributed 7500 brochures to visitor centers statewide & to local Sierra County lodging & retail businesses.

Spaceport tours continue to use our Visitor Center as a pickup/dropoff location for their Saturday tours at 9am. There were 3 tours last quarter with a total of 35 participants. On the days that tours occur, the Director opens the Visitor Center at 8:30am to accommodate tour participants.

In the 4th quarter our volunteers contributed 330 hours. Our volunteer Director contributed another 40 hours & our Board President another 5 hours. The total of 3375 volunteer hours are valued at $10,106 ($26.95/hr per the IRS valued volunteer time in New Mexico).

Other Activities:

- Assisted City Staff with the preparation of the New Mexico Tourism Dept. FY27 Destination Forward Grant Application requesting $500,000 for Lee Belle Johnson building repairs.
- Provided information to Travel & Leisure Magazine for an upcoming article on T or C.
- Assisted Sierra County Recreation & Tourism Advisory Board with updates for the Sierra County Travel Guide (5,000 printed)
- Updated the Ghost Towns of Sierra County rack card (2,000 printed)

Total Operating Expenses for the Period:		**Total Marketing Expenses for the Period:**	
Telephone/Internet:	$ 726	Ghost Town Rack Cards	$ 270
Visitor Center supplies:	$ 241		
Office Supplies:	$ 15		
Office Expenses:	$ 231		
Total:	**$ 1213**	**Total**	**$ 270**

Total Expenses: $1483

CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: July 22, 2026

Agenda Item #: D.3

SUBJECT: Take Home Vehicle Form: Police Department
DEPARTMENT: City Clerk's Office
DATE SUBMITTED: July 15, 2026
SUBMITTED BY: Angela A. Torres
WHO WILL PRESENT THE ITEM: Consent Calendar

Summary/Background:

In accordance with Resolution No. 12 21/22, all take-home vehicle requests must be approved by the City Commission. The take-home vehicle request is for Ivana Hernandez in the Police Department. Her commute is 4 miles.

Recommendation:

Approve take home vehicle form.

Attachments:

- -

-

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

-

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

-

Approved For Submittal By: ☒ Department Director

Reviewed by: ☐ City Clerk ☐ Finance ☐ Legal ☐ Other: Click here to enter text.

Final Approval: ☐ City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. - Ordinance No. -
Continued To: - Referred To: -
☐ Approved ☐ Denied ☐ Other: -
File Name: CC Agendas 7-22-26

CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

Agenda Item #: E.1

MEETING DATE: July 22, 2026

SUBJECT: Discussion/Action: Summary Plat Amendment at 1700 Corzine St
DEPARTMENT: Community Development
DATE SUBMITTED: July 16, 2026
SUBMITTED BY: Traci Alvarez
WHO WILL PRESENT THE ITEM: Traci Alvarez, Assistant City Manager

Summary/Background:
Item was presented with Public Hearing at the Planning and Zoning Commission meeting on 7-13-2026. 2 members were absent.
The application complies with the applicable subdivision and zoning requirements.
1 Proponent spoke (multiple others attended in support but didn't speak). Board recommended approval of plat amendment unanimously.

Recommendation:
Consider recommendation of the P & Z Board and issue final determination

Attachments:
- P & Z Agenda Packet
- DRAFT P & Z Minutes

-

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

.

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

.

Approved For Submittal By: ☒ Department Director

Reviewed by: ☐ City Clerk ☐ Finance ☐ Legal ☐ Other: Click here to enter text.

Final Approval: ☐ City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. Click here to enter text. Ordinance No. -
Continued To: - Referred To: -
☐ Approved ☐ Denied ☐ Other: -
File Name: CC agendas 7-22-26

CITY OF TRUTH OR CONSEQUENCES

PLANNING AND ZONING COMMISSION ACTION FORM

DATE: 7-13-2026

ITEM: Public Hearing/Discussion/Action: Summary Plat Amendment at 1700 Corzine St.

BACKGROUND:

The item before you today is a request from the property owner to divide the existing parcel located at **1700 Corzine Street** through the City's **Alternate Summary Procedure** outlined in Section 15-15 of the Comprehensive Planning and Zoning Code.

The applicant is requesting approval to divide the existing tract into **two separate lots**.

Based on the submitted survey:

- **Proposed Tract 2-A:** Approximately **0.93 acres (40,682 sq. ft.)**
- **Proposed Tract 2-B:** Approximately **0.56 acres (24,584 sq. ft.)**

Both proposed lots exceed the **minimum T-1 lot area requirement of 21,780 square feet**.

Review of the application for compliance with the City's subdivision and zoning requirements has determined:

- The property is located within the **T-1 Transition District.**
- Both proposed lots meet or exceed the minimum lot size required by the zoning district.
- Both lots have direct access to a **city-maintained public street.**
- Existing **City water and wastewater utilities are available** to serve both proposed lots.
- The proposed lot split does **not require the vacation of any streets or utility easements.**

These findings are consistent with the approval criteria contained in **Section 15-15, Alternate Summary Procedure.**

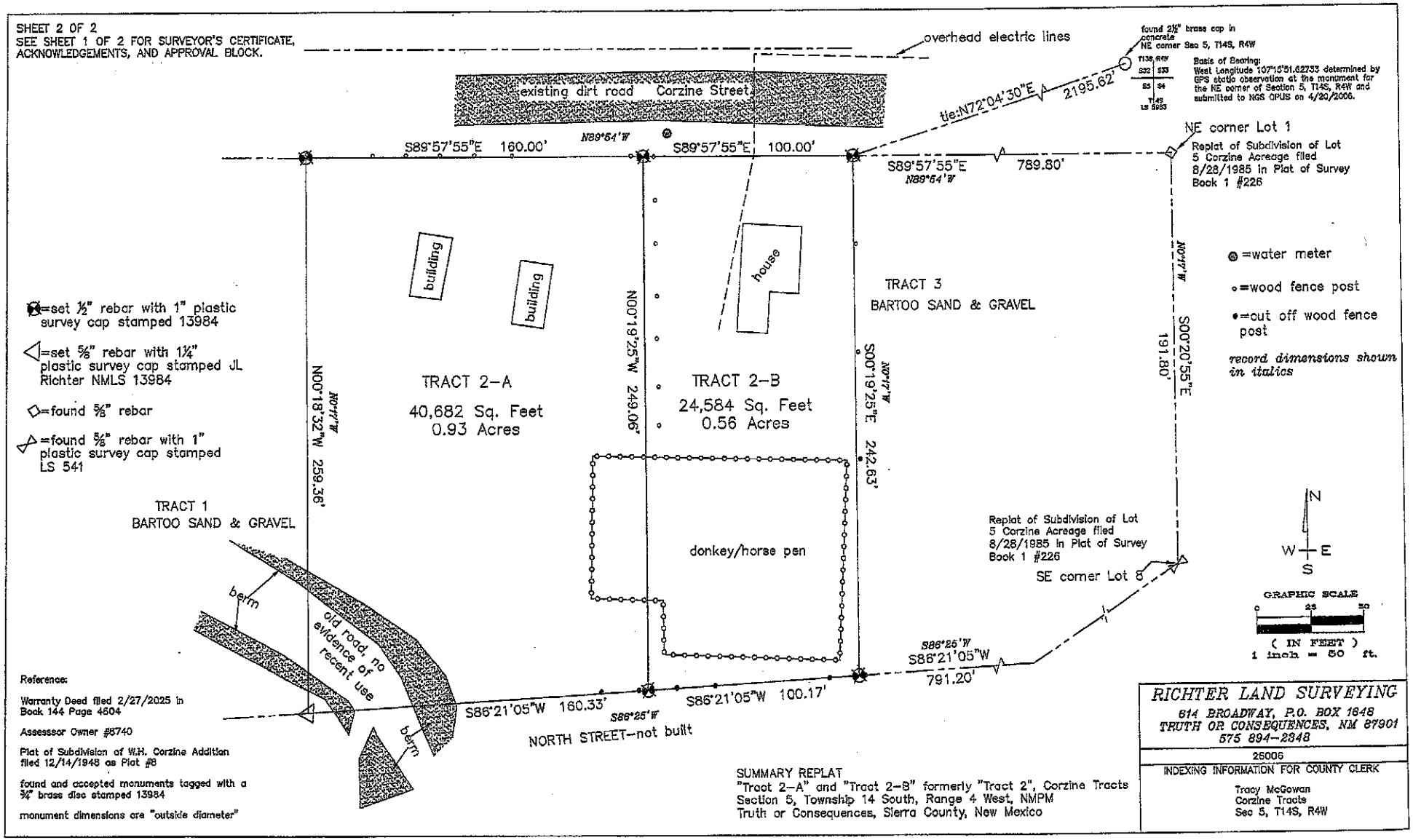
Based on the submitted survey, staff review, and the applicable provisions of the Comprehensive Planning and Zoning Code, **staff finds the request to be consistent with the City's subdivision requirements**.

SUPPORT INFORMATION:

- **Survey Plat and Legal Descriptions**
- **Applicable Codes**

Name of Drafter: Traci Alvarez	: Assistant City Manager	
E-mail: talvarez@torcnm.gov	Phone: 575-952-0565	

SHEET 2 OF 2
SEE SHEET 1 OF 2 FOR SURVEYOR'S CERTIFICATE, ACKNOWLEDGEMENTS, AND APPROVAL BLOCK.



⊗=set ½" rebar with 1" plastic survey cap stamped 13984

◁=set ⅝" rebar with 1¼" plastic survey cap stamped JL Richter NMLS 13984

◇=found ⅝" rebar

◁=found ⅝" rebar with 1" plastic survey cap stamped LS 541

⊗=water meter

∘=wood fence post

•=cut off wood fence post

record dimensions shown in italics

Reference:

Warranty Deed filed 2/27/2025 in Book 144 Page 4604

Assessor Owner #8740

Plat of Subdivision of W.H. Corzine Addition filed 12/14/1948 as Plat #8

found and accepted monuments tagged with a ¾" brass disc stamped 13984

monument dimensions are "outside diameter"

SUMMARY REPLAT
"Tract 2-A" and "Tract 2-B" formerly "Tract 2", Corzine Tracts
Section 5, Township 14 South, Range 4 West, NMPM
Truth or Consequences, Sierra County, New Mexico

RICHTER LAND SURVEYING
614 BROADWAY, P.O. BOX 1648
TRUTH OR CONSEQUENCES, NM 87901
575 894-2348

26006

INDEXING INFORMATION FOR COUNTY CLERK

Tracy McGowan
Corzine Tracts
Sec 5, T14S, R4W

SUMMARY REPLAT
"Tract 2–A" and "Tract 2–B" formerly "Tract 2", Corzine Tracts
Section 5, Township 14 South, Range 4 West, NMPM
Truth or Consequences, Sierra County, New Mexico

The replat of Tract 2 as shown and designated on Sheet 2 of 2 is hereby approved

Mayor, City of Truth or Consequences, NM Date

The replat of Tract 2 as shown and designated on Sheet 2 of 2 is in accordance with the wishes and desires of the undersigned, to wit:

Tracy McGowan 5-5-2026
Tracy McGowan Date

COUNTY OF SIERRA)
STATE OF NEW MEXICO)
The foregoing instrument was acknowledged before me this 5th day of May, 2026, by Tracy McGowan.

Lisa D. Baca 3.27.2029
NOTARY PUBLIC MY COMMISSION EXPIRES

State of New Mexico
Notary Public
Lisa D Baca
Commission Number 2005867
Expiration Date 3/27/2029

SURVEYOR'S CERTIFICATE

I, Jeff L. Richter, New Mexico Professional Surveyor No. 13984, do hereby certify that this Summary Plat and the actual survey on the ground upon which it is based were performed by me or under my supervision; that I am responsible for this survey; that this survey meets the Minimum Standards for Surveying in New Mexico; and that it is true and correct to the best of my knowledge and belief.

Jeff L. Richter 5-7-2026
Jeff L. Richter N.M.P.S. #13984 Date

RICHTER LAND SURVEYING
614 BROADWAY, P.O. BOX 1648
TRUTH OR CONSEQUENCES, NM 87901
575 894-2948

26006

INDEXING INFORMATION FOR COUNTY CLERK
Tracy McGowan
Corzine Tracts
Sec 5, T14S, R4W

Tract 2-A

The west 160 feet of Tract 2, Corzine Tracts, Section 5, Township 14 South, Range 4 West, NMPM, Truth or Consequences, Sierra County, New Mexico and being more particularly described as follows:

Beginning at the northeast corner of the tract herein described, marked by a set ½" rebar with survey cap stamped 13984, whence the northeast corner of said Section 5, a 2 ½" brass cap in concrete, bears S89°57'55"E a distance of 100.00 feet, and thence N72°04'30"E a distance of 2195.62 feet;

Thence from the place of beginning S00°19'25"E a distance of 249.06 feet to a set ½" rebar with survey cap stamped 13984;

Thence S86°21'05"W a distance of 160.33 feet to a set 5/8" rebar with survey cap stamped JL Richter NMLS 13984;

Thence N00°18'32"W a distance of 259.36 feet to a set ½" rebar with survey cap stamped 13984;

Thence S89°57'55"E a distance of 160.00 feet to the place of beginning, and containing 0.93 acre, more or less.

Tract 2-B

The east 100 feet of Tract 2, Corzine Tracts, Section 5, Township 14 South, Range 4 West, NMPM, Truth or Consequences, Sierra County, New Mexico and being more particularly described as follows:

Beginning at the northeast corner of the tract herein described, marked by a set ½" rebar with survey cap stamped 13984, whence the northeast corner of said Section 5, a 2 ½" brass cap in concrete, bears N72°04'30"E a distance of 2195.62 feet;

Thence S00°19'25"E a distance of 242.63 feet to a set ½" rebar with survey cap stamped 13984;

Thence S86°21'05"W a distance of 100.17 feet to a set ½" rebar with survey cap stamped 13984;

Thence N00°19'25"W a distance of 249.06 feet to a set ½" rebar with survey cap stamped 13984;

Thence S89°57'55"E a distance of 100.00 feet to the place of beginning, and containing 0.56 acre (24,584 square feet), more or less.

Sec. 15-15. - Alternate summary procedure.

A. *Approvals by Planning and Zoning Commission:* The Planning and Zoning Commission may approve or deny the following types of subdivisions:

1. A re-plat of a previously filed subdivision when:

   a. No more lots are created than exist in the area at the time of the submittal of the replat application; and,

   b. All lots to be created have direct, legal, unobstructed access to an existing City maintained street;

   c. All lots to be created have direct, unobstructed legal access to existing City water and wastewater lines;

   d. The subdivider files with the City a Letter of Credit for funds adequate to pay for connecting the lots to the City's water and wastewater lines, or, pays to the City the City's fees for connecting the lots to the City's water and wastewater lines;

   e. The new lots comply in all ways with the standards for lots contained within the City's Comprehensive Planning and Zoning Code;

   f. All new lots are laid out in a manner which allows utility service to be provided to the purchasers of said lots;

   g. All lots to be eliminated or created exist within the area of a single block of lots in a previously platted and filed subdivision; and,

   h. No vacation of street dedications or utility easements is proposed; or,

   i. Lots are to be eliminated.

2. The subdivision of previously unsubdivided land when:

   a. No more than two lots are created;

   b. Both lots to be created have direct, legal, unobstructed access to an existing City maintained and paved street with curb gutter and sidewalk;

   c. Both lots to be created have direct, unobstructed legal access to existing City water and wastewater lines;

   d. The subdivider files with the City a Letter of Credit for funds adequate to pay to connect both lots to the City's water and wastewater lines, or, pays to the City funds for connecting both lots to the City's water and wastewater lines;

   e. The new lots comply in all ways with the standards for lots contained within the City's Comprehensive Planning and Zoning Code;

   f. The new lots are laid out in a manner which allows utility service to be provided to the purchasers of said lots; and,

   g. No vacation of street dedications or utility easements is proposed.

B. *Limit on number of summary procedures:* The summary procedure shall be used only once on any one property, or within any group of contiguous or adjacent properties owned by a subdivider, unless the property has been master-planned, legally subdivided, and is zoned for industrial uses, and wherein the streets within those subdivisions have been dedicated to and accepted by the City. No subdivider who has received approval of a subdivision shall utilize the summary procedure to subsequently increase the number of lots within said subdivision.

C. *Elective pre-application procedure:*

1. Prior to filing a summary plat, the subdivider may submit a conceptual plan of the proposed subdivision to the City's Zoning Administrator. The conceptual plan shall provide enough

information for the Zoning Administrator to locate the proposed subdivision and to comprehend its scope and potential impacts. Neither a written application nor an application fee are required for submittal of a conceptual plan.

2. The City's Zoning Administrator shall place the proposed summary subdivision on the next possible agenda of the Planning and Zoning Commission for discussion, when the Planning and Zoning Commission shall consider the proposal with the subdivider or the subdivider's representative and shall indicate changes, if any, that will be required for the submittal process.

D. *Summary plat submittal requirements summary plat submittal requirements are:*

1. Application, signed by all property owners, including all parties having an equitable interest, trustees of an estate and all persons having a specific "power of attorney" in such land;
2. A record of any pending litigation or any final order entered by any court of law regarding the ownership of the subject property;
3. Application fee as established by the City;
4. Documentation from the Sierra County Assessor's Office that the current year's property taxes are paid and that no taxes are owed on the property;
5. A plat conforming to section 15-13.A of this Code; and,
6. Releases by the Public Utilities Advisory Board, and all utility companies which are proposed as providers for the subdivision.

E. *Submittal and review procedures:*

1. Incomplete submittals will not be accepted for review.
2. The subdivider shall submit all required materials to the City's Zoning Administrator.
3. The City's Zoning Administrator shall review all materials, and shall within three working days from the date the application is determined to be complete, request opinions of applicable City departments, other governmental agencies, and utility companies for review, comments and recommendations. City departments shall have ten calendar days in which to review and respond in writing to any such request. Within three working days of receiving any written reports, comments or recommendations from any City department, governmental agency, or utility company, the Zoning Administrator shall make available to the subdivider a copy of such materials.
4. The Zoning Administrator shall have the right to require that the subdivider provide additional information or to make amendments to the plat and supporting information if the Zoning Administrator determines that the information originally submitted by the subdivider was incomplete, incorrect or invalid.
5. The subdivider shall have ten working days in which to make any corrections or additions required by the Zoning Administrator, or to request a postponement of action by the Zoning Administrator for up to 135 days.
6. If a subdivision application does not meet the requirements of this Code within 180 days of its original submittal, the Zoning Administrator shall summarily reject the application and notify the applicant in writing of the reasons for the rejection.
7. At such time as the subdivider meets the requirements of this Code, the subdivider shall provide the Zoning Administrator with a copy of the final plat.
8. At such time as receiving a submittal that meets all requirements of this Code, the Zoning Administrator shall recommend that the Planning and Zoning Commission approve the final plat by consent agenda action during its next regularly scheduled meeting, and the Planning and Zoning Commission shall approve the subdivision by consent agenda action during its next regularly scheduled meeting.

9. The subdivider shall file a signed copy of the final plat in the records of the County Clerk of Sierra County, and shall provide the City with one of the signed copies.

F. *Divisions for the purpose of mortgage:* Divisions for purposes of mortgage are not allowed. If a property is to be mortgaged it must be done so in its entirety or properly subdivided as required in this chapter.

(Ord. No. 555, 5-23-06)

Sec. 11-9-9. - T-1 Transition District.

A. *PURPOSE.* The T-1 District is a low density semi-rural residential District comprised primarily of single family frame and manufactured housing units. This is a temporary classification intended to allow development of a predominantly undeveloped area.

B. *DEVELOPMENT STANDARDS.* Development standards and other requirements are provided in Article 10 through 14 of this Code.

C. *T-1 PERMITTED USES.* The following uses are permitted by right in the T-1 Districts:

1. Accessory Buildings.
2. Detached Single Family Dwellings.
3. Manufactured Housing on individual lots, tied down and skirted according to the provisions in Article 11 of the Comprehensive Planning and Zoning Code with one manufactured housing unit allowed per lot.
4. Guest Dwellings or accessory living quarters.
5. All types of Horticulture.
6. 4-H or FFA animal raising in accordance with other applicable regulations.
7. Keeping of small animals and fowl in accordance with other applicable regulations.
8. Keeping of large animals in accordance with other applicable regulations.
9. Recreational Courts, including but not limited to, tennis and other similar uses.
10. Home Occupations.
11. Produce stands for agricultural products.
12. Greenhouse (commercial or non-commercial), garden sheds, and tool sheds. When detached from the main dwellings, such structures are subject to the provisions of Accessory Buildings.
13. Private swimming pools five (5) feet from property lines and surrounded with four (4) feet fencing for safety.
14. Garage or yard sale or similar use. There (3) sales are permitted in a one (1) year period at a single address. A sale shall not exceed three (3) consecutive days.
15. Real Estate Office (temporary.) Permitted only when used in conjunction with a residential subdivision, provided such use shall be discontinued upon the completion of the development or within three (3) years from date permit issued, whichever is sooner.
16. Recreational Vehicles. Storage of personal recreational vehicles, boats, trailers or similar uses shall be limited to a maximum of one (1) per dwelling unit in the front or side yard, with no limit in the rear yard, separated at least five (5) feet from any property line.
17. Television and Radio Towers and all other Free Standing Towers (public or private.) Towers shall have manufacturer's specifications to withstand a 75 mph wind and shall be constructed to meet New Mexico Building Code standards.
18. The sale of agricultural and farm products, nursery stock, poultry, rabbits, chinchillas, fish, frogs, earthworms and bees.

D. *T-1 SPECIAL USES.* The following uses require a public hearing and approval of the City Commission:

1. Boarding Houses and Rest Homes.
2. Cemetery.
3. Child Care Center (Six (6) or more children).

4. Church.
5. Community and publicly owned recreational centers, clubhouses, and similarly, used buildings and structures open to the public.
6. Manufactured Home Parks.
7. Manufactured Home Subdivision.
8. Recreational Vehicle Park.
9. Schools (Primary, Secondary, Private and Parochial).
10. Veterinary Facilities.

Sec. 11-14-2. - Standards For Districts.

District	Lots: Minimum Front Setback	Yards: Minimum Rear Setback	Yards: Minimum Side Setback
R-1	25'	25'	8'
R-2	25'	20'	6' or 0'*
R-3	20'	15'	5' or 0'*
R-4	25'	25'	5'
RR-1	25'	15'	5'
C-1	20'	15'	5' or 0'*
M-1	25'	25'	5' or 0'*
T-1	25'	25'	15'

* As permissible per Section 11-14-3 and 11-14-4.

District	Lots: Minimum Area	Lots: Minimum Width	Dwelling: Minimum Area	Maximum Height
R-1	9,000 s. f.	60'	1,200 s. f.	26'
R-2: Single-Family	5,000 s. f.	60'	900 s. f.	26'
R-2: Two-Family	4,000 s. f./unit	60'	650 s. f./unit	35'
R-2: Multiple-Family	3,500 s. f./unit	60'	600 s. f./unit	35'
R-2: Apartments	3,500 s. f./unit	60'	500 s. f./unit	35'

R-2: MH*	5,000 s. f.	60'	900 s. f.	26'
R-3: Single-Family	4,500 s. f.	45'	700 s. f.	35'
R-3: Two-Family	3,000 s. f./unit	45'	500 s. f./unit	35'
R-3: Multiple-Family	3,000 s. f./unit	45'	450 s. f./unit	35'
R-3: Apartments	2,000 s. f./unit	45'	400 s. f./unit	35'
R-3: NM*	4,500	45'	550 s. f.	26'
R-4	1 acre	75'	1,200 s. f.	26'
RR-1	5,000 s. f.	50'	800 s. f.	26'
C-1	5,000 s. f.	60'	" "	35'
C-1: MH*	4,000 s. f.	45'	550 s. f.	26'
M-1	" "	60'	" "	35'
T-1	21,780 s. f.	100'	800 s. f.	35'
T-1: MH*	21,780 s. f.	60'	550 s. f.	26'

* Not located within MHP

Sec. 11-14-3. - Residential and Transition Districts: Additional Provisions and Exceptions.

The following provisions shall apply to all development in a residential or transition District:

A. *SETBACK EXCEPTIONS:*

1. A minimum side yard setback of zero (0) feet in a residential District only, providing all the following requirements are met:

   a. The setbacks are authorized by the City Commission as part of an approved development.

   b. There shall be no less than ten (10) feet, including roof overhang, between structures, except approved condominium and townhouse developments with common wall construction.

   c. All zero (0) lot lines shall be on the same side of all lots in a development.

2. The minimum setback distance shall be maintained for both front yards of a corner lot. A lesser setback for one front yard of a triple frontage lot shall be considered upon application for variance to the Planning and Zoning Commission.

3. New dwellings may be erected as closed to a front property line as the average distance established by existing dwellings on that side of the block, provided the lots on the same side of the block are fifty (50) percent developed.

4. An addition to a main dwelling shall be permitted as an extension of existing building lines, which have non-conforming setbacks. Setbacks for such addition shall be the same as the main dwelling.

5. There shall be a minimum setback of one (1) foot for each foot in height of any building, other than a single or two family dwelling, abutting on R-1 or R-2 District.

B. *FRONT-YARD PARKING.* Parking areas shall not cover over one-third (1/3) of any open area between the front of a dwelling and the front property line; except in cases of a cul-de-sac, two-thirds (2/3) of a front yard can be used; and on existing lots less than fifty (50) feet, a twenty (20) feet parking area is permitted. Townhouses and apartment lots may use three fourths (¾) of the front yard for parking.

C. *MINIMUM DISTANCE BETWEEN STRUCTURES.* There shall be no less than ten (10) feet between buildings or structures located on the same lot, tract, or parcel.

D. *EASEMENT ENCROACHMENTS.* There shall be no permanent structures located on easements without written approval of the City Commission.

Sec. 11-14-4. - Commercial and Manufacturing Districts: Additional Provisions and Exceptions.

The following provisions shall apply to all development in a commercial or manufacturing Districts:

A. *SETBACK EXCEPTION.*

1. A zero (0) foot side yard shall be permitted only when:

   a. A building on the abutting side is at least five (5) feet from the property line; or

   b. Both buildings share a common wall on the side property line; or

   c. When the abutting property is undeveloped. Otherwise, a five (5) foot setback is required.

2. There shall be a minimum setback of one (1) foot for each foot in height of any building abutting a residential District. There shall be at least a minimum distance of thirty (30) feet maintained between any residential dwelling and any commercial or industrial structure.

B. *MINIMUM DISTANCE BETWEEN STRUCTURES.* There shall be no less than ten (10) feet between buildings or structures located on the Same lot, tract, or parcel.

C. *PRIVATE STREETS.* All non-dedicated streets or private drives shall be a minimum of twenty-four (24) feet In width.

Rolf Hechler
Mayor

Destiny Mitchell
Mayor Pro-Tem

Amanda Forrister
Commissioner

Ingo Hoeppner
Commissioner

Chaz M. Glines
Commissioner

Gary Whitehead
City Manager

505 Sims St.
Truth or Consequences, New Mexico 87901
P: 575-894-6673
www.torcnm.gov

NOTICE OF PUBLIC HEARING

NOTICE is hereby given that the City of Truth or Consequences Planning & Zoning Commission will hold a Public Hearing during their regular scheduled meeting on Monday, July 13, 2026, to receive input regarding the following:

Public Hearing/Discussion/Action: Summary Plat Amendment at 1700 Corzine St. The applicant wishes to divide the parcel as per Sec. 15-15 (Alternate Summary Procedure)

The meeting will be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico starting at 4:00 p.m.

Should you have any questions regarding this Public Hearing, please contact Traci Alvarez at (575) 952-0565 or by email at talvarez@torcnm.org.

The agenda may be obtained on Friday, July 10, 2026 on the city website calendar at www.torcnm.org; by contacting the City Clerk's Office at 575-894-6673; or by email to: torcclerk@torcnm.gov.

/s/ Angela A. Torres, CMC, City Clerk

Publish on the following date:

- Sentinel– Thursday, June 18, 2026

CITY OF TRUTH OR CONSEQUENCES
PLANNING & ZONING COMMISSION
MINUTES
MONDAY, JULY 13, 2026

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, July 13, 2026 at 4:00 p.m.

INTRODUCTION:

ROLL CALL:

Chris Sisney, Chairman
Susan Buhler, Vice Chairman
Esther Luchini, Member
Lisa Kent, Member
Molly Hammer, Member

ALSO PRESENT:

Traci Alvarez, Assistant City Manager
Katy Martinez, Deputy clerk

1. **APPROVAL OF AGENDA:**

Vice Chairman Buhler made a motion to approve the agenda with tabling 5a-e and item 6. Member Luchini seconded the motion. Motion carried unanimously.

2. **APPROVAL OF MINUTES:**
   a) **June 8, 2026.**

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 Clerk Martinez swore in the participants for the public hearings.

4. PUBLIC HEARINGS (5 Minute Rule Applies)

a) Discussion/Action: Summary Plat Amendment at 1700 Corzine St.

Assistant City Manager Alvarez: The item before you today is a request for a Summary Plat Amendment to divide the property located at 1700 Corzine Street into two separate lots using the City's Alternate Summary Procedure. This request is being considered under Section 15-15 of the Comprehensive Planning and Zoning Code. Staff has reviewed the application and the submitted survey. The property is located within the T-1 Transition District, and both proposed lots meet the minimum lot area required by the zoning code. The proposed lots will each have direct access to a City maintained street and are capable of being served by existing City water and wastewater utilities. The proposed division does not require the vacation of any public streets or utility easements and is consistent with the requirements of the Alternate Summary Procedure. As part of the consideration today, the Commission is also required to make findings of fact. Staff has reviewed the proposal against those criteria and the finds that the proposed lot split. Will not impair light and available to adjacent properties. Will not unreasonably increase traffic on public streets. Will not increase fire hazards or endanger public safety. Is consistent with the orderly growth and development of the community. Will not unreasonably impair surrounding property values. Will not adversely affect the public heath, safety, or general welfare. Does not constitute spot zoning, as this request does not change the zoning designation and remains consistent with the existing T-1 District. Based on staff's review, the application complies with the applicable subdivision and zoning requirements.

Tracy McGown Applicant: I am the current owner of the property. I requesting that the property be split for the following reasons. I have requested this approval to allow the property to be used more effectively while remaining consistent with the character of the surrounding neighborhood. The subdivision does not change the current use of the property. The non profit should it expand in the future plans to create satellite facilities rather than man bar equine to those we currently have residing on the property. The property is a current home to equine allias recue and sanctuary a local 501C3 non profit dedicated to providing sanctuary for rescued equines. We currently visit the veterans home bringing out donkeys and ponies for the residence enjoyment. Our volunteers for the most part seniors come to the donkey magic farm home of the E.A.R.S program 4 times a week. The feed back from the valued members of our community indicate a strong interest in getting outside and helping others. The subdivision will help provide long term stability and flexibility for the both the property and the non profit program. By subdividing the property the non profit will have a permanent home as the intent is to transfer the one acre parcel in entirety to the non profit upon my death so it will continue on. Many times people start horse rescues and then it just sort of dies with the founder

because its on their property and they are not able to continue and the animals are once again disbursed and displaced. Weare trying to create a stable environment for the animals that we have there. We want to continue to be consistent in maintaining the character of their surrounding neighborhood. The subdivision does not change the current use of the property. I believe this request represents good stewardship of the land. It supports responsible property ownership, preserves the properties character and allows it to continue contributing positively to our community. I respectfully ask for your approval and I appreciate your consideration.

Chairman Sisney opened the public hearing.

Proponents:

Carlyn Peterson: Im a volunteer of the Donkey Magic Farm and part of the E.A.R.S project. I am here to support the separation. I want to explain how this is so important to the community and to us volunteers personally. I have had personal experience of grooming these animals and having them trust me and allowing me to trust back. I have used them as a meditation when I have been really freaked out such as being in a hospital in another state and all alone. I have been able to draw on their strength from afar. By us helping those animals they are helping us. I also volunteer when we go to the Veterans home and I have seen how the veterans open up and just talking about their childhood, what they have been through and how these animals mean so much to them and are very important to them. We hope to continue that program. I hope continue to get better and stronger so that I can keep taking care of them and supporting them financially through our E.A.R.S program.

Opponents:

No Opponents

Chairman Sisney closed the public hearing.

Member Luchini: How many donkeys are there?

Tracy McGown Applicant: We have 5 small equine which is kind of our mission. Keeping it to the smaller animals. We have 2 shetland ponies that we picked up from neighborhood people. Many cities have a facility where they will take the farm animals that come in need of relocation. T or C really didn't have that. We have two twenty-six year old ponies, we have two donkeys and we have a little mule.

Member Luchini: Are you able to have more?

Tracy McGown Applicant: We have discussed this with the board. What we would like to do is start small satellite programs for people that may have appropriate properties like our selves. A lot of the rescues get way to many animals and they don't get the individual attention. The goal

would be to keep about 5 up there so we continue what little programing we do have that is the face of us for the community. The animals I have will get older and maybe not be able to do the walk to the veterans home or participate in a program. In which case they could retire to a different property so that we could keep a flow of public face animals that can continue working and promoting the non profit.

Vice-Chairman Buhler made a motion to recommend approval to the City Commission for a Summary Plat Amendment at 1700 Corzine St. Member Luchini seconded the motion. Roll call vote was taken. Motion carried unanimously.

This item was Tabled

5. New Business:

   a. Discussion/Action: Re-Appointment of member Esther Luchini.

   b. Discussion/Action: Re-Appointment of member Susan Buhler.

   c. Discussion/Action: Re-Appointment of member Chris Sisney.

   d. Discussion/Action: Re Appointment of member Molly Hammer.

   e. Discussion/Action: Re-organization of Chairman and Vice-Chairman

This item was Tabled

6. Workshop:

7. REPORTS FROM THE BOARD:

No Reports from the Board

8. REPORTS FROM STAFF:

No Reposts from Staff

9. ADJOURNMENT:

Chairman Sisney adjourned the meeting at 4:14 p.m.

PASSED AND APPROVED ON THIS 10th DAY OF AUGUST, 2026.

_____

Chris Sisney, Chairman
Planning & Zoning Board

CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

Agenda Item #: E.2

MEETING DATE: July 22, 2026

SUBJECT: Discussion/Action: Vacation of Plats – 418 Locust St
DEPARTMENT: Community Development
DATE SUBMITTED: July 16, 2026
SUBMITTED BY: Traci Alvarez
WHO WILL PRESENT THE ITEM: Traci Alvarez – Assistant City Manager

Summary/Background:

Item was on the commission agenda on 5-27-26 and Commission tabled pending further notification. Applicant is requesting the city vacate the alleyway adjacent to 418 Locust St. Applicant owns properties on both sides of alleyway – Parcel 3022078407299 (418 Locust), Parcel 3022078423296 and Parcel 3022078423302. All property owners within 300ft were notified of public hearing. Public hearing was held at the P & Z Meeting on 5-11-26. Opponent: 1 (via email); Proponent – 1 (refer to draft minutes).

Recommendation:

Motion was 2-2 (1 board member was absent)

Attachments:

- P & Z Agenda Packet
- 5-11-26 P & Z Draft Minutes – Applicable section highlighted

-

Fiscal Impact (Finance): Choose an item.

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. -
Continued To: - Referred To: -
☐ Approved ☐ Denied ☐ Other: -
File Name: CC agendas 7-22-26

CITY OF TRUTH OR CONSEQUENCES

PLANNING AND ZONING COMMISSION ACTION FORM

DATE: 5-11-2026

ITEM: Public Hearing/Discussion/Action – Vacation of Plats – 418 Locust St.

BACKGROUND:

Applicant is requesting the city vacate the alleyway adjacent to 418 Locust St. Applicant owns properties on both sides of alleyway – Parcel 3022078407299 (418 Locust), Parcel 3022078423296 and Parcel 3022078423302. All property owners within 300ft were notified of public hearing.

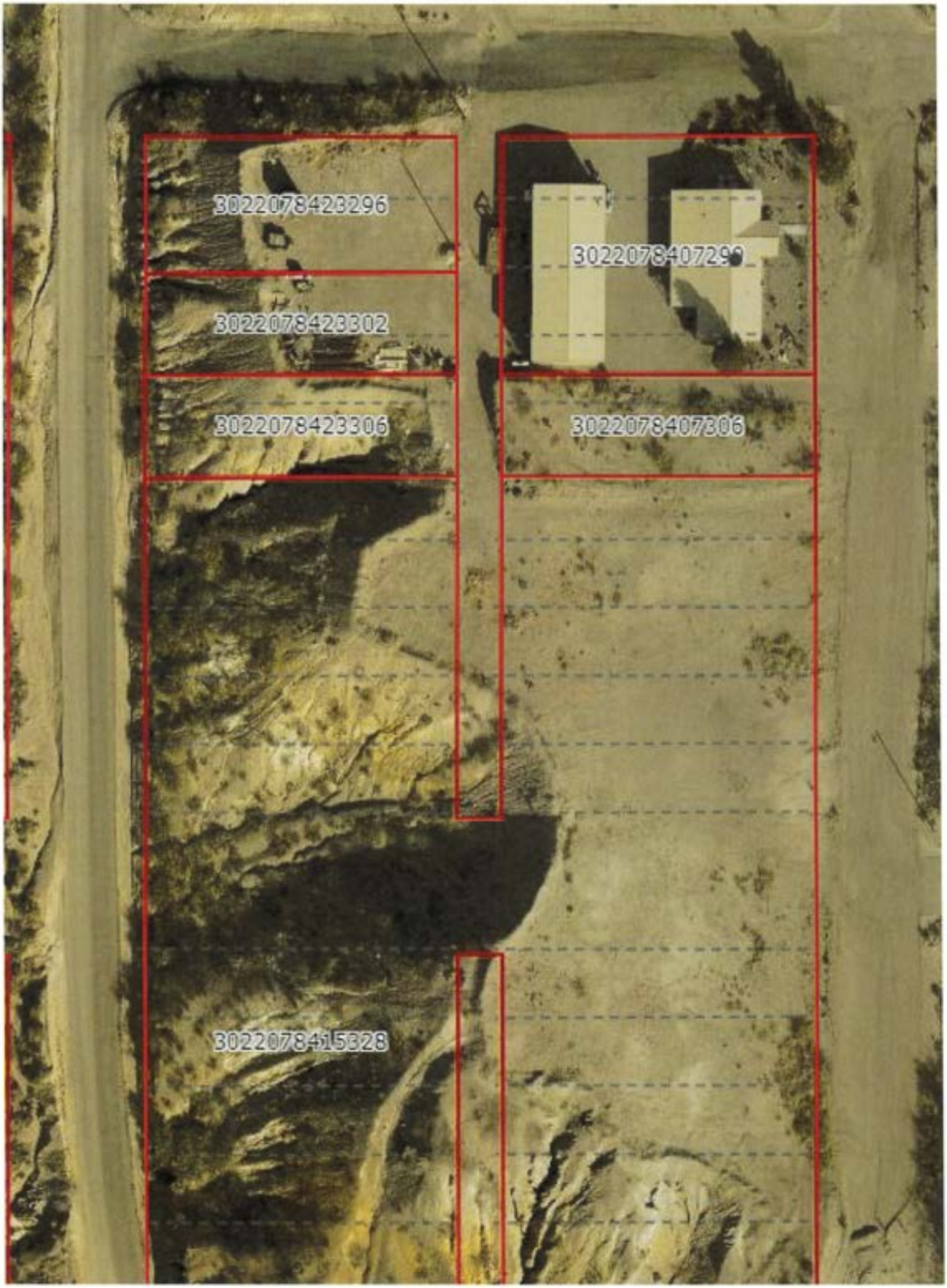
Owner of parcels 3022078423306 and 3022078407306, both within the alley, is against it. Vacation of alleyway would block access to parcel 3022078423306.

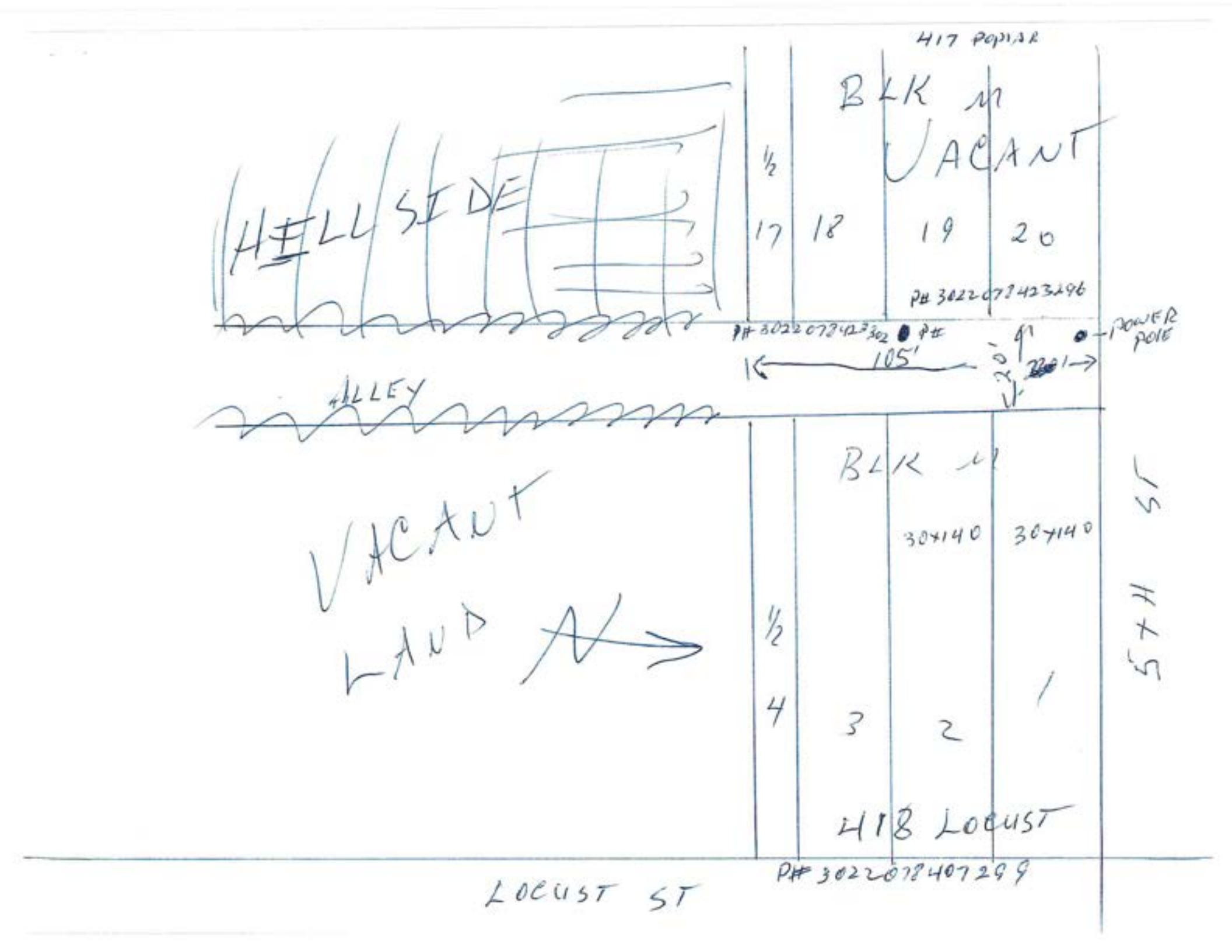
If approved, applicant would need to provide survey with legal descriptions.

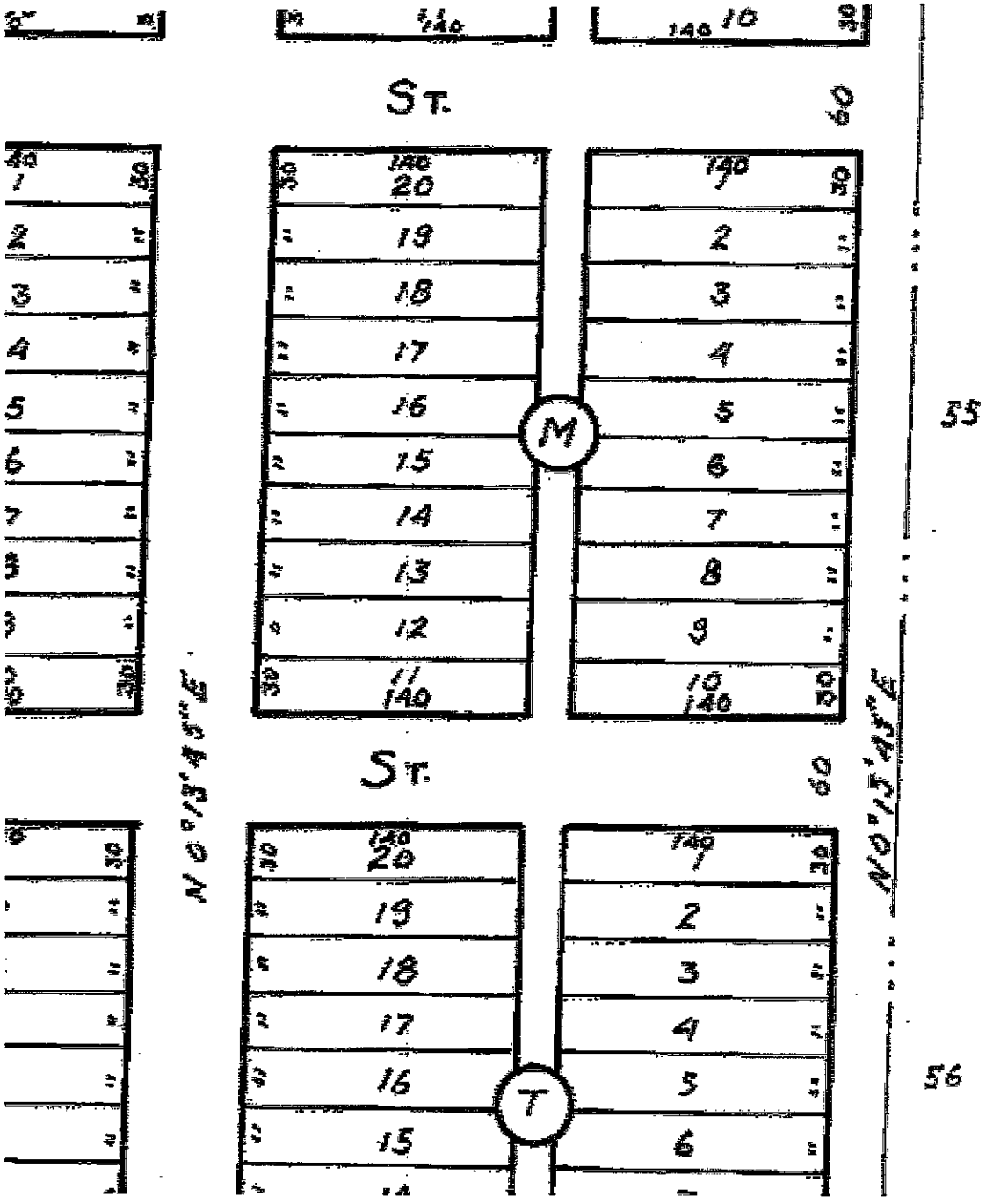
SUPPORT INFORMATION:

Site Plan
Parcel Maps
Public Hearing Notice
Applicable Code

Name of Drafter: Traci Alvarez	: Assistant City Manager	
E-mail: talvarez@torcnm.gov	Phone: 575-952-0565	

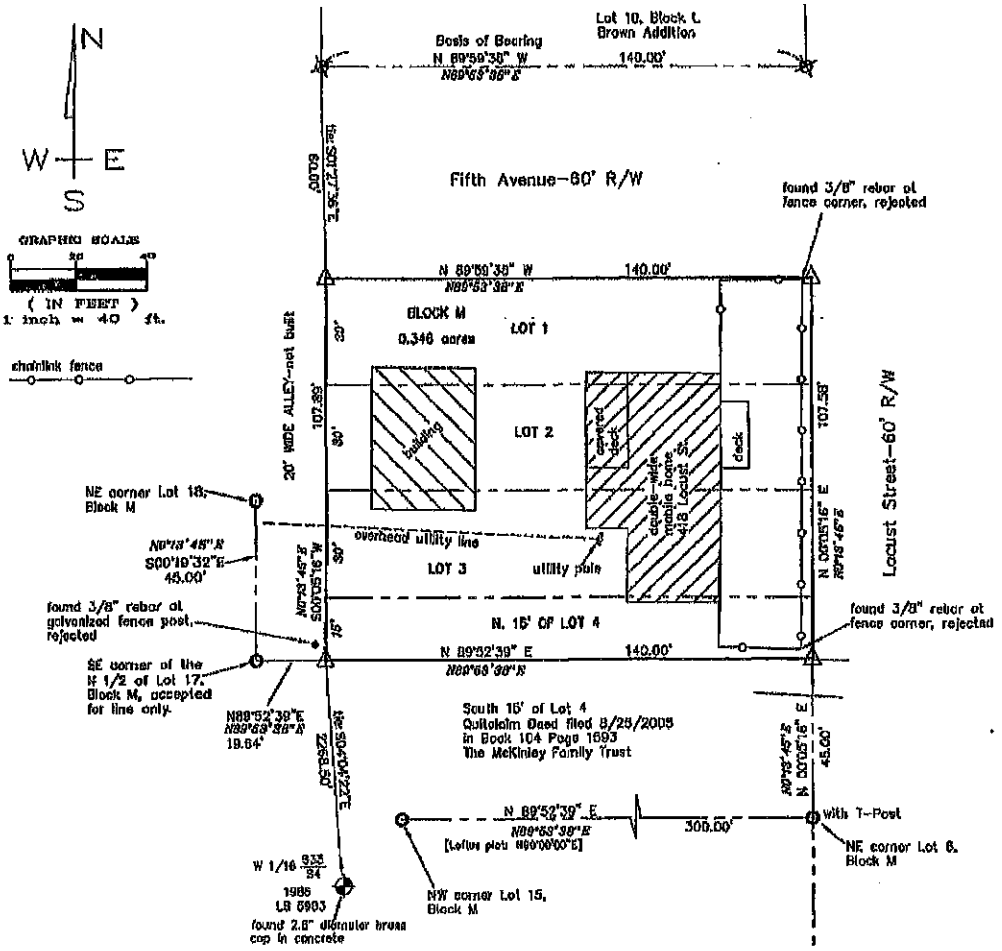

3022078423296
3022078407299
3022078423302
3022078423306
3022078407306
3022078415328


417 POPLAR
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HILLSIDE
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BOUNDARY SURVEY PLAT

LOTS 1, 2, 3, and the north 15' of Lot 4, Block M, Brown's (or Brown) Addition, Truth or Consequences, Sierra County, New Mexico



Plat of Brown's (or Brown) Addition filed 12/17/1948 in Miscellaneous Book H Pages 483–484 Plat #2–B. (Reference document for Fifth Ave Locust St, Block M, Block L)

Plat of Survey, not filed, titled "Parts of Block M & all of Block T, Brown's Addition..." by Loftus & Co Land Surveyors dated 1–10–00 and revised 4–4–00.

These lots are subject to easements, restrictions, and reservations of record, and such easements as may exist on the ground.

- = found 1/2" diameter rebar with 1" diameter plastic survey cap stamped NMPS 5949
- = set 1/2" diameter rebar with 1" diameter plastic survey cap stamped 13984
- = found 5/8" diameter rebar with 1.25" plastic survey cap stamped Loftus & Co RLS 8473

Found and accepted monuments tagged with a 1.25" diameter brass disc stamped 13984

monument dimensions are "outside diameter"

References
Warranty Deed filed 12/1/1989 in Book 57 Page 60. Title deed states that "The sewer line from 418 Locust South to Third Street belongs to Ann Niece and is not being transfered with the above described property".

Assessor Account #8821

Basis of Bearing:
Boundary Survey Plat filed 10/23/2017 in Book 128 Page 4810

Property lines of the surveyed subject lots are contiguous with each other and with property lines of adjoining lots.

Record dimensions, from subdivision plat referenced herein, shown in italics where record dimensions do not equal field measurements. Others are field measurements.

SURVEYORS CERTIFICATE

I, Jeff L. Richter, New Mexico Professional Surveyor No. 13984, do hereby certify that this Boundary Survey Plat and the actual survey on the ground upon which it is based were performed by me or under my direct supervision; that I am responsible for this survey; that this survey meets the Minimum Standards for Surveying in New Mexico; and that it is true and correct to the best of my knowledge and belief. I further certify that this survey is not a land division or subdivision as defined in the New Mexico Subdivision Act and that this instrument is a Boundary Survey Plat of an existing tract or tracts.

4-16-2018

Jeff L. Richter, N.M.P.S. #13984 — Date

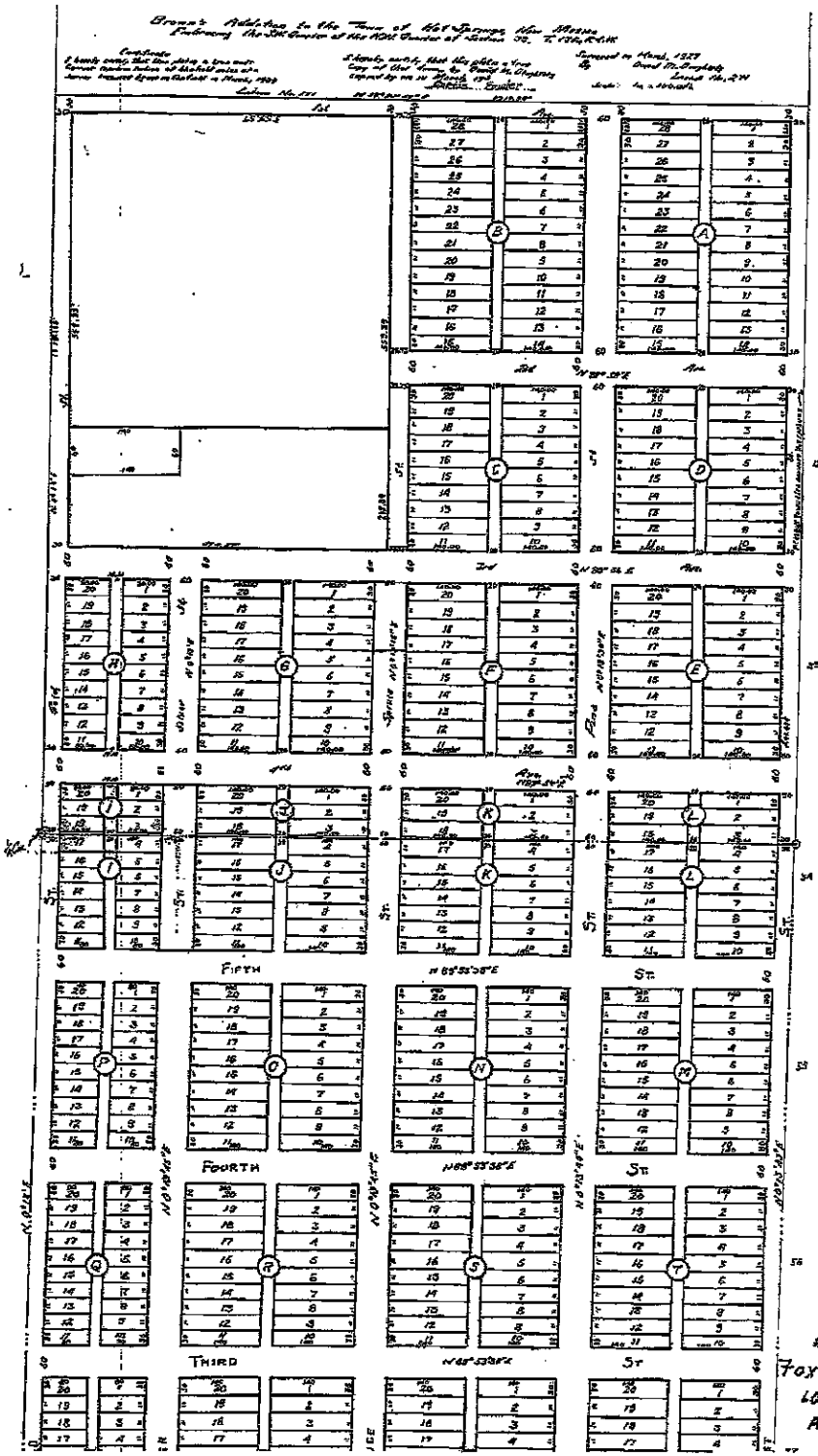
RICHTER LAND SURVEYING
614 BROADWAY P.O. BOX 1648
TRUTH OR CONSEQUENCES, NM 87901
575–894–2348

18014

INDEXING INFORMATION FOR COUNTY CLERK

SIERRA COUNTY, NM
SHELLY K TRUJILLO, COUNTY CLERK
201800817
Book 129 Page 4106
1 of 1
04/16/2018 02:06:45 PM
BY LAURAH

Betty Harrelson
Sec 33, T13S, R4W
Brown Addition



DEDICATION OF BROWN'S ADDITION TO HOT SPRINGS, NEW MEXICO

KNOW ALL MEN BY THESE PRESENTS, that the above and foregoing subdivision of the two-several tracts, pieces or parcels of land and real estate situate, lying and being in the West one-half of the West one-half (W 1/2 W 1/2) and comprising all of the Southwest quarter of the Northwest quarter (SW 1/4 NW 1/4) and all of the Northwest quarter of the Southwest quarter (NW 1/4 SW 1/4) of section Thirty-three (33) in Township Thirteen (13) South, of Range Four (4) West, N.M.P.M., in Sierra County, New Mexico, and which the undersigned owner and proprietor hereabove caused to be placed as shown by the certificates of surveyors as appears on this plat to which this dedication is with the free consent and in accordance with the desires of the undersigned owner and proprietor, and the streets and alleys as shown upon this said plat is dedicated to the public for its use and benefit forever; and the sub-divisions therein and thereon shown is designated and to be known as Brown's Addition to Hot Springs, New Mexico.

WHEREAS, the undersigned dedicator has heretofore made numerous sales of lots and pieces of land and real estate out of the area to the plat of which this dedication is attached, and in such conveyances made reference to said sub-division as Brown's Addition and as Brown's Proposed Addition to the Town or City of Hot Springs, New Mexico; it was, and continues to be, the intent of the undersigned that this dedication of said sub-division shall be retro-active to March, 1927.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this October 28, A.D. 1946.

James Wm. Brown

STATE OF NEW MEXICO ss
COUNTY OF SIERRA

On this 28th day of October, A.D. 1946, before me personally appeared J.W.M. BROWN to me known to be the person described in and who executed the above and foregoing Dedication of Brown's Addition to Hot Springs, New Mexico, and acknowledged that he executed the same as his free act and deed.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year in this certificate above written.

My commission expires:
March 22, 1947

Notary Public
Douglass Fitzhugh

CERTIFICATE

November 14, 1946.

I, hereby certify that I have checked the plat of BROWN'S ADDITION, as surveyed by David M. Dougherty in March 1927, and copied by Curtis Fowler in March 1937, by the original plat and find it to be a true and correct copy

License 663

E. H. BLACK
Land Surveyor

Approved by the City Council of the City of Hot Springs New Mexico this December 10, 1946.

J. O. Mims
Mayor

Attest:

Phillip M. Allen
City Clerk.

N

BROWN ADDITION

TO THE CITY OF HOT SPRINGS
SIERRA COUNTY, NEW MEX.
NW 1/4 SW 1/4 SEC. 33 T13S, R4W. N.M.P.M.

SCALE: 1" = 100'

REDRAWN BY:
FOX FIRE MAPPING CO.
LOS LUNAS OFFICE
APRIL, 1983

STATE OF NEW MEXICO
County of Sierra
I HEREBY Certify that this Instrument was filed for record on the 19th day of Dec., A.D., 1946 at 3 o'clock P.M. and duly recorded in book H page 483-484 of Miscellaneous

Rolf Hechler
Mayor

Destiny Mitchell
Mayor Pro-Tem

Amanda Forrister
Commissioner

Ingo Hoeppner
Commissioner

Chaz M. Glines
Commissioner

Gary Whitehead
City Manager

505 Sims St.
Truth or Consequences, New Mexico 87901
P: 575-894-6673
www.torcnm.gov

NOTICE OF PUBLIC HEARING

NOTICE is hereby given that the City of Truth or Consequences Planning & Zoning Commission will hold a Public Hearing during their regular scheduled meeting on Monday, May 11, 2026, to receive input regarding the following:

Public Hearing/Discussion/Action: Request to Vacate Chapter 15 – Subdivision Code Sec. 15-18. – Vacation of plats. – 418 Locust St., Truth or Consequences, NM 87901

The meeting will be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico starting at 4:00 p.m.

Should you have any questions regarding this Public Hearing, please contact Traci Alvarez at (575) 952-0565 or by email at talvarez@torcnm.org.

The agenda may be obtained on Friday, May 8, 2026 on the city website calendar at www.torcnm.org; by contacting the City Clerk's Office at 575-894-6673; or by email to: torcclerk@torcnm.org.

/s/ Angela A. Torres, CMC, City Clerk

Publish on the following date:

- Sentinel– Thursday, April 9, 2026

Outlook

Re: Ray and Linda Downs, 418 Locust 'vacation of plats' hearing/request

From Alvarez, Traci <talvarez@torcnm.org>
Date Thu 4/2/2026 9:08 PM
To Paul Richardson <prworld9000@yahoo.com>; Martinez, Katy <kmartinez@torcnm.gov>; Torres, Angela <aatorres@torcnm.gov>

Good evening,
I have received your email and I am including our City Clerk's office so it can be added to the record. Once I have prepared the item for the agenda, I will send you the property packet information for any further questions or concerns.
Thank you,
Traci

Traci Alvarez
Assistant City Manager
City of Truth or Consequences
505 Sims Street
Truth or Consequences, NM 87901
(575) 952-0565
PLEASE UPDATE YOUR RECORDS WITH NEW EMAIL ADDRESS (.GOV)
talvarez@torcnm.gov

From: Paul Richardson <prworld9000@yahoo.com>
Sent: Thursday, April 2, 2026 5:50 PM
To: Alvarez, Traci <talvarez@torcnm.org>
Subject: Ray and Linda Downs, 418 Locust 'vacation of plats' hearing/request

Hello Ms Alvarez,
I received the notice of this hearing today.
If this action would permit the Downs' to increase home density here on Locust, I am **against** it.
Locust as you know is a quiet, almost zero traffic small dirt road here in T Or C, which is a large part of why we bought here at #415.
I will be unable to attend your hearing in person, but please read my opinion into the record prior to any vote.
You may know that the Downs have this home for sale, he is a mobile home seller/developer and may be looking for more build-ability (profit) than they originally purchased, at the expense of the rest of the neighborhood.
Thank you so much, please call with any questions.
Best, PR

Paul Richardson, mgr

Prometheus, LLC
415 Locust, 87901
575-740-1429

Sec. 15-18. Vacation of plats.

A. *Purpose of vacation of plat:* A vacation of plat occurs when part or all of a filed subdivision plat is eliminated.

B. *Cause:* All of or any part of a final plat filed with the County Clerk may be vacated if:

1. The owners of record of the land proposed to be vacated sign an acknowledged statement declaring their wish that the plat or portion of a plat be vacated; or

2. The City Commission finds that the plat's approval was obtained by misrepresentation or fraud and orders a statement of vacation to be prepared.

C. *Processes of vacation:* Vacations of plat that result in the decrease in the number of lots by not more than one lot may be processed using the Alternate Summary Process.

D. *Statement of vacation:*

1. The vacation of all or a portion of a final plat by the owners of land within a subdivision may be initiated by submittal to the City's Zoning Administrator of the statement of vacation bearing the acknowledged signatures of all owners of record of property within the subdivided land to be vacated.

2. The vacation of all or a portion of a final plat by the owners of land within a subdivision may also be initiated by a vote of a majority of the City Commission.

3. Statements of vacation shall be accompanied by a list of the names of all owners of record of property within and contiguous to the subdivided land to be vacated, and shall also be accompanied by acknowledged statements by the authorized representatives of all utility companies that have easements within the area proposed for vacation, which statements shall state the utilities' agreement to or opposition to such vacation insofar as it affects their rights to use dedicated easements in the subdivision.

E. *Scheduling and notification:* Within 60 days of receiving a statement of vacation and the appropriate review fee, the City Commission shall approve or deny the vacation, subject to the following:

1. Action shall be taken in a public meeting;

2. At least 15 days prior to the meeting, notice of public hearing shall have been transmitted by first class mail to all owners of private property contiguous to or within 300 feet of the land to be vacated, and to all utilities with easements within or adjacent to the land proposed for vacation.

F. *Action:* In approving conditionally approving or denying a vacation, the City Commission shall determine if the vacation is in the best interests of the public well-being, and whether any person is adversely affected by the vacation.

G. *Right to retain roadways and utility easements:* The City Commission may require that dedicated roads within the area proposed for vacation remain dedicated, and may require that the rights of any utility existing before the vacation not be affected by the vacation.

H. *Filing:* The City Commission's decision shall be filed in the records of the County Clerk of Sierra County by the applicant who shall also pay all required fees. When a vacation is approved, The County Clerk shall mark the final plat with the words "vacated" and shall refer on the final plat to the volume and page on which the statement of vacation is recorded. When a plat is partially vacated, both the City Commission's decision and the plat showing the partial vacation shall be filed in the records of the County Clerk of Sierra County. The County Clerk shall mark the final plat with the words "partially vacated" and shall refer on the final plat to both the volume and page on which the statement of vacation is filed, and the volume and page of the plat showing the area vacated.

(Ord. No. 555, 5-23-06)

CITY OF TRUTH OR CONSEQUENCES
PLANNING & ZONING COMMISSION
MINUTES
MONDAY, MAY 11, 2026

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, May 11, 2026 at 4:00 p.m.

INTRODUCTION:

ROLL CALL:

Chris Sisney, Chairman
Susan Buhler, Vice Chairman
Esther Luchini, Member
Lisa Kent, Member
Molly Hammer, Member

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 Hammer seconded the motion. Motion carried unanimously.

2. **APPROVAL OF MINUTES:**
   a) **April 9, 2026.**

Vice-Chairman Buhler: I have one correction, take one word out on page 11, the second big paragraph, something I said, there's two someone's and one of them needs to come out. Strike the first one. Thank you.

Member Hammer: I have one point, was the letter that I brought during the last meeting for reports from the board included in the minutes? I don't see it. And how do you guys do that?

Deputy Clerk Martinez: We'll include it when we upload them to the website. Our minutes are verbatim, so everything you've read is in the minutes.

Member Hammer: So any additional documentation that is brought to the meeting, that wasn't in the original agenda packet, how does that get included on the following meetings?

Deputy Clerk Martinez: The minutes are verbatim, so it's word-for-word. We'll still include it and let it be known that it's included, we will note that it's "attached here" but of course, it's also typed out in the minutes.

Member Hammer: And where would I find that if I were somebody in the public?

Deputy Clerk Martinez: On our website when we upload the minutes.

Member Hammer: Okay, thanks.

Member Hammer made a motion to approve the minutes with the change mentioned by Vice-Chairman Buhler. Member Luchini seconded the motion. Motion carried unanimously.

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

There were no comments from the public.

Deputy Clerk Martinez swore in the participants for the public hearings.

4. **PUBLIC HEARINGS (5 Minute Rule Applies)**
   a) **Public Hearing/Discussion/Action: Request for Vacation of Plats at W. Austin Street.**

Chairman Sisney opened the public hearing.

Proponents:

Opponents:

Assistant City Manager Alvarez: The first public hearing we have is for vacation of plats for West Austin Street, the applicant is requesting that the city vacate a section of West Austin street that's a adjacent to the following parcels identified within your agenda packet, and those are next To Tractor Supply, Fast Stop, and Cielo Vista RV park. Within my action form, I let you know that we were still in need of some additional information. I sent you guys out a secondary packet, or the clerk's office did, where we received quite a bit of information following up on this. So, the area that's being requested to vacate is a section of roadway that kind of corners in, I think you guys can see that on your map a little bit. It corners in around the corner where you go into Cielo Vista RV park, as well as an edge of Tractor Supply in the backside of Fast Stop. I'll bring the applicant or the representative up shortly, but this really sounds like a cleanup of

paperwork that was done back in the day. I definitely want you guys to hear from the applicant. I want the public hearing to be held and anybody for the opponents or proponents to be able to speak on behalf. And then probably what I would request is, if the P&Z board would like, you could maybe recommend this approval for further review and final concurrence with the City Commission and city attorney.

Member Buhler: I was wondering if the city attorney would be involved.

Assistant City Manager Alvarez: I would like to call Mr. Ashbaugh up. He's the representative, and he could give some more background information.

Chairman Sisney: Before we go any further. Will you show me what we're talking about here?

Josh Ashbaugh Tractor Supply Representative: I have additional paperwork. Do you guys want to look at it and kind of go through together?

Chairman Sisney: I'd like to see what you have.

Josh Ashbaugh Tractor Supply Representative: I'll just give a brief explanation. I think it's going to be easier if I get the overview, and then you all ask the questions, and I can answer your specific questions, but at the end of the day, there's a street that runs between what is now Fast Stop and the parking lot of Tractor Supply that is a platted street. It's in the Palomas Hot Springs subdivision, and we are requesting nothing to do with that street. But back in 1946 the then property owner conveyed an extension of that street outside, completely outside the Palomas Hot Springs subdivision, and it kind of, it doesn't go straight. It kind of turns a little bit to the right, to the north, that street was never built. As far as I can remember. I lived here my entire life. I remember when Turtleback Cafe, I think it was called Stuffies back then. I don't remember a street being there. I remember when Stuffies burned down, and I was, like, four. It's never been built, never been used, serves basically no purpose whatsoever. And then over the years, you'd be surprised how often this happened. Over the years, it just seems that everyone forgot about this tract of land out there. So, when we were doing the title search in 2022 closing, we discovered the issue. The parties did not want to wait. It's a whole long story that I won't go into, and so I said, well, I'll deal with this after closing. It took me four years to get to it. I wanted to get to it a little bit sooner. And so basically, I'm going to say this 10 times. And so, I apologize in advance. My goal is I need to fix title to the Tractor Supply property, and I want to leave everyone in the position the city, the adjacent property owner and Tractor Supply, in the position in which they thought they were, because no one's in the position with regard to the street where they thought they were at the end of the day. That's my goal. Is

we're just going to get it where everyone thought that's it. I mean, so that's basically the overview, and it might be, it's hand drawn in so, you know, it's not 100% accurate. But towards the end of what I just handed you is two copies of a survey. One is the clean copy, and one is my excellent drawing skill copy. And I can, we have to share it, but I actually have a full-size copy of that survey. You know, it's quite a large survey. It's been reduced down to a legal-size piece of paper. And so if you all want to look at that, I do need it back. So, I don't know how that works. I mean, you guys, I do need the original larger size survey back. If we want to look at it, we can, but I don't know how that gets put into the record exactly.

Assistant City Manager Alvarez: The Planning and Zoning Board will just make a recommendation, and so nothing will be approved and cemented until it goes to City Commission.

Josh Ashbaugh Tractor Supply Representative: If you don't want to look at it, you can, because it's, you know, full size. But if you go to the hand drawn version, it's red and blue and take the highlighted proportion. The red is where the extension of the street is, and again, that's 100% outside of the Palomas Hot Springs subdivision. I know that the city attorney kind of had concerns about that alley that runs right there, but it is on the west side of the alley completely outside the subdivision. And then that blue that I highlighted, that's an easement for the RV park. That easement was reserved, I believe in the second document I gave you in that packet, the first document is the 1946 deed to the city, and the second document I stapled them together, that one so that easement was reserved in this deed. At this point in time, in 1998 a portion of the Tractor Supply property and RV park were under common ownership, and they sold out the Tractor Supply portion to Alco, as we all recall back in 1998 and they reserved that easement that I outlined in blue for their benefit to service the RV park. So that easement is likely invalid, because you know, you cannot convey what you don't own, and in this case, you cannot reserve what you don't own. And as far as we can tell, the city owned that piece, because it's in the street that we're asking you to vacate. But like I said, we're going to put everyone back where they thought they were. So, if you go to the document immediately before the surveys. It's an easement. It's unexecuted.

Chairman Sisney: You say you want to get everybody where they think they are. Tell me where we think we are. What's going to happen to that corner of that asphalt that goes up to Cielo Vista?

Josh Ashbaugh Tractor Supply Representative: That's a point I'm making. If you go to the document labeled easement. I spoke weeks ago to Tractor Supply, and they're going to execute this easement, which is going to put that easement that is likely invalid back or into place, and

that way Cielo Vista is going to have their access on that corner, which is that little blue box. They've already agreed to do it. In fact, they already asked if they should do it, and I said, no, we have to wait until everything's done. But they're going to sign that easement, run with the land, and it will go back to the RV park so that they'll get their easement in that blue box on the map.

Assistant City Manager Alvarez: If I could maybe help, and maybe you can help clarify. Just as we've been operating like these easements are in place during the process of your paperwork, you realized we don't have the easements in place, and so we're trying to put those easements in place now.

Josh Ashbaugh Tractor Supply Representative: I mean, we are the easement that we're specifically speaking of, which is, again, the blue box. I mean, in my opinion, it's invalid. The city owns that property. You can't give it. A third party can't give an easement across city property.

Chairman Sisney: What you want to accomplish is that space inside of the blue ink will be City property?

Josh Ashbaugh Tractor Supply Representative: No, the entire red box, which includes the blue box, will be vacated by the city. Then the city is going to do what it does. We'll get clear title to the Tractor Supply portion, which will include some cooperation with the adjoining property. And I've spoken to her about it. I think we're on board. I'm not sure, but I think so, and we'll get clear title. We have to do that first, and then once that's done, then Tractor Supply folks are going to sign the easement to put the blue box in place.

Chairman Sisney: It's going to be Tractor Supply property with an easement to Cielo Vista?

Josh Ashbaugh Tractor Supply Representative: Correct, which is what everyone thought it was. And it wasn't.

Chairman Sisney: Ok, thank you.

Josh Ashbaugh Tractor Supply Representative: And then, you know, going to the city, the city has an express easement, it's that number one I highlighted, just the number one. But it is not just in that area. It's a pretty big, that whole dotted line deal. So the city does have an electric and telephone line express easement. And that is one of the documents I gave to you all. It's the third document, the 1998 easement agreement. Again, it covers more than just what we're talking about. But you know, the city is going to want to reserve that easement unto itself, the

parts that overlap the street and then overlap the express easement. And, you know, again, I'm talking with the Tractor Supply folks about all this, and they're on board with doing whatever needs to be done to just get to where we thought we were. So, you know, I'm willing to work with the city and the city attorney so that we can all make sure we're all on the same page and that we're being fair to everyone.

Vice-chairman Buhler: So you basically like, quiet the title on this?

Josh Ashbaugh Tractor Supply Representative: You can say that in a way, I'm fairly certain the state, the federal government and the county, have sovereign immunity, and you cannot list them as a defendant in quiet title. And I believe the city is the same. So basically, we're clearing title. We can't do a quiet title, but we can, you know, work with the city to get it clear, and work with everyone, all the adjoining property owners.

Vice-Chairman Buhler: You feel like everyone is on board with this?

Josh Ashbaugh Tractor Supply Representative: Yes, that is my impression. I won't go into details, but, you know, I'm paying for this because I was told by my underwriter to ignore it, and you know, I'm a bit of a perfectionist, and it's bothered me that it has not been fixed. I just want to fix it at the end of the day.

Vice-Chairman Buhler: They will be able to use the road?

Josh Ashbaugh Tractor Supply Representative: It'll be exactly as they thought it was.

Member Hammer: From your drawing, it looks like the Tractor Supply the building is built on property it doesn't own. Is there an updated survey? I'm seeing a lot of surveys here, but they're like for 95.

Josh Ashbaugh Tractor Supply Representative: That's the most recent one. Again, I can give you the full-size survey to look at. I do just need it back. The exact survey you're looking at, I can give you the full size. It's much bigger. It might be clearer to look at.

Member Hammer: And this will be re-surveyed for the record?

Josh Ashbaugh Tractor Supply Representative: It doesn't need to.

Vice-Chairman Buhler: And Jay Rubin is on board with this too?

Josh Ashbaugh Tractor Supply Representative: We're working with him.

Chairman Sisney: Where is Tractor Supply?

Josh Ashbaugh Tractor Supply Representative: They appointed me to represent them.

Member Luchini: The part of the Tractor Supply building or business inside the city property. Does that get rectified?

Josh Ashbaugh Tractor Supply Representative: That's why we're asking for the vacation. That's the major issue. Is that this, you know, the major issue is not that this is a street to nowhere. It's a street to nowhere underneath a building, and that's the major issue. So, we ask that it's vacated, basically to clear title for Tractor Supply. And it really serves no purpose to the city, except for the easement. The city didn't even know. So, they, in 1998 asked for easement. They said, oh yeah, here you go. Here's an easement, and then part of it crosses the street anyway, so that, again, stays in place. And that was in the application. We are not asking that easement be disturbed or vacated. You know, a little bit of language is going to be inserted into vacation instruments. But I definitely think that Mr. Rubin and I can get to the terminology that's going to, again, put everyone where we thought we were.

Member Hammer: Is one of those speakers the owners of Cielo Vista?
Chairman Sisney: I don't remember.

Assistant City Manager Alvarez: I think it's important the first thing that we have to do is open for proponents and opponents.

Member Hammer: We can do that but I would really like to hear from the adjacent property owners.

Deputy Clerk Martinez: They'll have to state their name and address for the record.

Member Hammer: You tell me when and how, and we can get them up here. I just would like to hear from them.

Deputy Clerk Martinez: We'll go down the list. If they're not signed up to speak.

Assistant City Manager Alvarez: Then they will have the opportunity at the end.

Chairman Sisney: First on the list is Ray downs, Mr. Downs, please step up to the microphone.

Assistant City Manager Alvarez: Are they signed up as an opponent or proponent?

Chairman Sisney: They're all no opponent.

Member Hammer: Are you here for your own property? Are you here for your own property, or are you speaking about this vacation?

Deputy Clerk Martinez: There is a sign in sheet for each address.

Chairman Sisney: Okay, so this says Austin Street. I've got three people on here, right?

Assistant City Manager Alvarez: He's he signed up on the wrong one.

Chairman Sisney: Okay.

Chairman Sisney opened the public hearing.

Proponents: No Proponents

Opponents: No Opponents

Deputy Clerk Martinez: Are you guys here for Austin? Did you want to speak?

Cielo Vista RV Park Owner: No.

Member Hammer: Can he stand up?

Chairman Sisney: Well they don't want to speak.

Member Hammer: What I want to know as a member of the Planning and Zoning board, I want to make sure that the property owners on the adjacent property are ok with this plan.

Assistant City Manager Alavarez: I can tell you that the property owners on the adjacent property at Cielo Vista RV Park did come in and speak with me. We went over a lot of paper work and it's my understanding that they also spoke with Mr. Ashbaugh. It's their choice weather they want to get up and speak or not.

Member Hammer: I'm not forcing anybody to get up and speak. I just would like to understand their perspective as this directly impacts their business. If this was shut off, they wouldn't be able to have traffic come up to their property. So I feel like that's an important part that we need.

Josh Ashbaugh Tractor Supply Representative: I agree with that. If they want to speak, they certainly can. But to reiterate, they're not going to be shut off. I've already spoken to Tractor Supply. They're going to execute the easement.

Vice-Chairman Buhler: I personally believe it's a good idea what is happening here. And you know, these properties have been in place for a long time, and I do know that when a road or something is used, or a building is somewhere, if it's if it's not made to move, and it stays there for years and years and years, that gives it a right too. I think this is a very good idea what's happening. And then you'll be working with the city attorney as well.

Chairman Sisney closed the public hearing.

Chairman Sisney made a motion to recommend approval to the City Commission for a Request for Vacation of Plats at W. Austin Street. Member Hammer seconded the motion. Roll call vote was taken. Motion carried unanimously.

b) Discussion/Action: Request for Vacation of Plats at 418 Locust Street.

Assistant City Manager Alvarez: The applicant is requesting that the city vacate the alleyway that's adjacent to 418 Locust Street. Within your agenda packet, I identified that area. They have a parcel. They have two parcels, one on either side of the alleyway, as well as a third parcel in there, I've identified as well. And then there's three other additional parcels that are owned by two different property owners, all property owners with were notified within 300 feet of the public hearing. We did receive an email letter that's included in your agenda packet. The property owners, the other property owners that are adjacent to that area did email that they oppose the vacation of that plot. The applicant is here and available to speak. You would like to hear from the applicant, or if you have any questions.

Ray Downs, Applicant: I like to pass this around to you. The stuff that penciled in.

Assistant City Manager Alvarez: On your agenda Action form, I tried to identify the parcel numbers so that you could match them up with them now.

Chairman Sisney: I see that, and I appreciate that.

Member Hammer: Where is 415 Locust is that directly across the street, 415 Locust?

Assistant City Manager Alvarez: He's at 418.

Member Hammer: I know. The person who is opposing to it lives at 415 so I wanted to see what he was.

Assistant City Manager Alvarez: Oh, they're, they're the property owner down one.

Chairman Sisney: They don't live there. It's an empty lot.

Ray Downs, Applicant: According to my information 410 is the actual address of the lots next to me.

Member Hammer: 415 Locust is across the street in a double wide on the corner. I'm fairly certain I would have to double check that the New York developer owns the parcel next to it, next to Ray. Not that that matters, but just wondering if they had any input, I'm sure they were mailed a letter. I guess my only question is, if we vacate, we allow the vacation of this alley, then there's no alley in between or in the next property. But I've seen this up close, and half of this property south of this is like a huge hill. It's unbuildable.

Assistant City Manager Alvarez: It would essentially landlock the one path parcel.

Member Hammer: It would.

Vice-Chairman Buhler: Well, and alleys are put in for reasons. They're put in for safety. So, I would mention that to you as well.

Ray Downs, Applicant: I'm going to pass this picture around. There was no alley way there. There was no way to put poles. The city actually got a ramp about 8-foot beside my building and my power pole was on top of that 8-foot embankment. Whenever I purchased the property

behind it and I leveled all the property around there. The city came and set a new pole up there. I told them if they vacate it I will have my service changed to the main pole next to the road. Which is 5th street and would take it from there to the shop building. The main reason I want to vacate it. I have had a portable welder stolen off of that lot. I have had several people drive onto the lot to look around. I went out there one time and asked a man what he was doing there and he said he was looking to see what size ball he needed so he could back up and steal a trailer. Molly, I think you have walked behind that before I got there so you can attest that it's almost impossible to walk back there before it was leveled off. That is my main reason to try and secure the property. If they are worried about power there is still power available at 4th and Locust. There's a street life there on the street that could be run across. The Fourth Street has actually been vacated quite a while back. It no longer goes into the subdivision because there's no place for it to go anyway. Everything's pretty much straight up and down all the way around.

Member Hammer: Are there any utilities down this?

Ray Downs, Applicant: The only utility is my power pole.

Member Hammer: No gas or anything?

Ray Downs, Applicant: No gas and everything are on Locust Street.

Chairman Sisney: The letter enclosed from 415 says the reason they oppose is they're afraid you're going to make more dense housing up there. Is that your intention to make more dense housing on your property?

Ray Downs, Applicant: No.

Chairman Sisney: Because it just said, if this actually would permit the Dows to increase home density here on locust, I am against it.

Assistant City Manager Alvarez: Remember that you don't, you don't get to identify whether he can or cannot develop his property. So if you choose to vacate.

Chairman Sisney: That's not what I'm going for.

Assistant City Manager Alvarez: I just am letting you know you don't get to identify whether or not he gets to make dense housing.

Chairman Sisney: Right. My point that I'm trying to make is, if someone's complaining opposing something that pulls a lot of sway with me, but if they're saying if, then they're really not opposing, unless he's planning on it.

Assistant City Manager Alvarez: With that being said, somebody could tell you they are or are not going to do something right walk out of here and do the opposite, and as long as they develop it within the code, they're allowed to do it. So, I don't want your decision to be based on whether or not you think he may or may not do something.

Member Hammer: If he wanted to make it more dense outside of the current zoning, he would have to approach the city so, and that would be a future request that's irrelevant to this topic.

Ray Downs, Applicant: There are several lots on the other subdivided. The only ones I own are the ones right there where I'm at. There's not enough room behind there probably to meet mostly setbacks. There's no water available. There is no sewer available. There only thing that's available at that is electric, gas is on the front, water is in the front, sewers, and it's not my intent to do that. I don't know what Paul's intent across the street is. The property next adjacent to me, just south of that the other 45 by 140 foot piece. That's the only thing you're going to be able to put in. There's a single, wide mobile home, or very, very small house, because of the setback. I've actually tried to buy that property twice for a driveway.

Member Hammer: So right now, I'm just trying to get clear so you own the top three parcels and the other parcel is someone else but he's not Paul.

Ray Downs, Applicant: That's the McKinney Trust.

Member Hammer: But he's not Paul. So, the McKinney trust are they opposed or for this or no response?

Assistant City Manager Alvarez: No response.

Member Hammer: Your parcel does not touch Paul's property?

Ray Downs, Applicant: No he's across the street.

Member Hammer: to be clear who was, who is opposing. If it was this person, we would need to take in a little bit more consideration. But okay, I don't have any more questions.

Chairman Sisney opened the public hearing.

Proponents: Ron Fenn

Opponents: Paul Richardson

Paul Richards: include email.

Ron Fenn: I have known Ray for a long time. Actually, I don't want him to leave, but that's beside the point. I have problem with Mr. Paul Richardson, however, and reading his letter in opposition of this. He mentioned that Mr. Ray Downs is trying to sell his house, but he didn't mention the fact that he is selling his house and has already probably sold it. He's a realtor. He has not moved there with his family or anything else. He was a single man that moved into the house. He didn't even furnish it. I've been in his house, and he was turning around and flipping the property. So, this is very ingenuous, this letter that he wrote because he's selling his property and he won't be there if he's already has. He's taken the signs down. By the way, I don't know whether or not he sold the property or not, but he is not representing that this is a family that's looking for this quiet neighborhood or anything else. And one of the factors that I looked at when I looked at the plat, it's the fact that there's a property owner that with that, without the vacation, has a piece of property that is totally landlocked, that has no access to a public street. And so, there's a benefit to that. Would be the people, I guess, that didn't answer. I don't know what their purpose is in owning the land or anything else. But it would seem to me that by leaving that alleyway there, it land locks a piece of property, making it much less valuable than would be if they had access to a public street, because unless you're a mountain goat, you have no access from Poplar. That is, I mean, it's just very steep, sheer drop off of significant footage. Anyway, that is all I can say is there doesn't seem to be a value in a in an alley that goes nowhere, because, as you can see from the from the plat, it only goes through a couple of pieces of property and then ends. It would not be sufficient for, let's say, a turnaround of trash trucks or anything else. Both of those areas that would be freed up from that alley would have public access on a public street, meaning Locust Street. Therefore there's no need for, let's say, an alley to go down there behind those properties for any reason I can imagine in the future, because that property has been for sale or vacant for as many years as it's been there. But given the fact that variances are my estimation very too regularly, given this one would impact no one negatively, as opposed to variances for, let's say sidewalks and curbs and gutters and all of that, just because other people say, Well, nobody else has got it, so I don't want it either. That's the way the city ends up without sidewalks and curves and

everything else. I am totally in as much as I would hate to see my friend Mr. Downs leave community. I know he's not trying to develop that land into anything.

Member Hammer: I walk by this property almost every day with my dogs. So, I'm very familiar with it. Given the topography of this area, including that really steep, unbuildable hill. No one will ever build on and the area, I don't have any objection to this request.

Chairman Sisney: Let me ask you something. If you bought that property and you had access from an alley when you bought it, how would you feel if someone tried to take your access away from your property?

Member Hammer: They're not here, right? This, this property here are you talking about? This one down below?

Chairman Sisney: I'm talking about the two that are going to lose access to the alley.

Member Hammer: They received a letter, right? This is the property owner.

Assistant City Manager Alvarez: They received certified letter. If ultimately the Commission approves the request to vacate, then the attorney has to go through a legal process, and the vacation legal descriptions are divided up within potential property owners. They'd have to accept that as well.

Member Hammer: Okay, there is a layer and there is a possibility that they can oppose at that time.

Chairman Sisney: They sent an email opposing

Member Hammer: The emails from the neighbor across the street that doesn't have any property adjacent.

Chairman Sisney: The people that own these two lots right here they did not respond.

Assistant City Manager Alvarez: No.

Chairman Sisney: Gotcha. All right. Thank you.

Assistant City Manager Alvarez: I noted my action form stated incorrectly.

Member Hammer: The neighbor who wrote the email is across the street. He doesn't have any property adjacent or touching this or any of these.

Assistant City Manager Alvarez: He is within the 300 feet.

Member Hammer: He is within the 300 feet so. But physically, his property doesn't touch it.

Chairman Sisney: Gotcha.

Member Luchini: But he still says no. My concern is the safety. I know there is emergency access on Locust. But I mean, the alleys were put there for a reason, and obviously, you know, it doesn't go completely south nor completely north.

Chairman Sisney: Who owns the rest of the lots?

Member Hammer: Pre Real.

Assistant City Manager Alvarez: They were also notified.

Chairman Sisney: No comment from them?

Assistant City Manager Alvarez: No nothing, except for the one email that we received. Actually, they gave me a phone call, and I asked them if they wanted it as part of the record, to email me the information. So they followed up with an email. That's the only response I got from anybody.

Chairman Sisney: Excuse me, Miss Alvarez, Pre Real did not wish to comment on the fact that, well, so they don't care if there's an alley there or not?

Assistant City Manager Alvarez: I received no response, except for the one email that you have.

Member Luchini: My concern was just the alley and access to alley for the other accessible lots south of Mr. Downs.

Member Hammer made a motion to recommend approval to the City Commission for a Request for Vacation of Plats at 418 Locust Street. Vice-Chairman Buhler seconded the motion. Roll call vote was taken.

Member Hammer – Aye
Member Luchini – Nay
Chairman Sisney – Nay
Vice-Chairman Buhler – Aye

Motion was 2-2.

Chairman Sisney: I know, so it's a push, and therefore it will advance to City Commission. So I'll let you know what's up. So, you understand that nothing really happened today, move on and they'll make a decision. So thanks for coming. Thanks for the time.

c) Discussion/Action: Request for Plat Amendment at 2300 Veater.

Assistant City Manager Alvarez: The applicant is requesting to split two separate parcels that they have into four parcels, because you can see from the items in your agenda packet, they are two very large parcels. The property is located in the T-1 district. All parcels meet the lot size requirements, and they'll have either direct access or legal easement access to all city-maintained utilities and streets. All documents have been submitted and certified letters to property owners is required. The applicant is out of state right now. He's a resident of town. He just travels, and he just happens to be out of state. He did request that I read his letter. "Dear P & Z board members, thank you for considering this re-plot. I'm sorry not to be present, but I'm out of state and unable to attend. The farm is currently in 2 20+ acre parcels, and I would like to divide it into 4 10+ acres. Listed below are the reasons I'm asking for this re-plot. One, I desire to have one parcel for myself and my other two family members, one for each, and have a small Farm and Home site. Two, as water becomes more and more scarce, it's difficult to keep this much acreage alive and well-managed. It's my intent to keep farming the total acreage if I'm able to get an approved supplemental well. I do not wish to burden on the city and will not require any utility extensions other than service lines or taps. There's currently power on all four sides, water and sewer and Veater street, I have allowed for a 50-foot easement for private utility lines, privately maintained roadway. This with roadway would be adequate for future growth, should the city need and desire it. Should my family or I ever decide to sell, we would be giving the owners of the two homes in the northeast corner of the original farm an opportunity to purchase and add the 9.8+ acres to their place. Again, I wish I could be there in person. Thank you for considering this request. With regards, Walt Martin" who is our applicant, and with that, I stand for any questions.

Member Hammer: So between the quadrant before the sub-plat map, there is a road that's 30-feet wide that runs down the middle.

Assistant City Manager Alvarez: Yeah, that's an easement he'll put in.

Member Hammer: Okay, so these won't be stranded from the street.

Assistant City Manager Alvarez: Correct. They will not be landlocked, and it'll be a utility and roadway easement.

Chairman Sisney made a motion to recommend approval to the City Commission for a Request for Plat Amendment at 2300 Veater. Member Luchini seconded the motion. Roll call vote was taken. Motion carried unanimously.

d) Discussion/Action: Request for a Variance at 1199 E. Riverside.

Assistant City Manager Alvarez: Thank you, the applicant is requesting a variance for the minimum dwelling size of 1199 East Riverside. The property is in the RR-1 district. Existing structure on the property is 510 square feet, and the applicant would like to remodel that existing structure for livable dwelling purposes. RR-1 does require a minimum dwelling size of 800 square feet. Looks like, from what I could go back into from past history that the existing structure was maybe originally an accessory building prior to a lot split in maybe 2022. The structure does have unobstructed access to city maintained utilities and street and all required documents and fees have been submitted certified letters mailed To all property owners within the 100 square feet, and from a planning and zoning standpoint, if this was something that planning and zoning did recommend, and ultimately, City Commission did approve, the way we would look at this as it does improve a property that's just got a building sitting on it right now. They're not asking to bring in something smaller. They're asking to rehab an existing structure. And I don't know what the structure was prior.

Vice-Chairman Buhler: You know, they're not here to take questions, correct?

Assistant City Manager Alvarez: They are, yes, Ma'am.

Chairman Sisney: These lines are not correct.

Assistant City Manager Alvarez: Yeah, please don't look at the lines. The lines are not correct. That's an overlay.

Chairman Sisney: And these two pieces of property are not the same owner.

Assistant City Manager Alvarez: No.

Chairman Sisney: Where's the fence? I can't see it. You know, I can usually see the fence, and I don't see a fence. Is there a fence between the two properties down the middle?

Member Hammer: So the main structure next to it, like, if you're standing on Riverside and you're looking to the left, there is a house there. Is in an adjacent property, or is that on the same property?

Chairman Sisney: Those are two different lots, and there's a fence between the two properties. But the red lines are off. You can see where they should be.

Member Hammer: How big is the lot?

Assistant City Manager Alvarez: For this one, we did not have any obvious proponents or opponents, and I will say I did not receive any emails or phone calls from any opponents or proponents.

Member Hammer: I can't read this, it's how many acres?

Rocky Mondello, Applicant: I'm Rocky Mondello, I own the property on 1199 East Riverside. And just for the record, the city allowed it to be split up several years ago before I bought it. This is kind of a real dwelling. It was a livable dwelling at one point. It's stuccoed –

Vice-Chairman Buhler: Now, are you talking about the little blue house?

Rocky Mondello, Applicant: No, it's brown. It's really ugly.

Member Hammer: Can I show you on maps?

Vice-Chairman Buhler: Yeah.

Chairman Sisney: That was Bill Wood's house.

Vice-Chairman Buhler: There was a fire there.

Chairman Sisney: Right I remember that.

Rocky Mondello, Applicant: Anyway, the city allowed it to be split up a few years back, and we bought it, I guess, in the '22 with it with the building on there. And now we're trying to remodel it, and I guess at some point, you know, change the size requirement after we bought it, but we just want to clean it up and make it a really nice little place.

Chairman Sisney: Have you considered adding another 300 square feet?

Rocky Mondello, Applicant: I have, I own the Morning Star building, and I just put $15,000 more into it. And so I'm just trying to do things in phases. So yeah, and I would like to in the future, absolutely.

Vice-Chairman Buhler: Yeah, you're kind of, this is kind of venturing into the tiny home aspect, and the city doesn't really have a good – we don't have a structure to work with that just yet. We're in the process of working on that. Setting a precedent, and having a bunch of tiny homes all along the river will put a lot of pressure on that area, for one, and I don't know that I'm, you know –

Rocky Mondello, Applicant: Well, this isn't a tiny home. It's a dwelling that exists already.

Vice-Chairman Buhler: Well, it's not livable.

Rocky Mondello, Applicant: Yeah, well.

Member Luchini: Do you live in it now?

Rocky Mondello, Applicant: Oh no, I live next door to it.

Vice-Chairman Buhler: This a shell. It's basically a shell, correct?

Rocky Mondello, Applicant: Well, it's more than a shell. It's got electric. You know, it was electric. It had some plumbing in it at one point, but it was livable.

Vice-Chairman Buhler: It was part of the other house.

Rocky Mondello, Applicant: It was part of a trailer that used to -

Chairman Sisney: Well, I thought they were two different owners. So you do own the property next to it.

Rocky Mondello, Applicant: I own the property next to it, yeah.

Member Hammer: To the right or the left? If you're standing on the street.

Chairman Siseny: The original property, you own that piece too, that this was connected to?

Rocky Mondello, Applicant: No, not the original.

Member Hammer: So if you're standing on the street and looking at the property in question, is your house to the right?

Rocky Mondello, Applicant: Yes, right.

Member Hammer: Thank you.

Member Luchini: The one with the slanted roof and the boat?

Member Hammer: No, that's the one we're talking about. That's 510 square feet. And then he owns the property to the right down here.
Vice-Chairman Buhler: Now, would it meet, like, base flood elevation and all of that for being on the river? Because it's on the river.

Assistant City Manager Alvarez: Any development or remodel that they go through has to go through Travis Atwell, flood manager, all of that stuff gets submitted to him, as well as through CID for permitting and electrical.

Vice-Chairman Buhler: So he would have to have a permit.

Assistant City Manager Alvarez: They would have to go through everything –

Rocky Mondello, Applicant: I would like to say that all the houses there are ground level already, so I'm not sure what you're saying. And this house actually is about three feet off the ground.

Vice-Chairman Buhler: Well, it should meet whatever the code requires.

Member Hammer: I'm sorry, were there proponents or opponents to this particular variance request?

Assistant City Manager Alvarez: I've not received anything from anyone.

Member Hammer: I, personally, like the idea of having smaller homes on properties. We've had this discussion many times in many, many of our discussions here, I just don't know if we're ready yet to stipulate what that means, because we haven't really come to an agreement in our own discussions, or, you know, giving that to the commission, and I think it's something we want to do. I just think we need to be careful about setting a precedent that we don't have guidance for yet. But I like the idea. I'm just, I'm conflicted on how to move forward, given we don't have specific code for smaller homes or ADUs.

Rocky Mondello, Applicant: I'd like to ask you, this really be a precedence if the house already is there and has been there for a very long time?

Chairman Sisney: It used to be twice the size of this now.

Rocky Mondello, Applicant: No, not the house. There was a mobile home, a trailer, attached to it. That was a drug trailer that my son, who owns the other property, got rid of. It was terrible.

Chairman Sisney: Is your son? I remember that. I remember when this, when this property was all, together, that was your son?

Rocky Mondello, Applicant: Yeah.

Chairman Sisney: How long ago was that?

Rocky Mondello, Applicant: I'm going to guess four or five years ago.

Chairman Sisney: Okay, I'm talking about before that, when this was all one. This was all connected.

Rocky Mondello, Applicant: Yeah.

Assistant City Manager Alvarez: It was 2022 that you guys approved the summary plat. 2022 is when It was approved to split that lot.

Member Hammer: And what was it a part of again? The left or the right, if you're standing on the street.

Chairman Sisney: This used to be – this house here to the left, and this, they were connected. This property was twice as large. It caught on fire, and they tore down half of it. They closed in this part of it. I remember this property.

Rocky Mondello, Applicant: And that and that was attached to a trailer. The little house that exists, the other house was never attached to that house. There was a trailer there, and like I said, it was a drug trailer.

Vice-Chairman Buhler: And there's 10 feet between the other structure.

Assistant City Manager Alvarez: Yes, it meets all of the required setbacks other than the dwelling size.

Vice-Chairman Buhler: So the total inside, the total square foot is 510. Could you make that a little bigger?

Rocky Mondello, Applicant: I can't this week, I'm putting so much money into 421, my building downtown, I just spent $9,000 redoing the electric. I'm going to put a roof on.

Vice-Chairman Buhler: Well, it's in shameful condition right now. It's been in shameful condition for a long time.

Rocky Mondello, Applicant: I agree, that's why I'm here.

Rocky Mondello, Applicant: I'd like to, you know, at least get it prettier, and then, you know, I would like to remodel and make it bigger and better. But right now, you know, I'm going to have to put a new roof on, and I'm going to do a lot of re-stucco, just a lot of things, just to make it what it is. And then, you know, as business of life goes on, you know, I have limited funds, so you know. Yeah, and it really is an eyesore. I'd love to, you know, get what I need for utilities to get a remodel. I already talked to a contractor to come in and do some things to it.

Vice-Chairman Buhler: You could almost call it like a mother in law house, but I know it's not in the backyard. Well, I'm serious. You could call it a granny house, and that's what you might want to, when you go before the city, you might want to express that.

Member Hammer: So when we're considering the request, we should be going back to our findings of fact sheet as well.

Chairman Sisney: I don't think we should. I don't think we should make a variance.

Rocky Mondello, Applicant: Because of the size?

Chairman Sisney: Because of the size.

Rocky Mondello, Applicant: So you just want it to stay there looking just as ugly as it is? It's pretty ugly.

Chairman Sisney: If you're going to do it, add 300 square feet to it.

Chairman Sisney: You don't have to pour a slab. You already said it's off the ground.

Rocky Mondello, Applicant: Right.

Chairman Sisney: Then we don't have to set a precedence, and we don't have to make a variance, because this is something that we've been working on for, for quite a while, to establish.
Rocky Mondello, Applicant: Let me ask you something, how long have you been working on it?

Chairman Sisney: On this?

Rocky Mondello, Applicant: On the size requirements.

Chairman Sisney: We've been, this has been, how long have you been here, Molly?

Member Hammer: A year. So the city has a priority list of what they need to do in general, but then also I know that the Mr. Whitehead, who is not here to speak for this, but he wants to look at all the ordinances, like we're doing a review, because there's some language that might be not clear, so on and so forth. And so he wants to tackle all of the changes kind of at once.

Rocky Mondello, Applicant: I can understand that. What about the fact that I bought it before all this?

Member Hammer: You're bringing up a good point, which is more people want to do this, and I think that's important for us to consider. And I think maybe this will push this topic, this ordinance, kind of to the top of the list, because it does keep coming up. We need to make some decisions.

Chairman Sisney: When you bought it, it was not a residence. It was a shed.

Rocky Mondello, Applicant: No, that's not true. It's got plumbing and electric. It was a residence.

Member Hammer: Because it was attached to a mobile home.

Chairman Sisney: Yeah, it was.

Rocky Mondello, Applicant: It was a residence. That's why I bought it, figured that, you know, I don't know how it works, but you let it get subdivided. Had that little house, I'm going to call it a little house because it has plumbing and electric to it and water, you know, has everything, all the utilities at one point. And so I bought it, figured I'd remodel it. And that was four years ago. So seems a little unfair that I bought it with intend to do that, and now I can't. And again, I will expand it in the future, but I can't do it this week, there's only limited things I can do. And my downtown building takes some priority, some precedence, and I feel bad how this place looks. It's really not.

Vice-Chairman Buhler: You know, Riverside used to be the most beautiful street in the whole town.

Rocky Mondello, Applicant: I know.

Vice-Chairman Buhler: And there's problems there now, yeah. So now I know you would do it. I know you would do a nice job, Rocky. I know you would, your store is very nice. You bring a lot to our community, and that counts in my book.

Rocky Mondello, Applicant: Thank you.

Lynette Mondello, Applicant: I just wonder on expanding the size. First of all, I gave the variance to split the property. It's not a big piece of property, so that proportionately, that little building is actually a nice size. Our one plan is to put a deck. We were just looking at it today, so it will look over the river. It'll have a little more space, but it's not a big piece of property to make a bigger house on it. That would be one comment I would say, just what that would look like.

Member Luchini: Is there room on the lot to increase it to 800 feet?

Lynette Mondello, Applicant: I mean, there is room.

Chairman Sisney: It'd be 10 feet by 3 feet. You'd have to make it 3 feet longer.

Vice-Chairman Buhler: Are you going to change the roof line, or are you going to leave that roof like that is?

Chairman Sisney: You'd have to make the house three feet longer.

Lynette Mondello, Applicant: The only thing that we considered is adding, like a carport to the other side so it'll give it the peak.

Vice-Chairman Buhler: Right, so more symmetrical look to it.

Rocky Mondello, Applicant: It needs to be respected. Like you said, it got burned down, and right to have the house.

Lynette Mondello, Applicant: The problem is, one of the complaints that I have is, you know, we went to go get utilities, and whomever agreed to give the variance to split it, never considered that this place has no utilities. So for us to get started, it would be nice to have water. It would be nice to have electric, but we can't do it because it's not 800 square feet. So that's been a frustration for us, just to get started. To be honest, I can't get utilities for that, and I can't do utilities for the other property I own. Both I want to work on, but because of the these codes or whatever, I can't even get started. So it's been a little frustrating. And we do want to, even the house that we own, we would like to fix up things and have a nice – we want to be a part of the good changes to Riverside Drive for sure.

Member Hammer: I just want to see us, in working with the city, bring this, the tiny home and ADU topic, to the forefront. I think we need to set a precedent. The fact that this building is already here, they're not asking for a new build, and they can't get utilities to it because of the

size constraint. I think it's a reasonable size, 550, it's not 200 that we're trying to put into a home, and because of those facts, I would vote for it.

Member Hammer made a motion to recommend approval to the City Commission for a Request for a Variance at 1199 E. Riverside. Vice-Chairman Buhler seconded the motion. Roll call vote was taken. Roll call vote was taken.

Member Hammer – Aye
Member Luchini – Nay
Chairman Sisney – Nay
Vice-Chairman Buhler – Aye

Motion was 2-2.

Member Hammer: Thank you.

Chairman Sisney: Nothing personal either, you guys.

Vice-Chairman Buhler: You know, ours is only a recommendation, so you'll go before the city, and you'll have a, this is a practice, kind of a practice thing for you, too. So, you will hone in on the things you're going to do that you're going to make it a really nice place.

Rocky Mondello, Applicant: I've got blueprints. I want to make it pretty. I can't, like I said, I'm not crying, but I put a lot of money on my building down there, and business always comes first before. I mean, these are the little things.

Member Hammer: I overheard you say you have blueprints and a design for this new build. Bring that to the City Commission, I think that'll help your case.

Vice-Chairman Buhler: But you can understand where we're coming from, too.

Rocky Mondello, Applicant: Well, I can understand. But you know, it's a little frustrating, because if you said to go up and down Riverside.

Vice-Chairman Buhler: We're going to address some of those things too.

Rocky Mondello, Applicant: What about the lighting on Riverside?

Chairman Sisney: That'll have to be another time.

Vice-Chairman Buhler: Yeah, talk to the city manager about that, talk to Gary.

Rocky Mondello, Applicant: Because it used to be pretty amber lights, and now it's like daylight at night.

Vice-Chairman Buhler: We have no regulations on it. I don't know what they are.

Chairman Sisney: Those are down, firing lights in their LED now, and that's why they're offensive. It's because of the color of the light.

Rocky Mondello, Applicant: I hear what you're saying. But we sit out in our backyard, and we can see that light shining on the trees across the river.

Chairman Sisney: Let me say something. I have had this problem in the past, on a light out in front of my house, and they came and shielded that light.

Vice-Chairman Buhler: Yeah, you know that house on Magnolia and Riverside, there's a man living in there, and it's a tuff shed. It's sitting on an old –

Assistant City Manager Alvarez: I know, I'm sorry. I would love to do something about it, but it was approved back in 2018, we have the documents. Whomever was in –
wasn't,

Vice-Chairman Buhler: You know, that house has only been there for a couple of years.

Assistant City Manager Alvarez: I'll look farther back, but it looks like they were approved. And they may not have put it there until recently.

Vice-Chairman Buhler: There was a barn, but that was all that was there.

Assistant City Manager Alvarez: What I'm saying is they may not have put it in place until 2020 or 2022, but we have signed approval in 2018 from past. I think it might have been Susanna or –

Vice-Chairman Buhler: You know, there was a trailer there at one time. You can see the runner.

Assistant City Manager Alvarez: Correct. I can go back in history on Google, and I can see exactly what was there.

Vice-Chairman Buhler: I mean, I'm telling you, it's not, it's not in line with the base flood elevation, none of that. It's not legal –

Deputy Clerk Martinez: The only thing I can suggest, Vice-Chairman Buhler, it's not an agenda item. If you want it, we could put it on the agenda for next meeting.

Assistant City Manager Alvarez: I can shorten that, if I can, please, Katy. If it does not meet floodplain, contact the floodplain manager, Travis Atwell. If you're concerned about structural, contact CID. As far as the building sitting on the lot approved, it was signed off by was signed off by, I think it was Susanna's signature, maybe Robbie's. It's hard to see what signature, but it's dated 2018, I reviewed that and looked it up last time you brought it to me. It was approved as a smaller dwelling.

Vice-Chairman Buhler: It's a shed.

Chairman Sisney: It wasn't there. That was brought on.

Vice-Chairman Buhler: It's not there in 2000, that's something else that they're using for that, because I have to tell you, this is a new thing that's come in here, and it's, you know, I mean, I would say maybe it's been there for two years, two, three years.

Assistant City Manager Alvarez: I'll go look it up again.

5. **WORKSHOP:**

    a) **Shipping Containers:**

Chairman Sisney: Would we like to table item five?

Vice-Chairman Buhler: Oh, talking about the Conex boxes. I think we should until the next meeting.

Member Hammer: I just want to make a comment about this. I did submit a position paper back in October, it was appended to the ADU, and I put some shipping container info there. I should have resent it to you, I've been really busy this last month, but I can resend it.

Assistant City Manager Alvarez: We should be able to pull if you submitted it.

Deputy Clerk Martinez: Yeah, it'll be in that last packet that we sent for the last meeting that had all the position papers and all the minutes.

Member Hammer: Okay, I just see two here.

Assistant City Manager Alvarez: So is somebody going to make a motion to table item five?

Chairman Sisney made a motion to table item 5, Shipping Container Workshop. Vice-Chairman Buhler and Member Hammer seconded the motion. Roll call vote was taken. Roll call vote was taken.

Item Tabled.

Chairman Sisney: I'd like to close the meeting in 10 minutes. Would you like to discuss Item six for 10 minutes?

Member Hammer: I could discuss it for five.

6. **DISCUSSION:**
    a) **Sign Hights:**

Member Hammer: I'd really like feedback from the city. I brought this up at the last meeting. I also sent up a follow up email, and I never received a response. So I'm just trying to understand what the communication loop is here.

Assistant City Manager Alvarez: And I do apologize, part of that's on me. I had forwarded it off to Gary, and Gary was going to review and get back, and it's just been – please understand we have a lot of projects and literally, I didn't follow up with him, I'll own that.

Member Hammer: Yeah, I understand. Just an acknowledgement saying, "Hey, this is on our radar. Thank you for your response." would be great.

Assistant City Manager Alvarez: And if a reply was received, then I'd let Gary know. It's probably sitting in my drafts, and I apologize for that as well.

Member Hammer: It's alright. Yeah, I didn't receive that. I just wanted to point out a couple things, because I did a deep dive on our code after the last meeting, because I was trying to figure out what was legal and in our ordinance and what isn't. And I did go back to the agenda

on August 11, there were two items for variances, two requests. One was for the two signs to three. And the other was the square footage of the sign from 200 to 975 or whatever it is now. The height of that sign was never brought up. And so I had to go back and review and like, where do we see that? What were we voting on, you know, etc. And I also wanted to mention, and please correct me if I'm wrong, I have not studied the entire ordinance website, but I did look at number two. So the allowed height in our ordinance for a highway freestanding sign is 26 feet. There is a section in the code that allows the P & Z board and/or the city to allow a maximum increase in area, the sign area and the height. But we can't go above and beyond that.

Vice-Chairman Buhler: Well, part of the problem with that sign is it's on a big mountain, and so it makes it even bigger than it would be normally be. From my house, I can see it. It's like a glowing ember.

Member Hammer: I can see it in my backyard.

Vice-Chairman Buhler: Yeah, it's not great.

Member Hammer: When they turned all the lights on the other day, I sent another email because I was like, This is ridiculous. I can see this in my yard, a lit-up sign two miles away. And besides the subjective irritation, it shouldn't have been allowed, and we are only able to approve an increase of 20% in both the height and in the square footage of the sign. And so I'm not sure why it got permitted. In addition, when an applicant wants to come and ask for an increase in size, they have to ask for a special use permit, not a variance. So a variance is permanent. A special use permit has to be renewed. And so that did not come to our desk in that way. And Traci, I'm relying on you, because you have a lot of more tribal knowledge and a lot more experience with our code, but those are the things that I kind of discovered. I was like, Oh, we, we couldn't even approve this, even if we wanted to, because it was outside of that.

Assistant City Manager Alvarez: I'll take your information and go back to review.

Vice-Chairman Buhler: What were the city's findings with this? You know, when they ultimately went to them, what did the city find out? What did they ask? Yeah, we need to know that too.

Member Hammer: So I'm asking, I'll read this out loud, "Confirm that no height variance was properly noticed or approved on August 11, determine whether any lawful mechanism exists to authorize these dimensions that's not currently in code" I mean the sign's already up, so we

can't defer further action. It's already up and lit. And "what is our recourse with the company at this point?" because we're setting a dangerous precedent that we're willing to allow signs –

Vice-Chairman Buhler: Could they lower it?

Member Hammer: Yes.

Chairman Sisney: Molly, if you're reading the minutes, didn't I ask a question about them complying with dark skies?

Member Hammer: There's that, in addition.

Chairman Sisney: There is no way that is going to meet – And they assured us that they were going to observe all the dark sky rules.

Vice-Chairman Buhler: I remember that. And you know, that light is on all night long.

Member Hammer: I can see it from my bedroom window. So the other thing, I drove to Belen, drove to Albuquerque a couple weeks ago for a business trip. And there's a Love's in Belen that I often stop at, and that sign was like a third of the size of this one. Also all the renderings that they showed us, all the photos, that sign was really, really short. It was never very long, except for the freeway kind of captures, you know, went from one mile to a half a mile to a 10th of a mile, they captured that, but obviously we didn't see that in town. So I just, I would like for the city to review this and make a recommendation that they take down or shorten their sign.

Member Luchini: I see your point, and I see that the sign is big and on a hill. So wasn't that part of the questions; the signage from the visibility from the highway, because it was on the terrain approaching it?

Member Hammer: It was in the packet. It was not a specific variance request on that agenda for the sign height, so it was implied, and I feel like that really should have been outlined and presented to the public. And regardless, we weren't even allowed to approve anything over 20% of 26 feet.

Vice-Chairman Buhler: It's higher than our skyline. You know, our skyline is white lights, nice. And this thing is like, it's just humungous.

Member Hammer: It's 265% over the allowed size. And 391% over the allowed square footage of its face. So we need to look at it to stay within our code. Otherwise, why have a code when future commercial projects want to come here, they just can put up a sign of whatever size they want. So thank you for listening to my follow up on that.

Assistant City Manager Alvarez: And I'll follow up with the city manager on your other emails. Again, I know it was received, and we've discussed it a couple times. It's just –

Member Hammer: All good. I know these things take time.

Vice-Chairman Buhler: Now, maybe talk to Jay too.

Member Hammer: Yeah, I feel like legal needs to look at this. At this point, we've permitted a sign that is completely out of bounds of our code. Bottom line.

Assistant City Manager Alvarez: When you pulled the minutes for P & Z, did you by chance pull the follow up minutes to the City Commission at all?

Member Hammer: I didn't, and I should.

Assistant City Manager Alvarez: Because usually that's those are the meetings that Jay does review. So I don't know if he made any comments in there or not, and definitely I'll follow up with him.

Member Hammer: Yeah, good idea. I'll look at the city after that, or two meetings after that, maybe I'll find it so August 11 was the P & Z meeting, and I'll look at the minutes on the city.

7. REPORTS FROM THE BOARD:

No Comments from the Board.

8. REPORTS FROM STAFF:

Assistant City Manager Alvarez: Wednesday, City Commission meeting, the day after tomorrow, is the last public hearing for our infrastructure capital improvement plan. So if anybody wants to attend, we'll do the presentation for public hearing for public comment, and then later on in the agenda, we'll do a presentation to the City Commission discussing last year's capital improvement plan, as well as any and all public comment we've received through to date, and have the commission potentially recommend any projects that they want to add or remove or

adjust on our ICIP plan. At the following meeting in June, because the first meeting in June is when the commission will do their final ranking and identify the five projects for the capital improvement.

Member Luchini: What time is the meeting on Wednesday?

Assistant City Manager Alvarez: 9am Wednesday.

Member Hammer: So you guys had a first meeting?

Assistant City Manager Alvarez: We had two public meetings, yeah.

Member Hammer: Okay, and then this is –

Assistant City Manager Alvarez: A third public meeting.

Member Hammer: I'll have to look at the minutes. I am gainfully employed full time, so I won't be able to attend.

Assistant City Manager Alvarez: We didn't receive a whole lot of turnout of the two public meetings. We received a little bit of input via, we have a QR code. I'm not technologically savvy, but people could do a QR code and submit; we received a couple of comments that way, as well as anybody could submit via Facebook, email, or phone call. We didn't have a whole lot of submission. I'm hoping that that means that's because we're addressing everybody's concerns. We are starting WSPI-1 construction, we had our pre-con meeting today. WSPI-1 is our USDA water line replacement project that's going to address a lot of pressure reducing valves around town, which will help with the pressure. They're going to be starting first on the water line replacement along new school road and Smith and they're doing that first because they want to try and get it all complete and done while summer and school's out. And then it'll also include a new water line that'll go, kind of from Smith road over towards the rodeo arena, kind of across that hill. That'll improve fire suppression. So that should be starting. They'll start surveying around the 18th of this month, and I think we'll be officially in construction first part of June.

Member Hammer: So good things happening. Thanks for the update.

Deputy Clerk Martinez: I have one report. I don't know if you got the email, but Lisa did email us to let us know that she will be out until September. She just has a lot of stuff going on.

Vice-Chairman Buhler: Okay, well we'll be here.

Member Hammer: How does that affect voting?

Deputy Clerk Martinez: As long as we have three, we have a quorum. But she did want to let us know that of course, if you guys wanted to try to put in another member – I think she's great. She did say she would be back in September because of her travelling and doing the meetings via phone is kind of hard, but she did say she will be out until September.

Chairman Sisney: And five is the maximum on the board?

Deputy Clerk Martinez: Correct.

Vice-Chairman Buhler: If somebody has to do something or go somewhere, you can always call in too, and be on that way. We'll just do our best to be here. And three, one more person could be absent.

9. ADJOURNMENT:

Chairman Sisney adjourned the meeting at 5:32 p.m.

PASSED AND APPROVED ON THIS 8th DAY OF JUNE, 2026.

_____

Chris Sisney, Chairman
Planning & Zoning Board

CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

Agenda Item #: E.3

MEETING DATE: July 22, 2026

SUBJECT: CHANGE OF ADOPTION HOURS FOR THE ANIMAL SHELTER
DEPARTMENT: ANIMAL SHELTER
DATE SUBMITTED: July 8, 2026
SUBMITTED BY: TARA MANNING
WHO WILL PRESENT THE ITEM: TARA MANNING

Summary/Background:
CHANGING THE ADOPTION HOURS OF THE ANIMAL SHELTER TO 10AM-5PM MONDAY-SATURDAY.

Recommendation:
APPROVE NEW ADOPTION HOURS

Attachments:
- LETTER OF EXPLAINATION OF CHANGE
-

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: -
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File Name: CC agendas 7-22-26

Rolf Hechler
Mayor

Destiny Mitchell
Mayor Pro-Tem

Amanda Forrister
Commissioner

Ingo Hoeppner
Commissioner

Chaz M. Glines
Commissioner

Gary Whitehead
City Manager

505 Sims St.
Truth or Consequences, New Mexico 87901
P: 575-894-6673
www.torcnm.gov

July 22, 2026

Honorable Mayor and City Commission
City of Truth or Consequences
505 Sims Street
Truth or Consequences, NM 87901

RE: Request to Modify Animal Shelter Adoption Hours

Honorable Mayor and Commissioners,

I respectfully request your consideration to modify the public adoption hours at the City Animal Shelter. Currently, the shelter is open to the public Monday through Saturday from **8:00 a.m. to 5:00 p.m.** I am requesting that adoption hours be changed to **10:00 a.m. to 5:00 p.m., Monday through Saturday**.

The shelter would continue to open at **8:00 a.m.** each day to assist residents who are reclaiming lost pets and to conduct daily operational duties. This change would not reduce services to the public but would allow staff adequate time each morning to clean kennels, care for the animals, and prepare the facility before prospective adopters arrive.

With the shelter frequently operating at or near capacity, including the use of temporary pop-up kennels, the first two hours of the day are critical for cleaning, feeding, and organizing the shelter. Presently, the shelter is often not at its best appearance when adoption visitors arrive at 8:00 a.m. Delaying adoption hours until 10:00 a.m. would ensure the facility is clean, organized, and presents a more welcoming environment for the public, ultimately creating a better adoption experience and improving the presentation of the animals in our care.

This operational adjustment is intended to enhance customer service, improve shelter operations, and support our ongoing efforts to increase successful pet adoptions while maintaining services for citizens seeking to reclaim their lost pets.

Thank you for your consideration of this request. I respectfully ask for your approval to implement the revised adoption hours.

Respectfully submitted,

Tara Manning
City of Truth or Consequences Animal Shelter

CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: July 22, 2026

Agenda Item #: E.4

SUBJECT: Consider Approval of Proposed Changes to Pool Hours
DEPARTMENT: City Clerk's Office
DATE SUBMITTED: July 15, 2026
SUBMITTED BY: Angela A. Torres, Clerk-Treasurer
WHO WILL PRESENT THE ITEM: Steven Glines, Pool Manager

Summary/Background:

The city is fortunate to have a dedicated and capable pool staff, many of whom have expressed interest in continuing to work through October. Based on current staffing availability, the proposed amended schedule would allow the pool to remain open during August and September for more than Friday, Saturday, and Sunday operations. Several lifeguards are homeschooled, have graduated and are not attending college, are not returning to school until late August, and/or are available to work evenings and weekends.

The amended schedule would also allow the city to continue offering early bird lap swim, which remains in high demand, as well as weekly water aerobics classes, which currently average approximately 18 to 25 participants per day.

Recommendation:

Approval of proposed changes.

Attachments:

- Draft schedule

-

Fiscal Impact (Finance): Choose an item.

-

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

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File Name: CC Agendas 7-22-26

TRUTH OR CONSEQUENCES NEW MEXICO

JA Hodges Municipal Swimming Pool

Summer 2026 Schedule



July 26th-October 4th

NEW EXTENDED HOURS! Pool Closed on Mondays.

Each Session is still $1.00.

	Time	Tuesday	Wednesday	Thursday
1st Session	7:00-11:00am	Lap Swim	Lap Swim	Lap Swim
2nd Session	11:00-12:00pm	Water Aerobics	Water Aerobics	Water Aerobics
	12:00-6:00pm	CLOSED	CLOSED	CLOSED
	Time	**Friday**	**Saturday**	**Sunday**
1st Session	10:00am-12:00pm	Lap Swim	Lap Swim	Lap Swim
2nd Session	12:00-2:00pm	Therapeutic Swim	Therapeutic Swim	Therapeutic Swim
3rd Session	2:00-4:00pm	Open Swim	Open Swim	Open Swim
4th Session	4:00-6:00pm	Open Swim	Open Swim	Open Swim

Sessions close ten minutes prior to scheduled times. Pool Rentals Available. For more information, call 575-894-6151 or visit, 775 Daniels, TorC, NM.

CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: July 22, 2026

Agenda Item #: E.5

SUBJECT: Discussion/Action: Approval of executed grant agreement for the FY27 Clean & Beautiful Grant
DEPARTMENT: Community Services
DATE SUBMITTED: July 17, 2026
SUBMITTED BY: O.J. Hechler
WHO WILL PRESENT THE ITEM: O.J. Hechler, Community Service Director

Summary/Background: The FY27 New Mexico Clean & Beautiful Grant Agreement provides funding for community beautification and waste reduction initiatives. Grant funds will be used to install dog waste stations, water bottle refill stations, and recycled plastic picnic tables in the amount of $10,296.41. There will be two community litter clean-up events that promote environmental stewardship and improve public spaces throughout the City. The clean-up events provide the required 25% match through in-kind services.

Recommendation:

Approval of executed grant agreement

Attachments:

- Award Letter
- FY27 Clean & Beautiful Grant Agreement

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

$0.00

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

Click here to enter text.

Approved For Submittal By: ☐ Department Director

Reviewed by: ☐ City Clerk ☐ Finance ☐ Legal ☐ Other: Click here to enter text.

Final Approval: ☐ City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. - Ordinance No. -
Continued To: - Referred To: -
☐ Approved ☐ Denied ☐ Other: -
File Name: CC Agendas 7-22-26

STATE OF NEW MEXICO
Tourism Department
Lamy Building
491 Old Santa Fe Trail
Santa Fe, NM 87501
Phone: (505) 795-0343

Michelle Lujan Grisham
Governor

Howie Morales
Lt. Governor

Lancing Adams
Acting Cabinet Secretary

Shanna Sasser, Ed.D
Deputy Cabinet Secretary

June 16, 2026

OJ Hechler
ohechler@torcnm.gov

Rolf Hechler
rhechler@torcnm.gov

Dear City of Truth or Consequences,

Thank you for applying to the FY27 New Mexico Clean and Beautiful Grant Program. We appreciate the significant effort that goes into identifying community priorities and preparing a grant application.

On behalf of the New Mexico Tourism Department and the New Mexico Clean and Beautiful program, I am pleased to inform you that City of Truth or Consequences has been selected to receive a grant award of $10,296.41 to support in completing designated initiatives outlined in your FY27 grant application. Please know that the panel was impressed by the level of commitment your organization has for your community.

Your grant application and projects illustrate your desire to beautify your community through sustainable tasks that encourage civic pride. It is our pleasure to recognize these efforts and together we will work with the City of Truth or Consequences to ensure that your projects are successful.

Please confirm your interest in participating via e-mail to Chantal Sandoval, Clean and Beautiful Program Manager at chantal.sandoval@td.nm.gov **NO LATER THAN Tuesday, June 23, 2026**, so that we may proceed with the grant agreement and next steps.

Best,

Marisol Lucero

Marisol Lucero
Tourism Development Director
New Mexico Tourism Department

Docusign Envelope ID: E1944248-97B6-88EB-816F-E45FF8D46FD8

STATE OF NEW MEXICO
TOURISM DEPARTMENT
Litter Control and Beautification
"Clean & Beautiful" Grant Program Agreement

THIS AGREEMENT, numbered **27-418-6002-00043-00**, is made and entered into by the **State of New Mexico Tourism Department**, hereinafter referred to as the "NMTD," and **City of Truth or Consequences** hereinafter referred to as the "Partner" (collectively the "Parties") and is effective as set forth below.

RECITALS

WHEREAS, the purpose of the New Mexico "Litter Control and Beautification Act," NMSA 1978, § 67-16-1 et seq. (hereinafter "the Act") is to control litter by authorizing NMTD to eliminate litter from the state to the maximum practical extent through a state-coordinated plan of education, control, prevention, and elimination; and

WHEREAS, the "Litter Control and Beautification Fund," hereinafter "the Fund," is appropriated to NMTD for the purpose of carrying out the provisions of the Act; and

WHEREAS, the Act provides that NMTD may contract with other state and local government agencies to carry out the provisions of the Act;

AGREEMENT

NOW, THEREFORE, IT IS AGREED BETWEEN THE PARTIES, in consideration of the mutual covenants and obligations contained herein, as follows:

I. Obligations of Partner.

A. Perform and complete the projects and programs, expending all related funds, as outlined in the Project Award Schedule, as approved by NMTD and attached hereto as *Exhibit A*.

B. Acknowledge that the NMTD reserves the right to unilaterally adjust, modify or cancel any and all awards as outlined in *Exhibit A* in order to ensure the expenditure of all funds.

C. Agree and acknowledge project funds shall not be used for purposes other than those outlined and specified in Exhibit A.

D. Request and obtain prior approval from NMTD for any and all modifications to the awarded initiatives and approved expenditures outlined in *Exhibit A*.

1. Partners are allowed to submit up to three Budget Amendment Requests per grant cycle, one request each quarter between Quarters 1 – 3, July 2026 – April 2027
2. An amendment to the Agreement and *Exhibit A* must be executed by all parties before Partner implements the requested change to approved expenditures.
3. In the event Partner modifies an awarded initiative without prior approval, NMTD reserves the right to reject, cancel or stop any and all awards or works in progress.

E. Acknowledge and comply with all Grant Program Guidelines, as approved by NMTD and attached hereto as *Exhibit B*.

F. Comply with NMTD mandatory reporting procedures.

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1. Partner shall submit a Quarterly Milestone Report each quarter to NMTD staff via Survey Monkey Apply. Quarterly Milestone Reports must include progress information and photos.
    i. Partner must provide project progress updates for all grant funded projects.
    ii. Partner shall provide up-to-date financial documentation and current Project Expense Worksheet *if applicable.*
2. Partners must participate on or before December 30, 2026, in a Mid-Point Meeting with NMTD staff, as described in *Exhibit B.*

G. Submit all required documentation in a timely manner for Initial Disbursement and Final Reimbursement in accordance with the requirements described in *Exhibit B.*

Submissions must be fully accurate and complete. Incomplete or ineligible requests will not be processed.

H. Request and obtain a photo release for all minors who participate in grant funded events and projects.

I. Agree that all grant funds must be expended on or before June 2, 2027.

J. Acknowledge that any failure to adhere to the parameters set forth herein may affect Partner's eligibility for future awards.

II. Obligations of NMTD.

A. Provide award funds for all eligible expenses in accordance with the Act and according to *Exhibit A* and *Exhibit B.*

B. Provide access to all forms required for submission for Initial Disbursement and Final Reimbursement in accordance with the requirements described in *Exhibit B.*

III. Additional Terms & Conditions:

A. The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico. If sufficient appropriations and authorization are not made, this Agreement shall terminate upon written notice given by NMTD to the Partner. NMTD's decision as to whether sufficient appropriations are available shall be accepted by the Partner and shall be final.

B. This Agreement shall become effective upon its execution by both Parties and shall terminate on **June 30, 2027**. Either party may terminate or seek to further negotiate this Agreement upon sixty (60) days written notice to the other. In the event of termination, neither party may nullify obligations already incurred for performance or failure to perform, prior to the date of termination and any outstanding reimbursements shall be made pro rata.

C. This Agreement shall not be altered, changed, or amended except by instrument of writing executed by the Parties hereto.

D. A "Force Majeure Event" is defined as an event or effect that can be neither anticipated nor controlled which renders performance of the terms of this Agreement impossible,

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impracticable, or unsafe, including, but not limited to, acts of God, pandemic-related public health orders, acts of civil or military authority, embargoes, epidemics, war, acts of terrorism, riots, insurrections, fires, explosions, earthquakes, floods, loss of power, strikes or lockout. If a Force Majeure Event occurs, neither Party will be deemed in default of this Agreement. If any Force Majeure condition affects Partner's ability to perform its obligations, Partner shall give written notice to NMTD, and Partner will offer mutually agreeable amendments to Exhibit A. Until such time as this Agreement is amended, NMTD will withhold payment of award funds as set forth in Exhibit A.

E. Partner shall obtain prior approval from NMTD for any and all use of the Keep New Mexico True Brand. NMTD reserves the right to inspect any usage of the Brand to ensure proper quality and consistency.

F. In the event that this Agreement will be performed during a public health emergency, Partner shall ensure that any activities are carried out in accordance with all laws, rules, regulations, safe practices and protections.

G. The Parties shall not be jointly liable. Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred by either party in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, §41-4-1, et seq., NMSA 1978, as amended.

H. This Agreement is governed by the laws of the State of New Mexico.

I. This Agreement is not intended to and does not create any rights in any persons or entity not a party hereto.

J. Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service, by electronic mail or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To NMTD: New Mexico Tourism Department
Chantal S. Sandoval, Clean & Beautiful Program Manager
491 Old Santa Fe Trail | Santa Fe, NM 87501
(505) 670-8059 | chantal.sandoval@td.nm.gov

To Partner: Rolf Hechler
City of Truth or Consequences
505 Sims Street
Truth or Consequences, NM 87901
(575) 740-0048 | rhechler@torcnm.gov

K. The individual signing below on behalf of the Partner represents and warrants that he or she has the authority to bind the Partner, and that no further action, resolution or approval from the Partner is necessary to enter into a binding agreement.

THE REMAINDER OF THIS PAGE IS LEFT BLANK INTENTIONALLY.

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IN WITNESS WHEREOF, the Parties have executed this Agreement as of the final date of the signatures listed below.

Signed by:
By: Rolf Hechler Date: 7/15/2026
Rolf Hechler, City of Truth or Consequences
PARTNER

Approved for legal sufficiency:

Signed by:
By: Phoebe Roderick Date: 7/15/2026
Phoebe Roderick, Legal Counsel for NMTD

DocuSigned by:
By: Rayline Sebay Date: 7/15/2026
Rayline Sebay, CPO, ASD NMTD

Signed by:
By: Shanna Sasser Date: 7/15/2026
Dr. Shanna Sasser, Deputy Cabinet Secretary, NMTD

The records of the Taxation and Revenue Department reflect that the Partner is registered with the Taxation and Revenue Department of the State of New Mexico to engage in business and to report and pay tax from business conducted in New Mexico.

ID Number: **01-405755-00-7**

DocuSigned by:
By: Ann Marie Lucero Date: 7/15/2026
Taxation and Revenue Department

Docusign Envelope ID: E1944248-97B6-88EB-816F-E45FF8D46FD8

FY27 New Mexico Clean & Beautiful Grant Program

EXHIBIT A

CITY OF TRUTH OR CONSEQUENCES

Goals & Objectives	Goal 1	Goal 2	Goal 3	Goal 4	Goal 5
End Littering					
1.1 Pet Waste Stations	$749.97				
Approved Expenditures: Pet waste stations for public areas					
Reduce Waste					
2.1 Water Bottle Refill Stations		$4,819.44			
Approved Expenditures: Refill stations with and without a fountain					
2.1 Recycled Picnic Tables		$4,727.00			
Approved Expenditures: ADA and non-ADA picnic tables					
Empower Youth					
Increase Program Capacity					
Goal Subtotals	*$749.97*	*$9,546.44*	*$0.00*	*$0.00*	*$0.00*
Total Award		**$10,296.41**			

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EXHIBIT B

NEW MEXICO TOURISM DEPARTMENT
CLEAN AND BEAUTIFUL GRANT PROGRAM
FY27 GUIDELINES

GRANT PURPOSE

The purpose of the New Mexico "Litter Control and Beautification Act," NMSA 1978, § 67-16-1 et seq., is to accomplish litter control by vesting in the New Mexico Tourism Department (Department) the authority to eliminate litter from the state to the maximum practical extent. The Department shall aid in establishing a statewide Keep America Beautiful Program through the New Mexico Clean and Beautiful Grant Program to end littering, improve recycling, and beautify New Mexico communities.

ELIGIBILITY

All New Mexico municipalities, counties, units of government, and Tribal Governments in good standing with New Mexico Taxation and Revenue Department are eligible for funding (correct New Mexico State Tax ID numbers are required within the application process). Entities need not be Keep America Beautiful affiliates to apply.

ELIGIBLE EXPENDITURES

Projects and initiatives that contribute to the following goals and objectives, as identified through Keep America Beautiful and the Litter Control and Beautification Act, may be eligible for funding:

Goal #1 - End Littering

Objective 1.1 – Prevent littering.
Objective 1.2 – Provide access to proper waste disposal.
Objective 1.3 – Remove litter.

Goal #2 – Reduce Waste

Objective 2.1 – Reuse.
Objective 2.2 – Repair.
Objective 2.3 – Repurpose.
Objective 2.4 – Improve composting and sustainable organics management.
Objective 2.5 – Improve recycling and sustainable materials management.

Goal #3 - Beautify Communities

Objective 3.1 – Improve green spaces through sustainable park design.
Objective 3.2 – Maximize sustainable landscaping throughout communities.
Objective 3.3 – Prevent graffiti.
Objective 3.4 – Eradicate graffiti.

Goal #4 – Empower Youth

Objective 4.1 – Educate students.
Objective 4.2 – Provide service opportunities for youth groups.
Objective 4.3 – Employ youth interns.
Objective 4.4 – Provide youth leadership opportunities.

- Youth initiatives must directly contribute to at least one of the above-mentioned goals.
- Applicants may either hire a youth group as a subcontractor or hire individual youths.
- For individual youth interns:

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a) Individuals must be between 14 to 25 years of age.
b) Salary range = at least local minimum wage.
c) Youth Employment Verification forms are required for each youth employed.
d) To the extent which an internship is conducted with an expectation of compensation of benefits, interns may not be considered regular "employees" (part-time or full-time) of the Partner entity.
e) Internship duration must be limited to the period of the grant agreement for reimbursement and considered a temporary employee.

Goal #5 – Increase Program Capacity

Objective 5.1 – Recruit and engage volunteers.
Objective 5.2 – Build coalitions through professional affiliations.
Objective 5.3 – Increase knowledge through professional development.

- Activities must directly contribute to at least one of the above-mentioned goals.

INELIGIBLE EXPENDITURES

NMTD shall have the right in its sole discretion to approve or disapprove Partner's projects and/or expenditures submitted for final reimbursement. Items identified by the Department pursuant to the Keep America Beautiful and the Litter Control and Beautification Act that are ineligible for purchase with grant funds include but are not limited to:

- Benches and tables made from non-recycled material
- Disinfectant wipes
- Disinfectants & air fresher
- Fencing materials
- Food and/or drink
- Fuel
- Gardening tools
- Hardware for signage: trash receptacles & benches, etc.
- Heavy machinery rentals
- Irrigation
- Labor (with the exception of youth subcontractors)
- Landscaping fabric
- Landscaping pavers
- Landscaping rock
- Leather and cotton gloves
- Lighting
- Meeting space
- Office supplies
- On-going maintenance needs
- Playground equipment
- Rakes
- Shears
- Shovels
- Watering hoses
- Weed barrier & eradication spray
- Wheelbarrows

BUDGET ADJUSTMENT REQUESTS

NMTD shall have the right in its sole discretion to approve or disapprove certain budget adjustment requests (BARs). Adjustments are used to transfer grant funds within NMCB established goals and objectives.

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- Types of Budget Adjustments typically allowed for:
  - A transfer between awarded initiatives within the Partner's current NMCB Project Award Schedule.
  - An authorization to expend funds on a new project within a NMCB Program established goal or objective on the Partner's current Project Award Schedule due to an unforeseen difficulty or inability to complete an awarded initiative.
- Types of Budget Adjustments that are not allowed:
  - A transfer of grant funds from an awarded initiative to an initiative or project previously unfunded during the application and panel review process.
  - A transfer of grant funds without prior authorization will not be reimbursed.

GRANT AGREEMENT

The grant award will be officially executed upon receipt by the Department of the signed grant agreement. Agreements will incorporate two accompanying exhibits: Project Award Schedule – including Approved Expenditures (*Exhibit A*) and these Grant Program Guidelines (*Exhibit B*).

INITIAL DISBURSEMENT OF FUNDS

Partners will be eligible to receive 50% of the total award amount following the execution of the grant agreement and submission of the Initial Disbursement Invoice. This form is available for download at the NM Clean & Beautiful Grant Resources webpage.

COMPLIANCE REPORT REQUIREMENTS

Partner shall submit a Quarterly Milestone Report each quarter to NMTD staff via Survey Monkey Apply.

- Quarterly Milestone Reports shall include progress for all approved projects including but not limited to:
  - Implementation updates
  - Existing or anticipated challenges
  - Anticipation for Budget Amendment Requests
  - Photos and videos
  - Media mentions
  - Up-to-date financial documentation and current Personalized Project Expense Worksheet

Partner shall participate in a Mid-Point Meeting with NMTD staff on or before December 30, 2026.

- Partner must provide up-to-date financial documentation and current Personalized Project Expense Worksheet.
- Partner must provide project progress updates for all grant funded projects.

Partner shall submit and upload clean-up and litter prevention events on the Breaking Bad Habits-NM site.

MEMORANDUMS OF UNDERSTANDING WITH NONPROFIT ORGANIZATIONS AND SCHOOLS

Unless previously approved by the Department, this grant shall not benefit any person or organization other than the awarded Partner. In the event Partner chooses to partner with a local non-profit or New Mexico school district to implement and complete an awarded project or

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initiative, Partner must provide either a Memorandum of Understanding, sub-agreement and/or signed attestation detailing their performance and responsibilities relating to the grant award.

VOLUNTEER SIGN-IN SHEETS

All volunteer hours should be documented on a Volunteer Sign-In Sheet. Sign-in sheets should specify the name, age, event, date, location and time logged. All volunteer names must be clear and legible.

YOUTH EMPLOYMENT VERIFICATION

Individuals from the ages 14 to 25 years of age may be hired to provide leadership opportunities and contribute to Partner's awarded initiative. Youth Employment Verification forms are required for each youth employed and must be notarized before submission to the Department. Partner will not be reimbursed for hired youth interns absent the required forms.

TRAVEL STIPEND

Partners who are in good standing as a Keep America Beautiful New Mexico Affiliate have the opportunity to represent New Mexico by attending the National Conference. Those who applied and were awarded will receive a maximum travel stipend of $2,200 to be used for conference expenses.

MATCHING REQUIREMENTS

This grant requires a 25% match. The following sections may be used to determine the costs and calculate totals for In-Kind & Monetary Donations, which must be reported in the End-of-Year Report.

Donated Goods or Services:

Entities may receive non-monetary contributions of goods or services, often referred to as "in-kind donations" from businesses, groups, and individuals. Examples include private waste hauler services, "pro-bono" accounting services, food/drinks, donated advertising space, or office space in a nongovernment building. The dollar value of any donated goods or services is equal to the market price of the goods or services contributed. Whenever possible, submit the dollar-value in writing.

How to Calculate Government Costs:

Government employee time and services for which they receive government salary, overtime or compensatory time are considered a cost. If a government employee is working on a project on their own time, as a volunteer or board member, calculate their time as a volunteer hour. Government in-kind goods include hauling by sanitation vehicles, printing, and the use of consumable supplies. To calculate the value of in-kind government agency costs, estimate the market value of the goods or services provided to your affiliate and add to that the dollar-value for each hour of work given by government employees.

Volunteer Hours:

All volunteer hours should be documented on a Volunteer Sign-In Sheet. Volunteer Sign-In sheets must include event date, location, and number of hours volunteered. Each volunteer hour should be assigned the applicable state value provided by Independent Sector unless a professional provides a specific value for professional services. Current value for volunteer hours is available at https://independentsector.org/resource/value-of-volunteer-time.

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REIMBURSEMENT REQUIREMENTS

In order to receive reimbursement for the remaining 50% of the total award amount, Partners must submit the Final Reimbursement Request Packet at project end.

Final Reimbursement Request Packet should include, submitted no later than June 2, 2027:

- Final Reimbursement Invoice
- Project Expense Worksheet with back-up documentation*
- Youth Employment Verification forms, if applicable
- Event and trainings registration confirmations, and Keep America Beautiful Affiliate dues receipt, if applicable
- Eligible back-up documentation includes:
    - Invoices or receipts; and
    - Cleared checks, warrants, bank statements or a notarized attestation by Partner's CFO or equivalent financial authority.

End-of-Year Report should be submitted no later than July 2, 2027, including but not limited to:

- End-of-Year Reports
    - Metrics
    - Narrative
- Volunteer Sign-in Sheets, if applicable

SUBMISSION REQUIREMENTS

Submission of all required forms and back-up documentation must be submitted via upload to the Survey Monkey Apply portal located at: https://nmtourism.smapply.io/

PROGRAM RESOURCES

All required forms are available for download at the NM Clean & Beautiful Grant Resources webpage at: https://nmtourism.smapply.io/res/p/nmcbresources/

PROGRAM ASSISTANCE

Clean & Beautiful Grant Program Manager (Chantal Sandoval) will establish communication schedules and provide technical (programmatic) assistance for all awardees. She can be reached by email at chantal.sandoval@td.nm.gov or by phone at 505-670-8059.

CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

Agenda Item #: E.6

MEETING DATE: July 22, 2026

SUBJECT: Agreement between Sierra County and the City of Truth or Consequences for floodplain management services
DEPARTMENT: Community Development
DATE SUBMITTED: July 16, 2026
SUBMITTED BY: Traci Alvarez
WHO WILL PRESENT THE ITEM: Traci Alvarez, Assistant City Manager

Summary/Background:
The city will designate Sierra County's Floodplain Manager to administer and enforce floodplain management requirements within city limits. Sierra County will review floodplain-related applications and provide recommendations through its Floodplain Manager's office. The City retains responsibility for zoning reviews, zoning enforcement, drainage requirements, variances, and appeals. The city will pay the County Flood Commission $5,000 per year for these services.
Agreement will be presented to the County Commission on 7/21/26 for their approval

Recommendation:
Approve entering into an agreement with Sierra County for floodplain management services and authorize the Mayor to execute the final agreement

Attachments:
- DRAFT Floodplain Management Agreement
-

Fiscal Impact (Finance): **Yes**
$5,000.00 Annually

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 7-22-26

AGREEMENT BETWEEN THE COUNTY OF SIERRA AND THE CITY OF TRUTH OR CONSEQUENCES REGARDING THE ADMINISTRATION AND ENFORCEMENT OF THE CITY'S FLOODPLAIN MANAGEMENT REGULATIONS

THIS AGREEMENT ("Agreement") by and between the City of Truth or Consequences ("Truth or Consequences") and the County of Sierra ("County").

RECITALS:

WHEREAS, Truth or Consequences was incorporated as a municipality after an election wherein the residents of the area approved incorporation pursuant to NMSA 1978, Section 3-2-1 *et seq*; and,

WHEREAS, Truth or Consequences is located completely within the physical boundaries of the County of Sierra, however, after incorporation the County of Sierra no longer has jurisdiction to provide services in the incorporated area; and,

WHEREAS, Truth or Consequences and the County are both participating communities in the National Flood Insurance Program and the County has adopted floodplain management regulations in accordance with 44 CFR (Code of Federal Regulations – Title 44: Emergency Management and Assistance) and Sections 3-18-7 and 4-37-1 NMSA 1978; and

WHEREAS, Truth or Consequences desires to utilize the services of the Floodplain Manager for the County to administer and enforce floodplain management regulations for the City.

NOW, THEREFORE, IT IS AGREED BETWEEN THE PARTIES:

1. PURPOSE: The purpose of this Agreement is to set forth those services relating to the administration and implementation of the City of Truth or Consequences' floodplain management regulations by the County.

2. COMMON POWER: The common powers to be exercised is the power pursuant to NMSA 1978, Section 3-18-1 (1972) for municipalities, and also counties pursuant to NMSA 1978, Section 4-37-1 (1995), to "protect generally the property of its municipality and its inhabitants" and to "preserve peace and order".

3. SCOPE OF SERVICES & GENERAL PARTY OBLIGATIONS:

The County will make available to the City the services of its Floodplain Manager as provided herein. The parties agree that the City shall continue to apply its policies and procedures, reviewing all proposed projects for compliance with its zoning ordinance and other applicable land use regulations. The City shall continue to provide its own zoning code enforcement. All enforcement of regulations, drainage requirements and zoning ordinances remain with the City of Truth or Consequences and not with Sierra County. The Sierra County Floodplain Manager shall act as the City's floodplain administration agent by reviewing and recommending cases within the

limits of the City's jurisdiction. The Sierra County Floodplain Manager shall provide the services at the County Offices, located at 1712 North Date Street, Suite D, Truth or Consequences, NM 87901. The City of Truth or Consequences shall provide services at the Planning and Zoning Office, located at 401 McAdoo, Truth or Consequences, NM 87901.

4. OBLIGATIONS OF TRUTH OR CONSEQUENCES

A. The designated Floodplain Administrator of the County shall be designated by the governing body of the City to administer and implement the provisions of the floodplain management regulations that were adopted in accordance with 44 CFR (Code of Federal Regulations – Title 44: Emergency Management and Assistance) and Sections 3-18-7 and 4-37-1 NMSA 1978; and

B. The City shall hear and render judgment on requests for variances from the requirements of the floodplain management regulations of the County. The City shall hear and render judgment on an appeal only when there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of the floodplain management regulations of the County.

C. Truth or Consequences agrees and understands that, in regard to the serviced described in this Agreement, the County has a statutory responsibility to first provide services to the unincorporated area of the County and can only provide the described services to Truth or Consequences if there is available manpower and resources.

5. PAYMENT FOR SERVICES:

Truth or Consequences shall submit an annual payment in the amount of five thousand dollars ($5,000.00) to the Sierra County Floodplain Manager for the provision of such services as described herein.

6. LIABILITY:

A. No Party shall be responsible for liability, beyond the obligation to provide insurance coverage, incurred as a result of any other Party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act.

B. All employees or contractors engaged in any of the work or services performed pursuant to this Agreement shall at all times and in all places be subject to the County's supervision and control and said County shall be solely responsible for the conduct and performance of these individuals.

7. THIRD PARTY BENEFICIARY: This Agreement shall not create or confer on any other person or entity any right or benefit, substantive or procedural, enforceable at law or otherwise, against any party or their officers, directors, officials, employees, agents, representatives, contractors, subcontractors, consultants or advisors.

8. PROPERTY: No property shall be acquired as a result of this Agreement, which does not involve the disposition, division, or distribution of any property. The disposition of records generated by performance of this Agreement shall be decided by the parties upon termination.

9. SURPLUS FUNDS: After completion of the Agreement's purpose, any surplus money on hand shall be returned in proportion to the contributions made.

10. STRICT ACCOUNTABILITY OF ALL RECEIPTS AND DISBURSEMENTS: Each party shall be strictly accountable for all receipts and disbursements under this Agreement.

11. AMENDMENT: This Agreement shall not be altered, changed, or amended except by instrument in writing executed by the parties and approved by the Department of Finance Administration.

12. APPROPRIATIONS: Performance under this Agreement is contingent upon sufficient authority and appropriations.

13. GOVERNING LAW: This Agreement shall be governed by the laws of the State of New Mexico.

14. EFFECTIVE DATE, TERM AND TERMINATION OF AGREEMENT.

A. This Agreement shall become effective July 21, 2026.

B. This Agreement shall terminate on June 30, 2030, unless extended by mutual agreement of both parties hereto.

C. This Agreement may terminated by any Party upon not less than (30) days written notice. Upon termination all obligations incurred under this Agreement shall terminate, except for any payment obligations under section 5.

15. HEADINGS. The headings of the sections of this Agreement are inserted only for convenience or reference and are not intended or to be construed to modify, define, limit or expand the intent of the Parties.

16. SEVERABILITY. If any provision of this Agreement shall be found by a court of competent jurisdiction to be illegal, in conflict with any law of the State of New Mexico or otherwise unenforceable, the validity and enforceability of the remaining provisions shall not be affected and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular provision found to be illegal, invalid or otherwise unenforceable.

17. FURTHER ASSURANCES. Each party hereto agrees to do all acts and things and to make, execute and deliver such written instruments as shall from time to time be reasonably required to carry out the terms and provisions of this Agreement.

18. NOTICES. Notice required pursuant to this Agreement may be effectuated by submitting a certified letter to the following:

County:

Sierra County Floodplain Manager
1712 North Date Street, Suite D
Truth or Consequences, NM 87901

City:

City of Truth or Consequences Manager
505 Sims
Truth or Consequences, NM 87901

IN WITNESS WHEREOF, each Party has executed this Agreement effective upon the approval of both parties.

Approved, adopted and passed this 21st day of July 2026.

SIERRA COUNTY
BOARD OF COUNTY COMMISSIONERS

_____
James Paxon, Chairman

_____
Hank Hopkins, Vice-Chair

_____
Sandy R. Jones, Commissioner

Attest:

_____
Amy Whitehead
Sierra County Clerk

DRAFT

CITY OF TRUTH OR CONSEQUENCES

Rolf Hechler, Mayor _____ Date _____

DRAFT

CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

Agenda Item #: E.7

MEETING DATE: July 22, 2026

SUBJECT: Discussion/Action Memorandum of Understanding Between Sierra County and the City of Truth or Consequences Regarding Coordination of Development Along Shared Boundaries
DEPARTMENT: Community Development
DATE SUBMITTED: July 16, 2026
SUBMITTED BY: Traci Alvarez
WHO WILL PRESENT THE ITEM: Traci Alvarez, Assistant City Manager

Summary/Background:

This MOU formalizes early coordination between Sierra County and the City of Truth or Consequences for development along shared boundaries, helping ensure infrastructure compatibility, utility planning, public safety coordination, and orderly growth while preserving the authority of both jurisdictions. The agreement applies to county developments that border City limits, are adjacent to City utility infrastructure, or may require connection to City services such as water, wastewater, electric, roads, drainage, or solid waste services.

The MOU encourages consideration of development standards consistent with the City's C-1 Commercial and T-1 Transitional Districts for areas adjacent to City limits.

Developers must coordinate with the City before connecting to municipal utility systems. Projects will be subject to applicable City fees, connection charges, impact fees, and infrastructure cost recovery requirements.

Developers may be required to fund utility extensions, oversized infrastructure, easements, off-site improvements, and fire protection improvements. Infrastructure connected to City systems must meet City standards. MOU will be presented to the County Commission on 7/21/26

Recommendation:

Approve entering into an MOU with Sierra County for Coordination of Development Along Shared Boundaries and authorize Mayor to execute final document

Attachments:

- DRAFT MOU

-

Fiscal Impact (Finance): **Unknown**

.

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

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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 7-22-26

MEMORANDUM OF UNDERSTANDING

BETWEEN
SIERRA COUNTY, NEW MEXICO
AND
THE CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO

REGARDING COORDINATION OF DEVELOPMENT ALONG SHARED BOUNDARIES

I. PURPOSE

The purpose of this MOU is to establish a cooperative process for coordination between Sierra County and the City of Truth or Consequences regarding future development of properties located within County jurisdiction that share a common boundary with the City and may require connection to City infrastructure or municipal utility services.

The Parties recognize that coordinated planning and communication are necessary to support orderly development, infrastructure compatibility, efficient service delivery, protection of public infrastructure investments, and long-term planning consistency along shared boundaries.

The Parties further recognize the existing cooperative relationship between the City and County, including ongoing coordination related to 911 addressing assistance, floodplain review and flood infrastructure matters, and other regional planning efforts. This MOU is intended to build on those existing partnerships and create a clearer process for coordinating future development and infrastructure needs along shared boundaries.

II. AREAS SUBJECT TO THIS MOU

This MOU shall apply to development proposals located within unincorporated Sierra County that:

1. Share a common boundary with the City limits of the City of Truth or Consequences;

2. Are located adjacent to City utility infrastructure; and/or

3. Request or may reasonably require connection to City infrastructure or municipal services, including water service, wastewater service, electric service, roadway or drainage infrastructure, solid waste services, and other municipal utility systems.

III. DEVELOPMENT REFERRAL & NOTIFICATION PROCESS

The County agrees to refer development applications subject to this MOU to the City at the earliest practical stage of review. The City shall be provided a standard review and comment period of fifteen (15) business days whenever practical.

The City may review and provide comments regarding utility capacity, drainage and floodplain impacts, roadway access, emergency access, infrastructure compatibility, and long-range planning consistency.

The Parties may conduct joint staff meetings for developments involving significant infrastructure impacts or coordination needs.

IV. DEVELOPMENT STANDARDS & LAND USE COMPATIBILITY

The Parties acknowledge that properties located adjacent to City limits often function as transitional areas between County and municipal development patterns.

For developments subject to this MOU, the Parties recommend consideration of development standards generally consistent with the intent and character of C-1 Commercial District standards and/or T-1 Transitional District standards as identified in Chapter 16 of the City of Truth or Consequences Municipal Code.

Nothing in this MOU transfers zoning authority from the applicable governing jurisdiction.

V. WATER, WASTEWATER & UTILITY SERVICE CONNECTIONS

Prior to approval of development requiring connection to City utility systems, the developer shall coordinate with the City regarding utility service availability, system capacity, infrastructure requirements, and utility extension feasibility.

Any development connecting to City utility systems shall be subject to all applicable water tap fees, wastewater tap fees, utility connection charges, capacity fees, meter fees, inspection fees, impact fees, and infrastructure cost recovery requirements in accordance with City ordinances and fee schedules in effect at the time of application.

Developers requesting utility service outside City limits may be required to fund or construct utility line extensions, oversized infrastructure, easement dedication, off-site improvements, and fire protection improvements.

Unless otherwise approved by the City Commission through separate agreement, all utility infrastructure connected to City systems shall remain subject to City standards regarding ownership, maintenance responsibility, inspection authority, and acceptance procedures.

VI. DRAINAGE, FLOODPLAIN & EMERGENCY ACCESS COORDINATION

The Parties agree to coordinate review of developments that may impact regional drainage systems, floodplain management, stormwater runoff, emergency vehicle access, fire protection service, and public safety infrastructure.

VII. LONG-RANGE PLANNING & INFRASTRUCTURE COORDINATION

The Parties agree to maintain ongoing communication regarding growth patterns, utility expansion planning, transportation planning, infrastructure investments, economic development opportunities, future service demands, and shared GIS mapping and planning information.

VIII. NON-BINDING COOPERATION

This MOU is intended to establish procedures for coordination and cooperation between the Parties and does not create vested development rights, require approval of any application, require the City to provide utility service, or limit the authority of either governing body.

IX. TERM, AMENDMENT & TERMINATION

This MOU shall become effective upon approval by both governing bodies and execution by authorized representatives of the Parties.

This MOU shall remain in effect indefinitely unless terminated by either Party in accordance with the provisions of this section.

This MOU may be amended at any time by mutual written agreement of the Parties and approval by the respective governing bodies when required.

Either Party may terminate this MOU upon thirty (30) days written notice to the other Party.

Termination of this MOU shall not affect obligations, approvals, utility agreements, or infrastructure commitments previously approved or executed prior to the effective date of termination.

X. APPROVALS & SIGNATURES

APPROVED BY SIERRA COUNTY

Approved by the Sierra County Commission on this ___ day of _____, 2026.

_____

Amber Vaughn
County Manager

_____
Chair, Sierra County Commission

APPROVED BY THE CITY OF TRUTH OR CONSEQUENCES

Approved by the City Commission of the City of Truth or Consequences on this __ day of _____, 2026.

_____
City Manager

_____
Mayor

ATTEST:

_____
City Clerk

DRAFT

CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

Agenda Item #: E.8

MEETING DATE: July 22, 2026

SUBJECT: Approval of Memorandum of Understanding with the City of Elephant Butte for Animal Control Services

DEPARTMENT: Police Department / City Manager's Office

DATE SUBMITTED: July 13, 2026

SUBMITTED BY: Johanna Muñoz, Executive Assistant

WHO WILL PRESENT THE ITEM: Gary Whitehead, City Manager

Summary/Background:

Elephant Butte currently has no animal control program. Under this MOU, the City will provide Animal Control Services to Elephant Butte using the City's existing Animal Control Officers, in exchange for a $12,000 annual base fee plus a $200 after-hours call-out fee. The initial term is three years. Elephant Butte's Mayor and Clerk have already signed; Commission approval is needed to authorize execution by Mayor Hechler.

Recommendation:Staff recommends approval of the MOU with the City of Elephant Butte for Animal Control Services and authorization for the Mayor to execute.

Attachments:

- MOU with City of Elephant Butte - Animal Control Services (Partially Executed 7/8/2026)

Fiscal Impact (Finance): Yes

$12,000 annual base fee to be received from Elephant Butte (revenue), plus $200/call-out after scheduled hours.

Legal Review (City Attorney): N/A

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 7-22-26

MEMORANDUM OF UNDERSTANDING (MOU)
By and between the City of Elephant Butte and the
City of Truth or Consequences Regarding Provisions of
Animal Control Services

This Memorandum of Understanding (MOU) is made and entered into effective upon execution by the City of Elephant Butte ("Elephant Butte"), a New Mexico Municipal Corporation, and the City of Truth or Consequences ("City"), a New Mexico Municipal Corporation, for the purposes and consideration hereinafter set forth.

RECITALS

WHEREAS, Elephant Butte has a contiguous boundary with the City; and

WHEREAS, stray dogs, cats and other animals running at large within Elephant Butte pose a danger to the health, safety, and welfare of the citizens of Elephant Butte; and

WHEREAS, the City employs and equips animal control officers and,

WHEREAS, Elephant Butte currently does not have an animal control program; and

WHEREAS, Elephant Butte and the City have agreed to share resources in order to protect the citizens of Elephant Butte and to humanely treat the stray animals within Elephant Butte through the joint exercise of the City's Animal Control Officers,

NOW THEREFORE, for and consideration of the premises, services and the mutual agreements of the parties hereinafter set forth, Elephant Butte and the City agree as follows:

1.0 AUTHORITY TO ENTER INTO A MOU

1.1 Elephant Butte certifies that it has the authority to enter into this MOU. By majority vote of the City of Elephant Butte Council at its regular council meeting, the Mayor is authorized to execute this MOU.

1.2 The City certifies that it has the authority to enter into this MOU. By majority vote of the City Commission of the City at its regular commission meeting, the Mayor is authorized to execute this MOU.

2.0 INTENT OF THE PARTIES

The intent of the parties to this MOU is to enter into an agreement under which the City agrees to fully assume animal control powers in accordance with applicable provisions of New Mexico State Laws and Regulations, and other applicable state and federal laws. In general, the City agrees to perform the required professional services and to be fully compensated therefore by a yearly base

fee established herein, unless this MOU specifically provides for a payment by Elephant Butte above and beyond the base fee.

Although many specific obligations are delineated in this MOU, this delineation is not intended to be a limitation, and the City is expected to perform all service activities and undertakings reasonably necessary for the safety and welfare of the citizens of Elephant Butte.

3.0 TERM

3.1 General, unless this MOU is sooner terminated as hereinafter provided, the City shall manage, operate, and perform Animal Control Services for Elephant Butte during the period of time set forth herein.

3.2 Initial Term, the initial term of this MOU shall be for a period of three (3) years, beginning on the date of execution of this MOU. Each fiscal year, the parties shall review the agreement. No specific action is required to continue the agreement; however, the individual parties may indicate by a majority vote of its Governing Body an intent to not extend this agreement. The parties recognize that Elephant Butte is a political subdivision of the State of New Mexico governed by the annual budget requirements of state statutes, and that, therefore, the MOU is subject to annual appropriations. The City of Elephant Butte Council hereby represents that it has the present intent to make the annual appropriations necessary to fund this MOU.

4.0 COMPENSATION

4.1 Base Fee — Regular Route Service. As compensation for the regular route animal control services specified in Section 5.0 hereof, the City shall receive a yearly base fee of $12,000 — Animal Control Services (Regular Route). This base fee covers: (a) one daily patrol route within the City of Elephant Butte during scheduled patrol hours; and (b) all calls for service and responses to animal control incidents that occur during the City's scheduled patrol hours. This amount shall be paid as follows:

A. Monthly Payments of $1,000.00

4.2 Call-Out Fee — After Scheduled Hours. Emergency or special call-out services requested outside of the City's scheduled patrol hours shall be billed separately from the annual base fee. The City of Truth or Consequences shall charge a call-out fee of $200.00 per call-out for each response made outside of scheduled patrol hours. Call-out fees are not included in the $12,000 annual base fee and shall be invoiced separately to the City of Elephant Butte upon completion of each call-out.

5.0 BASIC DUTIES AND RESPONSIBILITIES OF THE CITY

The following Service Agreement shall be provided to Elephant Butte by the City for the compensation set forth in paragraph 4.0 of this MOU:

1. The City will provide Animal Control Services in the same manner as the City has provided them in the past. The ACO will issue citations for animal ordinance violators.

2. Respond to resident inquiries, complaints, and concerns in a professional, courteous and timely manner. Use best efforts to promote good relations with Elephant Butte customers and residents.

3. Respond to any routine inquiries or routine reporting requirements of any governmental authority, Elephant Butte's Councilors or attorney in a prompt, professional manner, if the law provides authority of such.

4. City shall, at its sole expense, provide all personnel, vehicles, tools, equipment and machinery, transportation, testing and other facilities reasonably necessary for the proper performance of such Animal Control Services.

5. Maintain all records and files in accordance with state and federal law, and assure that these records and files are accessible to anyone during normal business hours in accordance with the New Mexico Public Information Act.

5A.0 SERVICE COVERAGE MODEL

The City of Truth or Consequences shall provide animal control services to the City of Elephant Butte under a regular route service model. The level of service shall be based upon the number of full-time Animal Control Officers employed by the City of Truth or Consequences.

If the City of Truth or Consequences employs one (1) full-time Animal Control Officer, the City shall provide one (1) animal control patrol route within the City of Elephant Butte per day, five (5) days per week during scheduled patrol hours.

If the City of Truth or Consequences employs two (2) full-time Animal Control Officers, the City shall provide one (1) animal control patrol route within the City of Elephant Butte per day, seven (7) days per week during scheduled patrol hours. Expanded seven-day coverage is contingent upon the City having two (2) full-time Animal Control Officers available.

During scheduled patrol hours, the City shall also respond to calls for animal control service within the City of Elephant Butte. Responses to calls for service during scheduled patrol hours are included within the annual base fee set forth in Section 4.1 and shall not be subject to an additional call-out fee.

5B.0 QUARTERLY REPORTING

The City of Truth or Consequences shall provide monthly reports to the Elephant Butte City Council identifying the hours spent providing regular route animal control services within the City of Elephant Butte. Reports shall summarize service activity including the number of route visits,

general activity trends, service issues, and any operational concerns requiring discussion. The intent of this reporting is to give the City of Elephant Butte a clear record of the regular service level being provided under this MOU.

5C.0 EMERGENCY AND SPECIAL CALL-OUTS — AFTER SCHEDULED HOURS

Emergency or special call-out services are provided outside of and in addition to the regular route patrol and scheduled service hours. Call-out services after scheduled patrol hours shall be initiated through Central Dispatch only. Authorized after-hours call-out requests may be made by the Sierra County Sheriff's Department, as the law enforcement agency for the City of Elephant Butte, or by the City Manager of the City of Elephant Butte through Central Dispatch.

The Sheriff's Department shall determine whether Animal Control response is necessary. The City of Truth or Consequences shall serve as the first-call resource to support the Sheriff's Department when an animal needs to be removed or controlled. If the City of Truth or Consequences is unavailable to complete the requested after-hours call-out, the Sheriff's Department may provide the animal control service to remove the animal.

After-hours call-outs shall be billed separately at a call-out fee of $200.00 per call-out and invoiced to the City of Elephant Butte following completion of the call-out, as set forth in Section 4.2.

6.0 OBLIGATIONS OF ELEPHANT BUTTE

Elephant Butte shall be solely responsible for enforcement of all non-police (Code Enforcement and other Civil Matters) related Elephant Butte Codes, state laws, and federal mandates.

7.0 INSURANCE

Both entities are Municipal Corporations belonging to the New Mexico Municipal League's Self Insurer's Fund. Each Party shall continue to provide the same level of insurance that it currently provides.

8.0 VEHICLES AND EQUIPMENT

The City agrees to furnish all vehicles and equipment necessary for animal services, vehicles will bear markings identifying them as vehicles belonging to the City.

9.0 TERMINATION

Either party hereto shall have the right to terminate this MOU upon thirty (30) days' notice to the other party. Notwithstanding, any other provisions of this MOU, the right to terminate set forth in this Section may be exercised at the sole discretion of either party with or without cause.

0.0 CHANGE IN SCOPE ADJUSTMENT

If any significant changes in the scope of the operation of the Service Agreement which are the subject of this agreement occur, including changes in the governmental regulatory compliance regulations which increase the City's costs, the City shall be entitled to negotiate additional compensation. Such additional compensation will be negotiated by the parties within thirty (30) days after the change. If no negotiated agreement is achieved within thirty (30) days of the change, the City may exercise its right to terminate the agreement.

11.0 FORCE MAJEURE

The City shall not be deemed to be in default if performance of the obligations required by this MOU is delayed, disrupted, or becomes impossible because of any act of God, war, earthquake, flood, strike, accident, civil commotion, epidemic, act of government or its agencies or officers, or any other cause beyond the control of the parties. Upon occurrence of such an event, the City shall provide Animal Services on a best effort basis (at no additional cost to the City). If any additional expense is incurred by the City in such operation, that expense shall be deemed to be an Extraordinary Cost for which the City will submit an invoice to Elephant Butte for reimbursement.

12.0 INDEMNITY

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act.

13.0 REASONABLE DILIGENCE

The city agrees to use reasonable knowledgeable and diligence in the provisions of Animal Services, but the City shall not be liable for any direct or indirect loss, injury or damage resulting from diminution or interruption of service within Elephant Butte, unless such diminution or interruption of service results from the willful misconduct or negligence of the City, its agents, subcontractors, or employees.

14.0 COMPLIANCE WITH STATE LAW

Should any provision of this MOU be determined to be in conflict with the laws of the State, the parties agree to amend such provision to ensure compliance with the laws of the State.

15.0 ASSIGNMENT

Neither Elephant Butte nor the City may assign this MOU or any portion thereof without receiving the prior written consent of the other party.

6.0 NOTICES

All notices allowed or required to be given hereunder must be in writing and must be personally delivered or dispatched by United States certified mail, postage prepaid, return receipt requested, to the address shown at the end of this MOU. Either party hereto may change the address to which any such notice is to be addressed by giving notice in writing to the other party of such change. Any time limitation provided for this MOU shall commence with the date that the party actually receives such written notice, and the date of postmark of any return receipt indicating the date of delivery of such notice to the addressee shall be conclusive evidence of such receipt.

17.0 DISPUTES

The parties agree that if any dispute arises between them relating to this MOU, that they will utilize their best efforts to resolve the issue prior to the commencement of any legal proceeding.

18.0 AMENDMENTS

No subsequent alteration, amendment, change, deletion or addition to this MOU shall be binding upon Elephant Butte or the City unless made in writing and signed by both the City and Elephant Butte.

19.0 VENUE, APPLICABLE LAW

This MOU shall be construed under and in accordance with the laws of the State of New Mexico. All of the obligations contained in this MOU are performable in Elephant Butte, New Mexico, except those laboratory procedures, booking, investigations or other work that may be performed in the City or elsewhere.

20.0 TITLES

The titles of the Articles, Sections, Subsections, Paragraphs of the MOU are intended strictly for the convenience of the parties and shall have no effect and shall neither limit nor amplify the provisions of the MOU itself.

21.0 SEVERANCE

Should any provision of this MOU be held to be void, voidable, or for any reason whatsoever, of no force and effect, such provision shall be construed as severable from the remainder of this MOU and shall not affect the validity of all other provisions of this MOU which shall remain in full force and effect.

22.0 ENTIRE AGREEMENT

This MOU contains the entire agreement between the parties. Any oral representation of modification concerning this MOU shall be of no force excepting a subsequent amendment in writing signed by the party to be charged.

23.0 FAILURE TO ENFORCE

The failure on the part of either party to enforce its rights as to any provision of this MOU shall not be construed as a waiver of its rights to enforce such provision in the future.

CITY OF ELEPHANT BUTTE

WITNESS OUR HANDS AND SEALS THIS 8 DAY OF July, 2024.

Richard Holcomb

Richard Holcomb, Mayor

ATTEST:

Lindsey Cobleigh

Lindsey Cobleigh, City Clerk
City of Elephant Butte, NM

CITY OF TRUTH OR CONSEQUENCES

WITNESS OUR HANDS AND SEALS THIS _____ DAY OF _____, 20___.

Rolf Hechler, Mayor

ATTEST:

Angela Torres, City Clerk/Treasurer
City of Truth or Consequences, NM

CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

Agenda Item #: E.9

MEETING DATE: July 22, 2026

SUBJECT: Confirmation of South Central Regional Transit District (SCRTD) Board Member/Alternate Designation and Approval of FY 2026-2027 Membership Fee ($3,752.24)
DEPARTMENT: City Manager's Office
DATE SUBMITTED: July 13, 2026
SUBMITTED BY: Johanna Muñoz, Executive Assistant
WHO WILL PRESENT THE ITEM: Gary Whitehead, City Manager

Summary/Background:
The City is one of eight member entities of the South Central Regional Transit District (SCRTD), with City Manager Gary Whitehead serving as the City's Board appointee. SCRTD has requested confirmation of the City's designated Board Member and Alternate, and has invoiced the City $3,752.24 for FY 2026-2027 annual membership fees.

Recommendation:Staff recommends the Commission confirm the City's designated SCRTD Board Member and Alternate, and approve payment of $3,752.24 in FY 2026-2027 SCRTD membership fees.

Attachments:
- SCRTD Board Member/Alternate Confirmation Request Letter (July 8, 2026)
- SCRTD Annual Membership Fee Request Letter (May 22, 2026)

Fiscal Impact (Finance): Yes
$3,752.24 - SCRTD FY 2026-2027 annual membership fee, payable to South Central Regional Transit District.

Legal Review (City Attorney): N/A
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 7-22-26

South Central
Regional Transit

July 8, 2026

Rolf Hechler
Mayor, City of Truth or Consequences
City Hall 505 Sims Street
Truth or Consequences, NM 87901

Dear Mayor Hechler,

I hope this letter finds you well.

As the South Central Regional Transit District (SCRTD) continues to coordinate regional representation, I am writing to inquire whether the Truth or Consequences City Council has reached a decision regarding participation on the SCRTD Board of Directors.

If the City Council has approved participation, we respectfully request confirmation of the City's designated Board Member and Alternate Board Member. Having both representatives identified will help ensure consistent representation and participation in District business whenever the primary Board Member is unable to attend a meeting.

For your reference, the SCRTD Board of Directors meets on the fourth Wednesday of each month. Meetings are conducted in person at the Doña Ana County Government Center and are also available virtually to accommodate members throughout the region. Meeting agendas, board packets, and virtual access information are distributed in advance of each meeting. Once your Board Member and Alternate have been designated, both individuals will be included on all future meeting notices and communications to ensure they remain informed and prepared to participate as needed.

At your earliest convenience, please provide the names, titles, email addresses, and telephone numbers of the designated Board Member and Alternate Board Member so we may update our records and ensure they receive all future Board correspondence.

Should you have any questions regarding Board membership, meeting schedules, or the responsibilities of Board Members and Alternates, please do not hesitate to contact me. We appreciate the City of Truth or Consequences' consideration and look forward to continuing our partnership in advancing regional public transportation.

Thank you for your time and consideration.
Sincerely,

David Armijo
Executive Director
darmijo@scrtd.org
SOUTH CENTRAL REGIONAL TRANSIT

South Central Regional Transit

South Central Regional Transit District
2001 Futurity Dr · Sunland Park, NM 88063 · 575-777-5851

May 22, 2026

The Honorable Rolf Hechler
Mayor of City of Truth or Consequences
505 Sims Street
Truth or Consequences, NM 87901

Re: South Central Regional Transit District (SCRTD) Annual Membership Fees

Dear Mayor Hechler,

The South Central Regional Transit District is comprised of eight (8) member governmental entities, one (1) County and eight (7) Municipalities. The City of Truth or Consequences is one of the members of the Regional Transit District with City Manager, Gary Whitehead acting as the city's appointee to the SCRTD Board of Directors.

The request for The City of Truth or Consequences is $3,752.24 for the FY2026-2027 year. The SCRTD will use all the revenues contributed by its partners to leverage state and federal funding, normally at 2-1 and up to 4-1 ratio.

We thank you in advance for your consideration of this request. Please make out payment to the South Central Regional Transit District (SCRTD) at 2001 Futurity Dr. Sunland Park, NM 88063.

Thank you for your commitment to Public Transit.

Adam S. Shea
SCRTD Finance Officer

Invoice Attached

CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

Agenda Item #: E.10

MEETING DATE: July 22, 2026

SUBJECT: Discussion/Action: Presentation of the Water and Wastewater Rate Study and Approval of FY 2026-2027 Water and Wastewater Rates Under Current Rate Policy
DEPARTMENT: City Manager's Office
DATE SUBMITTED: July 16, 2026
SUBMITTED BY: Johanna Muñoz
WHO WILL PRESENT THE ITEM: Gary Whitehead, City Manager

Summary/Background:
The City Manager will present the Water and Wastewater Rate Study, which reviews the FY 2026-2027 final budget baseline for the Water (Fund 504) and Wastewater (Fund 506) divisions and evaluates rate scenarios for FY 2027-28 through FY 2031-32. The action requested is approval of the FY 2026-2027 budget using current rate policy: CPI (4.2%) for water and 5% for wastewater. The study also proposes adoption of a new rate policy to take effect July 1, 2027, which will be brought forward for future Commission action.

Recommendation: Approve the FY 2026-2027 water and wastewater rates in accordance with current rate policy: CPI adjustment (4.2%) for water and 5% for wastewater, effective with the FY 2026-2027 budget.

Attachments:

- Water and Wastewater Rate Study Presentation – July 22, 2026
-

Click here to enter text.

Fiscal Impact (Finance): Choose an item.
Click here to enter text.

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. -
Continued To: - Referred To: -
☐ Approved ☐ Denied ☐ Other: -
File Name: CC agendas 7-22-26

City of Truth or Consequences Utility Rate History Matrix

Benchmark rates organized oldest to current from the uploaded annual rate sheets. Fiscal-year labels below are assigned sequentially based on the uploaded order and your description of the files.

Electric	Water	Sewer	Sanitation
Residential charge +125.0% | Residential kWh +9.1%	Base charge +139.0% | Tier charges +94.9% to +109.0%	Customer charge +35.4% | Volumetric charge +40.7%	Poly cart lines +27.6% | 1.5 yd 1x/wk +7.5% since added

Electric

Benchmark item	FY18-19	FY19-20	FY20-21	FY21-22	FY22-23	FY23-24	FY24-25	FY25-26	Overall increase
Residential customer charge	8.00	8.00	8.00	8.00	8.00	18.00	18.00	18.00	+125.0%
Residential all-in kWh	0.1314	0.1314	0.1314	0.1314	0.1314	0.1434	0.1434	0.1434	+9.1%
Small Comm 1ϕ customer	10.00	10.00	10.00	10.00	10.00	20.00	20.00	20.00	+100.0%
Small Comm 1ϕ all-in kWh	0.1360	0.1360	0.1360	0.1360	0.1360	0.1510	0.1509	0.1509	+11.0%
Large Comm 1ϕ customer	23.25	23.25	23.25	23.25	23.25	150.00	150.00	150.00	+545.2%
Demand charge $/kW	8.00	8.00	8.00	8.00	8.00	10.00	10.00	10.00	+25.0%
Yard light	5.57	5.57	5.57	5.57	5.57	7.68	7.68	7.68	+37.9%

Water

Benchmark item	FY18-19	FY19-20	FY20-21	FY21-22	FY22-23	FY23-24	FY24-25	FY25-26	Overall increase
Residential/customer charge	8.15	8.15	15.50	16.34	16.34	18.56	19.48	19.48	+139.0%
LV1 tier charge	1.75	1.75	2.71	2.86	2.86	3.21	3.41	3.41	+94.9%
LV2 tier charge	1.93	1.93	3.07	3.24	3.24	3.64	3.86	3.86	+100.0%
LV3 tier charge	2.12	2.12	3.45	3.64	3.64	4.09	4.34	4.34	+104.7%
LV4 tier charge	2.33	2.33	3.88	4.09	4.09	4.59	4.87	4.87	+109.0%
City landscaping /1k gal	0.64	0.64	0.64	0.64	0.64	0.72	0.74	0.74	+15.6%
Effluent /1k gal	1.35	1.35	1.35	1.35	1.35	1.39	1.43	1.43	+5.9%
Effluent if used	25.00	25.00	25.00	25.00	25.00	25.75	26.52	26.52	+6.1%

Sewer

Benchmark item	FY18-19	FY19-20	FY20-21	FY21-22	FY22-23	FY23-24	FY24-25	FY25-26	Overall increase
Customer charge (Comm/Res avg)	10.68	11.21	11.77	12.36	12.98	13.63	14.46	14.46	+35.4%
Volumetric charge /1k gal	3.61	3.79	3.98	4.18	4.39	4.61	5.09	5.09	+40.7%
WMSG commercial charge	17.04	17.89	18.78	19.72	20.71	21.75	23.98	23.98	+40.7%
Bathhouse commercial	35.60	37.38	39.25	41.21	43.28	45.43	50.09	50.09	+40.7%
Residential bathhouse	11.58	12.16	12.77	13.41	14.08	14.78	16.30	16.30	+40.8%

Sanitation

Benchmark item	FY18-19	FY19-20	FY20-21	FY21-22	FY22-23	FY23-24	FY24-25	FY25-26	Overall increase
Residential poly cart	27.18	28.54	29.97	31.47	33.04	34.69	34.69	34.69	+27.6%
Residential addl. poly cart	13.61	14.29	15.00	15.75	16.54	17.37	17.37	17.37	+27.6%
Basic commercial poly cart	39.34	41.31	43.38	45.55	47.83	50.22	50.22	50.22	+27.7%
Commercial addl. poly cart	19.67	20.65	21.68	22.76	23.90	25.10	25.10	25.10	+27.6%
1.5 yd – 1 pickup/wk*	—	—	—	—	—	—	69.57	74.79	+7.5%†
3 yd – 1 pickup/wk*	—	—	—	—	—	—	69.57	74.79	+7.5%†

Notes: 1) Water and sewer rows are benchmark lines carried across the rate sheets; values are shown exactly or to the same precision used on the schedules. 2) Sanitation commercial pricing changes structure on the last two schedules; starred pickup rows therefore show n/a until introduced, and the overall percent is measured from first appearance. 3) This summary is intended as a review matrix, not a billing ordinance replacement.

City of Truth or Consequences — Water Division

Fund 504 - Water — Actual Revenue & Expense, 3-Year Look Back, with FY2026-2027 Projected Budget

Budget Assumptions

FY2025-2026 YTD M	11
CPI Rate Increase	4.2%

Source: U.S. BLS, CPI News Release, 6/10/2026 (12-mo % chg ending May 2026). https://www.bls.gov/news.release/cpi.nr0.htm

Account #	Description	FY2023-2024 Actual (Full Year)	FY2024-2025 Actual (Full Year)	FY2025-2026 Actual YTD (Through Jun)	FY2025-2026 Trended Full-Year Estimate	YoY Trend % Chg	FY2026-2027 Projected Budget (Trend + CPI 4.2%)	Proposed Final Budget 2026-2027 CPI
REVENUE								
504-3803-30153	GOVERNMENTAL GROSS RECEIPTS-WA	$70,009	$70,769	$68,486	$74,712	5.6%	$77,850	$ 77,850.00
504-3803-34523	UTILITIES SERVICES-WATER DIVISION	$1,654,870	$1,631,784	$1,583,691	$1,727,663	5.9%	$1,800,225	$ 1,800,225.00
504-3803-34533	UTILITIES SVC CONN-WATER DIVISION	$9,328	$8,641	$8,451	$9,220	6.7%	$9,607	$ 9,607.00
504-3803-34553	NEW INSTALLATIONS-WATER DIVISION	$48,389	$14,712	$3,468	$3,783	(74.3%)	$3,942	$ 4,000.00
504-3803-34773	M&J CONSTRUCTION WATER DIVISION	$19,629	$1,586	-	-	(100.0%)	-	
504-3803-35543	NON-PAYMENT PENALTY 8%-WATER DIVISI	$5,356	$5,249	$4,414	$4,816	(8.3%)	$5,018	$ 5,000.00
504-3803-37374	SURPLUS AUCTION PROCEEDS	-	-	$48	$52		$54	$ 55.00
504-3803-37390	PROPERTY SALES	$2,256	-	-	-		-	
504-3803-38372	INSURANCE RECOVERIES	$22,395	$573	-	-	(100.0%)	-	
504-3803-39935	TRANSFER IN	-	-	-	-		-	
Total Revenue		**$1,832,234**	**$1,733,314**	**$1,668,559**	**$1,820,246**	**5.0%**	**$1,896,696**	**$1,896,737**
EXPENSE								
504-3803-40110	FULL TIME WAGES-WATER DIVISION	$228,669	$301,488	$282,439	$308,115	2.2%	$321,056	$ 368,160
504-3803-40125	OVERTIME WAGES-WATER DIVISION	$27,992	$51,877	$40,482	$44,162	(14.9%)	$46,017	$ 26,000
504-3803-40135	STANDBY WAGES-WATER DIVISION	$1,757	$3,726	$4,508	$4,918	32.0%	$5,125	$ 5,000
504-3803-40140	DELAYED COMPENSATION-WATER DIV	$993	-	$916	$999		$1,041	$ -
504-3803-41205	FICA-REGULAR-WATER DIVISION	$15,866	$21,669	$19,728	$21,521	(0.7%)	$22,425	$ 27,141
504-3803-41210	FICA-MEDICARE-WATER DIVISION	$3,711	$5,068	$4,614	$5,033	(0.7%)	$5,245	$ 6,347
504-3803-41215	PERA-WATER DIVISION	$24,127	$33,047	$32,730	$35,705	8.0%	$37,205	$ 42,027
504-3803-41225	HEALTH INSURANCE-WATER DIVISION	$27,435	$38,100	$41,321	$45,078	18.3%	$46,971	$ 70,123
504-3803-41226	RETIREE INSURANCE	$9,221	$10,028	$7,976	$8,701	(13.2%)	$9,067	$ 10,685
504-3803-41235	UNEMPLOYMENT INSURANCE- GSD HR WATER DIV	-	$2,302	-	-	(100.0%)	-	
504-3803-41240	WORKER'S COMP ASSESSMENT PR	$54	$72	$73	$79	9.6%	$83	$ 80
504-3803-41785	WORKER'S COMP. PREMIUMS NMSIF	$1,684	$2,287	-	-	(100.0%)	-	
504-3803-42310	PER DIEM-WATER DIVISION	$225	-	$84	$92		$96	$ 6,000
504-3803-42620	UNIFORM/LINEN-WATER DIVISION	$2,625	$3,287	$3,420	$3,731	14.2%	$3,887	$ 3,750
504-3803-42720	EMPLOYEE TRAINING-WATER DIVISION	$2,921	$1,212	$4,029	$4,396	262.5%	$4,580	$ 3,000
504-3803-43316	FUEL	$29,413	$27,646	$19,290	$21,044	(23.9%)	$21,928	$ 25,000
504-3803-43403	REGULAR BUILDING MAINTENANCE	$206	-	-	-		-	$ 5,000
504-3803-43465	RENT OF EQUIPMENT	$850	$596	$644	$703	18.0%	$732	$ 1,200

504-3803-43466	RENT OF LAND/BUILDING	$2,153	-	-	-		-	$ 2,200
504-3803-43740	PRINTING/PUBLISHING	$798	$813	-	-	(100.0%)	-	$ 1,000
504-3803-43770	SUBSCRIPTION/DUES	$1,449	$6,317	$13,411	$14,631	131.6%	$15,245	$ 13,000
504-3803-43775	TELEPHONE	$2,613	$3,452	$2,753	$3,003	(13.0%)	$3,129	$ 4,500
504-3803-43780	UTILITIES	$140,352	$172,649	-	-	(100.0%)	-	
504-3803-43797	WATER CONSERVATION-WATER DIVISION	$14,906	$17,191	$16,021	$17,477	1.7%	$18,211	$ 22,000
504-3803-43815	SOFTWARE LIC/SOFTWARE UPDATE	$16,426	$25,467	$14,194	$15,485	(39.2%)	$16,135	$ 30,000
504-3803-44605	CHEMICALS/LABORATORY TESTING	$911	$7,378	$6,207	$6,771	(8.2%)	$7,055	$ 15,000
504-3803-44606	OFFICE SUPPLIES	$1,533	$2,594	$3,485	$3,802	46.6%	$3,961	$ 4,000
504-3803-44607	FIELD SUPPLIES-WATER DIVISION	$125,741	$94,373	$103,268	$112,656	19.4%	$117,387	$ 100,000
504-3803-44613	NON-CAPITAL ITEMS	$1,428	-	-	-		-	
504-3803-44615	SAFETY EQUIPMENT	$5,128	$9,621	$3,646	$3,978	(58.7%)	$4,145	$ 10,000
504-3803-44810	EQUIPMENT & MACHINERY-WATER DIV	-	$3,644	$2,774	$3,026	(17.0%)	$3,153	$ 4,000
504-3803-45796	FRANCHISE TAX-WATER DIVISION	$4,793	$4,904	$2,186	$2,385	(51.4%)	$2,485	$ 6,000
504-3803-46731	PROPERTY INSURANCE-WATER DIVISION	$2,346	$2,500	-	-	(100.0%)	-	
504-3803-46732	GENERAL LIABILITY INSURANCE	$4,576	$7,000	-	-	(100.0%)	-	
504-3803-46733	VEHICLE INSURANCE	$2,515	$3,000	-	-	(100.0%)	-	
504-3803-46794	GOVT GROSS RECEIPTS TAX	$70,404	$71,291	$58,173	$63,461	(11.0%)	$66,127	$ 77,000
504-3803-47415	MAINTENANCE--REPAIRS GROUNDS - ROADWAYS	$59,841	$21,670	$8,587	$9,368	(56.8%)	$9,761	$ 15,000
504-3803-47420	MAINTENANCE-VEHICLE/EQUIP-WATER DIV	$17,594	$16,112	$135	$148	(99.1%)	$154	$ 5,000
504-3803-47425	OTHER MAINT-WATER METERS- WATER							$ 20,000
504-3803-47421	MAINTENANCE EQUIPMENT	$141,036	$8,793	$24,705	$26,951	206.5%	$28,083	$ 50,000
504-3803-48596	AUDIT CONTRACT	$9,710	$9,710	-	-	(100.0%)	-	$ 10,000
504-3803-48598	PROFESSIONAL SERVICES	$86,386	$60,370	$31,924	$34,826	(42.3%)	$36,289	$ 60,000
504-3803-80810	OTHER CAPITAL EQUIPMENT-VEHICLES	$22,580	-	$2,816	$3,072		$3,201	$ -
504-3803-80845	CAPITAL IMPROVEMENTS EQUIPMENT	-	$28,724	-	-	(100.0%)	-	$ 60,000
	USDA - Debt Service Account							$ -
	USDA - Short Live Assets 14-35-b (1.75%)							$ 31,503.00
	Debt Service -	$681,276	$812,517	$148,283	$161,741	(80.1%)	$168,534	$ 536,435.00
	502 Utility office - Admin Fee						0	$ 100,000.00
504-3803-49930	600-- Service Center							$ 50,000.00
	~~316-CI Res Code 14-35-b~~							$ -
	~~316-Emergency Res--Code 14-35-c~~							$ -
504-3803-47595	1% ADMINISTRATION FEE (To GeneralFund)	-	-	-	-		-	$ 18,000
504-3803-43595	INSURANCE, UTILITY, & MAINT (to 1018& 600)	-	-	$229,500	$250,364		$260,879	$ 280,000
Total Expense		**$1,794,245**	**$1,892,474**	**$904,801**	**$987,056**	**(47.8%)**	**$1,028,512**	**$2,124,151**
NET — Fund 504 - Water		**$37,989**	**($159,160)**	**$763,758**	**$833,190**		**$868,184**	**($227,414)**

NEWS RELEASE

BUREAU OF LABOR STATISTICS
U.S. DEPARTMENT OF LABOR

Transmission of material in this release is embargoed until 8:30 a.m. (ET) Wednesday, June 10, 2026

USDL-26-0824

Technical information: (202) 691-7000 • cpi_info@bls.gov • www.bls.gov/cpi
Media contact: (202) 691-5902 • PressOffice@bls.gov

CONSUMER PRICE INDEX – MAY 2026

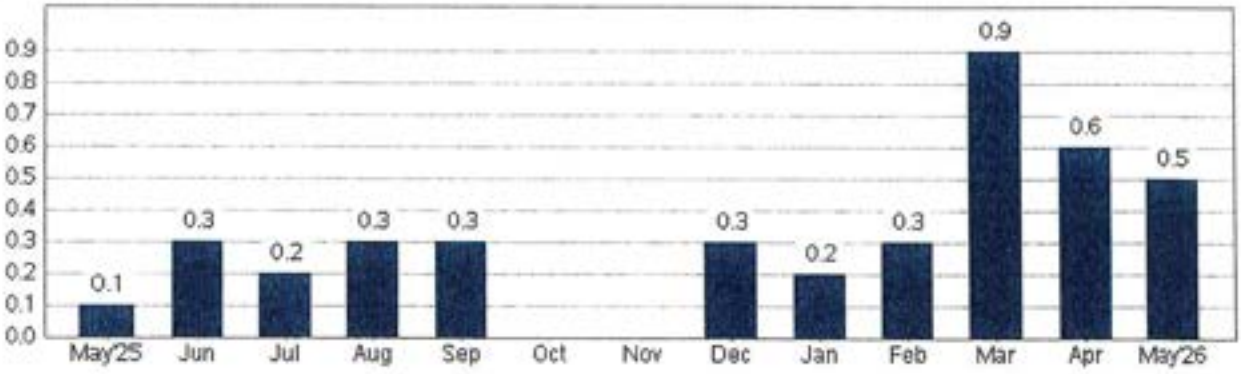
The Consumer Price Index for All Urban Consumers (CPI-U) increased 0.5 percent on a seasonally adjusted basis in May, after rising 0.6 percent in April, the U.S. Bureau of Labor Statistics reported today. Over the last 12 months, the all items index increased 4.2 percent before seasonal adjustment.

The index for energy rose 3.9 percent in May, after rising 3.8 percent in April and 10.9 percent in March. The energy index accounted for over sixty percent of the monthly all items increase. The index for shelter also increased in May, rising 0.3 percent. The food index increased 0.2 percent over the month as the food at home index rose 0.1 percent and the food away from home index increased 0.3 percent.

The index for all items less food and energy rose 0.2 percent in May. Indexes that increased over the month include communication, airline fares, medical care, personal care, and recreation. Conversely, the indexes for motor vehicle insurance, household furnishings and operations, and new vehicles were among the major indexes that decreased in May.

The all items index rose 4.2 percent for the 12 months ending May, after rising 3.8 percent for the 12 months ending April. The all items less food and energy index rose 2.9 percent over the year, following a 2.8-percent increase over the 12 months ending April. The energy index increased 23.5 percent for the 12 months ending May. The food index increased 3.1 percent over the last year.

Chart 1. One-month percent change in CPI for All Urban Consumers (CPI-U), seasonally adjusted, May 2025 - May 2026
Percent change



NOTE: The Oct and Nov 2025 data values are not available due to the 2025 lapse in appropriations.

City of Truth or Consequences — Wastewater Division (WWTP)

Fund 506 - WWTP — Actual Revenue & Expense, 3-Year Look Back, with FY2026-2027 Projected Budget

Budget Assumptions

FY2025-2026 YTD	11
CPI Rate Increase (	5.0%

Account #	Description	FY2023-2024 Actual (Full Year)	FY2024-2025 Actual (Full Year)	FY2025-2026 Actual YTD (Through Jun)	FY2025-2026 Trended Full-Year Estimate	YoY Trend % Chg	FY2026-2027 Projected Budget (Trend + CPI	FY2026-2027 FINAL Budget CPI 4.2%
REVENUE								
506-4005-30155	GOVT. GROSS RECEIPTS-SW-JT UTILITY	$56,639	$58,927	$59,747	$65,178	10.6%	$68,437	$ 70,000.00
506-4005-34355	OTHER CHARGES FOR SERVICE	$27,820	$34,162	$1,492	$1,628	(95.2%)	$1,709	$ 1,700.00
506-4005-34525	UTILITIES SERVICES-SW-WASTEWATER	$1,296,112	$1,333,544	$1,328,238	$1,448,987	8.7%	$1,521,436	$ 1,520,000.00
506-4005-34555	NEW INSTALLATIONS-SEWER-WASTEWATI	$8,997	$6,502	$3,370	$3,676	(43.5%)	$3,860	$ 4,000.00
506-4005-35545	NON-PAYMENT PENALTY 8%-WASTEWATE	$3,083	$2,493	$1,570	$1,713	(31.3%)	$1,799	$ 2,000.00
506-4005-37380	MISCELLANEOUS INCOME	-	-	$13	$14		$15	$ 15.00
506-4005-39935	TRANSFER IN	-	-	-	-		-	
Total Revenue		**$1,392,651**	**$1,435,629**	**$1,394,429**	**$1,521,196**	**6.0%**	**$1,597,256**	**$1,597,715**
EXPENSE								
506-4005-40110	FULL TIME WAGES-WASTEWATER DIVISIO	$249,173	$164,938	$156,365	$170,580	3.4%	$179,109	$ 235,040.00
506-4005-40125	OVERTIME WAGES-WASTEWATER DIVISIO	$34,813	$11,225	$13,245	$14,449	28.7%	$15,171	$ 25,000.00
506-4005-40135	STANDBY WAGES-WASTEWATER DIVISION	$3,624	$1,774	$2,198	$2,398	35.1%	$2,518	$ 10,000.00
506-4005-40140	DELAYED COMPENSATION-WASTEWATER	$1,977	$2,090	$93	$102	(95.1%)	$107	$ -
506-4005-41205	FICA-REGULAR-WASTEWATER DIVISION	$17,432	$10,766	$9,960	$10,865	0.9%	$11,408	$ 16,543.00
506-4005-41210	FICA-MEDICARE-WASTEWATER DIVISION	$4,077	$2,518	$2,329	$2,541	0.9%	$2,668	$ 3,869.00
506-4005-41215	PERA-WASTEWATER DIVISION	$26,278	$18,109	$17,961	$19,593	8.2%	$20,573	$ 31,485.00
506-4005-41225	HEALTH INSURANCE-WASTEWATER DIV	$47,443	$33,790	$45,417	$49,546	46.6%	$52,023	$ 119,066.00
506-4005-41226	RETIREE INSURANCE	$4,796	$4,094	$3,993	$4,356	6.4%	$4,574	$ 8,005.00
506-4005-41235	UNEMPLOYMENT INSURANCE- GSD HR WA	-	$3,597	-	-	(100.0%)	-	
506-4005-41240	WORKER'S COMP ASSESSMENT PR	$54	$36	$42	$46	28.5%	$48	$ 70.00
506-4005-41785	WORKER'S COMP. PREMIUMS NMSIF	$2,731	$1,143	-	-	(100.0%)	-	
							$288,199	
506-4005-42310	PER DIEM-WASTEWATER DIVISION	$320	-	-	-		-	$ 500.00
506-4005-42620	UNIFORM/LINEN-WASTEWATER DIVISION	$3,354	$1,930	$2,462	$2,686	39.2%	$2,820	$ 4,375.00
506-4005-42720	EMPLOYEE TRAINING-WASTEWATER DIV	$2,191	$1,547	$1,239	$1,352	(12.6%)	$1,419	$ 2,500.00
506-4005-43316	FUEL	$11,738	$8,855	$9,493	$10,356	17.0%	$10,874	$ 12,000.00
506-4005-43465	RENT OF EQUIPMENT	$4,508	$6,078	$5,498	$5,998	(1.3%)	$6,297	$ 8,000.00
506-4005-43740	PRINTING/PUBLISHING	$798	$41	-	-	(100.0%)	-	$ 2,000.00
506-4005-43770	SUBSCRIPTION & DUES	$278	$5,001	$8,683	$9,473	89.4%	$9,946	$ 13,000.00

506-4005-43775	TELEPHONE	$4,951	$4,895	$4,097	$4,469	(8.7%)	$4,692	$ 5,000.00
506-4005-43780	UTILITIES	$151,672	$193,212	-	-	(100.0%)	-	
506-4005-43815	SOFTWARE LIC/SOFTWARE UPDATE	$13,095	$14,478	$14,194	$15,485	7.0%	$16,259	$ 17,000.00
506-4005-44605	CHEMICALS/LABORATORY TESTING	$16,741	$57,085	$61,762	$67,376	18.0%	$70,745	$ 80,000.00
506-4005-44606	OFFICE SUPPLIES	$3,118	$2,096	$3,789	$4,133	97.2%	$4,340	$ 3,500.00
506-4005-44607	FIELD SUPPLIES-WASTEWATER DIVISION	$53,811	$30,319	$20,025	$21,846	(27.9%)	$22,938	$ 30,000.00
506-4005-44613	NON-CAPITAL ITEMS	$1,193	$1,921	-	-	(100.0%)	-	
506-4005-44615	SAFETY EQUIPMENT	$4,257	$7,426	$3,114	$3,397	(54.3%)	$3,567	$ 5,000.00
506-4005-44810	EQUIPMENT & MACHINERY	$2,427	$3,253	$2,583	$2,817	(13.4%)	$2,958	$ 5,000.00
506-4005-46731	PROPERTY INSURANCE-WASTERWATER D	$4,009	$4,500	-	-	(100.0%)	-	
506-4005-46732	GENERAL LIABILITY INSURANCE	$4,254	$6,000	-	-	(100.0%)	-	
506-4005-46733	VEHICLE INSURANCE	$1,881	$2,500	-	-	(100.0%)	-	
506-4005-46794	GOVT GROSS RECEIPTS TAX	$57,341	$59,386	$50,999	$55,635	(6.3%)	$58,417	$ 70,000.00
506-4005-47415	MAINTENANCE--REPAIRS GROUNDS -ROAD	$37,106	$33,470	$2,317	$2,527	(92.4%)	$2,653	$ 30,000.00
506-4005-47420	MAINTENANCE-VEHICLE/EQUIP-WASTEWA	$29,964	$26,362	$29,986	$32,712	24.1%	$34,348	$ 10,000.00
506-4005-47425	OTHER MAINTENANCE-WASTEWATER DIV	$15,298	$16,415	$12,435	$13,566	(17.4%)	$14,244	$ 15,000.00
506-4005-48596	AUDIT CONTRACT	$9,710	$9,710	-	-	(100.0%)	-	$ 10,000.00
506-4005-48598	PROFESSIONAL SERVICES	$134,061	$63,326	$32,802	$35,784	(43.5%)	$37,573	$ 60,000.00
506-4005-48599	OTHER CONTRACTUAL SERVICES	$51,259	-	-	-		-	
506-4005-48798	VILLAGE OF WILLIAMSBURG-WASTEWATE	$49,567	$46,071	$45,883	$50,054	8.6%	$52,557	$ 45,000.00
506-4005-80810	OTHER CAPITAL EQUIPMENT-VEHICLES	$47,494	-	-	-		-	$ 50,000.00
506-4005-80845	CAPITAL IMPROVEMENTS EQUIPMENT	-	$95,454	-	-	(100.0%)	-	$ 90,000.00
506-4005-49930	TRANSFER OUT - Debt Service	$121,450	$288,924	$161,928	$176,648	(38.9%)	$185,481	$ 81,000.00
506-4005-47595	1% ADMINISTRATION FEE (General Fund)	-	-	-	-		-	$ 15,000.00
506-4005-43595	INSURANCE, UTILITY, & MAINT (to 1018)	-	-	$270,000	$294,545		$309,273	$ 279,000.00
	USDA - Debt Service Account							$ -
	USDA - Short Live Assets							$ 26,425.00
	600-- Service Center							$ 50,000.00
	315-CI Res Code 14-35-b (2%)							$ 30,200.00
	~~316-Emergency Res - Code 14-35-c~~							$ -
	~~317-WWI-Code 14-35-d~~							$ -
	502 Utility office - Admin Fee							$ 100,000.00
Total Expense		**$1,108,793**	**$955,412**	**$562,963**	**$614,142**	**(35.7%)**	**$1,427,802**	**$1,598,578**
NET — Fund 506 - WWTP		**$283,859**	**$480,217**	**$831,466**	**$907,054**		**$169,454**	**($863)**

CITY OF TRUTH OR CONSEQUENCES — WATER & WASTEWATER RATE STUDY | PUBLIC PRESENTATION

Baseline: FY2026-27 Actual Final Budget | Ops escalate 0.5%/yr | Debt = actual schedule (WSPI-1 + WSPI-2) | Avg user 6,000 gal/mo
New rates effective FY2027-28

.5% Ops increase

FY2026-27 ACTUAL FINAL BUDGET — BASELINE

Fund	Total Revenue	Rate Revenue	Total Expense	Debt Service	Ops Base (Excl Debt/Admin)	Net Rev–Exp
Water (Fund 504)	$1,896,737	$1,800,225	$2,136,998	$372,650	$1,533,998	($240,261)
Wastewater (Fund 506)	$1,587,715	$1,510,000	$1,600,788	$78,239	$1,298,714	($13,073)
Combined	**$3,484,452**	**$3,310,225**	**$3,737,786**	**$450,889**	**$2,832,712**	**($253,334)**

REVENUE REQUIREMENT — WATER (ops @0.5%/yr + actual debt + fixed admin flat)

Component	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32	5-yr Total
Operating expense (0.5%/yr)	$1,541,668	$1,549,376	$1,557,123	$1,564,909	$1,572,734	$7,785,810
Debt service (actual schedule)	$653,133	$753,022	$753,021	$753,021	$753,021	$3,665,218
Fixed admin / reserve transfers	$230,350	$230,350	$230,350	$230,350	$230,350	$1,151,750
Total Water Revenue Requirement	**$2,144,668**	**$2,432,859**	**$2,540,495**	**$2,548,280**	**$2,556,105**	**$12,222,407**

REVENUE REQUIREMENT — WASTEWATER (ops @0.5%/yr + actual debt + fixed admin flat)

Component	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32	5-yr Total
Operating expense (0.5%/yr)	$1,305,208	$1,311,734	$1,318,293	$1,324,884	$1,331,508	$6,591,627
Debt service (actual schedule)	$108,371	$108,194	$108,797	$109,400	$109,400	$544,162
Fixed admin / reserve transfers	$223,835	$223,835	$223,835	$223,835	$223,835	$1,119,175
Total WW Revenue Requirement	**$1,607,282**	**$1,643,940**	**$1,650,322**	**$1,657,516**	**$1,664,743**	**$8,223,803**

WATER — RATE REVENUE vs. REQUIREMENT ($)

Scenario	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32	5-yr Surplus/(Deficit)
Revenue requirement	**$2,144,668**	**$2,432,859**	**$2,540,495**	**$2,548,280**	**$2,556,105**	
A — CPI 3.6% (no structure)	$1,865,033	$1,932,174	$2,001,732	$2,073,794	$2,148,451	($2,201,223)
B — Flat 5% + structure	$1,987,236	$2,198,748	$2,319,985	$2,446,184	$2,578,593	($691,661)
C — Res 6% / Comm 8% + struct	$2,019,640	$2,267,380	$2,429,010	$2,600,135	$2,782,400	($123,842)
D — Flat 6% + structure	$2,005,238	$2,236,732	$2,380,096	$2,530,742	$2,690,107	($379,492)

WATER — ANNUAL OVER / (UNDER) RECOVERY ($)						
Scenario	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32	Cumulative Total
A — CPI 3.6%	($279,635)	($500,685)	($538,763)	($474,486)	($407,654)	($2,201,223)
B — Flat 5% ★	($157,432)	($234,111)	($220,510)	($102,096)	$22,488	($691,661)
C — 6%/8% ★	($125,028)	($165,479)	($111,485)	$51,855	$226,295	($123,842)
D — Flat 6% ★	($139,430)	($196,127)	($160,399)	($17,538)	$134,002	($379,492)

WASTEWATER — RATE REVENUE vs. REQUIREMENT ($)						
Scenario	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32	5-yr Surplus/(Deficit)
WW Revenue requirement	**$1,607,282**	**$1,643,940**	**$1,650,322**	**$1,657,516**	**$1,664,743**	
A — CPI 3.6%	$1,564,360	$1,620,677	$1,679,021	$1,739,466	$1,802,087	$181,808
B — Flat 5% + structure	$1,630,500	$1,764,775	$1,857,014	$1,954,415	$2,056,186	$1,039,087
C — Res 6%/Comm 8% + struct	$1,657,680	$1,822,342	$1,948,461	$2,083,544	$2,227,133	$1,515,357
D — Flat 6% + structure	$1,645,600	$1,796,636	$1,907,434	$2,025,340	$2,149,720	$1,300,927

MONTHLY BILL — RESIDENTIAL ¾" METER, 6,000 GAL/MONTH (Water only)						
Scenario	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32	Total Increase
A — CPI 3.6% (no structure)	$35.75	$37.03	$38.37	$39.74	$41.18	+$6.67/mo
B — Flat 5% + structure	$39.96	$45.90	$48.22	$50.66	$53.21	+$18.70/mo
C — Res 6%/Comm 8%	$40.63	$47.45	$50.70	$54.12	$57.78	+$23.27/mo
D — Flat 6% + structure	$40.37	$46.81	$49.62	$52.57	$55.73	+$21.22/mo

KEY FINDINGS
1. BASELINE: FY2026-27 Actual Final Budget. Water: rev $1,896,737 / exp $2,136,998 (net -$240,261). WW: rev $1,587,715 / exp $1,600,788 (net -$13,073).
2. OPERATING EXPENSE: All O&M lines escalate at 0.5%/yr from FY2026-27 actual. Water ops base = $1,533,998. WW ops base = $1,298,714.
3. DEBT: Actual from uploaded schedule. Water rises $372,650 (FY26) → $653,133 (FY27-28) → $753,022 (FY28-29) due to WSPI-1 + WSPI-2.
4. WSPI-1 (Loan 4811000): $179,700/yr starting FY2027-28 (P $75,600 + I $104,100). WSPI-2 (Loan 2673000): $99,890/yr starting FY2028-29.
5. WATER REQ: $2,144,668 (FY27-28) → $2,556,105 (FY31-32). WW REQ: $1,607,282 → $1,664,743.
6. SCENARIO A — CPI 3.6%: Water cum. deficit $-2,201,223. WW cum. deficit $181,808.
7. SCENARIO B — Flat 5% + structure: Water cum. -691,661. WW cum. +1,039,087.
8. SCENARIO C — Res 6%/Comm 8% + structure (NewGen rec.): Water cum. -123,842. WW cum. +1,515,357.
9. SCENARIO D — Flat 6% + structure: Water cum. -379,492. WW cum. +1,300,927.
10. FREE WATER PHASE-OUT (B,C,D): 1K-2K gal charged FY2027-28; 0-2K fully charged FY2028-29. Adds ~$78K water yr1, ~$185K water yr2+.
11. METER EQUIV (B,C,D): AWWA M1 10-yr phase-in. $19K→$59K/yr water; $8K→$24K/yr WW.
12. At 0.5%/yr ops escalation the revenue requirement grows much more slowly than at 3%/yr — driven almost entirely by the debt step-up from WSPI-1 and WSPI-2.

REVENUE REQUIREMENT EXHIBIT — WATER & WASTEWATER | Operating Expense @ 0.5%/yr | Actual Debt Schedule

.5% Ops increase

WATER — REVENUE REQUIREMENT BUILD-UP ($)

Line item	FY2026-27 Baseline	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32
OPERATING EXPENSE — escalates at 0.5% per year from FY2026-27 actual final budget (Fund 504)						
Full Time Wages (40110)	$368,160	$370,001	$371,851	$373,710	$375,579	$377,457
Overtime / Standby Wages	$31,000	$31,155	$31,311	$31,467	$31,625	$31,783
FICA / Medicare / PERA	$75,515	$75,893	$76,272	$76,653	$77,037	$77,422
Health / Retiree Insurance	$80,808	$81,212	$81,618	$82,026	$82,436	$82,849
Workers Comp (41240)	$80	$80	$81	$81	$82	$82
Per Diem / Uniform / Training	$12,750	$12,814	$12,878	$12,942	$13,007	$13,072
Fuel (43316)	$25,000	$25,125	$25,251	$25,377	$25,504	$25,631
Building Maint / Rent	$8,400	$8,442	$8,484	$8,527	$8,569	$8,612
Printing / Subscriptions / Phone	$18,500	$18,592	$18,685	$18,779	$18,873	$18,967
Water Conservation (43797)	$22,000	$22,110	$22,221	$22,332	$22,443	$22,556
Software / Licenses (43815)	$30,000	$30,150	$30,301	$30,452	$30,605	$30,758
Chemicals / Lab (44605)	$15,000	$15,075	$15,150	$15,226	$15,302	$15,379
Field / Office Supplies	$104,000	$104,520	$105,043	$105,568	$106,096	$106,626
Safety Equipment (44615)	$10,000	$10,050	$10,100	$10,151	$10,202	$10,253
Equipment & Machinery (44810)	$4,000	$4,020	$4,040	$4,060	$4,081	$4,101
Franchise / GOVT GRT (45796/46794)	$83,000	$83,415	$83,832	$84,251	$84,672	$85,096
Maint — Grounds/Vehicle/Equip/Meters	$95,000	$95,475	$95,952	$96,432	$96,914	$97,399
Audit / Professional Services	$70,000	$70,350	$70,702	$71,055	$71,411	$71,768
Capital Improvements (80845)	$60,000	$60,300	$60,601	$60,905	$61,209	$61,515
Insurance / Utility / Maint (43595)	$280,000	$281,400	$282,807	$284,221	$285,642	$287,070
Total Water Operating Expense	**$1,533,998**	**$1,541,668**	**$1,549,376**	**$1,557,123**	**$1,564,909**	**$1,572,734**
DEBT SERVICE — actual from uploaded TorC_Debt_Schedule_From_Study_6-22-26_gw.xlsx						
Existing 11 loans	$372,650	$473,433	$473,432	$473,431	$473,431	$473,431
WSPI-1 (Loan 4811000) ★	-	-	$179,700	$179,700	$179,700	$179,700
WSPI-2 (Loan 2673000) ★	-	-	-	$99,890	$99,890	$99,890
Total Water Debt Service	**$372,650**	**$653,133**	**$753,022**	**$753,021**	**$753,021**	**$753,021**
FIXED ADMIN / RESERVE TRANSFERS — held flat (not inflated)						
502 Utility Office Admin	$100,000	$100,000	$100,000	$100,000	$100,000	$100,000
600 Service Center	$50,000	$50,000	$50,000	$50,000	$50,000	$50,000
CI Reserve (315)	$41,225	$41,225	$41,225	$41,225	$41,225	$41,225

316-Emergency Reserve	$3,125	$3,125	$3,125	$3,125	$3,125	$3,125
317-WW Reserve	$24,375	$24,375	$24,375	$24,375	$24,375	$24,375
1% Admin Fee (47595)	$15,000	$15,000	$15,000	$15,000	$15,000	$15,000
Total Fixed Admin / Reserves	**$223,835**	**$223,835**	**$223,835**	**$223,835**	**$223,835**	**$223,835**
TOTAL WW REVENUE REQUIREMENT	**$1,600,788**	**$1,637,414**	**$1,643,763**	**$1,650,925**	**$1,658,119**	**$1,664,743**

Ops escalation = 0.5%/yr compound. Debt = exact figures from uploaded debt schedule. Fixed admin held flat throughout forecast.
WSPI-1 begins FY2027-28 (+$179,700/yr). WSPI-2 begins FY2028-29 (+$99,890/yr). These two loans drive the bulk of requirement growth.

SCENARIO A — CPI 3.6% ONLY | No structural change | 0-2,000 gal FREE maintained | All meters same flat rate

FY2026-27 = current 4.2% CPI ordinance. FY2027-28 onward = 3.6%/yr uniform. No free water phase-out. No meter equiv phase-in.

.5% Ops increase

MINIMUM BILL RATES ($/month)

Class / meter	FY2026-27	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32
Residential / Commercial / City — all meters	$19.48	$20.18	$20.90	$21.65	$22.43	$23.24
Industrial — all meters	$109.56	$113.50	$117.59	$121.83	$126.22	$130.76
WMBG Residential / Commercial	$19.48	$20.18	$20.90	$21.65	$22.43	$23.24
City – Landscaping ($/Kgal)	$0.74	$0.77	$0.80	$0.83	$0.86	$0.89

VOLUMETRIC RATES ($/1,000 gal) — 0-2,000 gal FREE unchanged

Tier	FY2026-27	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32
0–2,000 gal (FREE — no change)	-	-	-	-	-	-
2,001–7,000 gal	$3.41	$3.53	$3.66	$3.79	$3.93	$4.07
7,001–15,000 gal	$3.86	$4.00	$4.14	$4.29	$4.44	$4.60
15,001–29,000 gal	$4.34	$4.50	$4.66	$4.83	$5.00	$5.18
29,001–50,000 gal	$4.87	$5.05	$5.23	$5.42	$5.61	$5.81
50,000+ gal	$5.30	$5.49	$5.69	$5.89	$6.10	$6.32
Industrial 0–50,000 gal	$3.86	$4.00	$4.14	$4.29	$4.44	$4.60

WATER REVENUE PROJECTION ($)

Item	FY2026-27	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32
Rate revenue (3.6%/yr)	$1,800,225	$1,865,033	$1,932,174	$2,001,732	$2,073,794	$2,148,451
Non-rate revenue	$96,512	$97,000	$97,000	$97,000	$97,000	$97,000
Total Water Revenue	**$1,896,737**	**$1,962,033**	**$2,029,174**	**$2,098,732**	**$2,170,794**	**$2,245,451**
Water revenue requirement	$2,136,998	$2,144,668	$2,432,859	$2,540,495	$2,548,280	$2,556,105
Annual over / (under)	($240,261)	($279,635)	($500,685)	($538,763)	($474,486)	($407,654)
Cumulative	($240,261)	($279,635)	($780,320)	($1,319,083)	($1,793,569)	($2,201,223)

WASTEWATER REVENUE PROJECTION ($)

Item	FY2026-27	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32
WW rate revenue (3.6%/yr)	$1,510,000	$1,564,360	$1,620,677	$1,679,021	$1,739,466	$1,802,087

SCENARIO B — FLAT 5% ALL CLASSES + FREE WATER PHASE-OUT + AWWA METER EQUIV ★

FY2027-28: 5% uniform + 1K-2K gal charged. FY2028-29: 0-2K gal charged. AWWA meter phase-in. WMBG 1.25×.

.5% Ops increase

MINIMUM BILL RATES ($/month) — ¾" base; larger meters scale by AWWA M1 10-yr phase-in

Class / meter size	FY2026-27	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32
All classes — ¾"	$19.48	$20.45	$21.48	$22.55	$23.68	$24.86
1" (AWWA equiv 2.5x phase-in)	$19.48	$23.33	$27.18	$31.03	$34.89	$38.74
1½" (AWWA equiv 5x phase-in)	$19.48	$29.13	$38.78	$48.43	$58.08	$67.73
2" (AWWA equiv 8x phase-in)	$19.48	$36.09	$52.70	$69.31	$85.92	$102.53
3" (AWWA equiv 16x phase-in)	$19.48	$54.65	$89.81	$124.98	$160.14	$195.30
4" (AWWA equiv 25x phase-in)	$19.48	$75.52	$131.57	$187.62	$243.67	$299.72
WMBG ¾" (1.25× of 5%)	$19.48	$25.56	$26.85	$28.19	$29.60	$31.08

VOLUMETRIC RATES ($/1,000 gal) — free water phased out FY2027-28 and FY2028-29

Tier	FY2026-27	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32
0–1,000 gal → charged FY2028-29	-	-	$3.58	$3.76	$3.94	$4.14
1,001–2,000 gal → charged FY2027-28	-	$3.41	$3.58	$3.76	$3.94	$4.14
2,001–7,000 gal (all classes)	$3.41	$3.58	$3.76	$3.95	$4.14	$4.35
7,001–15,000 gal	$3.86	$4.05	$4.26	$4.47	$4.69	$4.93
15,001–29,000 gal	$4.34	$4.56	$4.78	$5.02	$5.27	$5.54
29,001–50,000 gal	$4.87	$5.11	$5.37	$5.64	$5.92	$6.21
50,000+ gal	$5.30	$5.57	$5.84	$6.14	$6.44	$6.77
WMBG 2K–7K (1.25× of 5%)	$3.41	$4.48	$4.70	$4.94	$5.18	$5.44
City – Landscaping	$0.74	$0.78	$0.82	$0.86	$0.90	$0.94

WATER REVENUE PROJECTION ($)

Item	FY2026-27	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32
Rate revenue (5%/yr flat)	$1,800,225	$1,987,236	$2,198,748	$2,319,985	$2,446,184	$2,578,593
Free water phase-out added	-	$78,000	$185,000	$197,000	$209,000	$222,000
Meter equiv min bill uplift	-	$19,000	$29,000	$39,000	$49,000	$59,000
Non-rate revenue (~flat)	$96,512	$97,000	$97,000	$97,000	$97,000	$97,000
Total Water Revenue	**$1,896,737**	**$2,084,236**	**$2,295,748**	**$2,416,985**	**$2,543,184**	**$2,675,593**
Water revenue requirement	**$2,136,998**	**$2,144,668**	**$2,432,859**	**$2,540,495**	**$2,548,280**	**$2,556,105**

SCENARIO C — RES/CITY +6% | COMM/INDUSTRIAL +8% | WMBG 1.25× | Free water + AWWA meter equiv (NewGen recommendation) ★

FY2027-28 onward: residential/city 6%, commercial/industrial 8%. Free water phase-out + AWWA meter equiv same schedule as B and D.

.5% Ops increase

MINIMUM BILL RATES ($/month) — ¾" base; larger meters scale by AWWA M1 10-yr phase-in

Class / meter size	FY2026-27	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32
Residential / City — ¾"	$19.48	$20.65	$21.88	$23.20	$24.59	$26.07
Residential / City — 1"	$19.48	$23.33	$27.18	$31.03	$34.89	$38.74
Residential / City — 2"	$19.48	$36.09	$52.70	$69.31	$85.92	$102.53
Residential / City — 3"	$19.48	$54.65	$89.81	$124.98	$160.14	$195.30
Residential / City — 4"	$19.48	$75.52	$131.57	$187.62	$243.67	$299.72
Commercial / Industrial — ¾"	$19.48	$21.04	$22.72	$24.54	$26.50	$28.62
Commercial / Industrial — 1"	$19.48	$23.66	$27.85	$32.04	$36.23	$40.42
Commercial / Industrial — 2"	$19.48	$37.16	$54.84	$72.52	$90.20	$107.88
Commercial / Industrial — 4"	$19.48	$78.87	$138.26	$197.65	$257.04	$316.43
WMBG Res ¾" (1.25× of 6%)	$19.48	$25.81	$27.36	$29.00	$30.74	$32.58
WMBG Comm ¾" (1.25× of 8%)	$19.48	$26.29	$28.40	$30.67	$33.12	$35.77

VOLUMETRIC RATES ($/1,000 gal) — free water phased out FY2027-28 and FY2028-29

Tier	FY2026-27	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32
Res — 0–1K gal → charged FY2028-29	-	-	$3.83	$4.06	$4.30	$4.56
Res — 1K–2K gal → charged FY2027-28	-	$3.61	$3.83	$4.06	$4.30	$4.56
Res — 2,001–7,000 gal	$3.41	$3.61	$3.83	$4.06	$4.30	$4.56
Res — 7,001–15,000 gal	$3.86	$4.09	$4.34	$4.60	$4.87	$5.17
Res — 15,001–29,000 gal	$4.34	$4.60	$4.87	$5.16	$5.47	$5.80
Res — 29,001–50,000 gal	$4.87	$5.16	$5.47	$5.80	$6.14	$6.51
Res — 50,000+ gal	$5.30	$5.62	$5.96	$6.31	$6.69	$7.09
Comm — 1K–2K gal → charged FY2027-28	-	$3.68	$3.98	$4.29	$4.64	$5.01
Comm — 2,001–7,000 gal	$3.41	$3.68	$3.98	$4.29	$4.64	$5.01
Comm — 7,001–15,000 gal	$3.86	$4.17	$4.51	$4.87	$5.26	$5.68
Comm — 50,000+ gal	$5.30	$5.72	$6.18	$6.68	$7.21	$7.79
WMBG 2K–7K (1.25× res rate)	$3.41	$4.52	$4.79	$5.08	$5.38	$5.70

WATER REVENUE PROJECTION ($)

SCENARIO D — FLAT 6% ALL CLASSES + FREE WATER PHASE-OUT + AWWA METER EQUIV ★

FY2027-28: 6% uniform + 1K-2K gal charged. FY2028-29: 0-2K gal charged. AWWA meter phase-in. WMBG 1.25×.

5% Ops increase

MINIMUM BILL RATES ($/month) — ¾" base; larger meters scale by AWWA M1 10-yr phase-in

Class / meter size	FY2026-27	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32
All classes — ¾"	$19.48	$20.65	$21.88	$23.20	$24.59	$26.07
1" (AWWA equiv 2.5x phase-in)	$19.48	$23.33	$27.18	$31.03	$34.89	$38.74
1½" (AWWA equiv 5x phase-in)	$19.48	$29.13	$38.78	$48.43	$58.08	$67.73
2" (AWWA equiv 8x phase-in)	$19.48	$36.09	$52.70	$69.31	$85.92	$102.53
3" (AWWA equiv 16x phase-in)	$19.48	$54.65	$89.81	$124.98	$160.14	$195.30
4" (AWWA equiv 25x phase-in)	$19.48	$75.52	$131.57	$187.62	$243.67	$299.72
WMBG ¾" (1.25× of 6%)	$19.48	$25.81	$27.36	$29.00	$30.74	$32.58

VOLUMETRIC RATES ($/1,000 gal) — free water phased out FY2027-28 and FY2028-29

Tier	FY2026-27	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32
0–1,000 gal → charged FY2028-29	-	-	$3.62	$3.84	$4.07	$4.31
1,001–2,000 gal → charged FY2027-28	-	$3.41	$3.62	$3.84	$4.07	$4.31
2,001–7,000 gal (all classes)	$3.41	$3.61	$3.83	$4.06	$4.30	$4.56
7,001–15,000 gal	$3.86	$4.09	$4.34	$4.60	$4.87	$5.17
15,001–29,000 gal	$4.34	$4.60	$4.87	$5.16	$5.47	$5.80
29,001–50,000 gal	$4.87	$5.16	$5.47	$5.80	$6.14	$6.51
50,000+ gal	$5.30	$5.62	$5.96	$6.31	$6.69	$7.09
WMBG 2K–7K (1.25× of 6%)	$3.41	$4.52	$4.79	$5.08	$5.38	$5.70
City – Landscaping	$0.74	$0.78	$0.83	$0.88	$0.93	$0.99

WATER REVENUE PROJECTION ($)

Item	FY2026-27	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32
Rate revenue (6%/yr flat)	$1,800,225	$2,005,238	$2,236,732	$2,380,096	$2,530,742	$2,690,107
Free water phase-out added	-	$78,000	$185,000	$197,000	$209,000	$222,000
Meter equiv min bill uplift	-	$19,000	$29,000	$39,000	$49,000	$59,000
Non-rate revenue (~flat)	$96,512	$97,000	$97,000	$97,000	$97,000	$97,000
Total Water Revenue	**$1,896,737**	**$2,102,238**	**$2,333,732**	**$2,477,096**	**$2,627,742**	**$2,787,107**
Water revenue requirement	**$2,136,998**	**$2,144,668**	**$2,432,859**	**$2,540,495**	**$2,548,280**	**$2,556,105**
Annual over / (under)	**($240,261)**	**($139,430)**	**($196,127)**	**($160,399)**	**($17,538)**	**$134,002**

Cumulative	**($240,261)**	**($139,430)**	**($335,557)**	**($495,956)**	**($513,494)**	**($379,492)**

WASTEWATER REVENUE PROJECTION ($)						
Item	**FY2026-27**	**FY2027-28**	**FY2028-29**	**FY2029-30**	**FY2030-31**	**FY2031-32**
WW rate revenue (6%/yr flat)	$1,510,000	$1,645,600	$1,796,636	$1,907,434	$2,025,340	$2,149,720
WW non-rate revenue	$77,715	$78,000	$78,000	$78,000	$78,000	$78,000
Total WW Revenue	**$1,587,715**	**$1,723,600**	**$1,874,636**	**$1,985,434**	**$2,103,340**	**$2,227,720**
WW revenue requirement	$1,600,788	$1,607,282	$1,643,940	$1,650,322	$1,657,516	$1,664,743
WW annual over / (under)	**($13,073)**	**$38,318**	**$152,696**	**$257,112**	**$367,824**	**$484,977**
WW cumulative	**($13,073)**	**$38,318**	**$191,014**	**$448,126**	**$815,950**	**$1,300,927**

MONTHLY BILL — RESIDENTIAL ¾" METER, 6,000 GAL/MONTH						
Item	**FY2026-27**	**FY2027-28**	**FY2028-29**	**FY2029-30**	**FY2030-31**	**FY2031-32**
Monthly bill (¾", 6,000 gal/mo)	**$34.51**	**$40.37**	**$46.81**	**$49.62**	**$52.57**	**$55.73**
Min bill (¾") component	$19.48	$20.65	$21.88	$23.20	$24.59	$26.07

★ = *free water phase-out + AWWA meter equiv. Ops @0.5%/yr. Revenue requirement uses actual debt schedule.*

CITY OF TRUTH OR CONSEQUENCES — WATER & WASTEWATER RATE STUDY | PUBLIC PRESENTATION

Baseline: FY2026-27 Actual Final Budget | Ops escalate 3%/yr | Debt = actual schedule (WSPI-1 + WSPI-2 included) | Avg user 6,000 gal/mo | New rates effective FY2027-28

FY2026-27 ACTUAL FINAL BUDGET — BASELINE

Fund	Total Revenue	Rate Revenue *	Total Expense	Debt Service	Ops Base (Excl Debt/Admin)	Net Rev-Exp
Water (Fund 504)	$1,896,737	$1,800,225	$2,136,998	$372,650	$1,533,998	($240,261)
Wastewater (Fund 506)	$1,587,715	$1,510,000	$1,600,788	$78,239	$1,298,714	($13,073)
Combined	**$3,484,452**	**$3,310,225**	**$3,737,786**	**$450,889**	**$2,832,712**	**($253,334)**

** Non-rate revenue is other fees- interest- late fees ect.*

REVENUE REQUIREMENT — WATER (operation @ 3%/yr + actual debt schedule)

Component	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32	5-yr Total
Operating expense (3%/yr escalation)	$1,580,018	$1,627,419	$1,676,242	$1,726,529	$1,778,325	$8,388,533
Debt service (actual schedule)	$372,650	$653,133	$753,022	$753,021	$753,021	$3,284,847
Fixed admin / reserve transfers	$230,350	$230,350	$230,350	$230,350	$230,350	$1,151,750
Total Water Revenue Requirement	**$2,183,018**	**$2,510,901**	**$2,659,613**	**$2,709,899**	**$2,761,695**	**$12,825,126**

REVENUE REQUIREMENT — WASTEWATER (operations @3%/yr + actual debt schedule)

Component	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32	5-yr Total
Operating expense (3%/yr escalation)	$1,337,675	$1,377,805	$1,419,139	$1,461,713	$1,505,564	$7,101,896
Debt service (actual schedule)	$78,239	$108,371	$108,194	$108,797	$109,400	$513,001
Fixed admin / reserve transfers	$223,835	$223,835	$223,835	$223,835	$223,835	$1,119,175
Total WW Revenue Requirement	**$1,639,749**	**$1,710,012**	**$1,751,169**	**$1,794,346**	**$1,838,800**	**$8,734,076**

WATER — RATE REVENUE vs. REQUIREMENT ($ — rate revenue only; add non-rate ~$97K for total)						
Scenario	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32	5-yr Surplus/(Deficit)
Revenue requirement	**$2,183,018**	**$2,510,901**	**$2,659,613**	**$2,709,899**	**$2,761,695**	
A — CPI 3.6% (no structure)	$1,865,033	$1,932,174	$2,001,732	$2,073,794	$2,148,451	($2,803,942)
B — Flat 5% + structure	$1,987,236	$2,198,748	$2,319,985	$2,446,184	$2,578,593	($1,294,380)
C — Res 6% / Comm 8% + struct	$2,019,640	$2,267,380	$2,429,010	$2,600,135	$2,782,400	($726,561)
D — Flat 6% + structure	$2,005,238	$2,236,732	$2,380,096	$2,530,742	$2,690,107	($982,211)

WATER — ANNUAL OVER / (UNDER) RECOVERY ($)						
Scenario	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32	Cum. Total
A — CPI 3.6%	($317,985)	($578,727)	($657,881)	($636,105)	($613,244)	($2,803,942)
B — Flat 5% ★	($195,782)	($312,153)	($339,628)	($263,715)	($183,102)	($1,294,380)
C — 6%/8% ★	($163,378)	($243,521)	($230,603)	($109,764)	$20,705	($726,561)
D — Flat 6% ★	($177,780)	($274,169)	($279,517)	($179,157)	($71,588)	($982,211)

WASTEWATER — RATE REVENUE vs. REQUIREMENT ($)						
Scenario	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32	Cum. Total
WW Revenue requirement	**$1,639,749**	**$1,710,012**	**$1,751,169**	**$1,794,346**	**$1,838,800**	
A — CPI 3.6%	$1,564,360	$1,620,677	$1,679,021	$1,739,466	$1,802,087	($328,465)
B — Flat 5% + structure	$1,630,500	$1,764,775	$1,857,014	$1,954,415	$2,056,186	$528,814
C — Res 6%/Comm 8% + struct	$1,657,680	$1,822,342	$1,948,461	$2,083,544	$2,227,133	$1,005,084
D — Flat 6% + structure	$1,645,600	$1,796,636	$1,907,434	$2,025,340	$2,149,720	$790,654

MONTHLY BILL — RESIDENTIAL ¾" METER, 6,000 GAL/MONTH (Water only)						
Scenario	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32	Total Increase
A — CPI 3.6% (no structure)	$35.75	$37.03	$38.37	$39.74	$41.18	+$6.67/mo
B — Flat 5% + structure	$39.96	$45.90	$48.22	$50.66	$53.21	+$18.70/mo
C — Res 6%/Comm 8%	$40.63	$47.45	$50.70	$54.12	$57.78	+$23.27/mo
D — Flat 6% + structure	$40.37	$46.81	$49.62	$52.57	$55.73	+$21.22/mo

KEY FINDINGS
1. BASELINE: FY2026-27 Actual Final Budget. Water: rev $1,896,737 / exp $2,136,998 (net -$240,261). WW: rev $1,587,715 / exp $1,600,788 (net -$13,073).
2. OPERATING EXPENSE MODEL: All ops lines escalate at 3.0%/yr from FY2026-27 base. Water ops base = $1,533,998. WW ops base = $1,298,714.
3. DEBT: Actual from uploaded schedule. Water jumps from $372,650 (FY26) → $653,133 (FY27) → $753,022 (FY28) due to WSPI-1 + WSPI-2 coming online.
4. WSPI-1 (Loan 4811000): $179,700/yr starting FY2027-28 (P $75,600 + I $104,100). WSPI-2 (Loan 2673000): $99,890/yr starting FY2028-29 (P $43,089 + I $56,801).
5. WATER REQ RANGE: $2,183,018 (FY27-28) to $2,761,695 (FY31-32). WW REQ RANGE: $1,639,749 to $1,838,800.
6. SCENARIO A — CPI 3.6% only: Never meets water requirement. Cumulative water deficit $-2,803,942 by FY2031-32.
7. SCENARIO B — Flat 5% + structure: Free water phase-out + AWWA meter equiv. Water cum. gap = $-1,294,380.
8. SCENARIO C — Res 6% / Comm 8% + structure: NewGen recommendation. Strongest revenue. Water cum. gap = $-726,561.
9. SCENARIO D — Flat 6% + structure: Same structure as C. Identical residential bill to C. Water cum. gap = $-982,211.
10. FREE WATER PHASE-OUT (B,C,D): 1K-2K gal charged FY2027-28 (+~$78K water). 0-2K gal charged FY2028-29 (+~$185K water). Grows 6% annually.
11. METER EQUIVALENT BILLS (B,C,D): AWWA M1 10-yr phase-in. Adds $19K→$59K/yr water; $8K→$24K/yr WW.
12. FY2026-27 uses existing 4.2% CPI ordinance. New rates and structure effective July 1, 2027 (FY2027-28).

REVENUE REQUIREMENT EXHIBIT — WATER & WASTEWATER | Operating Expense @ 3%/yr | Actual Debt Schedule

WATER — REVENUE REQUIREMENT BUILD-UP ($)						
Line item	FY2026-27 Baseline	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32
OPERATING EXPENSE (escalates at 3.0% per year from FY2026-27 actual final budget)						
Full Time Wages	$368,160	$379,205	$390,581	$402,298	$414,367	$426,798
Overtime / Standby Wages	$31,000	$31,930	$32,888	$33,875	$34,891	$35,937
FICA / Medicare / PERA	$75,515	$77,780	$80,114	$82,517	$84,993	$87,543
Health / Retiree Insurance	$80,808	$83,232	$85,729	$88,301	$90,950	$93,679
Workers Comp	$80	$82	$85	$87	$90	$93
Per Diem / Uniform / Training	$12,750	$13,132	$13,526	$13,932	$14,350	$14,781
Fuel	$25,000	$25,750	$26,522	$27,318	$28,138	$28,982
Building / Rent	$8,400	$8,652	$8,912	$9,179	$9,454	$9,738
Printing / Subscriptions / Phone	$18,500	$19,055	$19,627	$20,215	$20,822	$21,447
Water Conservation	$22,000	$22,660	$23,340	$24,040	$24,761	$25,504
Software / Licenses	$30,000	$30,900	$31,827	$32,782	$33,765	$34,778
Chemicals / Lab	$15,000	$15,450	$15,914	$16,391	$16,883	$17,389
Field / Office Supplies	$104,000	$107,120	$110,334	$113,644	$117,053	$120,565
Safety Equipment	$10,000	$10,300	$10,609	$10,927	$11,255	$11,593
Equipment & Machinery	$4,000	$4,120	$4,244	$4,371	$4,502	$4,637
Franchise / GOVT GRT	$83,000	$85,490	$88,055	$90,696	$93,417	$96,220
Maintenance (grounds/veh/equip/meters)	$95,000	$97,850	$100,786	$103,809	$106,923	$110,131
Audit / Professional Services	$70,000	$72,100	$74,263	$76,491	$78,786	$81,149
Capital Improvements	$60,000	$61,800	$63,654	$65,564	$67,531	$69,556
Insurance / Utility / Maint (43595)	$280,000	$288,400	$297,052	$305,964	$315,142	$324,597
Total Operating Expense	**$1,533,998**	**$1,580,018**	**$1,627,419**	**$1,676,242**	**$1,726,529**	**$1,778,325**

WASTEWATER — REVENUE REQUIREMENT BUILD-UP ($)						
Line item	FY2026-27 Baseline	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32
OPERATING EXPENSE (escalates at 3.0% per year from FY2026-27 actual final budget)						
Full Time Wages	$235,040	$242,091	$249,354	$256,835	$264,540	$272,476
Overtime / Standby Wages	$35,000	$36,050	$37,132	$38,245	$39,393	$40,575
FICA / Medicare / PERA	$51,897	$53,454	$55,058	$56,709	$58,411	$60,163
Health / Retiree Insurance	$127,071	$130,883	$134,810	$138,854	$143,020	$147,310
Workers Comp	$70	$72	$74	$76	$79	$81
Per Diem / Uniform / Training	$7,375	$7,596	$7,824	$8,059	$8,301	$8,550
Fuel	$12,000	$12,360	$12,731	$13,113	$13,506	$13,911
Rent of Equipment	$8,000	$8,240	$8,487	$8,742	$9,004	$9,274
Printing / Subscriptions / Phone	$20,000	$20,600	$21,218	$21,855	$22,510	$23,185
Software / Licenses	$17,000	$17,510	$18,035	$18,576	$19,134	$19,708
Chemicals / Lab	$80,000	$82,400	$84,872	$87,418	$90,041	$92,742
Office / Field Supplies	$33,500	$34,505	$35,540	$36,606	$37,705	$38,836
Safety Equipment	$5,000	$5,150	$5,304	$5,464	$5,628	$5,796
Equipment & Machinery	$5,000	$5,150	$5,304	$5,464	$5,628	$5,796
GOVT Gross Receipts Tax	$70,000	$72,100	$74,263	$76,491	$78,786	$81,149
Maint Grounds / Vehicle / Other	$55,000	$56,650	$58,350	$60,100	$61,903	$63,760
Audit / Professional Services	$70,000	$72,100	$74,263	$76,491	$78,786	$81,149
Village of Williamsburg	$45,000	$46,350	$47,740	$49,173	$50,648	$52,167
Capital Equipment	$140,000	$144,200	$148,526	$152,982	$157,571	$162,298
Insurance / Utility / Maint (43595)	$279,000	$287,370	$295,991	$304,871	$314,017	$323,437
Total WW Operating Expense	**$1,298,714**	**$1,337,675**	**$1,377,805**	**$1,419,139**	**$1,461,713**	**$1,505,564**

SCENARIO COMPARISON — ALL FOUR SCENARIOS | WATER & WASTEWATER | OPS @3%/YR | ACTUAL DEBT SCHEDULE

WATER — RATE REVENUE vs. REQUIREMENT ($)

Scenario	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32	Req 5-yr
Water revenue requirement	**$2,183,018**	**$2,510,901**	**$2,659,613**	**$2,709,899**	**$2,761,695**	
A — CPI 3.6% (current ordinance)	$1,865,033	$1,932,174	$2,001,732	$2,073,794	$2,148,451	($2,803,942)
B — Flat 5% + structure ★	$1,987,236	$2,196,748	$2,319,985	$2,446,184	$2,578,593	($1,294,380)
C — Res 6% / Comm 8% ★	$2,019,640	$2,267,380	$2,429,010	$2,600,135	$2,782,400	($726,561)
D — Flat 6% + structure ★	$2,005,238	$2,236,732	$2,380,096	$2,530,742	$2,690,107	($982,211)

WATER — ANNUAL OVER / (UNDER) ($)

Scenario	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32	Cum. Total	Status FY2031-32
A — CPI 3.6%	($317,985)	($578,727)	($657,881)	($636,105)	($613,244)	($2,803,942)	DEFICIT — never recovers
B — Flat 5% ★	($195,782)	($312,153)	($339,628)	($263,715)	($183,102)	($1,294,380)	SURPLUS ✓
C — 6%/8% ★	($163,378)	($243,521)	($230,603)	($109,764)	$20,705	($726,561)	SURPLUS ✓ (strongest)
D — Flat 6% ★	($177,780)	($274,169)	($279,517)	($179,157)	($71,588)	($982,211)	SURPLUS ✓

WASTEWATER — ANNUAL OVER / (UNDER) ($)

Scenario	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32	Cum. Total	Status FY2031-32
A — CPI 3.6%	($75,389)	($89,335)	($72,148)	($54,880)	($36,713)	($328,465)	DEFICIT
B — Flat 5% ★	($9,249)	$54,763	$105,845	$160,069	$217,386	$528,814	—
C — 6%/8% ★	$17,931	$112,330	$197,292	$289,198	$388,333	$1,005,084	—
D — Flat 6% ★	$5,851	$86,624	$156,265	$230,994	$310,920	$790,654	—

SCENARIO A — CPI 3.6% ONLY | No structural change | 0-2,000 gal FREE maintained | All meters same flat rate

FY2026-27 = current 4.2% CPI ordinance. FY2027-28 onward = 3.6% uniform increase. No free water change. No meter equiv phase-in.

MINIMUM BILL RATES ($/month)						
Class / meter	FY2026-27	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32
All classes — ¾" (flat min bill)	$19.48	$20.18	$20.90	$21.65	$22.43	$23.24
All classes — 1" (no change)	$19.48	$20.18	$20.90	$21.65	$22.43	$23.24
Industrial (all meters)	$109.56	$113.50	$117.59	$121.83	$126.22	$130.76
WMBG ¾" (same as residential)	$19.48	$20.18	$20.90	$21.65	$22.43	$23.24

VOLUMETRIC RATES ($/1,000 gal)						
Tier	FY2026-27	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32
0–2,000 gal (FREE — no change)	-	-	-	-	-	-
2,001–7,000 gal	$3.41	$3.53	$3.66	$3.79	$3.93	$4.07
7,001–15,000 gal	$3.86	$4.00	$4.14	$4.29	$4.44	$4.60
15,001–29,000 gal	$4.34	$4.50	$4.66	$4.83	$5.00	$5.18
29,001–50,000 gal	$4.87	$5.05	$5.23	$5.42	$5.61	$5.81
50,000+ gal	$5.30	$5.49	$5.69	$5.89	$6.10	$6.32
Industrial 0–50,000 gal	$3.86	$4.00	$4.14	$4.29	$4.44	$4.60
City – Landscaping ($/Kgal)	$0.74	$0.77	$0.80	$0.83	$0.86	$0.89

SCENARIO B — FLAT 5% ALL CLASSES + FREE WATER PHASE-OUT + AWWA METER EQUIV MIN BILLS ★

FY2027-28 onward: 5% uniform rate + 1K-2K gal charged + 0-1K charged FY2028-29 + AWWA meter equiv 10-yr phase-in + WMBG 1.25×.

MINIMUM BILL RATES ($/month) — ¾" base shown; larger meters scale by AWWA M1 equivalent						
Class / meter size	FY2026-27 (current)	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32
All classes — ¾"	$19.48	$20.45	$21.48	$22.55	$23.68	$24.86
1" (AWWA equiv 2.5x, 10-yr phase)	$19.48	$23.33	$27.18	$31.03	$34.89	$38.74
1½" (AWWA equiv 5x, 10-yr phase)	$19.48	$29.13	$38.78	$48.43	$58.08	$67.73
2" (AWWA equiv 8x, 10-yr phase)	$19.48	$36.09	$52.70	$69.31	$85.92	$102.53
3" (AWWA equiv 16x, 10-yr phase)	$19.48	$54.65	$89.81	$124.98	$160.14	$195.30
4" (AWWA equiv 25x, 10-yr phase)	$19.48	$75.52	$131.57	$187.62	$243.67	$299.72
WMBG ¾" (1.25× of 5% rate)	$19.48	$25.56	$26.85	$28.19	$29.60	$31.08

VOLUMETRIC RATES ($/1,000 gal) — free water phased out FY2027-28 and FY2028-29						
Tier	FY2026-27 (current)	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32
0–1,000 gal ← FREE → charged FY2028-29	-	-	$3.58	$3.76	$3.94	$4.14
1,001–2,000 gal ← FREE → charged FY2027-28	-	$3.41	$3.58	$3.76	$3.94	$4.14
2,001–7,000 gal (all classes)	$3.41	$3.58	$3.76	$3.95	$4.14	$4.35
7,001–15,000 gal	$3.86	$4.05	$4.26	$4.47	$4.69	$4.93
15,001–29,000 gal	$4.34	$4.56	$4.78	$5.02	$5.27	$5.54
29,001–50,000 gal	$4.87	$5.11	$5.37	$5.64	$5.92	$6.21
50,000+ gal	$5.30	$5.57	$5.84	$6.14	$6.44	$6.77
WMBG 2K–7K gal (1.25× of 5%)	$3.41	$4.48	$4.70	$4.94	$5.18	$5.44
City – Landscaping	$0.74	$0.78	$0.82	$0.86	$0.90	$0.94

SCENARIO C — RES/CITY +6% | COMM/INDUSTRIAL +8% | WMBG 1.25× | Free water phased out | AWWA meter equiv (NewGen recommendation)

FY2027-28 onward: residential/city 6%, commercial/industrial 8%. Free water phase-out + AWWA meter equiv same as B and D.

MINIMUM BILL RATES ($/month) — ¾" base shown; larger meters scale by AWWA M1 equivalent

Class / meter size	FY2026-27 (current)	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32
Residential / City — ¾"	$19.48	$20.65	$21.88	$23.20	$24.59	$26.07
Residential / City — 1"	$19.48	$23.33	$27.18	$31.03	$34.89	$38.74
Residential / City — 2"	$19.48	$36.09	$52.70	$69.31	$85.92	$102.53
Residential / City — 3"	$19.48	$54.65	$89.81	$124.98	$160.14	$195.30
Residential / City — 4"	$19.48	$75.52	$131.57	$187.62	$243.67	$299.72
Commercial / Industrial — ¾"	$19.48	$21.04	$22.72	$24.54	$26.50	$28.62
Commercial / Industrial — 1"	$19.48	$23.66	$27.85	$32.04	$36.23	$40.42
Commercial / Industrial — 2"	$19.48	$37.16	$54.84	$72.52	$90.20	$107.88
Commercial / Industrial — 4"	$19.48	$78.87	$138.26	$197.65	$257.04	$316.43
WMBG Res ¾" (1.25× of 6%)	$19.48	$25.81	$27.36	$29.00	$30.74	$32.58
WMBG Comm ¾" (1.25× of 8%)	$19.48	$26.29	$28.40	$30.67	$33.12	$35.77

WASTEWATER REVENUE PROJECTION ($)						
Item	FY2026-27 Baseline	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32
WW rate revenue (Res 6% / Comm 8% + free water + meter equiv)	$1,510,000	$1,657,680	$1,822,342	$1,948,461	$2,083,544	$2,227,133
WW non-rate revenue (~flat)	$77,715	$78,000	$78,000	$78,000	$78,000	$78,000
Total WW Revenue	**$1,587,715**	**$1,735,680**	**$1,900,342**	**$2,026,461**	**$2,161,544**	**$2,305,133**
WW revenue requirement	$1,600,788	$1,639,749	$1,710,012	$1,751,169	$1,794,346	$1,838,800
WW annual over / (under)	**($13,073)**	**$17,931**	**$112,330**	**$197,292**	**$289,198**	**$388,333**
WW cumulative over / (under)	**($13,073)**	**$17,931**	**$130,261**	**$327,553**	**$616,751**	**$1,005,084**

MONTHLY BILL — RESIDENTIAL ¾" METER, 6,000 GAL/MONTH						
Item	FY2026-27	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32
Total monthly bill (¾", 6,000 gal/mo)	**$34.51**	**$40.63**	**$47.45**	**$50.70**	**$54.12**	**$57.78**
Base bill component (¾")	$19.48	$20.65	$21.88	$23.20	$24.59	$26.07

★ = *free water phase-out + AWWA meter equiv. Revenue requirement = ops@3%/yr + actual debt + fixed admin.*

WATER REVENUE PROJECTION ($)						
Item	FY2026-27 Baseline	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32
Rate revenue (6%/yr flat + free water + meter equiv)	$1,800,225	$2,005,238	$2,236,732	$2,380,096	$2,530,742	$2,690,107
Free water phase-out added	-	$78,000	$185,000	$197,000	$209,000	$222,000
Meter equiv min bill uplift	-	$19,000	$29,000	$39,000	$49,000	$59,000
Non-rate revenue (~flat)	$96,512	$97,000	$97,000	$97,000	$97,000	$97,000
Total Water Revenue	**$1,896,737**	**$2,198,750**	**$2,430,244**	**$2,573,608**	**$2,724,254**	**$2,883,619**
Water revenue requirement	$2,136,998	$2,183,018	$2,510,901	$2,659,613	$2,709,899	$2,761,695
Annual over / (under)	**($240,261)**	**($177,780)**	**($274,169)**	**($279,517)**	**($179,157)**	**($71,588)**
Cumulative over / (under)	**($240,261)**	**($177,780)**	**($451,949)**	**($731,466)**	**($910,623)**	**($982,211)**

WASTEWATER REVENUE PROJECTION ($)						
Item	FY2026-27 Baseline	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32
WW rate revenue (6%/yr flat + free water + meter equiv)	$1,510,000	$1,645,600	$1,796,636	$1,907,434	$2,025,340	$2,149,720
WW non-rate revenue (~flat)	$77,715	$78,000	$78,000	$78,000	$78,000	$78,000
Total WW Revenue	**$1,587,715**	**$1,723,600**	**$1,874,636**	**$1,985,434**	**$2,103,340**	**$2,227,720**
WW revenue requirement	$1,600,788	$1,639,749	$1,710,012	$1,751,169	$1,794,346	$1,838,800
WW annual over / (under)	**($13,073)**	**$5,851**	**$86,624**	**$156,265**	**$230,994**	**$310,920**
WW cumulative over / (under)	**($13,073)**	**$5,851**	**$92,475**	**$248,740**	**$479,734**	**$790,654**

MONTHLY BILL — RESIDENTIAL ¾" METER, 6,000 GAL/MONTH						
Item	FY2026-27	FY2027-28	FY2028-29	FY2029-30	FY2030-31	FY2031-32
Total monthly bill (¾", 6,000 gal/mo)	**$34.51**	**$40.37**	**$46.81**	**$49.62**	**$52.57**	**$55.73**
Base bill component (¾")	$19.48	$20.65	$21.88	$23.20	$24.59	$26.07

★ = free water phase-out + AWWA meter equiv. Revenue requirement = ops@3%/yr + actual debt + fixed admin.

City of Truth or Consequences, New Mexico

Water Wastewater Cost of Service Study

Existing Debt — Wastewater

Item Description	FY 2025 (Prior Yr)	Year 1 FY 2026	Year 2 FY 2027	Year 3 FY 2028	Year 4 FY 2029	Year 5 FY 2030	Allocation Water	Allocation Wastewater	Notes / Loan ID
1. Waste Water System Improvements: TorC 24 CIF-3171									
Principal	$3,846	$3,846	$3,846	$3,846	$3,846	$3,846	0%	100%	*CIF-3171*
Interest	-	-	-	-	-		0%	100%	
Subtotal	**$3,846**	**$3,846**	**$3,846**	**$3,846**	**$3,846**	**$3,846**			
2. WWTP Phase 2B: USDA 92-12 $715,000									
Principal	$13,910	$14,136	$14,366	$14,573	$14,836	$15,099	0%	100%	*USDA 92-12 715000*
Interest	$10,543	$10,317	$10,087	$9,880	$9,617	$9,354	0%	100%	
Subtotal	**$24,453**	**$24,453**	**$24,453**	**$24,453**	**$24,453**	**$24,453**			
3. USDA WWTP Phase 2B: USDA 92-19 $315,000									
Principal	$5,640	$5,760	$5,883	$5,992	$6,135	$6,278	0%	100%	*USDA 92-19 315000*
Interest	$6,132	$6,012	$5,889	$5,780	$5,637	$5,494	0%	100%	
Subtotal	**$11,772**	**$11,772**	**$11,772**	**$11,772**	**$11,772**	**$11,772**			
4. WW Design & Construction Phase 2A: TorC 27 CIF-3364									
Principal	$3,867	$3,866	$3,866	$3,866	$3,866	$3,866	0%	100%	*CIF-3364*
Interest	-	-	-	-	-	-	0%	100%	
Subtotal	**$3,867**	**$3,866**	**$3,866**	**$3,866**	**$3,866**	**$3,866**			
5. Joint Utility System Improvement: USDA $910,000									
Principal	$17,000	$17,000	$18,000	$18,000	$19,000	$20,000	0%	100%	*USDA 910000*
Interest	$17,685	$17,302	$16,920	$16,515	$15,110	$15,705	0%	100%	
Subtotal	**$34,685**	**$34,302**	**$34,920**	**$34,515**	**$35,110**	**$35,705**			
6. WWTP Bar Screen Replace.: CIF-6442									
Principal	-	-	$1,386	$1,500	$1,504	$1,508	0%	100%	*CIF-6442*
Interest	-	-	$1,386	$1,500	$1,504	$1,508	0%	100%	
Subtotal	**-**	**-**	**$2,772**	**$3,000**	**$3,008**	**$3,016**			
7. WWTP Facility Construction: NMED $473,000									
Principal	-	-	$21,066	$21,319	$21,575	$21,831	0%	100%	*NMED 473000*
Interest	-	-	$5,676	$5,423	$5,167	$4,911	0%	100%	
Subtotal	**-**	**-**	**$26,742**	**$26,742**	**$26,742**	**$26,742**			
7. WWTP Facility Construction: WTB $276,000 (NEW 26)									
Principal	-	-	-	-	-		0%	100%	*WTB 276,000*
Interest	-	-	-	-	-		0%	100%	*New Loan 2026/2027*
Subtotal	**-**	**-**	**-**	**-**	**-**				
Total Wastewater Debt	**$78,623**	**$78,239**	**$108,371**	**$108,194**	**$108,797**	**$109,400**			

COMBINED WATER + WASTEWATER DEBT SUMMARY	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Water %	WW %	
Water Debt (ref Water tab)	**$364,564**	**$372,650**	**$653,133**	**$753,022**	**$753,021**	**$753,021**	**100%**	**0%**	*Cross reference from Water Debt Schedule tab*
Wastewater Debt (this tab)	**$78,623**	**$78,239**	**$108,371**	**$108,194**	**$108,797**	**$109,400**	**0%**	**100%**	
Total Combined Debt	**$443,187**	**$450,889**	**$761,504**	**$861,216**	**$861,818**	**$862,421**			

Source: NewGen Strategies and Solutions, Water and Wastewater Cost of Service and Rate Design Study, November 2025 (Schedule 2, Page 2 of 2).
All wastewater debt allocated 0% Water / 100% Wastewater per NewGen study.
FY2025 = prior year actuals. FY2026 = Year 1, FY2027 = Year 2, FY2028 = Year 3, FY2029 = Year 4.
Combined debt summary references Water Debt Schedule tab for water totals (including Whiskey 1 & 2 when populated).
Prepared by: City of Truth or Consequences Finance Department.

City of Truth or Consequences, New Mexico
Water Wastewater Cost of Service Study
Existing Debt — Water

Item Description	FY 2025 (Prior Yr)	Year 1 FY 2026	Year 2 FY 2027	Year 3 FY 2028	Year 4 FY 2029	Year 5 FY 2030	Allocation Water	Allocation Wastewater	Notes / Loan ID
1. Ground Storage Tanks: TorC 17, WPF-829									
Principal	$12,911	$12,943	$12,976	$13,008	$13,041	$13,074	100%	0%	*WPF-829*
Interest	$228	$195	$163	$131	$98	$65	100%	0%	
Subtotal	**$13,139**	**$13,138**	**$13,139**	**$13,139**	**$13,139**	**$13,139**			
2. Ground Storage Tanks: TorC 18, PPRF-2613									
Principal	$8,287	$8,287	$8,287	$8,287	$8,287	$8,287	100%	0%	*PPRF-2613*
Interest	-	-	-	-	-	-	100%	0%	
Subtotal	**$8,287**	**$8,287**	**$8,287**	**$8,287**	**$8,287**	**$8,287**			
3. Refinanced Util Bonds 95, 96, 98: TorC 19, PPRF-2737									
Principal	$68,240	$70,239	$72,371	$74,639	$77,078	$79,517	100%	0%	*PPRF-2737*
Interest	$22,945	$20,946	$18,814	$16,546	$14,107	$11,668	100%	0%	
Subtotal	**$91,185**	**$91,185**	**$91,185**	**$91,185**	**$91,185**	**$91,185**			
4. Per & Asset Management Plan: TorC 22, WPF-892									
Principal	$3,305	$3,313	$3,322	$3,330	$3,338	$3,346	100%	0%	*WPF-892*
Interest	$75	$67	$59	$50	$42	$34	100%	0%	
Subtotal	**$3,380**	**$3,380**	**$3,381**	**$3,380**	**$3,380**	**$3,380**			
5. Waterline Replacement: CIF-6441									
Principal	-	-	$19,972	$21,613	$21,687	$21,721	100%	0%	*CIF-6441*
Interest	-	-	$2,692	$1,050	$996	$942	100%	0%	
Subtotal	**-**	**-**	**$22,664**	**$22,663**	**$22,683**	**$22,663**			
6. Municipal Water System PER: CIF-4927									
Principal	$458	$458	$458	$458	$458	$458	100%	0%	*CIF-4927*
Interest	-	-	-	-	-	-	100%	0%	
Subtotal	**$458**	**$458**	**$458**	**$458**	**$458**	**$458**			
7. Waterline Replacement: CIF-6323									
Principal	-	-	$78,118	$78,312	$78,508	$78,704	100%	0%	*CIF-6323*
Interest	$1,267	$4,000	$4,000	$3,805	$3,609	$3,413	100%	0%	
Subtotal	**$1,267**	**$4,000**	**$82,118**	**$82,117**	**$82,117**	**$82,117**			
8. Booster System Improvements: WPF-5089									
Principal	$13,058	$13,026	$12,994	$12,962	$12,930	$12,898	100%	0%	*WPF-5089*
Interest	$150	$182	$214	$246	$278	$310	100%	0%	
Subtotal	**$13,208**	**$13,208**	**$13,208**	**$13,208**	**$13,208**	**$13,208**			
9. Water System Improvements PH2: CIF-5550									
Principal	$2,500	$2,500	$2,500	$2,500	$2,500	$2,500	100%	0%	*CIF-5550*
Interest	-	-	-	-	-	-	100%	0%	
Subtotal	**$2,500**	**$2,500**	**$2,500**	**$2,500**	**$2,500**	**$2,500**			
10. MSD Water System Improvements: USDA WSI-MSD $5,467,000									
Principal	$90,265	$92,043	$94,018	$95,887	$98,241	$100,595	100%	0%	*USDA WSI-MSD 5,467,000*
Interest	$113,855	$112,077	$110,102	$108,233	$105,879	$103,525	100%	0%	
Subtotal	**$204,120**	**$204,120**	**$204,120**	**$204,120**	**$204,120**	**$204,120**			
11. Construction & Operation of Drinking Water Systems: DWI-4794									
Principal	$25,657	$30,887	$30,965	$31,042	$31,119	$31,119	100%	0%	*DWI-4794*
Interest	$1,363	$1,487	$1,410	$1,333	$1,255	$1,255	100%	0%	
Subtotal	**$27,020**	**$32,374**	**$32,375**	**$32,375**	**$32,374**	**$32,374**			

City of Truth or Consequences, New Mexico
Water Wastewater Cost of Service Study

Existing Debt — Water

Item Description	FY 2025 (Prior Yr)	Year 1 FY 2026	Year 2 FY 2027	Year 3 FY 2028	Year 4 FY 2029	Year 5 FY 2030	Allocation Water	Allocation Wastewater	Notes / Loan ID
12. NEW — USDA Loan: WSPI-1 (First payment FY2027) ← Enter loan details below									
Principal	-	-	$75,600	$75,600	$75,600	$75,600	100%	0%	$ 4,811,000.00
Interest	-	-	$104,100	$104,100	$104,100	$104,100	100%	0%	Enter interest amount
Subtotal — WSPI-1	-	-	$179,700	$179,700	$179,700	$179,700			
13. NEW — USDA Loan: WSPI-2 (First payment FY2028) ← Enter loan details below									
Principal	-	-		$43,089	$43,089	$43,089	100%	0%	$ 2,679,000.00
Interest	-	-		$56,801	$56,801	$56,801	100%	0%	Enter interest amount
Subtotal — WSPI-2	-	-	-	$99,890	$99,890	$99,890			
Total Water Debt	**$364,564**	**$372,650**	**$653,133**	**$753,022**	**$753,021**	**$753,021**			

DEBT SUMMARY — ALLOCATION									
	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Water %	WW %	
Water	$364,564	$372,650	$653,133	$753,022	$753,021	$753,021	100%	0%	Existing debt — water only
Wastewater	$78,623	$78,239	$107,172	$106,767	$107,363	$107,959	0%	100%	See Wastewater tab
	$443,187	$450,889	$760,305	$859,789	$860,384	$860,980			
WSPI-1 + WSPI-2 added water debt (FY2027-2028+)	-	-	$179,700	$279,590	$279,590	$279,590	100%	0%	← still auto-calculate when WSPI-1 & 2 details entered

Source: NewGen Strategies and Solutions, Water and Wastewater Cost of Service and Rate Design Study, November 2025 (Schedule 3).
Yellow rows (WSPI-1 & WSPI-2) = new USDA loans effective FY2028. Enter principal and interest amounts in blue cells.
FY2025 = prior year actuals. FY2026 = Year 1, FY2027 = Year 2, FY2028 = Year 3, FY2029 = Year 4.
Allocation: all existing water debt = 100% Water / 0% Wastewater per NewGen study.
Prepared by: City of Truth or Consequences Finance Department.

City of Truth or Consequences

AGENDA REQUEST FORM

Agenda Item #: E.11

MEETING DATE: July 22, 2026

SUBJECT: Approval of RFP# 2026-03-005 Agreement with J. Carrizal General Construction, Inc. for PNC Bank/PD Remodel

DEPARTMENT: Procurement

DATE SUBMITTED: July 16, 2026

SUBMITTED BY: City Clerk Torres

WHO WILL PRESENT THE ITEM: Jocelyn Holguin, Chief Financial Officer

Summary/Background:

RFP # 2026-03-005 The PNC Bank/PD Remodel Award to J. Carrizal General Construction, Inc. The project includes the renovation of the existing building for the Truth or Consequences Police Department. The Design Build Team will work in conjunction with architectural plans provided by Bill Buckley solar architects. The awarded contractor shall provide all materials, supplies, and the labor for the renovation of the building and site including required furniture, fixtures and equipment. Including materials and structural systems, alternative structural systems with cost consideration. The Design Build Team shall investigate the structural systems and material they consider suitable for this project regarding the local and state codes. Set forth in detail the architectural engineering has provided. The project also includes the electrical construction requirements for transformers, vaults, electrical and power distribution systems, auxiliary power systems, switch gear, generator, lighting, switch, 6-strands cable connecting the two electrical rooms, re-run and replace all cables with CAT 6 cables, new subpanel in the SAT room, fire and safety, remove all unused cables, and signal system.

Recommendation:

Accept the Agreement and authorize City Manager/Mayor to execute all applicable documents

Attachments:

- Agreement and corresponding documents.

-

Fiscal Impact (Finance): **Yes**

- **$ 549,219.29**

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

None.

Approved For Submittal By: ☒ Department Director

Reviewed by: ☒ City Clerk ☒ Finance ☐ Legal ☒ Other: Carlos Miyagishima, Chief Procurement Officer

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 7-22-26

APPLICATION AND CERTIFICATE FOR PAYMENT

TO OWNER:

PROJECT:

APPLICATION #: 1
PERIOD TO:
PROJECT NOS:

CONTRACT DATE:

Distribution to:
- [ ] Owner
- [ ] Const. Mgr
- [ ] Architect
- [X] Contractor
- [ ]

FROM CONTRACTOR:
J Carrizal General Construction, Inc.
1070 Diesel Drive
El Paso, TX 79907

VIA ARCHITECT:

CONTRACT FOR:

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract.
Continuation Sheet is attached.

1. ORIGINAL CONTRACT SUM----------	$	504,666.02
2. Net change by Change Orders----------$	$	
3. CONTRACT SUM TO DATE (Line 1 +/- 2)	$	504,666.02
4. TOTAL COMPLETED & STORED TO DATE-$ (Column G on Continuation Sheet)		
5. RETAINAGE:		
a. 10.0% of Completed Work	$	
b. _____ of Stored Material (Column F on Continuation Sheet)	$	
Total Retainage (Line 5a + 5b or Total in Column 1 of Continuation Sheet--------)	$	
6. TOTAL EARNED LESS RETAINAGE---------- (Line 4 less Line 5 Total)	$	
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate)----------	$	
8. CURRENT PAYMENT DUE----------	$	
9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6)	$	504,666.02

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner		
Total approved this Month		
TOTALS		
NET CHANGES by Change Order		

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown therein is now due.

CONTRACTOR:

By: _____ Date: _____

President/Owner

State of: Texas
County of: El Paso

Subscribed and sworn to before me this ____ day of _____

Notary Public: _____
My Commission expires:

CERTIFICATE FOR PAYMENT

In accordance with Contract Documents, based on on-site observations and the data comprising application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED ---------- $ _____

(Attach explanation if amount certified differs from the amount applied for. Initial all figures on this application and on the Continuation Sheet that are changed to conform to the amount certified.)

ARCHITECT:

By: _____ Date: _____

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner of Contractor under this Contract.

CONTINUATION SHEET

ATTACHMENT TO PAY APPLICATION

PROJECT:

APPLICATION NUMBER: 3
APPLICATION DATE:
PERIOD TO: 20-Oct-25
ARCHITECT'S PROJECT NO: 107451

A	B	C	D	E	F	G		H	I
Item No.	Description of Work	Scheduled Value	Work Completed		Materials Presently Stored (Not In D or E)	Total Completed And Stored To Date (D + E + F)	% (G/C)	Balance To Finish (C - G)	Retainage
			From Previous Application (D + E)	This Period					
1	**General Conditions**								
2	**Plans / Permits & Inspections**	9,000.00						9,000.00	
3	**Project Supervisions**	10,000.00						10,000.00	
4	**Mobilizations**	15,000.00						15,000.00	
5	**Demolition**	20,000.00						20,000.00	
6	**Demo cabinets/file cabinets from behind the counter.**								
7	**Demo teller window countertop and cabinets.**								
8	**Demo teller window mechanical/electrical.**								
9	**Demo safe on the northside of teller window.**								
10	**Demo carpet and replace with new square carpet tiles**								
11	**Demo floor sink in water heater room to re-construct for multi-purpose shower and mop sink area**								
12	**Demo Exterior**								
13	**Framing Interior / Exterior**	46,000.00						46,000.00	
14	**Electrical**	103,000.00						103,000.00	
15	**Existing Chandelier**	1,500.00						1,500.00	
16	**Sheetrock / Paint**	16,000.00						16,000.00	
17	**Ceciling and walls**	30,000.00						30,000.00	
18	**HVAC**	26,000.00						26,000.00	
19	**Flooring**	7,000.00						7,000.00	
20	**Fence**	94,166.02						94,166.02	
21	**Demobilization**	15,000.00						15,000.00	
22	**Concrete**	21,000.00						21,000.00	
23	**Earthwork**	6,500.00						6,500.00	
24	**Landscape**	2,500.00						2,500.00	
25	**Overhead Doors**	10,000.00						10,000.00	
26	**Plumbing**	5,000.00						5,000.00	
27	**Jail**	9,000.00						9,000.00	
28	**Exterior Sheeting & Stucco**	15,000.00						15,000.00	
	SUBTOTALS PAGE 2	461,666.02						461,666.02	

ATTACHMENT TO PAY APPLICATION

PROJECT:

APPLICATION NUMBER: 1

APPLICATION DATE:

PERIOD TO: 20-Oct-25

ARCHITECT'S PROJECT NO:

A	B	C	D	E	F	G		H	I
Item No.	Description of Work	Scheduled Value	Work Completed		Materials Presently Stored (Not In D or E)	Total Completed And Stored To Date (D + E + F)	% (G/C)	Balance To Finish (C - G)	Retainage
			From Previous Application (D + E)	This Period					
29	**New Doors & Glass**	36,000.00						36,000.00	
30	**Final clean on doors**	3,200.00						3,200.00	
31	**Clean Jobsite throughly on completion**	3,800.00						3,800.00	
32									
33									
34									
35									
36									
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56									
	SUBTOTALS PAGE 3	504,666.02						52,000.00	

TENTATIVE LETTER NOTICE OF AWARD

Date of Issuance: July 8, 2026

Owner: City of Truth or Consequences Owner's Project No.: 2026-03-005

Project: PNC Bank/PD Remodel

Contract Name: PNC Bank/PD Remodel

Bidder: J. Carrizal General Construction, Inc.

Bidder's Address: 1070 Diesel Drive, El Paso, Texas 79907

You are notified that Owner has accepted your Bid dated Wednesday, July 8, 2026 for the above Contract, and that you are the Successful Bidder and are awarded a Contract for:

BASE BID: The project includes the renovation of the existing building for the Truth or Consequences Police Department. The Design Build Team will work in conjunction with architectural plans provided by Bill Buckley solar architects. The awarded contractor shall provide all materials, supplies, and the labor for the renovation of the building and site including required furniture, fixtures and equipment. Including materials and structural systems, alternative structural systems with cost consideration. The Design Build Team shall investigate the structural systems and material they consider suitable for this project regarding the local and state codes. Set forth in detail the architectural engineering has provided.

The project also includes the electrical construction requirements for transformers, vaults, electrical and power distribution systems, auxiliary power systems, switch gear, generator, lighting, switch, 6-strands cable connecting the two electrical rooms, re-run and replace all cables with CAT 6 cables, new subpanel in the SAT room, fire and safety, remove all unused cables, and signal system. Set forth in detail the quantities of materials, labor, overhead, insurance, taxes, etc. for the building renovation, as well as all sight work.

Coordination with Truth or Consequences and New Mexico Environment is needed to successfully complete the design phase of the project.

The Contract Price of the awarded Contract is **$506,776.74**, excluding New Mexico Gross Receipts Tax (NMGRT). The applicable NMGRT is **$42,442.55**, resulting in a total contract amount of **$549,219.29**, inclusive of tax. Contract Price is subject to adjustment based on the provisions of the Contract, including but not limited to those governing changes, Unit Price Work, and Work performed on a cost-plus-fee basis, as applicable.

Five (5) unexecuted counterparts of the Agreement accompany this Notice of Award, and one copy of the Contract Documents accompanies this Notice of Award, or has been transmitted or made available to Bidder electronically.

☒ Drawings will be delivered separately from the other Contract Documents.

You must comply with the following conditions precedent within 15 days of the date of receipt of this Notice of Award:

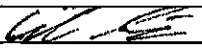
1. Deliver to Owner **[5]** counterparts of the Agreement, signed by Bidder (as Contractor).
2. Deliver with the signed Agreement(s) the Contract security (such as required performance and payment bonds) and insurance documentation, as specified in the Instructions to Bidders and in the General Conditions, Articles 2 and 6.

3. Other conditions precedent (if any): **[Describe other conditions that require Successful Bidder's compliance]**

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award, and declare your Bid security forfeited.

Within 10 days after you comply with the above conditions, Owner will return to you one fully signed counterpart of the Agreement, together with any additional copies of the Contract Documents as indicated in Paragraph 2.02 of the General Conditions.

Owner: City of Truth or Consequences

By *(signature)*: 

Name *(printed)*: Carlos Miyagishima

Title: Chief Procurement Officer

J. Canfal

EXHIBIT C

REQUEST FOR COST FORM

ORIGINAL

Reference Truth or Consequences Agreement #: RFP #2026-03-005

OWNER: Truth or Consequences

Design Build Team: PENDING FINAL SELECTION- TO BE FILLED OUT AND PLACED IN A SEPARATE SEALED ENVELOPE

BASE BID of prior authorized release amounts to date: $ 504,666.02
(Excluding NMGRT) Written in words.
Five hundred four thousands six hundred sixty-six dollars and two cents

AD ALTERNATIVE # 1 PROPSAL TO REPLACE CARPET IN BUILDING:
(Excluding NMGRT) Written in words.

Two thousand one hundred ten and seventy two cents $ 2,110.72

(Note: Cumulative release authorization amounts not to exceed $2,000,000 over four-year period)

PROJECT DESCRIPTION/SCOPE:

Note: For each project $25,000 and greater, a 100% labor, materials and performance bonds will be required of the Contractor and each subcontractor for the amount of work each sub-contractor is to perform.

Note: *New Mexico Local Public Works Projects* greater than $60,000 shall be subject to the State of New Mexico Minimum Wage Act. Reference Wage Decision number: **Pending**

In addition to the terms and conditions of the above-mentioned Truth or Consequences Agreement, the terms and conditions of this release are those dated as follows:

Document	Title
RFP #2026-03-005	PNC Bank/Police Department Remodel

(list other conditions)

Number	Date	Pages

SUBSTANTIAL COMPLETION:

The Contractor shall achieve Substantial Completion of the entire work not later than **March 22, 2026**, consecutive calendar days from the date of commencement, subject to adjustments of this Contract Time as provided in the Contract Documents.

LIQUIDATED DAMAGES:

The Contractor agrees to pay as liquidated damages, the sum of **Two-hundred and Fifty and Zero Cents ($250.00)** for each consecutive calendar day after the stipulated contract time the work remains incomplete.

OFFEROR NAME: Julian Carrizal

TOTAL FIXED RATE WITHOUT GRT $ 504,666.02

WRITTEN IN WORDS: Five hundred four thousand six hundred sixty-six dollars and two cents

OTHER COST/EXPENSES WITHOUT GRT $ 2,110.72

(PLEASE, PROVIED EXPLINATION ON SEPARATE DOCUMENTS AND REFERENCE)

WRITTEN IN WORDS: Two thousand one hundred ten and seventy-two cents

Typed/Printed Name: Julian Carrizal

Phone: 915-591-2377 Email: jcarrizal@jcgenconst.com

Company: J. Carrizal General Construction

Address: 1070 Diesel Dr

City/State/Zip: El Paso/Texas/79936

Signature of Authorized Contractor: _____ PRES

Name and Title

Date: 04/30/2026

ATTACHEMENT 1

Docusign Envelope ID: F22DAD18-2788-4839-9A7D-CA7FE97D2A1D

NEW MEXICO CAPITAL OUTLAY GRANT AGREEMENT
CAPITAL APPROPRIATION PROJECT

THIS AGREEMENT is made and entered into by and between the State of New Mexico, Department of Finance & Administration, 407 Galisteo Street, Santa Fe, NM 87501, (**"Department"**) and the City of Truth or Consequences, (**"Grantee"**) (individually **"Party"** and collectively **"Parties"**). This Agreement shall be effective as of the date the Department executes it (**"Effective Date"**).

WITNESSETH

WHEREAS, in the Laws of 2025, Chapter 159, Section 512, Paragraph 33, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

WHEREAS, the Department is granting to Grantee, and the Grantee is accepting the grant of funds from this appropriation, in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

AGREEMENT

I. PROJECT DESCRIPTION, GRANT AMOUNT, AND REVERSION

A. **25-J3167** (**"Project"**) 6/30/2029 (**"Reversion Date"**). Laws of 2025, Chapter 159, Section 512, Paragraph 33, Three Hundred Sixty Thousand Dollars and No Cents, $360,000.00, to plan, design, construct, renovate, furnish and equip police department facilities in Truth or Consequences in Sierra county;.

B. Grantee's total reimbursements shall not exceed $360,000.00 Three Hundred Sixty Thousand Dollars and No Cents, (**"Appropriation Amount"**) minus the allocation for Art in Public Places (**"AIPP amount"**), if applicable, $3,600.00 Three Thousand Six Hundred Dollars and No Cents, which equals $356,400.00 Three Hundred Fifty Six Thousand Four Hundred Dollars and No Cents (**"Adjusted Appropriation Amount"**).

C. In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited above in this Article I, the language of the laws cited herein shall control.

The information contained in Article I is referred to collectively as the **"Project Description."**

II. DISBURSEMENT LIMITATION

A. Upon the Effective Date, the Grantee shall submit to the Department a comprehensive procurement plan and expenditure plan, detailing a Project timeline with milestones, required procurements, and identifying expected expenditures per milestone (collectively, **"Project Budget"**). The Department shall review and approve the Project Budget by approving a Notice of

Department's Obligation ("**Notice of Obligation**"), in accordance with the Project Description, a sample of which is attached hereto as **Exhibit B** and incorporated herein by reference. After receipt of approved Notice of Obligation, the Grantee may be reimbursed for allowable costs up to the Adjusted Appropriation Amount. This Agreement and any reimbursements up to the Adjusted Appropriation Amount are expressly conditioned upon the following:

a. Irrespective of any Notice of Obligation, Grantee's expenditures shall be made in accordance with the Project Budget, on or before the Reversion Date and/or, if applicable, any Early Termination Date; and
b. The total amount received by Grantee shall not exceed the lesser of:
    i. the Adjusted Appropriation Amount identified in Article I (B) herein; or
    ii. the total of all amounts stated in the Notice(s) of Obligation evidencing the Department has received and accepted Grantee's Third Party Obligation(s); and
c. Grantee's expenditures are made and accounted for pursuant to the State Procurement Code, State's Model Accounting Practices, and execution of binding written obligations or purchase orders with third-party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project ("**Third Party Obligations**"); and
d. Grantee's submittal of timely Requests for Payment and supporting documentation in accordance with the procedures set forth in this Agreement; and
e. In the event capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:
    i. must be approved by the applicable oversight entity (if any) in accordance with §§ 13-6-2, 13-6-2.1, and 13-6-3; or
    ii. If no oversight entity is required to approve the transaction, the Department of Finance and Administration's Infrastructure Planning Development Division (IPDD) must approve it as complying with the law.

B. Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(e)(i) or (ii) herein, the Department may, in its sole and absolute discretion, unless inconsistent with State Board of Finance imposed conditions, reimburse Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, limited to planning and design expenditures; and

C. Grantee's submission of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:

a. Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third Party Obligation, and request the Third Party to begin work after issuance of a Notice of Obligation by the Department.
b. Grantee acknowledges and agrees that any Third Party Obligations agreed to prior to receiving a Notice of Obligation are its sole responsibility.
c. Grantee shall submit to the Department one copy of all Third Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party but prior to execution by the Grantee.

d. Department may, in its sole and absolute discretion, issue a Notice of Obligation for the particular amount of a Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is incorporated herein and attached hereto as **Exhibit B**.

D. Grantee shall provide all necessary qualified personnel, materials, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

E. Prior to entering into this Agreement, the Department conducted a risk assessment on the Grantee and a project readiness review for the Project. In accordance with State Model Accounting Practices, FIN 9.2, if the Department determines that the expenditure of Project funds by the Grantee requires special conditions, those conditions are identified and listed in **Exhibit C**, which is attached and incorporated by reference. The Parties agree that, to the extent the Department, in its sole and absolute discretion, determines additional special conditions are necessary or that existing special conditions are no longer required, it may update **Exhibit C** from time to time without the need for a formal amendment of this Agreement.

F. Project funds shall not be used for purposes other than those authorized by the Department in accordance with the Project Description.

G. Project funds cannot be used to reimburse the Grantee for indirect Project costs unless specifically allowed by law.

III. NOTICES

The following provisions shall apply whenever written notices, including written decisions, are to be given or received related to this Agreement.

A. The Grantee designates the person(s) listed below, or their successor, as their official representative(s) concerning all matters related to this Agreement:

Grantee:	City of Truth or Consequences
Name:	Rolf Hechler
Title:	Mayor
Address:	505 Sims St., Tor C, NM 87901
Email:	rhechler@torcnm.org
Telephone:	575-894-6673

B. The Grantee designates the person(s) listed below, or their successor, as their Fiscal Officer or Fiscal Agent concerning all matters related to this Agreement:

Grantee:	City of Truth or Consequences
Name:	Traci Alvarez
Title:	CFO
Address:	505 Sims St., T or C, NM 87901
Email:	talvarez@torcnm.org

Telephone: 575-952-0565

C. The Department designates the persons listed below, or their successors, as the Points of Contact for matters related to this Agreement.

Department: DFA/Local Government Division
Name: Melanie Viarrial
Title: Grant Manager
Address: Bataan Memorial Bldg. Rm 202, Santa Fe NM 87501
Email: melanie.viarrial@dfa.nm.gov
Telephone: 505-690-1561

The Parties agree that all notices, including written decisions, related to this Agreement shall be sent to the persons named above by email or regular mail. For mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five (5) calendar days after mailing, whichever shall first occur. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of the email.

IV. TERM & DEADLINE TO EXPEND FUNDS

A. The term of this Agreement shall begin on the Effective Date and terminate on the 30th day of June during the calendar year of the Reversion Date unless Terminated Before Reversion Date (**"Early Termination"**) pursuant to Article V herein (collectively **"Term"**).

B. The Project's funds must be expended on or before the Reversion Date and, if applicable, the Early Termination Date of this Agreement.

a. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Reversion Date or Early Termination Date.
b. For purposes of this Agreement, an expenditure of funds has occurred on the date the particular quantity of goods is delivered to and received by the Grantee, title to the goods is transferred to the Grantee, and/or as of the date particular services are rendered to and accepted by the Grantee.
c. For purposes of this Agreement, an encumbrance of funds pursuant to a contract or purchase order with a third party does not qualify as an expenditure.

V. EARLY TERMINATION

A. General Provision. The Department may terminate this Agreement before the Reversion Date based on the Completion of the Project, Complete Expenditure of the Adjusted Appropriation, and/or Violation of this Agreement. Early Termination hereunder includes:

a. Termination due to completion of the Project before the Reversion Date;
b. Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date;
c. Termination for violation of the terms of this Agreement; or
d. Termination for suspected mishandling of public funds, including but not limited to fraud, waste, abuse, and conflicts of interest.

B. Non-appropriation. This Agreement is expressly contingent upon the New Mexico State Legislature making sufficient appropriations and authorizations for the Project Description.

a. If the Legislature does not appropriate the Appropriation Amount, this Agreement shall terminate upon the Department giving the Grantee written notice of such termination. Such termination shall be effective as of the effective date of the law making the non-appropriation.
   i. The Department's decision as to whether sufficient appropriations or authorizations are available shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the State of New Mexico in the event of Early Termination of this Agreement.
b. As used herein, "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature:
   i. Deauthorization, reauthorization, or revocation of a prior authorization.

C. Grant Disbursements in the Event of Early Termination. In the event of Early Termination, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II above.

D. Notice. Either Party may terminate this Agreement prior to the Reversion Date by providing the other Party with a minimum of fifteen (15) days advance written notice of the Early Termination. Grantee hereby waives any rights to assert an impairment of contract claim against the State of New Mexico in the event of Early Termination of this Agreement by the Department.

VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

A. Department, in its sole and absolute discretion, may provide written notice to Grantee to suspend entering into further obligations. Upon the receipt of such written notice by the Grantee:

a. Grantee shall immediately suspend entering into new or further written obligations with third parties;
b. Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and
c. Department may direct the Grantee to implement a corrective action plan in accordance with Article VI (D) herein.

B. In the event of Suspension of this Agreement, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V herein. If the Suspension is lifted, the Department will consider further requests for a Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension. Where the Department, in its sole and absolute discretion, directs Grantee to suspend entering into new or further written obligations

with third parties pursuant to Article VI(A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension.

a. Such a corrective action plan must be approved by the Department and be signed by the Grantee.
b. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(c).
c. A corrective action plan shall be in addition to, and not in lieu of, any other equitable or legal remedy authorized hereunder or at law, including but not limited to Early Termination.

VII. AMENDMENTS

Unless expressly stated otherwise herein, this Agreement shall not be altered, changed, or amended except by an instrument in writing duly executed by both parties hereto with the same formalities as this agreement.

VIII. REPORTING

A. Database Reporting

a. Grantee shall provide the Department with quarterly reports of Project activity, entering the required Project information directly into a database required by the Department.
b. Additionally, Grantee shall certify on each Request for Payment form, attached hereto as **Exhibit A** and incorporated herein, that all information provided in the database is true and accurate, updates to the database have been maintained, and all Project activity complies with applicable law and the terms of this Agreement.
c. Grantee hereby acknowledges that failure to perform and/or certify updates to the database will jeopardize the reimbursement of funds. The Department shall give Grantee a minimum of fourteen (14) days' advance written notice of any changes to the information the Grantee is required to report.
d. At the Department's discretion, all reports required hereunder may be directed to and facilitated through an electronic database.
e. Quarterly reports shall be due on the last day of the month, that is, 30 days prior to the end of the quarter following the execution of this Agreement by the Department and ending during the quarter of the submission of the final request for reimbursement for the Project, or the following quarter.

B. Requests for Additional Information/Project Inspection

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may:

i. request such additional information regarding the Project as it deems necessary; and
ii. conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project.

Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department.

B. Requests for Additional Information/Project Inspection

a. During the term of this Agreement and the Record Retention Period, the Department may:
   i. Request additional information regarding the Project as it deems necessary and
   ii. Conduct on-site inspections of the Project at reasonable times and upon reasonable notice.
b. Grantee shall respond to such requests for additional information within the time established by the Department.

IX. REQUEST FOR PAYMENT PROCEDURES

A. Grantee shall request payment by submitting the form attached hereto as **Exhibit A.** Payment requests are subject to the following procedures:

a. Each Request for Payment must be in accordance with the Project Budget and contain proof of payment by the Grantee or liabilities incurred by the Grantee.
   i. Proof of payment must demonstrate the validity of an expenditure or liabilities incurred by Grantee.
   ii. However, Grantee may be reimbursed for unpaid liabilities only if the Department, in its sole and absolute discretion, agrees to do so and in accordance with any special conditions imposed by the Department.
   iii. The Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or in a shorter period than the Department may prescribe in writing.
   iv. The Department reserves the right to make such payments directly to the contractors or vendors as a special condition under this Agreement.
   v. The Grantee is required to certify to the Department proof of payment to the third-party contractor or vendor within five (5) business days from the date the Department reimburses the Grantee.

B. Until the Project is fully planned, designed, and all necessary procurements identified in the Project Budget are completed, Grantee's reimbursements will be limited to the planning, design, and procurement costs outlined in the Project Budget. Once the planning, designing, and procuring stages are complete, the Grantee must obligate at least ten percent (10%) of the Adjusted Appropriation Amount within one (1) year and must have utilized at least eighty-five percent (85%) of the Adjusted Appropriation Amount six (6) months before the reversion date.

C. Deadlines. Grantee shall submit requests for Payments to the Department on the earlier of:

a. Immediately as Grantee receives them, but at a maximum of thirty (30) days from when Grantee incurred the expenditure or liability; or
b. Twenty (20) days from the date of Early Termination or Reversion Date for expenditures or liabilities incurred before the Early Termination date or Reversion Date.

D. Grantee's failure to abide by the requirements set forth in Article II and Article IX herein may result in the denial of its Request for Payment. Department reserves the right to reject a payment request for the Project unless and until it is satisfied that the expenditures or liabilities are for permissible purposes within the meaning of the Project Description, identified within the Project Budget, and that the Grantee is otherwise in compliance with this Agreement.

a. Department's authority to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department under this Agreement, at law, or in equity.

X. PROJECT CONDITIONS AND RESTRICTIONS

A. The following general conditions and restrictions shall apply to the Project:

a. The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the State Procurement Code.
b. The Project's expenditures and liabilities must be accounted for in accordance with the State's Model Accounting Practices, as amended from time to time.
c. The Project must be implemented in accordance with the New Mexico Public Works Minimum Wage Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable.
d. The Project must provide a public benefit above and beyond any incidental benefit to private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico.
e. Without prior written approval from the Department and State Board of Finance, for the useful life of any asset purchased under this Agreement, Grantee shall not convert any property acquired, built, renovated, repaired, designed, or developed with Project funds to uses other than those specified in the Project Description.
    i. In addition to other remedies available at law or in equity, any disposal or conversion of property acquired, built, renovated, repaired, designed, or developed with Project funds without the Department's and the Board of Finance's express written approval will trigger the Department's right to reimbursement from Grantee of the Appropriated Amount, transfer proceeds from any disposition of property to the State, or otherwise provide consideration to the State for the Appropriated Amounts.
f. Grantee shall comply with all applicable federal and state laws, rules, and regulations pertaining to civil rights and equal employment opportunity.
    i. In accordance with all such laws, rules, and regulations, the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age, or handicap, be excluded from participation in the Project, use of the Project, employment with Grantee, or otherwise be denied benefits/subject to discrimination for any activity performed under this Agreement.
g. Where the Department, in its sole and absolute discretion, determines Grantee has failed to comply with the above conditions and restriction, Grantee agrees to take appropriate steps to correct any deficiencies immediately. The Grantee's failure to implement such appropriate steps within a reasonable time, but no longer than thirty (30) days after

notice from the Department, constitutes a breach of this Agreement and grounds for Early Termination.

XI. REPRESENTATIONS AND WARRANTIES

A. Reliance by Department.
   a. Grantee expressly acknowledges that the Department relies on the representations and warranties made by Grantee in this Agreement. Grantee acknowledges that such representations and warranties are a material inducement for the Department to enter into this Agreement and provide the Appropriated Amount.
   b. Grantee shall ensure all representations and warranties provided herein are true, accurate, and complete as of the date of the Effective Date and shall remain so throughout the Term of this Agreement. Grantee is responsible for promptly notifying the Department in writing of any changes or inaccuracies in the representations and warranties contained herein.

B. Grantee hereby represents and warrants the following:

   a. Grantee has taken all necessary steps to attain the legal authority to receive and expend the Project's funds.
   b. Grantee has duly authorized this Agreement, and the person executing it has authority to do so. Once executed by Grantee, this Agreement shall constitute a binding obligation of Grantee, enforceable according to its terms.
   c. Grantee's obligations hereunder do not conflict with any law, ordinance, or resolution applicable to Grantee, Grantee's charter (if applicable), or any judgment or decree to which Grantee is subject.
   d. Grantee has independently confirmed that the Project Description, including, but not limited to, the Appropriated Amount and Reversion Date, is consistent with the underlying appropriation in law.
   e. Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign and submit Requests for Payment on behalf of Grantee.
   f. Grantee will abide by New Mexico laws regarding conflicts of interest, governmental conduct, and whistleblower protection.
      i. Grantee agrees explicitly none of its officers or employees or its designees or agents, no member of the governing body, and no other public official of Grantee who exercises any function or responsibility with respect to this Agreement, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for the Project.
      ii. Further, Grantee will require all of its contractors to incorporate the language set forth in this paragraph prohibiting conflicts of interest in all subcontracts.
   g. No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of the State, any agency, or body in connection with the awarding of any Third Party Obligation.
      i. Grantee will require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans, and cooperative agreements.

C. Consequences of False or Misleading Representations. If any representation or warranty made by Grantee is found to be false or misleading, the Department shall have the right to exercise any or all of the following remedies:

a. **Termination of Agreement:** Department may terminate this Agreement immediately upon written notice to the Grantee.
b. **Repayment of Grant Funds:** Grantee shall repay all Appropriated Amounts disbursed under this Agreement, upon demand by the Department.
c. **Other Remedies:** Department may pursue any other remedies available at law or in equity.

D. Survival of Representations and Warranties. The representations and warranties made by the Grantee shall survive the Early Termination or expiration of this Agreement.

XII. PROJECT RECORDS

A. Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles and the State's Model Accounting Practices and, if feasible, maintain a separate bank account or fund with a separate organizational code to ensure separate budgeting and accounting of the funds.

B. For six (6) years following the Project's completion (**"Record Retention Period"**), Grantee shall maintain all Project-related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records sufficient to fully account for the amount and disposition of the Appropriated Amount from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department may prescribe.

C. Grantee shall make all Project records available to the Department, the Department's Independent Public Accountant, and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor or the Department finds any funds were improperly expended, Grantee shall be required to reimburse the State all amounts found to be improperly expended.

XIII. IMPROPERLY REIMBURSED FUNDS

If the Department determines part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, after ten (10) days' notice to Grantee and the opportunity to return such funds to the Department, the Department may offset any funds due to Grantee from the State, until the Appropriation Amount is fully repaid.

XIV. LIABILITY

Neither Party shall be responsible for liability incurred as a result of the other Party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to

Immunities and limitations of the New Mexico Tort Claims Act.

XV. SCOPE OF AGREEMENT

This Agreement constitutes the entire and exclusive agreement between the Parties concerning the subject matter hereof. The Agreement supersedes all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

XVI. REQUIRED NON-APPROPRIATIONS CLAUSE

A. Grantee acknowledges and agrees to include a "non-appropriations" clause in all contracts between it and other parties that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

   a. "The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of the State of New Mexico ("**Legislature**") for the performance of this Agreement.
   b. If the Legislature does not make sufficient appropriations and authorization, City of Truth or Consequences may immediately terminate this Agreement by giving Contractor written notice of such termination.
   c. The City of Truth or Consequences's decision as to whether sufficient appropriations are available shall be final and accepted by the Contractor. Contractor hereby waives any rights to assert an impairment of contract claim against the City of Truth or Consequences or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the City of Truth or Consequences or the State Department of Finance and Administration."

XVII. REQUIRED TERMINATION CLAUSE

A. Grantee acknowledges and agrees to include the following termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

   a. "This contract is funded in whole or in part by funds made available by the State of New Mexico ("**State**"). Should the State terminate its Agreement with the City of Truth or Consequences, the City of Truth or Consequences may terminate this contract immediately by providing Contractor written notice of such termination.
   b. In the event of termination pursuant to this paragraph, the City of Truth or Consequences's only liability to Contractor shall be for goods and services delivered and accepted prior to the termination date."

XVIII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA

A. Throughout the term of this Agreement, Grantee shall:

   a. Submit all reports of annual audits and agreed-upon procedures required by § 12-6-3(A)-(B), NMSA 1978 by the due dates established in § 2.2.2 NMAC, reports of which must be a

public record pursuant to § 12-6-5(A), NMSA 1978 within forty-five (45) days of delivery to the State Auditor;

b. Have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
c. Timely submit all required financial reports to its budgetary oversight agency (if any); and
d. Use accounting methods and procedures consistent with Generally Accepted Accounting Principles and the State's Model Accounting Principals to expend the Appropriated Amount in accordance with applicable law and account for and safeguard Project funds and assets acquired with Project funds.

B. In the event Grantee fails to comply with the requirements of subparagraph A of this Article XVIII, Department may take one or more of the following actions:

a. Suspend new or further obligations pursuant to Article VI(A) of this Agreement;
b. Require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;
c. Impose special conditions to address the non-compliance by giving Grantee notice of such special conditions in accordance with Article III of this Agreement;
    i. The Parties agree that any special conditions imposed to address non-compliance shall be incorporated into this Agreement, through **Exhibit C**, upon notice to Grantee, without need for formal amendment of this Agreement;
    ii. Special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III or
d. Terminate this Agreement pursuant to Article V(A) of this Agreement.

XIX. SEVERANCE TAX AND GENERAL OBLIGATION BONDS

A. Grantee acknowledges and agrees that the underlying appropriation for the Project may originate from the issuance of tax-exempt severance tax bonds or general obligation bonds by the State. Proceeds from such bonds are administered by the New Mexico State Board of Finance (**"SBOF"**), an entity separate and distinct from the Department.

a. Grantee acknowledges and agrees:
    i. It is Grantee's responsibility to determine through SBOF what (if any) conditions are currently imposed on the Project;
    ii. Department's failure to inform Grantee of an SBOF-imposed condition does not affect the validity or enforceability of the condition;
    iii. The SBOF may in the future impose further or different conditions upon the Project;
    iv. All SBOF conditions are attached to the Project and Appropriation Amount without the need for formal amendment of this Agreement;
    v. All applicable SBOF conditions must be satisfied before the SBOF will release to the Department funds subject to the condition(s) and
    vi. The Department's obligation to reimburse Grantee from the Project is expressly contingent upon the satisfaction of the then-current SBOF conditions.

B. Grantee acknowledges and agrees SBOF may, at its sole and absolute discretion, require reimbursement or remove eligibility for bond proceeds for the Project if the Project doesn't

proceed sufficiently.

a. Grantee must comply with the requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by Grantee in the Bond Questionnaire and Certification documents submitted to the SBOF.
b. Failure to comply may result in the reassignment of the bond proceeds. Upon reassignment of bond proceeds, this Agreement will be suspended until the entity has demonstrated readiness as determined by the SBOF and the Department.

C. Grantee acknowledges and agrees that this Agreement is subject to the SBOF's Bond Project Disbursements rule, § 2.61.6, NMAC, as may be amended from time to time or re-codified.

XX. GENERAL PROVISIONS

A. Assignment: Grantee's rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Grantee's rights and obligations approved by the State shall be subject to the provisions of this Agreement.

B. Subcontractors: Grantee shall not enter any subgrant or subcontract in connection with its obligations under this Agreement without the prior written approval of the State. Upon request, Grantee shall submit to the Department a copy of each such subgrant or subcontract.

C. Binding Effect: Except as otherwise provided, all provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority: Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations have been duly authorized.

E. Captions and References: The captions and headings in this Agreement are for the convenience of reference only and shall not be used to interpret, define, or limit its provisions. All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits, or other attachments are references to sections, subsections, exhibits, or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

F. Counterparts: This Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute the same agreement.

G. Digital Signatures: If any signatory signs this agreement using a digital signature in accordance with the State Policies regarding the use of digital signatures, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Agreement by reference.

H. Modification: Except as otherwise provided in this Agreement, any modification to this Agreement shall only be effective if agreed to in a formal amendment, properly executed and approved in accordance with applicable New Mexico law and State fiscal policies and rules.

Modifications permitted under this Agreement, other than Agreement amendments, shall conform to the policies issued by the State.

I. Statutes, Regulations, Fiscal Rules, and Other Authority: Any reference in this Agreement to a statute, regulation, policy, or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended after the Effective Date of this Agreement.

J. External Terms and Conditions: Notwithstanding anything to the contrary herein, the State shall not be subject to any provision included in any terms, conditions, or agreements appearing on Grantee's or a subcontractor's website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in this Agreement.

K. Severability: The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Agreement in accordance with its intent.

L. Survival of Certain Agreement Terms: Any provision of this Agreement that imposes an obligation on a Party after the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement and shall be enforceable by the other Party.

M. Third Party Beneficiaries: Except for the Parties' respective successors and assigns described in this Agreement, it does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits that third parties receive as a result of this Agreement are incidental to this Agreement and do not create any rights for such third parties.

N. Waiver: A Party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

O. Standard and Manner of Performance: Grantee shall perform its obligations under this Agreement in accordance with the highest standards of care, skill, and diligence in Grantee's industry, trade, or profession.

P. Licenses, Permits, and Other Authorizations: Grantee shall secure, prior to the Effective Date, and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement and shall ensure that all employees, agents, and subcontractors secure and maintain at all times during the term of their employment, agency or subcontractor, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

Q. Publicity: Any Publicity regarding the subject matter of this Agreement may not be released without prior written approval from the Department. For purposes of this agreement, **"Publicity"**

means notices, informational pamphlets, press releases, email responses, research, reports, signs, and similar public notices prepared by or for the Grantee or jointly with others.

a. Grantee shall obtain written approval prior to issuing any press release or making any public announcement regarding this agreement. Grantee agrees to obtain approval of the Department in advance with respect to all Public Relations, all communications with media, or all communications with any other member of the public with respect to this agreement, except to acknowledge that an agreement does exist.
b. For purposes of this agreement, "Public Relations" includes community relations and means those activities dedicated to maintaining the Department's image or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public.
c. Violations of either Article XX (Q)(a) or (b) shall constitute a material Breach of Agreement.

R. Data Sharing: The State intends to secure and collate specific data generated by Grantee under this Agreement to use in support of the State's organizational, policy-making, and management of public resource functions. State, in accordance with **Exhibit E**, attached hereto and incorporated herein by reference, reserves the right to require Grantee and/or its subcontractors to provide specific data relevant to the above-listed functions. Data provided by Grantee may be incorporated into existing or future developed State integrated analysis tools or databases, including but not limited to geographic information system (GIS) networks and databases accessible by the public. Dissemination of data collected may include historical data and projections based on such historical data.

a. To the extent any data transferred as part of this Agreement is legally determined to be the property of Subrecipient or its subcontractors, Subrecipient and/or its subcontractors grants State a nonexclusive, fully paid-up right and license to reproduce, use, distribute, do derivative works based on, and archive data transferred as part of this Agreement.

S. Venue and Choice of Law: This Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico, without regard to any conflict of law provisions. Any legal suit, action, or proceeding arising out of or related to this Agreement shall be instituted exclusively in the district courts located in Santa Fe, New Mexico. The Parties hereby irrevocably submit to the exclusive jurisdiction and venue of such courts in any such suit, action, or proceeding. The Parties waive any objection to the laying of the venue of any such suit, action, or proceeding in the district courts of Santa Fe, New Mexico, and irrevocably waive and agree not to plead or claim in any such court that any such suit, action, or proceeding brought in any such court has been brought in an inconvenient forum.

[SIGNATURE PAGE AND EXHIBITS FOLLOW]
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IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the Department's date of execution.

APPROVED BY DEPARTMENT:

Cabinet Secretary, Wayne Propst:

Signed by:
Wayne Propst
BEB4C998A89A432...
Signature

9/11/2025
Date

Chief Financial Officer, Mackie Romero:

DocuSigned by:
[signature]
8CA8727E89F8408...
Signature

9/10/2025
Date

Local Government Division Director, Cecilia Mavrommatis:

Signed by:
Cecilia Mavrommatis
C7E9C5975138484...
Signature

9/10/2025
Date

AS TO LEGAL FORM AND SUFFICIENCY

General Counsel's Office:

Signed by:
George Hypolite
8F9C38E14563478...
Signature

George Hypolite
(Print Name)

General Counsel
(Title)

APPROVED BY GRANTEE:

City of Truth or Consequences
Entity Name

Official with Authority to Bind Grantee:

Signature

Rolf Hechler (Print Name) | Mayor (Title)

8-13-2025
Date

Fiscal Officer or Chief Financial Officer:

Signature

Jocelyn Holguin (Print Name) | Finance Director (Title)

8-13-2025
Date

As To Legal Form And Sufficiency

Signature

Jaime Rubin (Print Name) | Attorney (Title)

8-13-2025
Date

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EXHIBIT A

Request for Payment Form and Certification

STATE OF NEW MEXICO
GRANT APPROPRIATION
Request for Payment Form
Exhibit A

I. Grantee Information (Must match your DFA Substitute W-9 Form)

A. Grantee: _____
B. Address: _____
(Complete Mailing, including Suite, if Applicable)
_____
City, State, Zip
C. Contact Name/Phone #: _____
D. Grant No: _____
E. Project Title: _____
F. Grant Expiration Date: _____

II. Payment Computation

A.	Payment Request No.	
B.	Grant Amount:	$ 0.00
C.	AIPP Amount (If Applicable) :	$ 0.00
D.	Funds Requested to Date:	$ 0.00
E.	Amount Requested this Payment:	
F.	Reversion Amount (if applicable):	$ 0.00
G.	Grant Balance:	$ 0.00

H. ☐ Final Request for Payment (if applicable)

III. Fiscal Year : 2026 (July 1, 2025-June 30, 2026)

(The State of NM Fiscal Year is July 1, 20XX through June 30, 20XX of the following year)

IV. Certifications

☐ I hereby certify that all conditions and requirements for Payments outlined in the Agreement have been met, including but not limited to:
a. Submission and approval of a Project Budget as per Article IV, Section A of the Agreement.
b. Compliance with the Project Budget and expenditure of funds in accordance with the State Procurement Code and the State's Model Accounting Practices.
c. Submission of supporting documentation as required by the Agreement.
d. Maintenance of all necessary records and documentation as stipulated in the Agreement.

☐ I attest that the information provided is correct; expenditures are properly documented and valid or actual receipts, and that the activity fully complies with Article IX, Sec. 14 of the New Mexico Constitution, known as the "anti-donation" clause.

☐ I hereby certify that all representations and warranties made in the Agreement remain true, accurate, and complete as of the date of this request, and will continue to be so throughout the term of the Agreement. I acknowledge that these representations and warranties are a material inducement for the Department to approve this pay request.

Grantee Fiscal Officer or **Fiscal Agent** (if applicable)	**Grantee Representative**
Printed Name	Printed Name
Date:	Date:

(State Agency Use Only)

Vendor Code: _____ Fund No.: _____ PO # _____ Loc No.: _____

I certify that the State Agency financial and vendor file information agree with the above submitted information.

ASD Officer	Date	Division Grant Manager	Date

Revised 7/2025

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EXHIBIT B

Notice of Department's Obligation Form

NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
EXHIBIT B

Notice of Obligation to Reimburse Grantee # _____

DATE: _____

TO: Department Representative: _____, Grant Manager

FROM: Grantee Entity: _____

Grantee Official Representative: _____

SUBJECT: Notice of Obligation to Reimburse Grantee

Grant Number: _____

Grant Termination Date: _____

As the designated representative of the Department for Grant Agreement number _____ entered into between Grantee and the Department, I certify that the Grantee has submitted to the Department the following third party obligation executed, in writing, by the third party's authorized representative:

Vendor or Contractor: _____

Third Party Obligation Amount: _____

Vendor or Contractor: _____

Third Party Obligation Amount: _____

I certify that the State is issuing this Notice of Obligation to Reimburse Grantee for permissible purposes within the scope of the project description, subject to all the terms and conditions of the above referenced Grant Agreement.

Grant Amount (Minus AIPP if applicable): _____

The Amount of this Notice of Obligation: _____

The Total Amount of all Previously Issued Notices of Obligation: _____

The Total Amount of all Notices of Obligation to Date: $ 0.00

Note: Contract amounts may exceed the total grant amount, but the invoices paid by the grant will not exceed the grant amount.

Department Rep. Approves: _____

Title: Grant Manager

Signature: _____

Date: _____

1 Administrative and/or Indirect Cost – generally, the legislation authorizing the issuance of bonds prohibits the use of its proceeds for indirect expenses (e.g. penalty fees or damages other than pay for work performed, attorney fees, and administrative fees). Such use of bond proceeds shall not be allowed unless specifically authorized by statute.

Revised 7/2025

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EXHIBIT C

Special Conditions (If Fiscal Agent Required or Anti Donations Issues Exist)

OPTIONAL EXHIBIT C
SPECIAL CONDITIONS

The capital outlay oversight requires grantees' accounting methods and procedures, including their internal control framework, to be scrutinized, so as to safeguard State capital outlay appropriations and assets acquired with such appropriations.

This Capital Outlay Special Grant Condition(s) **Exhibit C** is necessary pursuant to § 6-3b-1 et seq., NMSA 1978 (Public Finance Accountability Act) and MAPS Fin 9.2, due to the Grantees' material weaknesses, significant deficiencies, or findings that raised concerns as to the ability to expend grant funds in accordance with applicable law in the organization's FY[20XX] audit. The Special Conditions identified below apply to the authorized agent, [insert the Grantee or Fiscal Agent name].

Procurement - All purchases or contracts the Grantee enters that shall use funding from the Department capital appropriations grant must be approved by the Department prior to the initiation of implementing purchasing documents. The Grantee shall receive such prior approval via official correspondence from the Department, which may be through letter or email. The Grantee shall submit the following to the Department in pursuit of prior approval: purchasing policies and procedures, CFO certification, documentation of management and program approval, policies and procedures governing purchasing and contracting, a copy of the current procurement and contracting policies, and documentation regarding informing staff responsible for purchasing and contracting on such policies and procedures.

Budget - Provide documentation of approval of your current budget from DFA Local Government or other authoritative agency. Provide policies and procedures on who is responsible for and how annual budgets (expenditures and revenue) are established, monitored and adjusted. Provide a corrective action plan on how budget issues identified in your audit will be/have been addressed. Also include documentation on how staff responsible for budgeting is informed on budget policies and procedures.

Capital Assets - Provide a complete list of inventory including inventory control numbers and current location. Provide policies and procedures on capital assets and inventory and specify how the proposed purchased items will be included, tagged, and tracked in capital asset inventory. Also include documentation on how staff responsible for capital assets is informed on capital asset policies and procedures.

Travel and Per Diem - Provide policies and procedures on travel and per diem. Also include how staff who travel and those responsible for travel reimbursement are informed on travel and per diem policies and procedures.

Timely Audits – Provide policies and procedures on annual audits. Provide documentation on how and who is responsible for insuring that annual audits are completed timely. Also include documentation on how staff responsible for the annual audit is informed on audit policies and procedures.

Cash Management – policies and procedures on cash management of federal funds. Provide procedures used to draw and disburse federal funds. Provide procedures to reconcile draw amounts, deposits and disbursements; and to prepare federal cash reporting documents to ensure compliance with federal regulations.

The <Grantee> was required to, and has provided sufficient documentation regarding [insert specific names of the Special Condition(s)], as referenced in the <Grantee>'s [20XX] Audit file. Therefore, the criteria to enter into this agreement have been met.

Page 1 of 1 Revised 7/2025

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EXHIBIT D

Project Budget Worksheet *
*(Provided separately when grant agreement issued to Grantee)

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Exhibit E

Data Sharing Provisions for New Mexico Capital Outlay Agreements

I. **Introduction:**

This Data Sharing Provisions Exhibit ("Exhibit") is incorporated into the New Mexico Capital Outlay Agreements ("Agreements") between the State of New Mexico ("State") and [Insert Partner Name] ("Partner"). This Exhibit outlines the terms and conditions under which data will be shared between the Parties to ensure compliance with New Mexico state laws and regulations, focusing on data privacy, security, and compliance.

II. **Definitions:**

a. Authorized User: An employee, agent, assign, representative, independent contractor, or other person or entity authorized by Partner or State to access, use, or disclose information through this exhibit.

b. Confidential Information: All data or information shared in confidence, with the expectation that it will not be disclosed in an identifiable form. This includes data that is exempt from public disclosure under the New Mexico Inspection of Public Records Act (§ 14-2-1 et seq. NMSA 1978) or other relevant laws.

c. Data Storage: Electronic media that hold recorded information.

d. Data Transmission: The process of moving information over a network from its source to one or more destinations.

e. Direct Identifier: Records or data containing personal identifiers such as names, addresses, and social security numbers.

f. Disclosure: Permission to access, release, transfer, or otherwise communicate confidential information by any means to any third party, except as authorized by the Party that controls the record.

g. Encryption involves using algorithms to encode data, rendering it unreadable without a specific key. It may be necessary during data transmission and/or storage.

h. Information: Any data, figures, statistics, or other facts provided or learned about someone or something, including Confidential Information, that may be legally transmitted under this Exhibit.

i. Limited Dataset: A data file that omits Direct Identifiers.

j. Protected Personally Identifiable Information: Sensitive personal details such as social security numbers and financial account numbers, with specific exclusions as outlined in the Agreements.

III. **Purpose:**

The purpose of this exhibit is to promote transparency, facilitate information sharing between the parties, support better policy and decision-making, and enhance public services through collaborative

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data analysis from various sources.

IV. **Use of Information:**

a. Use of Information obtained or created under this exhibit shall be strictly limited to the purposes stated herein and in the agreements. The parties agree not to sell Information to third parties or use it for commercial, solicitation, or political purposes.

b. Each Party shall serve as the custodian of the Information and comply with all conditions for its use, including security measures to prevent unauthorized access.

c. The Parties shall follow all relevant federal and state laws and regulations governing the use of such Information.

V. **Safeguarding Information:**

a. Confidentiality: Access to Confidential Information shall be limited to the minimum necessary to accomplish the purposes of this Exhibit. Authorized Users must adhere to the confidentiality requirements.

b. Security: Security practices shall comply with the requirements of the New Mexico Department of Information Technology Act and related regulations. The Parties agree to notify each other within three business days of any suspected or actual security breach.

c. Information Storage and Transmission: Data Storage and Transmission shall take place on an encrypted server with appropriate security controls.

VI. **Re-Disclosure of Information:**

The Parties agree not to disclose Information except as required by law or with prior written approval of the other Party. If there is a public records request, the Party receiving it shall notify the other Party within three business days.

VII. **Ownership of Information:**

Legal title to Information shall remain with the provider. The Partner grants the State a royalty-free, non-exclusive, non-transferable license to use the Information in furtherance of the purposes outlined in this Exhibit.

AIA® Document A141® - 2014

Standard Form of Agreement Between Owner and Design-Builder

AGREEMENT made as of the 8 day of July in the year 2026
(In words, indicate day, month and year.)

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

City of Truth or Consequences
Annex Building - 401 McAdoo St.
Truth or Consequences, NM 87901

and the Design-Builder:
(Name, legal status, address and other information)

J. Carrizal General Construction
1070 Diesel Drive
El Paso, TX 79907

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

RFP #2026-03-005 PNC Bank/PD Remodel
210 Main Street
Truth or Consequences, NM 87901

The Owner and Design-Builder agree as follows.

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2 COMPENSATION AND PROGRESS PAYMENTS

3 GENERAL REQUIREMENTS OF THE WORK OF THE DESIGN-BUILD CONTRACT

4 WORK PRIOR TO EXECUTION OF THE DESIGN-BUILD AMENDMENT

5 WORK FOLLOWING EXECUTION OF THE DESIGN-BUILD AMENDMENT

6 CHANGES IN THE WORK

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Owner's Criteria

This Agreement is based on the Owner's Criteria set forth in this Section 1.1.

(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable" or "unknown at time of execution." If the Owner intends to provide a set of design documents, and the requested information is contained in the design documents, identify the design documents and insert "see Owner's design documents" where appropriate.)

§ 1.1.1 The Owner's program for the Project:

(Set forth the program, identify documentation in which the program is set forth, or state the manner in which the program will be developed.)

« »

§ 1.1.2 The Owner's design requirements for the Project and related documentation:
(Identify below, or in an attached exhibit, the documentation that contains the Owner's design requirements, including any performance specifications for the Project.)

« »

§ 1.1.3 The Project's physical characteristics:
(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)

« »

§ 1.1.4 The Owner's anticipated Sustainable Objective for the Project, if any:
(Identify the Owner's Sustainable Objective for the Project such as Sustainability Certification, benefit to the environment, enhancement to the health and well-being of building occupants, or improvement of energy efficiency. If the Owner identifies a Sustainable Objective, incorporate AIA Document A141™–2014, Exhibit C, Sustainable Projects, into this Agreement to define the terms, conditions and Work related to the Owner's Sustainable Objective.)

« »

§ 1.1.5 Incentive programs the Owner intends to pursue for the Project, including those related to the Sustainable Objective, and any deadlines for receiving the incentives that are dependent on, or related to, the Design-Builder's services, are as follows:
(Identify incentive programs the Owner intends to pursue for the Project and deadlines for submitting or applying for the incentive programs.)

« »

§ 1.1.6 The Owner's budget for the Work to be provided by the Design-Builder is set forth below:
(Provide total for Owner's budget, and if known, a line item breakdown of costs.)

« »

§ 1.1.7 The Owner's design and construction milestone dates:

.1 Design phase milestone dates:

« »

.2 Submission of Design-Builder Proposal:

« »

.3 Phased completion dates:

« »

.4 Substantial Completion date:

« »

.5 Other milestone dates:

« »

§ 1.1.8 The Owner requires the Design-Builder to retain the following Architect, Consultants and Contractors at the Design-Builder's cost:
(List name, legal status, address and other information.)

.1 Architect

William Philip Buckley

.2 Consultants

« »

.3 Contractors

J. Carrizal General Construction

§ 1.1.9 Additional Owner's Criteria upon which the Agreement is based:
(Identify special characteristics or needs of the Project not identified elsewhere, such as historic preservation requirements.)

« »

§ 1.1.10 The Design-Builder shall confirm that the information included in the Owner's Criteria complies with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 1.1.10.1 If the Owner's Criteria conflicts with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner of the conflict.

§ 1.1.11 If there is a change in the Owner's Criteria, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 1.1.12 If the Design-Builder and Contractor intend to transmit Instruments of Service or any other information or documentation in digital form, or utilize building information modeling, they shall endeavor to establish written protocols governing the development, use, transmission, reliance, and exchange of digital data, including building information modeling.

§ 1.2 Project Team

§ 1.2.1 The Owner identifies the following representative in accordance with Section 7.1.1:
(List name, address and other information.)

Chief of Police, Luis Tavizon, (575) 894-7945, ltavizon@torcnm.gov
Assistant City Manager, Traci Alvarez, (575) 952-0565, talvarez@torcnm.gov
City Manager, Gary Whitehead, (575) 894-668, gwhitehead@torcnm.gov
Chief Financial Officer, Jocelyn Holguin, (575) 740-7323, jholguin@torcnm.gov
Chief Procurement Officer, Carlos Miyagishima, (575) 952-9301, cmiyagishima@torcnm.gov

§ 1.2.2 The persons or entities, in addition to the Owner's representative, who are required to review the Design-Builder's Submittals are as follows:
(List name, address and other information.)

« »

§ 1.2.3 The Owner will retain the following consultants and separate contractors:
(List discipline, scope of work, and, if known, identify by name and address.)

The work consists of design and construction services, based on the remolding of the PNC Bank Building-Address: 210 Main Ave, Truth or Consequences, NM 87901 for a new all-inclusive Police Department Building.

§ 1.2.4 The Design-Builder identifies the following representative in accordance with Section 3.1.2:
(List name, address and other information.)

« »
« »
« »
« »
« »
« »

§ 1.2.5 Neither the Owner's nor the Design-Builder's representative shall be changed without ten days' written notice to the other party.

§ 1.3 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 14.3, the method of binding dispute resolution shall be the following:
(Check the appropriate box. If the Owner and Design-Builder do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

[« »] Arbitration pursuant to Section 14.4

[« »] Litigation in a court of competent jurisdiction

[« »] Other: *(Specify)*

§ 1.4 Definitions

§ 1.4.1 Design-Build Documents. The Design-Build Documents consist of this Agreement between Owner and Design-Builder and its attached Exhibits (hereinafter, the "Agreement"); other documents listed in this Agreement; and Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, including the Design-Build Amendment, (2) a Change Order, or (3) a Change Directive.

§ 1.4.2 The Contract. The Design-Build Documents form the Contract. The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Design-Build Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and the Design-Builder.

§ 1.4.3 The Work. The term "Work" means the design, construction and related services required to fulfill the Design-Builder's obligations under the Design-Build Documents, whether completed or partially completed, and includes all labor, materials, equipment and services provided or to be provided by the Design-Builder. The Work may constitute the whole or a part of the Project.

§ 1.4.4 The Project. The Project is the total design and construction of which the Work performed under the Design-Build Documents may be the whole or a part, and may include design and construction by the Owner and by separate contractors.

§ 1.4.5 Instruments of Service. Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Design-Builder, Contractor(s), Architect, and Consultant(s) under their respective agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, digital models and other similar materials.

§ 1.4.6 Submittal. A Submittal is any submission to the Owner for review and approval demonstrating how the Design-Builder proposes to conform to the Design-Build Documents for those portions of the Work for which the Design-Build Documents require Submittals. Submittals include, but are not limited to, shop drawings, product data, and samples. Submittals are not Design-Build Documents unless incorporated into a Modification.

§ 1.4.7 Owner. The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized representative.

§ 1.4.8 Design-Builder. The Design-Builder is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term "Design-Builder" means the Design-Builder or the Design-Builder's authorized representative.

§ 1.4.9 Consultant. A Consultant is a person or entity providing professional services for the Design-Builder for all or a portion of the Work, and is referred to throughout the Design-Build Documents as if singular in number. To the extent required by the relevant jurisdiction, the Consultant shall be lawfully licensed to provide the required professional services.

§ 1.4.10 Architect. The Architect is a person or entity providing design services for the Design-Builder for all or a portion of the Work, and is lawfully licensed to practice architecture in the applicable jurisdiction. The Architect is referred to throughout the Design-Build Documents as if singular in number.

§ 1.4.11 Contractor. A Contractor is a person or entity performing all or a portion of the construction, required in connection with the Work, for the Design-Builder. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor is referred to throughout the Design-Build Documents as if singular in number and means a Contractor or an authorized representative of the Contractor.

§ 1.4.12 Confidential Information. Confidential Information is information containing confidential or business proprietary information that is clearly marked as "confidential."

§ 1.4.13 Contract Time. Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, as set forth in the Design-Build Amendment for Substantial Completion of the Work.

§ 1.4.14 Day. The term "day" as used in the Design-Build Documents shall mean calendar day unless otherwise specifically defined.

§ 1.4.15 Contract Sum. The Contract Sum is the amount to be paid to the Design-Builder for performance of the Work after execution of the Design-Build Amendment, as identified in Article A.1 of the Design-Build Amendment.

ARTICLE 2 COMPENSATION AND PROGRESS PAYMENTS

§ 2.1 Compensation for Work Performed Prior To Execution of Design-Build Amendment

§ 2.1.1 Unless otherwise agreed, payments for Work performed prior to Execution of the Design-Build Amendment shall be made monthly. For the Design-Builder's performance of Work prior to the execution of the Design-Build Amendment, the Owner shall compensate the Design-Builder as follows:
(Insert amount of, or basis for, compensation, including compensation for any Sustainability Services, or indicate the exhibit in which the information is provided. If there will be a limit on the total amount of compensation for Work performed prior to the execution of the Design-Build Amendment, state the amount of the limit.)

The City shall pay to the Contractor in full payment for services satisfactorily performed under the individual Task Orders based on the schedule of payments contained in the individual task order.

§ 2.1.2 The hourly billing rates for services of the Design-Builder and the Design-Builder's Architect, Consultants and Contractors, if any, are set forth below.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

« »

Individual or Position	Rate

§ 2.1.3 Compensation for Reimbursable Expenses Prior To Execution of Design-Build Amendment
§ 2.1.3.1 Reimbursable Expenses are in addition to compensation set forth in Section 2.1.1 and 2.1.2 and include expenses, directly related to the Project, incurred by the Design-Builder and the Design-Builder's Architect, Consultants, and Contractors, as follows:

.1 Transportation and authorized out-of-town travel and subsistence;
.2 Dedicated data and communication services, teleconferences, Project web sites, and extranets;
.3 Fees paid for securing approval of authorities having jurisdiction over the Project;
.4 Printing, reproductions, plots, standard form documents;
.5 Postage, handling and delivery;
.6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
.7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner;
.8 All taxes levied on professional services and on reimbursable expenses; and
.9 Other Project-related expenditures, if authorized in advance by the Owner.

§ 2.1.3.2 For Reimbursable Expenses, the compensation shall be the expenses the Design-Builder and the Design-Builder's Architect, Consultants and Contractors incurred, plus an administrative fee of « » percent (« » %) of the expenses incurred.

§ 2.1.4 Payments to the Design-Builder Prior To Execution of Design-Build Amendment
§ 2.1.4.1 Payments are due and payable upon presentation of the Design-Builder's invoice. Amounts unpaid « fifteen » (« 15 ») days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Design-Builder.
(Insert rate of monthly or annual interest agreed upon.)

« 1 » % « One Percent per month »

§ 2.1.4.2 Records of Reimbursable Expenses and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times for a period of two years following execution of the Design-Build Amendment or termination of this Agreement, whichever occurs first.

§ 2.2 Contract Sum and Payment for Work Performed After Execution of Design-Build Amendment
For the Design-Builder's performance of the Work after execution of the Design-Build Amendment, the Owner shall pay to the Design-Builder the Contract Sum in current funds as agreed in the Design-Build Amendment.

ARTICLE 3 GENERAL REQUIREMENTS OF THE WORK OF THE DESIGN-BUILD CONTRACT
§ 3.1 General
§ 3.1.1 The Design-Builder shall comply with any applicable licensing requirements in the jurisdiction where the Project is located.

§ 3.1.2 The Design-Builder shall designate in writing a representative who is authorized to act on the Design-Builder's behalf with respect to the Project.

§ 3.1.3 The Design-Builder shall perform the Work in accordance with the Design-Build Documents. The Design-Builder shall not be relieved of the obligation to perform the Work in accordance with the Design-Build Documents by the activities, tests, inspections or approvals of the Owner.

§ 3.1.3.1 The Design-Builder shall perform the Work in compliance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder performs Work contrary to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, the Design-Builder shall assume responsibility for such Work and shall bear the costs attributable to correction.

§ 3.1.3.2 Neither the Design-Builder nor any Contractor, Consultant, or Architect shall be obligated to perform any act which they believe will violate any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder determines that implementation of any instruction received from the Owner, including those in the Owner's Criteria, would cause a violation of any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner in writing. Owner shall respond within 5 business days to Design-Builder's notice. If Owner fails to timely respond, Design-Builder may proceed with a code-compliant solution consistent with Owner's Criteria, and is entitled to an equitable adjustment for time and cost. Upon verification by the Owner that a change to the Owner's Criteria is required to remedy the violation, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 3.1.4 The Design-Builder shall be responsible to the Owner for acts and omissions of the Design-Builder's employees, Architect, Consultants, Contractors, and their agents and employees, and other persons or entities performing portions of the Work.

§ 3.1.5 General Consultation. The Design-Builder shall schedule and conduct periodic meetings with the Owner to review matters such as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.6 When applicable law requires that services be performed by licensed professionals, the Design-Builder shall provide those services through qualified, licensed professionals. The Owner understands and agrees that the services of the Design-Builder's Architect and the Design-Builder's other Consultants are performed in the sole interest of, and for the exclusive benefit of, the Design-Builder.

§ 3.1.7 The Design-Builder, with the assistance of the Owner, shall prepare and file documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project.

§ 3.1.8 Progress Reports

§ 3.1.8.1 The Design-Builder shall keep the Owner informed of the progress and quality of the Work. On a monthly basis, or otherwise as agreed to by the Owner and Design-Builder, the Design-Builder shall submit written progress reports to the Owner, showing estimated percentages of completion and other information identified below:

.1 Work completed for the period;
.2 Project schedule status;
.3 Submittal schedule and status report, including a summary of outstanding Submittals;
.4 Responses to requests for information to be provided by the Owner;
.5 Approved Change Orders and Change Directives;
.6 Pending Change Order and Change Directive status reports;
.7 Tests and inspection reports;
.8 Status report of Work rejected by the Owner;
.9 Status of Claims previously submitted in accordance with Article 14;
.10 Cumulative total of the Cost of the Work to date including the Design-Builder's compensation and Reimbursable Expenses, if any;
.11 Current Project cash-flow and forecast reports; and
.12 Additional information as agreed to by the Owner and Design-Builder.

§ 3.1.8.2 In addition, where the Contract Sum is the Cost of the Work with or without a Guaranteed Maximum Price, the Design-Builder shall include the following additional information in its progress reports:

.1 Design-Builder's work force report;
.2 Equipment utilization report; and
.3 Cost summary, comparing actual costs to updated cost estimates.

§ 3.1.9 Design-Builder's Schedules

§ 3.1.9.1 The Design-Builder, promptly after execution of this Agreement, shall prepare and submit for the Owner's information a schedule for the Work. The schedule, including the time required for design and construction, shall not exceed time limits current under the Design-Build Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the

Design-Build Documents, shall provide for expeditious and practicable execution of the Work, and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project.

§ 3.1.9.2 The Design-Builder shall perform the Work in general accordance with the most recent schedules submitted to the Owner.

§ 3.1.10 Certifications. Upon the Owner's written request, the Design-Builder shall obtain from the Architect, Consultants, and Contractors, and furnish to the Owner, certifications with respect to the documents and services provided by the Architect, Consultants, and Contractors (a) that, to the best of their knowledge, information and belief, the documents or services to which the certifications relate (i) are consistent with the Design-Build Documents, except to the extent specifically identified in the certificate, and (ii) comply with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities governing the design of the Project; and (b) that the Owner and its consultants shall be entitled to rely upon the accuracy of the representations and statements contained in the certifications. The Design-Builder's Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services. Any certifications shall be limited to the professional's knowledge, information, and belief, based on services performed with the standard of care, and shall not include guarantees, warranties, or certification of construction means/methods or third-party data.

§ 3.1.11 Design-Builder's Submittals

§ 3.1.11.1 Prior to submission of any Submittals, the Design-Builder shall prepare a Submittal schedule, and shall submit the schedule for the Owner's approval. The Owner's review shall be done in good faith and approval shall not unreasonably be delayed or withheld. The Submittal schedule shall (1) be coordinated with the Design-Builder's schedule provided in Section 3.1.9.1, (2) allow the Owner reasonable time to review Submittals, and (3) be periodically updated to reflect the progress of the Work. The Owner's failure to respond within the approved Submittal schedule constitutes deemed approval for sequencing purposes (not pricing), allowing Work to proceed. If the Design-Builder fails to submit a Submittal schedule, the Design-Builder shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of Submittals.

§ 3.1.11.2 By providing Submittals the Design-Builder represents to the Owner that it has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Design-Build Documents.

§ 3.1.11.3 The Design-Builder shall perform no portion of the Work for which the Design-Build Documents require Submittals until the Owner has approved the respective Submittal.

§ 3.1.11.4 The Work shall be in accordance with approved Submittals except that the Design-Builder shall not be relieved of its responsibility to perform the Work consistent with the requirements of the Design-Build Documents. The Work may deviate from the Design-Build Documents only if the Design-Builder has notified the Owner in writing of a deviation from the Design-Build Documents at the time of the Submittal. If Owner approves a Submittal that clearly identifies a deviation, such approval shall constitute Owner's authorization of that deviation, and a confirming Change Order will be executed and pricing/time impacts shall be agreed upon contemporaneously. The Design-Builder shall not be relieved of responsibility for errors or omissions in Submittals by the Owner's approval of the Submittals.

§ 3.1.11.5 All professional design services or certifications to be provided by the Design-Builder, including all drawings, calculations, specifications, certifications, shop drawings and other Submittals, shall contain the signature and seal of the licensed design professional preparing them. Submittals related to the Work designed or certified by the licensed design professionals, if prepared by others, shall bear the licensed design professional's written approval. The Owner and its consultants shall be entitled to reasonably rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

§ 3.1.12 Warranty. The Design-Builder warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless the Design-Build Documents require or permit otherwise. The

Design-Builder further warrants that the Work will conform to the requirements of the Design-Build Documents and will be free from defects, except for those inherent in the quality of the Work or otherwise expressly permitted by the Design-Build Documents. Work, materials, or equipment not conforming to these requirements may be considered defective. The Design-Builder's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Design-Builder, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner, the Design-Builder shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.1.13 Royalties, Patents and Copyrights

§ 3.1.13.1 The Design-Builder shall pay all royalties and license fees.

§ 3.1.13.2 The Design-Builder shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and its separate contractors and consultants harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Owner, or where the copyright violations are required in the Owner's Criteria. However, if the Design-Builder has reason to believe that the design, process or product required in the Owner's Criteria is an infringement of a copyright or a patent, the Design-Builder shall be responsible for such loss unless such information is promptly furnished to the Owner. Design-Builder shall have no duty to indemnify Owner if such information is timely provided to Owner. If the Owner receives notice from a patent or copyright owner of an alleged violation of a patent or copyright, attributable to the Design-Builder, the Owner shall give prompt written notice to the Design-Builder.

§ 3.1.14 Indemnification

§ 3.1.14.1 To the fullest extent permitted by law, the Design-Builder shall indemnify and hold harmless the Owner, including the Owner's agents and employees, from and against claims, damages, losses and expenses, including but not limited to reasonable and necessary attorneys' fees, arising out of or resulting from performance of the Work, but only to the extent caused by the negligent acts or omissions of the Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.1.14. Design-Builder shall have no duty to indemnify for concurrent negligence of indemnitees. Design-Builder's defense obligation is triggered only to the extent of Design-Builder's proportionate fault as finally determined by the trier of fact.

§ 3.1.14.2 The indemnification obligation under this Section 3.1.14 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them, under workers' compensation acts, disability benefit acts or other employee benefit acts.

§ 3.1.15 Contingent Assignment of Agreements

§ 3.1.15.1 Each agreement for a portion of the Work is assigned by the Design-Builder to the Owner, provided that

.1 assignment is effective only after termination of the Contract by the Owner for cause, pursuant to Sections 13.1.4 or 13.2.2, and only for those agreements that the Owner accepts by written notification to the Design-Builder and the Architect, Consultants, and Contractors whose agreements are accepted for assignment; and

.2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of an agreement, the Owner assumes the Design-Builder's rights and obligations under the agreement.

§ 3.1.15.2 Upon such assignment, if the Work has been suspended for more than 30 days, the compensation under the assigned agreement shall be equitably adjusted for increases in cost resulting from the suspension.

§ 3.1.15.3 Upon such assignment to the Owner under this Section 3.1.15, the Owner may further assign the agreement to a successor design-builder or other entity. If the Owner assigns the agreement to a successor design-

builder or other entity, the Owner shall nevertheless remain legally responsible for all of the successor design-builder's or other entity's obligations under the agreement.

§ 3.1.16 Design-Builder's Insurance and Bonds. The Design-Builder shall purchase and maintain insurance and provide bonds as set forth in Exhibit B.

ARTICLE 4 WORK PRIOR TO EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 4.1 General

§ 4.1.1 Any information submitted by the Design-Builder, and any interim decisions made by the Owner, shall be for the purpose of facilitating the design process and shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.1.2 The Design-Builder shall advise the Owner on proposed site use and improvements, selection of materials, and building systems and equipment. The Design-Builder shall also provide the Owner with recommendations, consistent with the Owner's Criteria, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 4.2 Evaluation of the Owner's Criteria

§ 4.2.1 The Design-Builder shall schedule and conduct meetings with the Owner and any other necessary individuals or entities to discuss and review the Owner's Criteria as set forth in Section 1.1. The Design-Builder shall thereafter again meet with the Owner to discuss a preliminary evaluation of the Owner's Criteria. The preliminary evaluation shall address possible alternative approaches to design and construction of the Project and include the Design-Builder's recommendations, if any, with regard to accelerated or fast-track scheduling, procurement, or phased construction. The preliminary evaluation shall consider cost information, constructability, and procurement and construction scheduling issues.

§ 4.2.2 After the Design-Builder meets with the Owner and presents the preliminary evaluation, the Design-Builder shall provide a written report to the Owner, summarizing the Design-Builder's evaluation of the Owner's Criteria. The report shall also include

.1 allocations of program functions, detailing each function and their square foot areas;

.2 a preliminary estimate of the Cost of the Work, and, if necessary, recommendations to adjust the Owner's Criteria to conform to the Owner's budget;

.3 a preliminary schedule, which shall include proposed design milestones; dates for receiving additional information from, or for work to be completed by, the Owner; anticipated date for the Design-Builder's Proposal; and dates of periodic design review sessions with the Owner; and

.4 the following:
(List additional information, if any, to be included in the Design-Builder's written report.)



§ 4.2.3 The Owner shall review the Design-Builder's written report and, if acceptable, provide the Design-Builder with written consent to proceed to the development of the Preliminary Design as described in Section 4.3. The consent to proceed shall not be understood to modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.3 Preliminary Design

§ 4.3.1 Upon the Owner's issuance of a written consent to proceed under Section 4.2.3, the Design-Builder shall prepare and submit a Preliminary Design to the Owner. The Preliminary Design shall include a report identifying any deviations from the Owner's Criteria, and shall include the following:

.1 Confirmation of the allocations of program functions;

.2 Site plan;

.3 Building plans, sections and elevations;

.4 Structural system;

.5 Selections of major building systems, including but not limited to mechanical, electrical and plumbing systems; and

.6 Outline specifications or sufficient drawing notes describing construction materials.

The Preliminary Design may include some combination of physical study models, perspective sketches, or digital modeling.

§ 4.3.2 The Owner shall review the Preliminary Design and, if acceptable, provide the Design-Builder with written consent to proceed to development of the Design-Builder's Proposal. The Preliminary Design shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.4 Design-Builder's Proposal

§ 4.4.1 Upon the Owner's issuance of a written consent to proceed under Section 4.3.2, the Design-Builder shall prepare and submit the Design-Builder's Proposal to the Owner. The Design-Builder's Proposal shall include the following:

.1 A list of the Preliminary Design documents and other information, including the Design-Builder's clarifications, assumptions and deviations from the Owner's Criteria, upon which the Design-Builder's Proposal is based;

.2 The proposed Contract Sum, including the compensation method and, if based upon the Cost of the Work plus a fee, a written statement of estimated cost organized by trade categories, allowances, contingencies, Design-Builder's Fee, and other items that comprise the Contract Sum;

.3 The proposed date the Design-Builder shall achieve Substantial Completion;

.4 An enumeration of any qualifications and exclusions, if applicable;

.5 A list of the Design-Builder's key personnel, Contractors and suppliers; and

.6 The date on which the Design-Builder's Proposal expires.

§ 4.4.2 Submission of the Design-Builder's Proposal shall constitute a representation by the Design-Builder that it has visited the site and become familiar with local conditions under which the Work is to be completed.

§ 4.4.3 If the Owner and Design-Builder agree on a proposal, the Owner and Design-Builder shall execute the Design-Build Amendment setting forth the terms of their agreement.

ARTICLE 5 WORK FOLLOWING EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 5.1 Construction Documents

§ 5.1.1 Upon the execution of the Design-Build Amendment, the Design-Builder shall prepare Construction Documents. The Construction Documents shall establish the quality levels of materials and systems required. The Construction Documents shall be consistent with the Design-Build Documents.

§ 5.1.2 The Design-Builder shall provide the Construction Documents to the Owner for the Owner's information. If the Owner discovers any deviations between the Construction Documents and the Design-Build Documents, the Owner shall promptly notify the Design-Builder of such deviations in writing. The Construction Documents shall not modify the Design-Build Documents unless the Owner and Design-Builder execute a Modification. The failure of the Owner to discover any such deviations shall not relieve the Design-Builder of the obligation to perform the Work in accordance with the Design-Build Documents.

§ 5.2 Construction

§ 5.2.1 Commencement. Except as permitted in Section 5.2.2, construction shall not commence prior to execution of the Design-Build Amendment.

§ 5.2.2 If the Owner and Design-Builder agree in writing, construction may proceed prior to the execution of the Design-Build Amendment. However, such authorization shall not waive the Owner's right to reject the Design-Builder's Proposal.

§ 5.2.3 The Design-Builder shall supervise and direct the Work, using the Design-Builder's best skill and attention. The Design-Builder shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Design-Build Documents give other specific instructions concerning these matters.

§ 5.2.4 The Design-Builder shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 5.3 Labor and Materials

§ 5.3.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services, necessary for proper execution and completion of the Work, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work.

§ 5.3.2 When a material or system is specified in the Design-Build Documents, the Design-Builder may make substitutions only in accordance with Article 6.

§ 5.3.3 The Design-Builder shall enforce strict discipline and good order among the Design-Builder's employees and other persons carrying out the Work. The Design-Builder shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 5.4 Taxes

The Design-Builder shall pay sales, consumer, use and similar taxes, for the Work provided by the Design-Builder, that are legally enacted when the Design-Build Amendment is executed, whether or not yet effective or merely scheduled to go into effect.

§ 5.5 Permits, Fees, Notices and Compliance with Laws

§ 5.5.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall secure and pay for the building permit as well as any other permits, fees, licenses, and inspections by government agencies, necessary for proper execution of the Work and Substantial Completion of the Project.

§ 5.5.2 The Design-Builder shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, applicable to performance of the Work.

§ 5.5.3 Concealed or Unknown Conditions. If the Design-Builder encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Design-Build Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Design-Build Documents, the Design-Builder shall promptly provide notice to the Owner before conditions are disturbed and in no event later than 21 days after first observance of the conditions or when reasonably discoverable with ordinary diligence, whichever is later. Upon timely notice, Design-Builder is entitled to an equitable adjustment to Contract Sum and Contract Time for material differences meeting the above described criteria, determined based on objective evidence. The Owner's role is to confirm scope/extent, not entitlement discretion. Failure to respond within 10 days is deemed confirmation of material difference for purposes of interim relief. If the Owner determines that the conditions at the site are not materially different from those indicated in the Design-Build Documents and that no change in the terms of the Contract is justified, the Owner shall promptly notify the Design-Builder in writing, stating the reasons. If the Design-Builder disputes the Owner's determination or recommendation, the Design-Builder may proceed as provided in Article 14.

§ 5.5.4 If, in the course of the Work, the Design-Builder encounters human remains, or recognizes the existence of burial markers, archaeological sites, or wetlands, not indicated in the Design-Build Documents, the Design-Builder shall immediately suspend any operations that would affect them and shall notify the Owner. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Design-Builder shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 14.

§ 5.6 Allowances

§ 5.6.1 The Design-Builder shall include in the Contract Sum all allowances stated in the Design-Build Documents. Items covered by allowances shall be supplied for such amounts, and by such persons or entities as the Owner may

direct, but the Design-Builder shall not be required to employ persons or entities to whom the Design-Builder has reasonable objection.

§ 5.6.2 Unless otherwise provided in the Design-Build Documents,

.1 allowances shall cover the cost to the Design-Builder of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

.2 the Design-Builder's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts, shall be included in the Contract Sum but not in the allowances; and

.3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 5.6.2.1 and (2) changes in Design-Builder's costs under Section 5.6.2.2.

§ 5.6.3 The Owner shall make selections of materials and equipment with reasonable promptness for allowances requiring Owner selection.

§ 5.7 Key Personnel, Contractors and Suppliers

§ 5.7.1 The Design-Builder shall not employ personnel, or contract with Contractors or suppliers to whom the Owner has made reasonable and timely objection. The Design-Builder shall not be required to contract with anyone to whom the Design-Builder has made reasonable and timely objection.

§ 5.7.2 If the Design-Builder changes any of the personnel, Contractors or suppliers identified in the Design-Build Amendment, the Design-Builder shall notify the Owner and provide the name and qualifications of the new personnel, Contractor or supplier. The Owner may reply within 14 days to the Design-Builder in writing, stating (1) whether the Owner has reasonable objection to the proposed personnel, Contractor or supplier or (2) that the Owner requires additional time to review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.7.3 Except for those persons or entities already identified or required in the Design-Build Amendment, the Design-Builder, as soon as practicable after execution of the Design-Build Amendment, shall furnish in writing to the Owner the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Owner may reply within 14 days to the Design-Builder in writing stating (1) whether the Owner has reasonable objection to any such proposed person or entity or (2) that the Owner requires additional time for review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.7.3.1 If the Owner has reasonable objection to a person or entity proposed by the Design-Builder, the Design-Builder shall propose another to whom the Owner has no reasonable objection. If the rejected person or entity was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute person or entity's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Design-Builder has acted promptly and responsively in submitting names as required.

§ 5.8 Documents and Submittals at the Site

The Design-Builder shall maintain at the site for the Owner one copy of the Design-Build Documents and a current set of the Construction Documents, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Submittals. The Design-Builder shall deliver these items to the Owner in accordance with Section 9.10.2 as a record of the Work as constructed.

§ 5.9 Use of Site

The Design-Builder shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Design-Build Documents, and shall not unreasonably encumber the site with materials or equipment.

§ 5.10 Cutting and Patching
The Design-Builder shall not cut, patch or otherwise alter fully or partially completed construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Design-Builder shall not unreasonably withhold from the Owner or a separate contractor the Design-Builder's consent to cutting or otherwise altering the Work.

§ 5.11 Cleaning Up
§ 5.11.1 The Design-Builder shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Design-Builder shall remove waste materials, rubbish, the Design-Builder's tools, construction equipment, machinery and surplus materials from and about the Project.

§ 5.11.2 If the Design-Builder fails to clean up as provided in the Design-Build Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Design-Builder.

§ 5.12 Access to Work
The Design-Builder shall provide the Owner and its separate contractors and consultants access to the Work in preparation and progress wherever located. The Design-Builder shall notify the Owner regarding Project safety criteria and programs, which the Owner, and its contractors and consultants, shall comply with while at the site.

§ 5.13 Construction by Owner or by Separate Contractors
§ 5.13.1 Owner's Right to Perform Construction and to Award Separate Contracts
§ 5.13.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces; and to award separate contracts in connection with other portions of the Project, or other construction or operations on the site, under terms and conditions identical or substantially similar to this Contract, including those terms and conditions related to insurance and waiver of subrogation. The Owner shall notify the Design-Builder promptly after execution of any separate contract. If the Design-Builder claims that delay or additional cost is involved because of such action by the Owner, the Design-Builder shall make a Claim as provided in Article 14.

§ 5.13.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Design-Builder" in the Design-Build Documents in each case shall mean the individual or entity that executes each separate agreement with the Owner.

§ 5.13.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces, and of each separate contractor, with the Work of the Design-Builder, who shall cooperate with them. The Design-Builder shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Design-Builder shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Design-Builder, separate contractors and the Owner until subsequently revised.

§ 5.13.1.4 Unless otherwise provided in the Design-Build Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or separate contractors, the Owner shall be deemed to be subject to the same obligations, and to have the same rights, that apply to the Design-Builder under the Contract.

§ 5.14 Mutual Responsibility
§ 5.14.1 The Design-Builder shall afford the Owner and separate contractors' reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Design-Builder's construction and operations with theirs as required by the Design-Build Documents.

§ 5.14.2 If part of the Design-Builder's Work depends upon construction or operations by the Owner or a separate contractor, the Design-Builder shall, prior to proceeding with that portion of the Work, prepare a written report to the Owner, identifying apparent discrepancies or defects in the construction or operations by the Owner or separate contractor that would render it unsuitable for proper execution and results of the Design-Builder's Work. Failure of the Design-Builder to report shall constitute an acknowledgment that the Owner's or separate contractors completed or partially completed construction is fit and proper to receive the Design-Builder's Work, except as to defects not then reasonably discoverable.

§ 5.14.3 The Design-Builder shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Design-Builder's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Design-Builder for costs the Design-Builder incurs because of a separate contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 5.14.4 The Design-Builder shall promptly remedy damage the Design-Builder wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 5.14.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching the Work as the Design-Builder has with respect to the construction of the Owner or separate contractors in Section 5.10.

§ 5.15 Owner's Right to Clean Up

If a dispute arises among the Design-Builder, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and will allocate the cost among those responsible.

ARTICLE 6 CHANGES IN THE WORK

§ 6.1 General

§ 6.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order or Change Directive, subject to the limitations stated in this Article 6 and elsewhere in the Design-Build Documents.

§ 6.1.2 A Change Order shall be based upon agreement between the Owner and Design-Builder. The Owner may issue a Change Directive without agreement by the Design-Builder.

§ 6.1.3 Changes in the Work shall be performed under applicable provisions of the Design-Build Documents, and the Design-Builder shall proceed promptly, unless otherwise provided in the Change Order or Change Directive.

§ 6.2 Change Orders

A Change Order is a written instrument signed by the Owner and Design-Builder stating their agreement upon all of the following:

.1 The change in the Work;

.2 The amount of the adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation; and

.3 The extent of the adjustment, if any, in the Contract Time.

§ 6.3 Change Directives

§ 6.3.1 A Change Directive is a written order signed by the Owner directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, or Contract Time. The Owner may by Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, and Contract Time being adjusted accordingly.

§ 6.3.2 A Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 6.3.3 If the Change Directive provides for an adjustment to the Contract Sum or, if prior to execution of the Design-Build Amendment, an adjustment in the Design-Builder's compensation, the adjustment shall be based on one of the following methods in order of preference:

.1 Unit prices stated in the Design-Build Documents or subsequently agreed upon;

.2 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;

.3 Agreed time and materials with fixed markups of ten percent (10%) overhead and five percent (5%) profit on Design-Builder self-performed Work, and five percent (5%) markup on Work performed by a subcontractor;; or

.4 As provided in Section 6.3.7.

§ 6.3.4 If unit prices are stated in the Design-Build Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Design-Builder, the applicable unit prices shall be equitably adjusted.

§ 6.3.5 Upon receipt of a Change Directive, the Design-Builder shall promptly proceed with the change in the Work involved and advise the Owner of the Design-Builder's agreement or disagreement with the method, if any, provided in the Change Directive for determining the proposed adjustment in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, or Contract Time.

§ 6.3.6 A Change Directive signed by the Design-Builder indicates the Design-Builder's agreement therewith, including adjustment in Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 6.3.7 If the Design-Builder does not respond within ten (10) days or disagrees with the method for adjustment in the Contract Sum or, if prior to execution of the Design-Build Amendment, the method for adjustment in the Design-Builder's compensation, the Owner shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase, an amount of ten percent (10%) overhead and five percent (5%) profit on Design-Builder self-performed Work, and five percent (5%) markup on Work performed by a subcontractor . In such case, and also under Section 6.3.3.3, the Design-Builder shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data limited to customary industry documentation for time and material changes (labor timecards, rental tickets, supplier invoices) and certified payroll where required. Design-Builder has no obligation to produce privileged/confidential information, and Owner's right to audit is limited to records directly related to the changed Work. Unless otherwise provided in the Design-Build Documents, costs for the purposes of this Section 6.3.7 shall be limited to the following:

.1 Additional costs of professional services;

.2 Costs of labor, including social security, unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;

.3 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;

.4 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Design-Builder or others;

.5 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and

.6 Additional costs of supervision and field office personnel directly attributable to the change.

§ 6.3.8 The amount of credit to be allowed by the Design-Builder to the Owner for a deletion or change that results in a net decrease in the Contract Sum or, if prior to execution of the Design-Build Amendment, in the Design-Builder's compensation, shall be actual net cost. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 6.3.9 Change Directives shall address time adjustments concurrently with cost determinations. Absent an agreement, a provisional time extension equal to impacted critical path days will be recognized, subject to a later true-up. Pending final determination of the total cost of a Change Directive to the Owner, the Design-Builder may request payment for Work completed under the Change Directive in Applications for Payment. The Owner will make an interim determination for purposes of certification for payment for those costs deemed to be reasonably justified. The Owner's interim determination of cost shall adjust the Contract Sum or, if prior to execution of the Design-Build Amendment, the Design-Builder's compensation, on the same basis as a Change Order, subject to the right of Design-Builder to disagree and assert a Claim in accordance with Article 14.

§ 6.3.10 When the Owner and Design-Builder agree with a determination concerning the adjustments in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Owner and Design-Builder shall execute a Change Order. Change Orders may be issued for all or any part of a Change Directive.

ARTICLE 7 OWNER'S RESPONSIBILITIES

§ 7.1 General

§ 7.1.1 The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all Project matters requiring the Owner's approval or authorization.

§ 7.1.2 The Owner shall render decisions in a timely manner and in accordance with the Design-Builder's schedule agreed to by the Owner. The Owner shall furnish to the Design-Builder, within 15 days after receipt of a written request, information necessary and relevant for the Design-Builder to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 7.2 Information and Services Required of the Owner

§ 7.2.1 The Owner shall furnish information or services required of the Owner by the Design-Build Documents with reasonable promptness.

§ 7.2.2 The Owner shall provide, to the extent under the Owner's control and if not required by the Design-Build Documents to be provided by the Design-Builder, the results and reports of prior tests, inspections or investigations conducted for the Project involving structural or mechanical systems; chemical, air and water pollution; hazardous materials; or environmental and subsurface conditions and information regarding the presence of pollutants at the Project site. Upon receipt of a written request from the Design-Builder, the Owner shall also provide surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site under the Owner's control.

§ 7.2.3 The Owner shall promptly obtain easements, zoning variances, and legal authorizations or entitlements regarding site utilization where essential to the execution of the Project.

§ 7.2.4 The Owner shall cooperate with the Design-Builder in securing building and other permits, licenses and inspections.

§ 7.2.5 The services, information, surveys and reports required to be provided by the Owner under this Agreement, shall be furnished at the Owner's expense, and except as otherwise specifically provided in this Agreement or elsewhere in the Design-Build Documents or to the extent the Owner advises the Design-Builder to the contrary in writing, the Design-Builder shall be entitled to rely upon the accuracy and completeness thereof. In no event shall the Design-Builder be relieved of its responsibility to exercise proper precautions relating to the safe performance of the Work.

§ 7.2.6 If the Owner observes or otherwise becomes aware of a fault or defect in the Work or non-conformity with the Design-Build Documents, the Owner shall give prompt written notice thereof to the Design-Builder.

§ 7.2.7 Prior to the execution of the Design-Build Amendment, the Design-Builder may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Design-Build Documents and the Design-Builder's Proposal. Thereafter, the Design-Builder may only request such evidence if (1) the Owner fails to make payments to the Design-Builder as the Design-Build Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Design-Builder identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Design-Builder.

§ 7.2.8 Except as otherwise provided in the Design-Build Documents or when direct communications have been specially authorized, the Owner shall communicate through the Design-Builder with persons or entities employed or retained by the Design-Builder.

§ 7.2.9 Unless required by the Design-Build Documents to be provided by the Design-Builder, the Owner shall, upon request from the Design-Builder, furnish the services of geotechnical engineers or other consultants for investigation of subsurface, air and water conditions when such services are reasonably necessary to properly carry out the design services furnished by the Design-Builder. In such event, the Design-Builder shall specify the services required. Such services may include, but are not limited to, test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, and necessary operations for anticipating subsoil conditions. The services of geotechnical engineer(s) or other consultants shall include preparation and submission of all appropriate reports and professional recommendations.

§ 7.2.10 The Owner shall purchase and maintain insurance as set forth in Exhibit B.

§ 7.3 Submittals

§ 7.3.1 The Owner shall review and approve or take other appropriate action on Submittals. Review of Submittals is not conducted for the purpose of determining the accuracy and completeness of other details, such as dimensions and quantities; or for substantiating instructions for installation or performance of equipment or systems; or for determining that the Submittals are in conformance with the Design-Build Documents, all of which remain the responsibility of the Design-Builder as required by the Design-Build Documents. The Owner's action will be taken in accordance with the submittal schedule approved by the Owner, and the Owner's failure to respond within the approved Submittal schedule constitutes deemed approval for sequencing purposes (not pricing), allowing Work to proceed. In the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Owner's judgment to permit adequate review. The Owner's review of Submittals shall not relieve the Design-Builder of the obligations under Sections 3.1.11, 3.1.12, and 5.2.3. The Owner's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Owner, of any construction means, methods, techniques, sequences or procedures. The Owner's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 7.3.2 Upon review of the Submittals required by the Design-Build Documents, the Owner shall notify the Design-Builder of any non-conformance with the Design-Build Documents the Owner discovers.

§ 7.4 Visits to the site by the Owner shall not be construed to create an obligation on the part of the Owner to make on-site inspections to check the quality or quantity of the Work. The Owner shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, because these are solely the Design-Builder's rights and responsibilities under the Design-Build Documents.

§ 7.5 The Owner shall not be responsible for the Design-Builder's failure to perform the Work in accordance with the requirements of the Design-Build Documents. The Owner shall not have control over or charge of, and will not be responsible for acts or omissions of the Design-Builder, Architect, Consultants, Contractors, or their agents or employees, or any other persons or entities performing portions of the Work for the Design-Builder.

§ 7.6 The Owner has the authority to reject Work that does not conform to the Design-Build Documents. The Owner shall have authority to require inspection or testing of the Work in accordance with Section 15.5.2, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Owner nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Owner to the Design-Builder, the Architect, Consultants, Contractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 7.7 The Owner shall determine the date or dates of Substantial Completion in accordance with Section 9.8 and the date of final completion in accordance with Section 9.10.

§ 7.8 Owner's Right to Stop Work

If the Design-Builder fails to correct Work which is not in accordance with the requirements of the Design-Build Documents as required by Section 11.2 or persistently fails to carry out Work in accordance with the Design-Build Documents, the Owner may issue a written order to the Design-Builder to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Design-Builder or any other person or entity, except to the extent required by Section 5.13.1.3.

§ 7.9 Owner's Right to Carry Out the Work

If the Design-Builder defaults or neglects to carry out the Work in accordance with the Design-Build Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case, an appropriate Change Order shall be issued deducting from payments then or thereafter due the Design-Builder the reasonable cost of correcting such deficiencies. If payments then or thereafter due the Design-Builder are not sufficient to cover such amounts, the Design-Builder shall pay the difference to the Owner.

ARTICLE 8 TIME

§ 8.1 Progress and Completion

§ 8.1.1 Time limits stated in the Design-Build Documents are of the essence of the Contract. By executing the Design-Build Amendment the Design-Builder confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.1.2 The Design-Builder shall not, except by agreement of the Owner in writing, commence the Work prior to the effective date of insurance, other than property insurance, required by this Contract. The Contract Time shall not be adjusted as a result of the Design-Builder's failure to obtain insurance required under this Contract.

§ 8.1.3 The Design-Builder shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.2 Delays and Extensions of Time

§ 8.2.1 If the Design-Builder is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or of a consultant or separate contractor employed by the Owner; or by changes ordered in the Work by the Owner; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Design-Builder's control; or by delay authorized by the Owner pending mediation and binding dispute resolution or by other causes that the Owner determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Owner may determine. Owner's discretion is limited to confirming factual duration. For delays caused by Owner, Owner's consultants or separate contractors, or by Change Orders, in addition to a time extension, Design-Builder is also entitled to compensation for reasonable, substantiated delay costs (including extended general conditions), via Change Order.

§ 8.2.2 Claims relating to time shall be made in accordance with applicable provisions of Article 14.

§ 8.2.3 This Section 8.2 does not preclude recovery of damages for delay by either party under other provisions of the Design-Build Documents.

ARTICLE 9 PAYMENT APPLICATIONS AND PROJECT COMPLETION

§ 9.1 Contract Sum

The Contract Sum is stated in the Design-Build Amendment.

§ 9.2 Schedule of Values

Where the Contract Sum is based on a stipulated sum or Guaranteed Maximum Price, the Design-Builder, prior to the first Application for Payment after execution of the Design-Build Amendment shall submit to the Owner a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Design-Builder shall submit to the Owner an itemized Application for Payment for completed portions of the Work. The application shall be notarized, if required, and supported by data substantiating the Design-Builder's right to payment as the Owner may require, such as copies of requisitions from the Architect, Consultants, Contractors, and material suppliers, and shall reflect retainage if provided for in the Design-Build Documents.

§ 9.3.1.1 As provided in Section 6.3.9, Applications for Payment may include requests for payment on account of changes in the Work that have been properly authorized by Change Directives, or by interim determinations of the Owner, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Design-Builder does not intend to pay the Architect, Consultant, Contractor, material supplier, or other persons or entities providing services or work for the Design-Builder, unless such Work has been performed by others whom the Design-Builder intends to pay.

§ 9.3.2 Unless otherwise provided in the Design-Build Documents, payments shall be made for services provided as well as materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Design-Builder with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

§ 9.3.3 The Design-Builder warrants that title to all Work, other than Instruments of Service, covered by an Application for Payment will pass to the Owner no later than the time of payment. The Design-Builder further warrants that, upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Design-Builder's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Design-Builder, Architect, Consultants, Contractors, material suppliers, or other persons or entities entitled to make a claim by reason of having provided labor, materials and equipment relating to the Work.

§ 9.4 Certificates for Payment

The Owner shall, within seven days after receipt of the Design-Builder's Application for Payment, issue to the Design-Builder a Certificate for Payment indicating the amount the Owner determines is properly due, and notify the Design-Builder in writing of the Owner's reasons for withholding certification in whole or in part as provided in Section 9.5.1. Owner shall pay undisputed certified amounts within fifteen (15) days of Certificate for Payment; undisputed amounts not paid when due shall accrue interest at 1% per month until paid.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Owner may withhold a Certificate for Payment in whole or in part to the extent reasonably necessary to protect the Owner due to the Owner's determination that the Work has not progressed to the point indicated in the Design-Builder's Application for Payment, or the quality of the Work is not in accordance with the Design-Build Documents. If the Owner is unable to certify payment in the amount of the Application, the Owner will notify the Design-Builder as provided in Section 9.4. If the Design-Builder and Owner cannot agree on a revised amount, the Owner will promptly issue a Certificate for Payment for the amount that the Owner deems to be due and owing. Owner may withhold only the portion of a payment reasonably related to the specific issue; all undisputed portions shall be timely certified and paid. The Owner may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary to protect the Owner from loss for which the Design-Builder is responsible because of

.1 defective Work, including design and construction, not remedied;

.2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Design-Builder;

.3 failure of the Design-Builder to make payments properly to the Architect, Consultants, Contractors or others, for services, labor, materials or equipment;
.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a separate contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
.7 repeated failure to carry out the Work in accordance with the Design-Build Documents.

§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.3 If the Owner withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Design-Builder and to the Architect or any Consultants, Contractor, material or equipment suppliers, or other persons or entities providing services or work for the Design-Builder to whom the Design-Builder failed to make payment for Work properly performed or material or equipment suitably delivered. However, before issuing any joint check, Owner shall provide seven (7) days' notice to Design-Builder and an opportunity to cure. Joint checks shall be limited to the amount at issue and shall not constitute a default.

§ 9.6 Progress Payments

§ 9.6.1 After the Owner has issued a Certificate for Payment, the Owner shall make payment within fifteen (15) days; undisputed amounts not paid when due shall accrue interest at 1% per month until paid.

§ 9.6.2 The Design-Builder shall pay each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder no later than the time period required by applicable law, but in no event more than seven days after receipt of payment from the Owner the amount to which the Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder is entitled, reflecting percentages actually retained from payments to the Design-Builder on account of the portion of the Work performed by the Architect, Consultant, Contractor, or other person or entity. The Design-Builder shall, by appropriate agreement with each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder, require each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder to make payments to subconsultants and subcontractors in a similar manner.

§ 9.6.3 The Owner will, on request and if practicable, furnish to the Architect, a Consultant, Contractor, or other person or entity providing services or work for the Design-Builder, information regarding percentages of completion or amounts applied for by the Design-Builder and action taken thereon by the Owner on account of portions of the Work done by such Architect, Consultant, Contractor or other person or entity providing services or work for the Design-Builder.

§ 9.6.4 The Owner has the right to request written evidence from the Design-Builder that the Design-Builder has properly paid the Architect, Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, amounts paid by the Owner to the Design-Builder for the Work. If and only if the Design-Builder fails to furnish such evidence within seven days, the Owner shall have the right to contact the Architect, Consultants, and Contractors to ascertain whether they have been properly paid. The Owner's right to contact is limited to confirming amounts that have been paid and amounts that remain due. The Owner shall have no obligation to pay or to see to the payment of money to a Consultant or Contractor, except as may otherwise be required by law.

§ 9.6.5 Design-Builder payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Design-Build Documents.

§ 9.6.7 Unless the Design-Builder provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Design-Builder for Work properly performed by the Architect, Consultants,

Contractors and other person or entity providing services or work for the Design-Builder, shall be held by the Design-Builder for the Architect and those Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Design-Builder, shall create any fiduciary liability or tort liability on the part of the Design-Builder for breach of trust or shall entitle any person or entity to an award of punitive damages against the Design-Builder for breach of the requirements of this provision.

§ 9.7 Failure of Payment

If the Owner does not issue a Certificate for Payment, through no fault of the Design-Builder, within the time required by the Design-Build Documents, then the Design-Builder may, upon seven additional days' written notice to the Owner, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Design-Builder's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Design-Build Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work for its intended use. The date of Substantial Completion is the date certified by the Owner in accordance with this Section 9.8.

§ 9.8.2 When the Design-Builder considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Design-Builder shall prepare and submit to the Owner a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Design-Builder to complete all Work in accordance with the Design-Build Documents.

§ 9.8.3 Upon receipt of the Design-Builder's list, the Owner shall make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Owner's inspection discloses any item, whether or not included on the Design-Builder's list, which is not sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Design-Builder shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Owner. In such case, the Design-Builder shall then submit a request for another inspection by the Owner to determine Substantial Completion.

§ 9.8.4 Effective at the date of Substantial Completion identified in the Certificate of Substantial Completion, Owner shall assume responsibility for property insurance for the Work and any occupied portions of the building. Design-Builder's builder's risk obligations terminate as of the date of Substantial Completion, except as required for remaining Work in unoccupied areas..

§ 9.8.5 When the Work or designated portion thereof is substantially complete, the Design-Builder will prepare for the Owner's signature a Certificate of Substantial Completion that shall, upon the Owner's signature, establish the date of Substantial Completion; establish responsibilities of the Owner and Design-Builder for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Design-Builder shall finish all items on the list accompanying the Certificate. Warranties required by the Design-Build Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.6 The Certificate of Substantial Completion shall be submitted by the Design-Builder to the Owner for written acceptance of responsibilities assigned to it in the Certificate. Upon the Owner's acceptance, and consent of surety, if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Design-Build Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Design-Builder, provided such occupancy or use is consented to, by endorsement or otherwise, by the insurer providing property insurance and authorized by public

authorities having jurisdiction over the Project. Partial occupancy shall trigger: (a) transfer of risk of loss and property insurance to Owner for the occupied portion; (b) commencement of warranties solely for the occupied systems; and (c) equitable adjustment for added protection, re-sequencing, and inefficiency costs. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Design-Builder have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Design-Build Documents. When the Design-Builder considers a portion substantially complete, the Design-Builder shall prepare and submit a list to the Owner as provided under Section 9.8.2. Consent of the Design-Builder to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Design-Builder.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner and Design-Builder shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Design-Build Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Design-Builder's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner will promptly make such inspection. When the Owner finds the Work acceptable under the Design-Build Documents and the Contract fully performed, the Owner will, subject to Section 9.10.2, promptly issue a final Certificate for Payment.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Design-Builder submits to the Owner (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work, for which the Owner or the Owner's property might be responsible or encumbered, (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Design-Build Documents to remain in force after final payment is currently in effect, (3) a written statement that the Design-Builder knows of no substantial reason that the insurance will not be renewable to cover the period required by the Design-Build Documents, (4) consent of surety, if any, to final payment, (5) as-constructed record copy of the Construction Documents marked to indicate field changes and selections made during construction, (6) manufacturer's warranties, product data, and maintenance and operations manuals, and (7) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, or releases and waivers of liens, claims, security interests, or encumbrances, arising out of the Contract, to the extent and in such form as may be designated by the Owner. If an Architect, a Consultant, or a Contractor, or other person or entity providing services or work for the Design-Builder, refuses to furnish a release or waiver required by the Owner, the Design-Builder may furnish a bond satisfactory to the Owner to indemnify the Owner against such liens, claims, security interests, or encumbrances. If such liens, claims, security interests, or encumbrances remains unsatisfied after payments are made, the Design-Builder shall refund to the Owner all money that the Owner may be compelled to pay in discharging such liens, claims, security interests, or encumbrances, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Design-Builder or by issuance of Change Orders affecting final completion, the Owner shall, upon application by the Design-Builder, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Design-Build Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Design-Builder to the Owner prior to issuance of payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Design-Build Documents; or
- .3 terms of special warranties required by the Design-Build Documents.

§ 9.10.5 Acceptance of final payment by the Design-Builder shall constitute a waiver of claims by the Design-Builder except those previously made in writing and identified by the Design-Builder as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Design-Builder shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Design-Builder shall be responsible for precautions for the safety of, and reasonable protection to prevent damage, injury or loss to

.1 employees on the Work and other persons who may be affected thereby;

.2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Design-Builder or the Architect, Consultants, or Contractors, or other person or entity providing services or work for the Design-Builder; and

.3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, or structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 10.2.2 The Design-Builder shall comply with, and give notices required by, applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property, or their protection from damage, injury or loss.

§ 10.2.3 The Design-Builder shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notify owners and users of adjacent sites and utilities of the safeguards and protections.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods, are necessary for execution of the Work, the Design-Builder shall exercise utmost care, and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Design-Builder shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Design-Build Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3, caused in whole or in part by the Design-Builder, the Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Design-Builder is responsible under Sections 10.2.1.2 and 10.2.1.3; except damage or loss attributable to acts or omissions of the Owner, or anyone directly or indirectly employed by the Owner, or by anyone for whose acts the Owner may be liable, and not attributable to the fault or negligence of the Design-Builder. The foregoing obligations of the Design-Builder are in addition to the Design-Builder's obligations under Section 3.1.14.

§ 10.2.6 The Design-Builder shall designate a responsible member of the Design-Builder's organization, at the site, whose duty shall be the prevention of accidents. This person shall be the Design-Builder's superintendent unless otherwise designated by the Design-Builder in writing to the Owner.

§ 10.2.7 The Design-Builder shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property. If the Owner or Design-Builder suffers injury or damage to person or property because of an act or omission of the other, or of others for whose acts such party is legally responsible, written notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials

§ 10.3.1 The Design-Builder is responsible for compliance with any requirements included in the Design-Build Documents regarding hazardous materials. If the Design-Builder encounters a hazardous material or substance not addressed in the Design-Build Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Design-Builder, the Design-Builder shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing.

§ 10.3.2 Upon receipt of the Design-Builder's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Design-Builder and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Design-Build Documents, the Owner shall furnish in writing to the Design-Builder the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Design-Builder will promptly reply to the Owner in writing stating whether or not the Design-Builder has reasonable objection to the persons or entities proposed by the Owner. If the Design-Builder has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Design-Builder has no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Design-Builder. Hazardous materials delays that extend beyond ten (10) days from the date of Design Builder's written notice to Owner shall be compensable. By Change Order, Design-Builder shall be entitled to an equitable adjustment for all reasonable additional costs, including demobilization, remobilization, protection, and inefficiencies, plus agreed markup, and to an extension of Contract Time for all impacts suffered by Design Builder.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Design-Builder, the Architect, Consultants, and Contractors, and employees of any of them, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area, if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to, or destruction of, tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for materials or substances the Design-Builder brings to the site unless such materials or substances are required by the Owner's Criteria. The Owner shall be responsible for materials or substances required by the Owner's Criteria, except to the extent of the Design-Builder's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Design-Builder shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Design-Builder brings to the site and negligently handles, or (2) where the Design-Builder fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Design-Builder's indemnity under this 10.3.5 applies only to hazardous materials it brings to the site and to the extent of Design-Builder's negligence. There is no indemnity obligation for pre-existing or Owner-required materials used in accordance with the Design-Build Documents.

§ 10.3.6 If, without negligence on the part of the Design-Builder, the Design-Builder is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Design-Build Documents, the Owner shall indemnify the Design-Builder for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Design-Builder shall act, at the Design-Builder's discretion, to prevent threatened damage, injury or loss.

ARTICLE 11 UNCOVERING AND CORRECTION OF WORK

§ 11.1 Uncovering of Work

The Owner may request to examine a portion of the Work that the Design-Builder has covered to determine if the Work has been performed in accordance with the Design-Build Documents. If such Work is in accordance with the Design-Build Documents, the Owner and Design-Builder shall execute a Change Order to adjust the Contract Time and Contract Sum, as appropriate. If such Work is not in accordance with the Design-Build Documents, the costs of uncovering and correcting the Work shall be at the Design-Builder's expense and the Design-Builder shall not be entitled to a change in the Contract Time unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs and the Contract Time will be adjusted as appropriate.

§ 11.2 Correction of Work

§ 11.2.1 Before or After Substantial Completion. The Design-Builder shall promptly correct Work rejected by the Owner or failing to conform to the requirements of the Design-Build Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for any design consultant employed by the Owner whose expenses and compensation were made necessary thereby, shall be at the Design-Builder's expense.

§ 11.2.2 After Substantial Completion

§ 11.2.2.1 In addition to the Design-Builder's obligations under Section 3.1.12, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Design-Build Documents, any of the Work is found not to be in accordance with the requirements of the Design-Build Documents, the Design-Builder shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Design-Builder a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of the Work, if the Owner fails to notify the Design-Builder and give the Design-Builder an opportunity to make the correction, the Owner waives the rights to require correction by the Design-Builder and to make a claim for breach of warranty. If the Design-Builder fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, the Owner may correct it in accordance with Section 7.9.

§ 11.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 11.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Design-Builder pursuant to this Section 11.2.

§ 11.2.3 The Design-Builder shall remove from the site portions of the Work that are not in accordance with the requirements of the Design-Build Documents and are neither corrected by the Design-Builder nor accepted by the Owner.

§ 11.2.4 The Design-Builder shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether completed or partially completed, caused by the Design-Builder's correction or removal of Work that is not in accordance with the requirements of the Design-Build Documents.

§ 11.2.5 Nothing contained in this Section 11.2 shall be construed to establish a period of limitation with respect to other obligations the Design-Builder has under the Design-Build Documents. Establishment of the one-year period for correction of Work as described in Section 11.2.2 relates only to the specific obligation of the Design-Builder to correct the Work, and has no relationship to the time within which the obligation to comply with the Design-Build Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Design-Builder's liability with respect to the Design-Builder's obligations other than specifically to correct the Work.

§ 11.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Design-Build Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be affected whether or not final payment has been made.

ARTICLE 12 COPYRIGHTS AND LICENSES

§ 12.1 Drawings, specifications, and other documents furnished by the Design-Builder, including those in electronic form, are Instruments of Service. The Design-Builder, and the Architect, Consultants, Contractors, and any other person or entity providing services or work for any of them, shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements, or for similar purposes in connection with the Project, is not to be construed as publication in derogation of the reserved rights of the Design-Builder and the Architect, Consultants, and Contractors, and any other person or entity providing services or work for any of them.

§ 12.2 The Design-Builder and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 12.3 Upon execution of the Agreement, the Design-Builder grants to the Owner a limited, irrevocable and non-exclusive license to use the Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under the Design-Build Documents. The license granted under this section permits the Owner to authorize its consultants and separate contractors to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Design-Builder rightfully terminates this Agreement for cause as provided in Section 13.1.4 or 13.2.1 the license granted in this Section 12.3 shall terminate.

§ 12.3.1 The Design-Builder shall obtain non-exclusive licenses from the Architect, Consultants, and Contractors, that will allow the Design-Builder to satisfy its obligations to the Owner under this Article 12. The Design-Builder's licenses from the Architect and its Consultants and Contractors shall also allow the Owner, in the event this Agreement is terminated for any reason other than the default of the Owner or in the event the Design-Builder's Architect, Consultants, or Contractors terminate their agreements with the Design-Builder for cause, to obtain a limited, irrevocable and non-exclusive license solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner (1) agrees to pay to the Architect, Consultant or Contractor all amounts due, and (2) provide the Architect, Consultant or Contractor with the Owner's written agreement to indemnify and hold harmless the Architect, Consultant or Contractor from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's alteration or use of the Instruments of Service.

§ 12.3.2 In the event the Owner alters the Instruments of Service without the author's written authorization or uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Design-Builder, Architect, Consultants, Contractors and any other person or entity providing services or work for any of them, from all claims and causes of action arising from or related to such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Design-Builder, Architect, Consultants, Contractors and any other person or entity providing services or work for any of them, from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's alteration or use of the Instruments of Service under this Section 12.3.2. The terms of this Section 12.3.2 shall not apply if the Owner rightfully terminates this Agreement for cause under Sections 13.1.4 or 13.2.2.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination or Suspension Prior to Execution of the Design-Build Amendment

§ 13.1.1 If the Owner fails to make payments to the Design-Builder for Work prior to execution of the Design-Build Amendment in accordance with this Agreement, such failure shall be considered substantial nonperformance and

cause for termination or, at the Design-Builder's option, cause for suspension of performance of services under this Agreement. If the Design-Builder elects to suspend the Work, the Design-Builder shall give seven days' written notice to the Owner before suspending the Work. In the event of a suspension of the Work, the Design-Builder shall have no liability to the Owner for delay or damage caused by the suspension of the Work. Before resuming the Work, the Design-Builder shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

§ 13.1.2 If the Owner suspends the Project, the Design-Builder shall be compensated for the Work performed prior to notice of such suspension. When the Project is resumed, the Design-Builder shall be compensated for expenses incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

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

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

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

§ 13.1.6 In the event of termination not the fault of the Design-Builder, the Design-Builder shall be compensated for Work performed prior to termination, together with Reimbursable Expenses then due and any other expenses directly attributable to termination for which the Design-Builder is not otherwise compensated. In no event shall the Design-Builder's compensation under this Section 13.1.6 be greater than the compensation set forth in Section 2.1.

§ 13.2 Termination or Suspension Following Execution of the Design-Build Amendment
§ 13.2.1 Termination by the Design-Builder
§ 13.2.1.1 The Design-Builder may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Design-Builder, the Architect, a Consultant, or a Contractor, or their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, for any of the following reasons:

.1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

.2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;

.3 Because the Owner has not issued a Certificate for Payment and has not notified the Design-Builder of the reason for withholding certification as provided in Section 9.5.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Design-Build Documents; or

.4 The Owner has failed to furnish to the Design-Builder promptly, upon the Design-Builder's request, reasonable evidence as required by Section 7.2.7.

.5. If Owner fails to make payment of any certified and undisputed amount within 21 days of the due date, after 7 days' notice, Design-Builder may suspend work, and if Owner does not cure within an additional 7 days, Design-Builder may terminate and recover as set forth in 13.2.1.3

§ 13.2.1.2 The Design-Builder may terminate the Contract if, through no act or fault of the Design-Builder, the Architect, a Consultant, a Contractor, or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 13.2.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 13.2.1.3 If one of the reasons described in Section 13.2.1.1 or 13.2.1.2 exists, the Design-Builder may, upon seven days' written notice to the Owner, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

§ 13.2.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Design-Builder or any other persons or entities performing portions of the Work under contract with the Design-Builder because the Owner has repeatedly failed to fulfill the Owner's obligations under the Design-Build Documents with respect to matters important to the progress of the Work, the Design-Builder may, upon seven additional days' written notice to the Owner, terminate the Contract and recover from the Owner as provided in Section 13.2.1.3.

§ 13.2.2 Termination by the Owner For Cause

§ 13.2.2.1 The Owner may terminate the Contract if the Design-Builder

- **.1** fails to submit the Proposal by the date required by this Agreement, or if no date is indicated, within a reasonable time consistent with the date of Substantial Completion;
- **.2** repeatedly refuses or fails to supply an Architect, or enough properly skilled Consultants, Contractors, or workers or proper materials;
- **.3** fails to make payment to the Architect, Consultants, or Contractors for services, materials or labor in accordance with their respective agreements with the Design-Builder;
- **.4** repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- **.5** is otherwise guilty of *substantial breach* of a provision of the Design-Build Documents. *Substantial breach* means a material failure causing material adverse impact to schedule, cost, safety, or quality.

§ 13.2.2.2 When any of the above reasons exist, the Owner shall tender to Design-Builder a written notice of default that specifies the alleged default in reasonable detail, and after allowing Design-Builder 14 days to cure said default, or if the alleged default cannot be reasonably cured within 14 days, after allowing Design-Builder a reasonable opportunity beyond 14 days to cure said default, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Design-Builder and the Design-Builder's surety, if any, an additional seven days' written notice, terminate employment of the Design-Builder and may, subject to any prior rights of the surety:

- **.1** Exclude the Design-Builder from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Design-Builder;
- **.2** Conditioned on payment of all sums due and owing through the effective date of Termination, accept assignment of the Architect, Consultant and Contractor agreements pursuant to Section 3.1.15; and
- **.3** Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Design-Builder, the Owner shall furnish to the Design-Builder a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 13.2.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 13.2.2.1, the Design-Builder shall not be entitled to receive further payment until the Work is finished.

§ 13.2.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Design-Builder. If such costs and damages exceed the unpaid balance, the Design-Builder shall pay the difference to the Owner. The obligation for such payments shall survive termination of the Contract.

§ 13.2.3 Suspension by the Owner for Convenience

§ 13.2.3.1 The Owner may, without cause, order the Design-Builder in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 13.2.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 13.2.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- **.1** that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Design-Builder is responsible; or
- **.2** that an equitable adjustment is made or denied under another provision of the Contract.

§ 13.2.4 Termination by the Owner for Convenience

§ 13.2.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 13.2.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Design-Builder shall

.1 cease operations as directed by the Owner in the notice;

.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and,

.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing Project agreements, including agreements with the Architect, Consultants, Contractors, and purchase orders, and enter into no further Project agreements and purchase orders.

§ 13.2.4.3 In case of such termination for the Owner's convenience, the Design-Builder shall be entitled to receive (1) payment for Work executed; (2) reasonable, substantiated demobilization, termination, and settlement costs; and (3) overhead and profit on the unperformed Work equal to ten percent (10%) overhead and five (5%) profit of the unpaid balance of the Contract Sum, less costs saved. However, if termination for cause follows a determination that Owner breached the Agreement, then Design-Builder shall be entitled to recover lost profit on the entire unperformed Work.

ARTICLE 14 CLAIMS AND DISPUTE RESOLUTION

§ 14.1 Claims

§ 14.1.1 Definition. A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Design-Builder arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 14.1.2 Time Limits on Claims. The Owner and Design-Builder shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other, arising out of or related to the Contract in accordance with the requirements of the binding dispute resolution method selected in Section 1.3, within the time period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Design-Builder waive all claims and causes of action not commenced in accordance with this Section 14.1.2.

§ 14.1.3 Notice of Claims

§ 14.1.3.1 Prior To Final Payment. Prior to Final Payment, Claims by either the Owner or Design-Builder must be initiated by written notice to the other party within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 14.1.3.2 Claims Arising After Final Payment. After Final Payment, Claims by either the Owner or Design-Builder that have not otherwise been waived pursuant to Sections 9.10.4 or 9.10.5, must be initiated by prompt written notice to the other party. The notice requirement in Section 14.1.3.1 and the Initial Decision requirement as a condition precedent to mediation in Section 14.2.1 shall not apply.

§ 14.1.4 Continuing Contract Performance. Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 13, the Design-Builder shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Design-Build Documents.

§ 14.1.5 Claims for Additional Cost. If the Design-Builder intends to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the portion of the Work that relates to the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 14.1.6 Claims for Additional Time

§ 14.1.6.1 If the Design-Builder intends to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Design-Builder's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 14.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 14.1.7 Claims for Consequential Damages

The Design-Builder and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

.2 damages incurred by the Design-Builder for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 13. However, this waiver does not apply to: (a) Owner's failure to make undisputed payments when due; (b) a party's willful misconduct or fraud; or (c) third-party IP claims within Section 3.1.13.2. Nothing contained in this Section 14.1.7 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Design-Build Documents.

§ 14.2 Initial Decision

§ 14.2.1 An initial decision shall be required as a condition precedent to mediation of all Claims between the Owner and Design-Builder initiated prior to the date final payment is due, excluding those arising under Sections 10.3 and 10.4 of the Agreement and Sections B.3.2.9 and B.3.2.10 of Exhibit B to this Agreement, unless 30 days have passed after the Claim has been initiated with no decision having been rendered. Unless otherwise mutually agreed in writing, the Owner shall render the initial decision on Claims.

§ 14.2.2 Procedure

§ 14.2.2.1 Claims Initiated by the Owner. If the Owner initiates a Claim, the Design-Builder shall provide a written response to Owner within ten days after receipt of the notice required under Section 14.1.3.1. Thereafter, the Owner shall render an initial decision within ten days of receiving the Design-Builder's response: (1) withdrawing the Claim in whole or in part, (2) approving the Claim in whole or in part, or (3) suggesting a compromise.

§ 14.2.2.2 Claims Initiated by the Design-Builder. If the Design-Builder initiates a Claim, the Owner will take one or more of the following actions within ten days after receipt of the notice required under Section 14.1.3.1: (1) request additional supporting data, (2) render an initial decision rejecting the Claim in whole or in part, (3) render an initial decision approving the Claim, (4) suggest a compromise or (5) indicate that it is unable to render an initial decision because the Owner lacks sufficient information to evaluate the merits of the Claim.

§ 14.2.3 In evaluating Claims, the Owner may, but shall not be obligated to, consult with or seek information from persons with special knowledge or expertise who may assist the Owner in rendering a decision. The retention of such persons shall be at the Owner's expense.

§ 14.2.4 If the Owner requests the Design-Builder to provide a response to a Claim or to furnish additional supporting data, the Design-Builder shall respond, within ten days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Owner when the response or supporting data will be furnished or (3) advise the Owner that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Owner will either reject or approve the Claim in whole or in part.

§ 14.2.5 The Owner's initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) identify any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties

but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 14.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 14.2.6.1.

§ 14.2.6.1 Either party may, within 30 days from the date of an initial decision, demand in writing that the other party file for mediation within 60 days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 14.2.7 In the event of a Claim against the Design-Builder, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Design-Builder's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 14.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 14.3 Mediation

§ 14.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 14.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 14.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this Section 14.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

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

§ 14.4 Arbitration

§ 14.4.1 If the parties have selected arbitration as the method for binding dispute resolution in Section 1.3, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

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

§ 14.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

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

§ 14.4.4 Consolidation or Joinder

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

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

§ 14.4.4.3 The Owner and Design-Builder grant to any person or entity made a party to an arbitration conducted under this Section 14.4, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Design-Builder under this Agreement.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located except that, if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 14.4.

§ 15.2 Successors and Assigns

§ 15.2.1 The Owner and Design-Builder, respectively, bind themselves, their partners, successors, assigns and legal representatives to the covenants, agreements and obligations contained in the Design-Build Documents. Except as provided in Section 15.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 15.2.2 The Owner may, without consent of the Design-Builder, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Design-Build Documents. The Design-Builder shall execute all consents reasonably required to facilitate such assignment.

§ 15.2.3 If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute certificates, other than those required by Section 3.1.10, the Owner shall submit the proposed language of such certificates for review at least 14 days prior to the requested dates of execution. If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute consents reasonably required to facilitate assignment to a lender, the Design-Builder, Architect, Consultants, or Contractors shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to them for review at least 14 days prior to execution. The Design-Builder, Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

§ 15.3 Written Notice

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

§ 15.4 Rights and Remedies

§ 15.4.1 Duties and obligations imposed by the Design-Build Documents, and rights and remedies available thereunder, shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

§ 15.4.2 No action or failure to act by the Owner or Design-Builder shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

§ 15.5 Tests and Inspections

§ 15.5.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Design-Build Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Design-Builder shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Design-Builder shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Design-Builder.

§ 15.5.2 If the Owner determines that portions of the Work require additional testing, inspection or approval not included under Section 15.5.1, the Owner will instruct the Design-Builder to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Design-Builder shall give timely notice to the Owner of when and where tests and inspections are to be made so that the Owner may be present for such procedures. Such costs, except as provided in Section 15.5.3, shall be at the Owner's expense.

§ 15.5.3 If such procedures for testing, inspection or approval under Sections 15.5.1 and 15.5.2 reveal failure of the portions of the Work to comply with requirements established by the Design-Build Documents, all costs made necessary by such failure shall be at the Design-Builder's expense.

§ 15.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Design-Build Documents, be secured by the Design-Builder and promptly delivered to the Owner.

§ 15.5.5 If the Owner is to observe tests, inspections or approvals required by the Design-Build Documents, the Owner will do so promptly and, where practicable, at the normal place of testing.

§ 15.5.6 Tests or inspections conducted pursuant to the Design-Build Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 15.6 Confidential Information

If the Owner or Design-Builder transmits Confidential Information, the transmission of such Confidential Information constitutes a warranty to the party receiving such Confidential Information that the transmitting party is authorized to transmit the Confidential Information. If a party receives Confidential Information, the receiving party shall keep the Confidential Information strictly confidential and shall not disclose it to any other person or entity except as set forth in Section 15.6.1.

§ 15.6.1 A party receiving Confidential Information may disclose the Confidential Information as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. A party receiving Confidential Information may also disclose the Confidential Information to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of Confidential Information as set forth in this Contract.

§ 15.7 Capitalization

Terms capitalized in the Contract include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

§ 15.8 Interpretation

§ 15.8.1 In the interest of brevity the Design-Build Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 15.8.2 Unless otherwise stated in the Design-Build Documents, words which have well-known technical or construction industry meanings are used in the Design-Build Documents in accordance with such recognized meanings.

ARTICLE 16 SCOPE OF THE AGREEMENT

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

.1 AIA Document A141™–2014, Standard Form of Agreement Between Owner and Design-Builder

.2 AIA Document A141™–2014, Exhibit A, Design-Build Amendment, if executed

.3 AIA Document A141™–2014, Exhibit B, Insurance and Bonds

.4 AIA Document A141™–2014, Exhibit C, Sustainable Projects, if completed

.5 AIA Document E202™-2022, BIM Exhibit for Sharing Models with Project Participants, Where Model Versions May Not be Enumerated as a Contract Document, if completed, or the following:

«»

.6 Other:

«»

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

OWNER *(Signature)*	**DESIGN-BUILDER** *(Signature)*
Rolf Hechler, Mayor	Julian Carrizal, Owner/President
(Printed name and title)	*(Printed name and title)*

AIA® Document A141® – 2014

Exhibit A

Design-Build Amendment

This Amendment is incorporated into the accompanying AIA Document A141™–2014, Standard Form of Agreement Between Owner and Design-Builder dated the 8 day of July in the year 2026 (the "Agreement")
(In words, indicate day, month and year.)

for the following PROJECT:
(Name and location or address)

RFP #2026-03-005 PNC Bank/PD Remodel
210 Main Street
Truth or Consequences, NM 87901

THE OWNER:
(Name, legal status and address)

City of Truth or Consequences
401 McAdoo St.
Truth or Consequences, NM 87901

THE DESIGN-BUILDER:
(Name, legal status and address)

J. Carrizal General Construction, Inc.
1070 Diesel Drive
El Paso, TX 79907

The Owner and Design-Builder hereby amend the Agreement as follows.

TABLE OF ARTICLES

A.1 CONTRACT SUM

A.2 CONTRACT TIME

A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

A.4 DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS

A.5 COST OF THE WORK

ARTICLE A.1 CONTRACT SUM

§ A.1.1 The Owner shall pay the Design-Builder the Contract Sum in current funds for the Design-Builder's performance of the Contract after the execution of this Amendment. The Contract Sum shall be one of the following and shall not include compensation the Owner paid the Design-Builder for Work performed prior to execution of this Amendment:
(Check the appropriate box.)

[X] Stipulated Sum, in accordance with Section A.1.2 below

[« »] Cost of the Work plus the Design-Builder's Fee, in accordance with Section A.1.3 below

[« »] Cost of the Work plus the Design-Builder's Fee with a Guaranteed Maximum Price, in accordance with Section A.1.4 below

(Based on the selection above, complete Section A.1.2, A.1.3 or A.1.4 below.)

§ A.1.2 Stipulated Sum

§ A.1.2.1 The Stipulated Sum shall be « » ($ « »), subject to authorized adjustments as provided in the Design-Build Documents.

§ A.1.2.2 The Stipulated Sum is based upon the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:
(State the numbers or other identification of accepted alternates. If the Owner is permitted to accept other alternates subsequent to the execution of this Amendment, attach a schedule of such other alternates showing the change in Stipulated Sum for each and the deadline by which the alternate must be accepted.)

« »

§ A.1.2.3 Unit prices, if any:
Unit prices in Exhibit A-8 apply with stated quantity ranges. Deviations beyond ranges trigger equitable adjustments to unit prices.

Item	Units and Limitations	Price per Unit ($0.00)

§ A.1.3 Cost of the Work Plus Design-Builder's Fee

§ A.1.3.1 The Cost of the Work is as defined in Article A.5, Cost of the Work.

§ A.1.3.2 The Design-Builder's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Design-Builder's Fee, and the method for adjustment to the Fee for changes in the Work.)

« »

§ A.1.4 Cost of the Work Plus Design-Builder's Fee With a Guaranteed Maximum Price

§ A.1.4.1 The Cost of the Work is as defined in Article A.5, Cost of the Work.

§ A.1.4.2 The Design-Builder's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Design-Builder's Fee and the method for adjustment to the Fee for changes in the Work.)

« »

§ A.1.4.3 Guaranteed Maximum Price

§ A.1.4.3.1 The sum of the Cost of the Work and the Design-Builder's Fee is guaranteed by the Design-Builder not to exceed « » ($ « »), subject to additions and deductions for changes in the Work as provided in the Design-Build Documents. Costs that would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Design-Builder without reimbursement by the Owner. The Guaranteed Maximum Price shall be equitably adjusted for (a) changes in law, codes, or taxes after the Guaranteed Maximum price date, (b) force majeure market escalations exceeding 5 percent (5%) on critical commodities substantiated by bids or indices, and (c) Owner-caused delays affecting procurement.
(Insert specific provisions if the Design-Builder is to participate in any savings.)

« »

§ A.1.4.3.2 Itemized Statement of the Guaranteed Maximum Price
Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, allowances, contingencies, alternates, the Design-Builder's Fee, and other items that comprise the Guaranteed Maximum Price.
(Provide information below or reference an attachment.)

« »

§ A.1.4.3.3 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:
(State the numbers or other identification of accepted alternates. If the Owner is permitted to accept other alternates subsequent to the execution of this Amendment, attach a schedule of such other alternates showing the change in the Cost of the Work and Guaranteed Maximum Price for each and the deadline by which the alternate must be accepted.)

« »

§ A.1.4.3.4 Unit Prices, if any: Unit Prices apply only to scope specifically identified and are subject to quantity ranges. Quantities outside ranges constitute a Change Order.
(Identify item, state the unit price, and state any applicable quantity limitations.)

Item	Units and Limitations	Price per Unit ($0.00)

§ A.1.4.3.5 Assumptions, if any, on which the Guaranteed Maximum Price is based: The Guaranteed Maximum Price is expressly conditioned on the assumptions in Exhibit A-1. Any deviation shall be a Change in the Work entitling Design Builder to an equitable adjustment in Guaranteed Maximum Price and Contract Time for delays or cost impacts due to epidemics, supply chain disruptions, labor shortages, or material price spikes beyond Design-Builder's control and verified by market data.

« »

§ A.1.5 Payments
§ A.1.5.1 Progress Payments
§ A.1.5.1.1 Based upon Applications for Payment submitted to the Owner by the Design-Builder, the Owner shall make progress payments on account of the Contract Sum to the Design-Builder as provided below and elsewhere in the Design-Build Documents.

§ A.1.5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

« »

§ A.1.5.1.3 Provided that an Application for Payment is received not later than the « 5th » day of the month, the Owner shall make payment of the certified amount to the Design-Builder not later than the « 20th » day of the « same » month. If an Application for Payment is received by the Owner after the application date fixed above, payment shall be made by the Owner not later than « fifteen » (« 15 ») days after the Owner receives the Application for Payment. All past due payments shall bear interest at the rate of 1% per month until paid in full.
(Federal, state or local laws may require payment within a certain period of time.)

§ A.1.5.1.4 With each Application for Payment where the Contract Sum is based upon the Cost of the Work, or the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner to demonstrate that cash disbursements already made by the Design-Builder on account of the Cost of the Work equal or exceed (1) progress payments already received by the Design-Builder, less (2) that portion of those payments attributable to the Design-Builder's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

§ A.1.5.1.5 With each Application for Payment where the Contract Sum is based upon a Stipulated Sum or Cost of the Work with a Guaranteed Maximum Price, the Design-Builder shall submit the most recent schedule of values in accordance with the Design-Build Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. Compensation for design services, if any, shall be shown separately. Where the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder's Fee shall be shown separately. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule of values, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§ A.1.5.1.6 In taking action on the Design-Builder's Applications for Payment, the Owner shall be entitled to rely on the accuracy and completeness of the information furnished by the Design-Builder and shall not be deemed to have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Sections A.1.5.1.4 or A.1.5.1.5, or other supporting data; to have made exhaustive or continuous on-site inspections; or to have made examinations to ascertain how or for what purposes the Design-Builder has used amounts previously paid. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner. Owner's review shall not delay payment. Audits may occur post payment. Payment shall not be withheld pending audit absent documents, good faith discrepancies exceeding 2% of the Application.

§ A.1.5.1.7 Except with the Owner's prior approval, the Design-Builder shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site. Notwithstanding, Owner pre-approves advance payments for long-lead items and bulk purchases if title vests in owner and items are insured and stored per §A.1.5.2.2 standards.

§ A.1.5.2 Progress Payments—Stipulated Sum

§ A.1.5.2.1 Applications for Payment where the Contract Sum is based upon a Stipulated Sum shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ A.1.5.2.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

.1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of [redacted] percent ([redacted] %) on the Work. Pending final determination of cost to the Owner of Changes in the Work, amounts not in dispute shall be included as provided in Section 6.3.9 of the Agreement;

.2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of [redacted] percent ([redacted] %); however, retainage on stored materials shall be 0 percent (0%) if title and insurance meet §A.1.5.1.7 requirements.

.3 Subtract the aggregate of previous payments made by the Owner; and

.4 Subtract amounts, if any, the Owner has withheld or nullified, as provided in Section 9.5 of the Agreement. Owner may withhold only amounts subject to a specific, written notice of dispute; undisputed portions shall be certified and paid.

§ A.1.5.2.3 The progress payment amount determined in accordance with Section A.1.5.2.2 shall be further modified under the following circumstances:

.1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Owner shall determine for incomplete Work, retainage applicable to such work and unsettled claims. Retainage release shall occur upon issuance of the Certificate of Substantial Completion, less amounts for the punch list not exceeding 200% of the reasonable completion cost

.2 Upon Substantial Completion of the Work, retainage on accepted portions shall be released except amounts reasonably necessary for incomplete or defective items; and,

.3 Add, if final completion of the Work is thereafter materially delayed through no fault of the Design-Builder, any additional amounts payable in accordance with Section 9.10.3 of the Agreement.

§ A.1.5.2.4 Reduction or limitation of retainage, if any, shall be as follows: Upon 50 percent (50%) completion, retainage reduces to 2.5 percent (2.5%) on remaining Work, and to 0 percent (0%)for completed trade packages. *(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections A.1.5.2.2.1 and A.1.5.2.2.2 above, and this is not explained elsewhere in the Design-Build Documents, insert provisions here for such reduction or limitation.)*

«»

§ A.1.5.3 Progress Payments—Cost of the Work Plus a Fee

§ A.1.5.3.1 Where the Contract Sum is based upon the Cost of the Work plus a fee without a Guaranteed Maximum Price, Applications for Payment shall show the Cost of the Work actually incurred by the Design-Builder through the end of the period covered by the Application for Payment and for which Design-Builder has made or intends to make actual payment prior to the next Application for Payment.

§ A.1.5.3.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

.1 Take the Cost of the Work as described in Article A.5 of this Amendment;

.2 Add the Design-Builder's Fee, less retainage of 5percent (5%). The Design-Builder's Fee shall be computed upon the Cost of the Work described in the preceding Section A.1.5.3.2.1 at the rate stated in Section A.1.3.2; or if the Design-Builder's Fee is stated as a fixed sum in that Section, an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work in that Section bears to a reasonable estimate of the probable Cost of the Work upon its completion;

.3 Subtract retainage of 5percent (5%) from that portion of the Work that the Design-Builder self-performs, with such retainage being equal to the general retainage percentage and to be reduced on the same schedule;

.4 Subtract the aggregate of previous payments made by the Owner;

.5 Subtract the shortfall, if any, indicated by the Design-Builder in the documentation required by Section A.1.5.1.4 or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.6 Subtract amounts, if any, for which the Owner has withheld or withdrawn a Certificate of Payment as provided in the Section 9.5 of the Agreement. Owner may withhold only amounts subject to a specific, written notice of dispute; undisputed portions shall be certified and paid.

§ A.1.5.3.3 The Owner and Design-Builder shall agree upon (1) a mutually acceptable procedure for review and approval of payments to the Architect, Consultants, and Contractors and (2) the percentage of retainage held on agreements with the Architect, Consultants, and Contractors, and the Design-Builder shall execute agreements in accordance with those terms. Procedures and retainage shall be commercially reasonable and consistent with this Agreement. Retainage for design/consultant agreements shall not exceed 5 percent (5%) and shall be released upon their phase completion.

§ A.1.5.4 Progress Payments—Cost of the Work Plus a Fee with a Guaranteed Maximum Price

§ A.1.5.4.1 Applications for Payment where the Contract Sum is based upon the Cost of the Work Plus a Fee with a Guaranteed Maximum Price shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Design-Builder on account of that portion of the Work for which the Design-Builder has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ A.1.5.4.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

.1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 6.3.9 of the Agreement.

.2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

.3 Add the Design-Builder's Fee, less retainage of « » percent (« » %). The Design-Builder's Fee shall be computed upon the Cost of the Work at the rate stated in Section A.1.4.2 or, if the Design-Builder's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;

.4 Subtract retainage of « » percent (« » %) from that portion of the Work that the Design-Builder self-performs;

.5 Subtract the aggregate of previous payments made by the Owner;

.6 Subtract the shortfall, if any, indicated by the Design-Builder in the documentation required by Section A.1.5.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.7 Subtract amounts, if any, for which the Owner has withheld or nullified a payment as provided in Section 9.5 of the Agreement. Owner may withhold only amounts subject to a specific, written notice of dispute; undisputed portions shall be certified and paid.

§ A.1.5.4.3 The Owner and Design-Builder shall agree upon (1) a mutually acceptable procedure for review and approval of payments to the Architect, Consultants, and Contractors and (2) the percentage of retainage held on agreements with the Architect, Consultants, and Contractors; and the Design-Builder shall execute agreements in accordance with those terms.

§ A.1.5.5 Final Payment

§ A.1.5.5.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Design-Builder not later than 30 days after the Design-Builder has fully performed the Contract and the requirements of Section 9.10 of the Agreement have been satisfied, except for the Design-Builder's responsibility to correct non-conforming Work discovered after final payment or to satisfy other requirements, if any, which extend beyond final payment. Further, final payment is due within 15 days after satisfaction of §9.10; amounts unpaid bear interest at 1 percent (1%) per month.

§ A.1.5.5.2 If the Contract Sum is based on the Cost of the Work, the Owner's auditors will review and report in writing on the Design-Builder's final accounting within 30 days after the Design-Builder delivers the final accounting to the Owner. Based upon the Cost of the Work the Owner's auditors report to be substantiated by the Design-Builder's final accounting, and provided the other conditions of Section 9.10 of the Agreement have been met, the Owner will, within seven days after receipt of the written report of the Owner's auditors, either issue a final Certificate for Payment, or notify the Design-Builder in writing of the reasons for withholding a certificate as provided in Section 9.5.1 of the Agreement. If Owner's auditors do not issue a report within 30 days, the final accounting is deemed accepted. Any withholding must be stated with specificity and limited to the disputed amount, with the undisputed balance certified and paid.

ARTICLE A.2 CONTRACT TIME

§ A.2.1 Contract Time, as defined in the Agreement at Section 1.4.13, is the period of time, including authorized adjustments, for Substantial Completion of the Work.

§ A.2.2 The Design-Builder shall achieve Substantial Completion of the Work not later than 240 calendar days from the date of this Amendment, subject to equitable extensions for Owner-caused delay, changes, force majeure, and unforeseen conditions. No phased Substantial Completion is required unless expressly listed, and any additional phases shall be a Change in Work.

§ A.2.3 Liquidated damages shall not apply; alternatively, liquidated damages are capped at 0.05 percent (0.05%) of the Contract Sum per day, aggregate cap 3 percent (3%). A $2,500.00/day bonus applies for early Substantial Completion, uncapped.

« »

Portion of Work	Substantial Completion Date

, subject to adjustments of the Contract Time as provided in the Design-Build Documents.
(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

« »

ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

§ A.3.1 The Contract Sum and Contract Time set forth in this Amendment are based on the following:

§ A.3.1.1 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

§ A.3.1.2 The Specifications:
The specifications and Drawings listed in Exhibit A-5 are incorporated by reference.

« »

Section	Title	Date	Pages

§ A.3.1.3 The Drawings:
The specifications and Drawings listed in Exhibit A-5 are incorporated by reference.

« »

Number	Title	Date

§ A.3.1.4 The Sustainability Plan, if any:
(If the Owner identified a Sustainable Objective in the Owner's Criteria, identify the document or documents that comprise the Sustainability Plan by title, date and number of pages, and include other identifying information. The Sustainability Plan identifies and describes the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner's and Design-Builder's roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews, testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project, as those terms are defined in Exhibit C to the Agreement.)

Title	Date	Pages

Other identifying information:

« »

§ A.3.1.5 Allowances and Contingencies:
Allowances, Contingencies, and Assumptions are set forth in Exhibit A-1; these control over general notes in even of conflict. Furthermore, Allowances listed in Exhibit A-1 are included in the Guaranteed Maximum Price, with overruns/underruns adjusting the Guaranteed Maximum price via Change Orders.

.1 Allowances

« »

.2 Contingencies

Design-Builder's contingency of __% is included for scope gaps, coordination, and estimating inaccuracies within the defined documents. Its use it at Design-Builder's discretion with reporting but without requiring Change Order.

§ A.3.1.6 Design-Builder's assumptions and clarifications:
Allowances, Contingencies, and Assumptions are set forth in Exhibit A-1; these control over general notes in even of conflict.

« »

§ A.3.1.7 Deviations from the Owner's Criteria as adjusted by a Modification:
Deviations from Owner's Criteria are listed in Exhibit A-6. Any unlisted deviation is a Change in the Work.

« »

§ A.3.1.8 To the extent the Design-Builder shall be required to submit any additional Submittals to the Owner for review, indicate any such submissions below:

« »

ARTICLE A.4 DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS
§ A.4.1 The Design-Builder's key personnel are identified below. Owner approves the key personnel listed in Exhibit A-7. Design Builder may replace with equally or more qualified personnel upon notice. Owner's approval shall not be unreasonably withheld.
(Identify name, title and contact information.)

.1 Superintendent

« »

.2 Project Manager

« »

.3 Others

« »

§ A.4.2 The Design-Builder shall retain the following Consultants, Contractors and suppliers, identified below:
Listed trade partners are pre-approved. Owner objections must be in writing within 5 business days, and with good cause.

« »

ARTICLE A.5 COST OF THE WORK
§ A.5.1 Cost To Be Reimbursed as Part of the Contract
§ A.5.1.1 Labor Costs
§ A.5.1.1.1 Wages of construction workers directly employed by the Design-Builder to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ A.5.1.1.2 With the Owner's prior approval, wages or salaries of the Design-Builder's supervisory and administrative personnel when stationed at the site. Owner pre-approves the personnel roles and incentive programs listed in Exhibit A-2; amounts paid under those programs are reimbursable.
(If it is intended that the wages or salaries of certain personnel stationed at the Design-Builder's principal or other offices shall be included in the Cost of the Work, identify below the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)

Person Included	Status (full-time/part-time)	Rate ($0.00)	Rate (unit of time)

§ A.5.1.1.3 Wages and salaries of the Design-Builder's supervisory or administrative personnel engaged at factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ A.5.1.1.4 Costs paid or incurred by the Design-Builder for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Section A.5.1.1.

§ A.5.1.1.5 Bonuses, profit sharing, incentive compensation and any other discretionary payments paid to anyone hired by the Design-Builder or paid to the Architect or any Consultant, Contractor or supplier, with the Owner's prior approval. Owner pre-approves the personnel roles and incentive programs listed in Exhibit A-2; amounts paid under those programs are reimbursable.

§ A.5.1.2 Contract Costs. Payments made by the Design-Builder to the Architect, Consultants, Contractors and suppliers in accordance with the requirements of their subcontracts.

§ A.5.1.3 Costs of Materials and Equipment Incorporated in the Completed Construction

§ A.5.1.3.1 Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.

§ A.5.1.3.2 Costs of materials described in the preceding Section A.5.1.3.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Design-Builder, with any credit for surplus sales being the net of reasonable handling, storage or retail costs. If Owner elects to take title, DB is reimbursed for associated handling and delivery. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ A.5.1.4 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ A.5.1.4.1 Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Design-Builder at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Design-Builder shall mean fair market value.

§ A.5.1.4.2 Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Design-Builder at the site and costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Design-Builder-owned item may not exceed the purchase price of any comparable item. Rates of Design-Builder-owned equipment and quantities of equipment shall be subject to the Owner's prior approval. Owner approves the equipment rate schedule in Exhibit A-3. Design-Builder-owned equipment rates at or below schedule are deemed approved.

§ A.5.1.4.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ A.5.1.4.4 Costs of document reproductions, electronic communications, postage and parcel delivery charges, dedicated data and communications services, teleconferences, Project websites, extranets and reasonable petty cash expenses of the site office.

§ A.5.1.4.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, with the Owner's prior approval.

§ A.5.1.5 Miscellaneous Costs

§ A.5.1.5.1 Premiums for that portion of insurance and bonds required by the Design-Build Documents that can be directly attributed to the Contract. With the Owner's prior approval self-insurance for either full or partial amounts of the coverages required by the Design-Build Documents.

§ A.5.1.5.2 Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Design-Builder is liable.

§ A.5.1.5.3 Fees and assessments for the building permit and for other permits, licenses and inspections for which the Design-Builder is required by the Design-Build Documents to pay.

§ A.5.1.5.4 Fees of laboratories for tests required by the Design-Build Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 15.5.3 of the Agreement or by other provisions of the Design-Build Documents, and which do not fall within the scope of Section A.5.1.6.3.

§ A.5.1.5.5 Royalties and license fees paid for the use of a particular design, process or product required by the Design-Build Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Design-Build Documents; and payments made in accordance with legal judgments against the Design-Builder resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Design-Builder's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the second to last sentence of Section 3.1.13.2 of the Agreement or other provisions of the Design-Build Documents, then they shall not be included in the Cost of the Work.

§ A.5.1.5.6 With the Owner's prior approval, costs for electronic equipment and software directly related to the Work. Owner pre-approves the categories and caps in Exhibit A-4 for electronic equipment/software, legal/ADR costs (excluding Design-Builder-Owner disputes), relocation, and travel; items within caps are reimbursable without further approval.

§ A.5.1.5.7 Deposits lost for causes other than the Design-Builder's negligence or failure to fulfill a specific responsibility in the Design-Build Documents.

§ A.5.1.5.8 With the Owner's prior approval, which shall not be unreasonably withheld, legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Design-Builder, reasonably incurred by the Design-Builder after the execution of the Agreement and in the performance of the Work. Prior approval is deemed granted for third party claims requiring immediate action to meet court or agency deadlines, subject to prompt notice and cost reporting.

§ A.5.1.5.9 With the Owner's prior approval, expenses incurred in accordance with the Design-Builder's standard written personnel policy for relocation, and temporary living allowances of, the Design-Builder's personnel required for the Work. Owner pre-approves the categories and caps in Exhibit A-4 for electronic equipment/software, legal/ADR costs (excluding Design-Builder-Owner disputes), relocation, and travel; items within caps are reimbursable without further approval.

§ A.5.1.5.10 That portion of the reasonable expenses of the Design-Builder's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work. Owner pre-approves the categories and caps in Exhibit A-4 for electronic equipment/software, legal/ADR costs (excluding Design-Builder-Owner disputes), relocation, and travel; items within caps are reimbursable without further approval.

§ A.5.1.6 Other Costs and Emergencies

§ A.5.1.6.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

§ A.5.1.6.2 Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property. Emergency costs are promptly reimbursable; any negligence determinations shall occur after payment, with adjustments only upon clear and convincing evidence and limited to the differential.

§ A.5.1.6.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Design-Builder, Contractors or suppliers, provided that such damaged or nonconforming Work was not caused by negligence or failure to fulfill a specific responsibility of the Design-Builder and only to the extent that the cost of repair or correction is not recovered by the Design-Builder from insurance, sureties, Contractors, suppliers, or others.

§ A.5.1.7 Related Party Transactions

§ A.5.1.7.1 For purposes of Section A.5.1.7, the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Design-Builder; any entity in which any stockholder in, or management employee of, the Design-Builder owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Design-Builder. The term "related party" includes any member of the immediate family of any person identified above.

§ A.5.1.7.2 If any of the costs to be reimbursed arise from a transaction between the Design-Builder and a related party, the Design-Builder shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Design-Builder shall procure the Work, equipment, goods or service from the related party, as a Contractor, according to the terms of Section A.5.4. If the Owner fails to authorize the transaction, the Design-Builder shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Section A.5.4. Owner's authorization shall not be unreasonably withheld, conditioned, or delayed; consent is deemed granted if no objection is received within 10 business days after notice.

§ A.5.2 Costs Not to Be Reimbursed as Part of this Contract

The Cost of the Work shall not include the items listed below:

.1 Salaries and other compensation of the Design-Builder's personnel stationed at the Design-Builder's principal office or offices other than the site office, except as specifically provided in Section A.5.1.1;

.2 Expenses of the Design-Builder's principal office and offices other than the site office;

.3 Overhead and general expenses, except as may be expressly included in Section A.5.1;

.4 The Design-Builder's capital expenses, including interest on the Design-Builder's capital employed for the Work;

.5 Except as provided in Section A.5.1.6.3 of this Agreement, costs due to the negligence or failure of the Design-Builder, Contractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract;

.6 Any cost not specifically and expressly described in Section A.5.1;

.7 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and

.8 Notwithstanding he foregoing, any cost reasonably inferable from, or necessary to execute, the Work as described in the Deign-Build Documents and the Guaranteed Maximum price Assumptions (Exhibit A-1) shall be included in the Cost of Work.

§ A.5.3 Discounts, Rebates, and Refunds

§ A.5.3.1 Cash discounts obtained on payments made by the Design-Builder shall accrue to the Owner if (1) before making the payment, the Design-Builder included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Design-Builder with which to make payments; otherwise, cash discounts shall accrue to the Design-Builder. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Design-Builder shall make provisions so that they can be obtained. Moreover, Design-Builder shall use commercially reasonable efforts to secure discounts/rebates. Administrative costs to obtain such discounts/rebates are reimbursable, and credits shall be net of such costs.

§ A.5.3.2 Amounts that accrue to the Owner in accordance with Section A.5.3.1 shall be credited to the Owner as a deduction from the Cost of the Work.

§ A.5.4 Other Agreements

§ A.5.4.1 When the Design-Builder has provided a Guaranteed Maximum Price, and a specific bidder (1) is recommended to the Owner by the Design-Builder; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Design-Build Documents without reservations or exceptions,

but the Owner requires that another bid be accepted, then the Design-Builder may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Design-Builder and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner. Any Owner-directed substitution shall entitle Design Builder to (a) a Guaranteed Maximum Price increase equal to the higher of the price delta or the substantiated cost impact, (b) a commensurate extension of Contract Time, and (c) relief for performance impacts, including quality or coordination costs reasonably incurred.

§ A.5.4.2 Agreements between the Design-Builder and Contractors shall conform to the applicable payment provisions of the Design-Build Documents, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If an agreement between the Design Builder and a Contractor is awarded on a cost plus a fee basis, the Design-Builder shall provide in the agreement for the Owner to receive the same audit rights with regard to the Cost of the Work performed by the Contractor as the Owner receives with regard to the Design-Builder in Section A.5.5, below.

§ A.5.4.3 The agreements between the Design-Builder and Architect and other Consultants identified in the Agreement shall be in writing. These agreements shall be promptly provided to the Owner upon the Owner's written request.

§ A.5.5 Accounting Records

The Design-Builder shall keep full and detailed records and accounts related to the cost of the Work and exercise such controls as may be necessary for proper financial management under the Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Design-Builder's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Contractor's proposals, purchase orders, vouchers, memoranda and other data relating to the Contract. Owner's access is subject to reasonable scheduling and protection of confidential/proprietary information; Owner shall execute a confidentiality agreement, and Design-Builder may redact unrelated pricing and trade secrets. The Design-Builder shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law. Owner's audit rights expire 18 months after Substantial Completion; absent fraud, paid Applications become final and non-audible 180 days after payment.

§ A.5.6 Relationship of the Parties

The Design-Builder accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to exercise the Design-Builder's skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests.

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

OWNER *(Signature)*	**DESIGN-BUILDER** *(Signature)*
Rolf Hechler, Mayor	Julian Carrizal, Owner/President
(Printed name and title)	*(Printed name and title)*

Notices.

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To: City of T or C

Carlos Miyagishima, Chief Procurement Officer
505 Sims St.

Truth or Consequences, NM 87901

To: J. Carrizal General Construction

Julian Carrizal
1070 Diesel Drive
El Paso, Texas 79907

By: _____ Date: _____
Julian Carrizal, Owner/President

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the City Chief Procurement Officer below:

By: _____ Date: _____
Gary Whitehead, City Manager

ON BEHALF OF BOARD OF CITYCOMMISSIONERS APPROVED, ADOPTED AND PASSED on this 8 day of July, 2026.

_____
Rolf Hechler, Mayor

Attest:

_____
Angela Torres, City of T or C Clerk

City of T or C Chief Procurement Officer:

By: _____ Date: _____
Carlos Miyagishima, CPO

AIA® Document A141® – 2014

Exhibit B

Insurance and Bonds

for the following PROJECT:
(Name and location or address)

RFP #2026-03-005 PNC Bank/PD Remodel
210 Main Street
Truth or Consequences, NM 87901

THE OWNER:
(Name, legal status and address)

City of Truth or Consequences
401 McAdoo St.
Truth or Consequences, NM 87901

THE DESIGN-BUILDER:
(Name, legal status and address)

J. Carrizal General Construction, Inc.
1070 Diesel Drive
El Paso, TX 79907

THE AGREEMENT
This Insurance Exhibit is part of the accompanying agreement for the Project, between the Owner and the Design-Builder (hereinafter, the Agreement), dated the 8 day of July in the year 2026.
(In words, indicate day, month and year.)

TABLE OF ARTICLES

B.1 GENERAL

B.2 DESIGN BUILDER'S INSURANCE AND BONDS

B.3 OWNER'S INSURANCE

B.4 SPECIAL TERMS AND CONDITIONS

ARTICLE B.1 GENERAL

The Owner and Design-Builder shall purchase and maintain insurance and provide bonds as set forth in this Exhibit B. Where a provision in this Exhibit conflicts with a provision in the Agreement into which this Exhibit is incorporated, the provision in this Exhibit will prevail.

ARTICLE B.2 DESIGN BUILDER'S INSURANCE AND BONDS

§ B.2.1 The Design-Builder shall purchase and maintain the following types and limits of insurance from a company or companies lawfully authorized to do business in the jurisdiction where the Project is located. The Design-Builder shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 11.2.2.1 of the Agreement, unless a different duration is stated below:
(If the Design-Builder is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

« »

§ B.2.1.1 Commercial General Liability with policy limits of not less than « One Million » ($ 1,000,000.00) for each occurrence and « Two Million » ($ « 2,000,000.00 ») in the aggregate providing coverage for claims including

.1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
.2 personal injury;
.3 damages because of injury to or destruction of tangible property;
.4 bodily injury or property damage arising out of completed operations; and
.5 contractual liability applicable to the Design-Builder's obligations under Section 3.1.14 of the Agreement.

§ B.2.1.2 Automobile Liability covering vehicles owned by the Design-Builder and non-owned vehicles used by the Design-Builder with policy limits of not less than « One million » ($ « 1,000,000.00 ») combined single limit per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles specified in this Section B.2.1.2, along with any other statutorily required automobile coverage.

§ B.2.1.3 The Design-Builder may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess liability insurance, provided such primary and excess insurance policies result in the same or greater coverage as those required under Sections B.2.1.1 and B.2.1.2.

§ B.2.1.4 Workers' Compensation at statutory limits.

§ B.2.1.5 Employers' Liability with policy limits as provided below:

« »

§ B.2.1.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than « One Million » ($ « 1,000,000.00 ») per claim and « Two Million » ($ « 2,000,000.00 ») in the aggregate. Claims-made policies shall maintain a retroactive date no later than commencement of services and be continuously maintained or extended by a discovery period of not less than two (2) years following Substantial Completion.

§ B.2.1.7 Pollution Liability covering performance of the Work, with policy limits of not less than « One Million » ($ « 1,000,000.00 ») per claim and « Two Million » ($ « 2,000,000.00 ») in the aggregate.

§ B.2.1.7.1 The Design-Builder may obtain a combined Professional Liability and Pollution Liability policy to satisfy the requirements set forth in Sections B.2.1.6 and B.2.1.7, with combined policy limits that are not less than « Two Million » ($ « 2,000,000.00 ») per claim and « Two Million » ($ « 2,000,000.00 ») in the aggregate. Claims-made policies shall maintain a retroactive date no later than commencement of services and be continuously maintained or extended by a discovery period of not less than two (2) years following Substantial Completion.

§ B.2.1.8 Design-Builder/Owner shall provide written notice to the other party of cancellation or non-renewal actually issued by the insurer and not rescinded, within ten (10) business days after receipt of insurer's written notice. Notice of 'threatened' cancellation is not required..

§ B.2.1.9 Additional Insured Obligations. The Owner and its consultants and contractors shall be additional insureds on the Design-Builder's primary and excess insurance policies for Commercial General Liability, Automobile Liability and Pollution Liability. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies. The additional insured coverage shall apply to both ongoing operations and completed operations. The policy limits applicable to the additional insureds shall be the same amount applicable to the named insured or, if the policy provides otherwise, policy limits not less than the amounts required under this Agreement. Additional insured status shall be provided only to Owner and to other parties with whom Design-Builder has a direct written agreement requiring such status, and only to the extent required by that agreement.

§ B.2.1.10 Certificates of Insurance. The Design-Builder shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article B.2: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon Owner's written request. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 of the Agreement and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section B.2.1. The certificates will show the Owner and its consultants and contractors as additional insureds on the Design-Builder's primary and excess insurance policies for Commercial General Liability, Automobile Liability, and Pollution Liability. Information concerning reduction of coverage on account of revised limits, claims paid under the General Aggregate or both, shall be furnished by the Design-Builder with reasonable promptness. Certificates are for evidence only and confer no rights; obligation to provide certificates terminates after the maintenance periods stated in Section B.2.1. Insurer notices sent to certificate holders shall satisfy the notice obligation.

§ B.2.2 Performance Bond and Payment Bond
The Design-Builder shall provide surety bonds as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum ($0.00)

§ B.2.2.1 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Agreement, the Design-Builder shall promptly furnish a copy of the bonds or shall permit a copy to be made.

§ B.2.3 If any required coverage, limit, or endorsement is unavailable on commercially reasonable terms, the parties shall negotiate an alternative program or appropriate equitable adjustment.

ARTICLE B.3 OWNER'S INSURANCE
§ B.3.1 Owner's Liability Insurance
The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

§ B.3.2 Property Insurance
§ B.3.2.1 Unless otherwise provided, at the time of execution of the Design-Build Amendment, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus the value of subsequent Modifications and cost of materials supplied or installed by others, comprising the total value for the entire Project at the site on a replacement cost basis without optional deductibles. If any construction that is part of the Work shall commence prior to execution of the Design-Build Amendment, the Owner shall, prior to commencement of construction, purchase and maintain property insurance as described above in an amount sufficient to cover the total value of the Work at the site on a replacement cost basis without optional deductibles. The insurance required under this section shall include interests of the Owner, Design-Builder, Architect, Consultants, Contractors, and Subcontractors in the Project. The property insurance shall be maintained, unless otherwise provided in the Design-Build Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of the insurance, until the Owner has issued a Certificate of Substantial Completion in accordance with Section 9.8 of the Agreement. Unless the parties agree otherwise, upon issuance of a Certificate of Substantial Completion, the Owner shall replace the insurance policy required under this Section B.3.2 with another property insurance policy written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 11.2.2 of the Agreement.

§ B.3.2.1.1 The insurance required under Section B.3.2.1 shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for the Design-Builder's services and expenses required as a result of such insured loss.

§ B.3.2.1.2 If the insurance required under Section B.3.2.1 requires deductibles, the Owner shall pay costs not covered because of such deductibles.

§ B.3.2.1.3 The insurance required under Section B.3.2.1 shall cover portions of the Work stored off the site, and also portions of the Work in transit.

§ B.3.2.1.4 Partial occupancy or use in accordance with Section 9.9 of the Agreement shall not commence until the insurance company or companies providing the insurance required under Section B.3.2.1 have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Design-Builder shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

§ B.3.2.2 Boiler and Machinery Insurance. The Owner shall purchase and maintain boiler and machinery insurance, which shall specifically cover commissioning, testing, or breakdown of equipment required by the Work, if not covered by the insurance required in Section B.3.2.1. This insurance shall include the interests of the Owner, Design-Builder, Architect, Consultants, Contractor and Subcontractors in the Work, and the Owner and Design-Builder shall be named insureds.

§ B.3.2.3 If the Owner does not intend to purchase the insurance required under Sections B.3.2.1 and B.3.2.2 with all of the coverages in the amounts described above, the Owner shall inform the Design-Builder in writing prior to any construction that is part of the Work. The Design-Builder may then obtain insurance that will protect the interests of the Owner, Design-Builder, Architect, Consultants, Contractors, and Subcontractors in the Work. The cost of the insurance shall be charged to the Owner by an appropriate Change Order. If the Owner does not provide written notice, and the Design-Builder is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, the Owner shall bear all reasonable costs and damages attributable thereto.

§ B.3.2.4 Loss of Use Insurance. At the Owner's option, the Owner may purchase and maintain insurance to insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Design-Builder for loss of use of the Owner's property, including consequential losses due to fire or other hazards covered under the property insurance required under this Exhibit B to the Agreement.

§ B.3.2.5 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Section B.3.2.7 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

§ B.3.2.6 Before an exposure to loss may occur, the Owner shall file with the Design-Builder a copy of each policy that includes insurance coverages required by this Section B.3.2. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. The Owner shall provide written notification to the Design-Builder of the cancellation or expiration of any insurance required by this Article B.3. The Owner shall provide such written notice within five (5) business days of the date the Owner is first aware of the cancellation or expiration, or is first aware that the cancellation or expiration is threatened or otherwise may occur, whichever comes first.

§ B.3.2.7 Waivers of Subrogation. The Owner and Design-Builder waive all rights against (1) each other and any of their consultants, subconsultants, contractors and subcontractors, agents and employees, each of the other, and (2) any separate contractors described in Section 5.13 of the Agreement, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to Section B.3.2 or other property insurance applicable to the Work and completed construction, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Design-Builder, as appropriate, shall require of the separate contractors described in Section 5.13 of the Agreement, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of the other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

§ B.3.2.8 A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section B.3.2.10. The Design-Builder shall pay the Architect, Consultants and Contractors their just shares of insurance proceeds received by the Design-Builder, and by appropriate agreements, written where legally required for validity, the Design-Builder shall require the Architect, Consultants and Contractors to make payments to their consultants and subcontractors in similar manner.

§ B.3.2.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Design-Builder. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Design-Builder after notification of a Change in the Work in accordance with Article 6 of the Agreement.

§ B.3.2.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of a loss to the Owner's exercise of this power. If an objection is made, the dispute shall be resolved in the manner selected by the Owner and Design-Builder as the method of binding dispute resolution in the Agreement. If the Owner and Design-Builder have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.

§ B.3.3 If any required coverage, limit, or endorsement is unavailable on commercially reasonable terms, the parties shall negotiate an alternative program or appropriate equitable adjustment.

ARTICLE B.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

«»

AIA® Document A141® - 2014

Exhibit C

Sustainable Projects

for the following PROJECT:
(Name and location or address)

RFP #2026-03-005 PNC Bank/PD Remodel
210 Main Street, Truth or Consequences, NM 87901

THE OWNER:
(Name, legal status and address)

City of Truth or Consequences
401 McAdoo St., Truth or Consequences, NM 87901

THE DESIGN-BUILDER:
(Name, legal status and address)

J. Carrizal General Construction, Inc.
1070 Diesel Drive, El Paso, TX 79907

THE AGREEMENT
This Sustainable Projects Exhibit is part of the accompanying agreement for the Project between the Owner and Design-Builder (hereinafter, the Agreement) dated the 8 day of July in the year 2026.
(In words, indicate day, month and year.)

TABLE OF ARTICLES

C.1 GENERAL PROVISIONS

C.2 DESIGN-BUILDER

C.3 OWNER

C.4 CLAIMS AND DISPUTES

C.5 MISCELLANEOUS PROVISIONS

C.6 SPECIAL TERMS AND CONDITIONS

ARTICLE C.1 GENERAL PROVISIONS

§ C.1.1 This Exhibit, in conjunction with the Sustainability Plan and other Design-Build Documents, establishes requirements of the Owner, and the services to be provided by the Design-Builder, when the Project includes a Sustainable Objective. Except in the case of a conflict with the Owner's Criteria, where a provision in this Exhibit conflicts with a provision in the Agreement into which this Exhibit is incorporated, the provision in this Exhibit will prevail. Notwithstanding Owner's Criteria, in the event of any inconsistency regarding sustainability services, Sustainable Measures, or Sustainability Documentation, Exhibit C shall control. Any change to Owner's Criteria impacting the Sustainability Plan shall require a signed Modification allocating time and cost.

§ C.1.2 Definitions

§ C.1.2.1 Sustainable Objective. The Sustainable Objective is the Owner's goal of incorporating Sustainable Measures into the design, construction, maintenance and operations of the Project to achieve a Sustainability Certification or other benefit to the environment, to enhance the health and well-being of building occupants, or to improve energy efficiency. If not set forth in the Owner's Criteria, the Sustainable Objective will be identified in the Sustainability Plan.

§ C.1.2.2 Sustainable Measure. A Sustainable Measure is a specific design or construction element, or post occupancy use, operation, maintenance or monitoring requirement, that must be completed in order to achieve the Sustainable Objective. The Owner and Design-Builder shall each have responsibility for the Sustainable Measure(s) allocated to them in the Sustainability Plan.

§ C.1.2.3 Sustainability Plan. The Sustainability Plan is a Design-Build Document that identifies and describes: the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner's and Design-Builder's roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews; testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project. Design-Builder's obligations are limited to Sustainable Measures expressly allocated to Design-Builder in the Sustainability Plan incorporated into the Design-Build Amendment. Any subsequent change to the Sustainable Objective or Sustainable Measures shall be treated as a Change with equitable adjustment.

§ C.1.2.4 Sustainability Certification. The Sustainability Certification is the initial third-party certification of sustainable design, construction, or environmental or energy performance, such as LEED®, Green Globes™, Energy Star or another rating or certification system, that may be designated as the Sustainable Objective or part of the Sustainable Objective for the Project. The term Sustainability Certification shall not apply to any recertification or certification occurring subsequent to the initial certification.

§ C.1.2.5 Sustainability Documentation. The Sustainability Documentation includes all documentation related to the Sustainable Objective, or to a specific Sustainable Measure, that the Owner or Design-Builder is required to prepare in accordance with the Design-Build Documents. Responsibility for preparation of specific portions of the Sustainability Documentation will be allocated among the Owner and Design-Builder in the Sustainability Plan and may include documentation required by the Certifying Authority.

§ C.1.2.6 Certifying Authority. The Certifying Authority is the entity that establishes criteria for achievement of a Sustainability Certification and is authorized to grant or deny a Sustainability Certification.

ARTICLE C.2 DESIGN-BUILDER

§ C.2.1 Scope of Design-Builder's Sustainability Services Prior to Execution of the Design-Build Amendment

§ C.2.1.1 The Design-Builder shall provide the Sustainability Services described in this Section C.2.1 in conjunction with the Work described in Article 4 of the Agreement.

§ C.2.1.2 Sustainability Certification Agreements. If the anticipated Sustainable Objective set forth in the Owner's Criteria includes a Sustainability Certification, the Design-Builder shall provide the Owner with copies of all agreements required by the Certifying Authority to register the Project and pursue the Sustainability Certification. The Owner and Design-Builder will review and confirm that the terms of those agreements are acceptable to the Owner before moving forward with the Sustainability Services under this Article C.2. The Owner agrees to execute all documents required by the Certifying Authority to be executed by the Owner; including any documentation required to establish the authority of the Design-Builder, the Architect, Contractor, or a Consultant, as an agent of the Owner for the limited purpose of pursuing the Sustainability Certification.

§ C.2.1.3 Preliminary Design

§ C.2.1.3.1 Sustainability Workshop. Prior to the conclusion of Preliminary Design, the Design-Builder, and as necessary the Design-Builder's Architect, Contractors, and Consultants, shall conduct a Sustainability Workshop with the Owner and, as requested by the Design-Builder, with the Owner's consultants, during which the participants will: review and discuss potential Sustainability Certifications; establish the Sustainable Objective; discuss potential Sustainable Measures to be targeted; examine strategies for implementation of the Sustainable Measures; and discuss the potential impact of the Sustainable Measures on the Project schedule and on the Owner's program and budget.

§ C.2.1.3.2 Sustainability Plan
§ C.2.1.3.2.1 Following the Sustainability Workshop, the Design-Builder shall prepare a Sustainability Plan based on the Sustainable Objective and targeted Sustainable Measures.

§ C.2.1.3.2.2 The Design-Builder shall submit the proposed Sustainability Plan to the Owner as part of the Design-Builder's submission of the Preliminary Design in accordance with Section 4.3.1 of the Agreement. The Sustainability Plan shall not change the Owner's Criteria unless the Owner and Design-Builder execute a Modification reflecting any such change.

§ C.2.1.4 Design-Builder's Proposal
§ C.2.1.4.1 As part of the Design-Builder's submission of the Design-Builder's Proposal, in accordance with Section 4.4.1 of the Agreement, the Design-Builder shall advise the Owner of any adjustments to the Sustainability Plan.

§ C.2.1.4.2 If the Owner and Design-Builder agree upon the Design-Builder's Proposal, including the Sustainability Plan, the Owner and Design-Builder shall include the Sustainability Plan in the Design-Build Amendment executed in accordance with Section 4.4.3 of the Agreement.

§ C.2.2 Work Following Execution of the Design-Build Amendment
§ C.2.2.1 The Design-Builder shall perform those Sustainable Measures identified as the responsibility of the Design-Builder in the approved Sustainability Plan and any approved changes to the Sustainability Plan.

§ C.2.2.2 Construction Documents. The Construction Documents prepared by the Design-Builder shall incorporate the Sustainable Measures identified in the Sustainability Plan, as appropriate.

§ C.2.2.3 As part of the Sustainable Measures, the Work may require the use of materials and equipment that have had limited testing or verification of performance. The Design-Builder may be unable to determine whether the materials or equipment will perform as represented by the manufacturer or supplier. The Design-Builder shall discuss with the Owner the proposed use of such materials or equipment, and potential effects on the Sustainable Objective that may occur if the materials or equipment fail to perform in accordance with the manufacturers or supplier's representations. The Owner will render a written decision regarding the use of such materials or equipment in a timely manner. In the event the Owner elects to proceed with the use of such materials or equipment, the Design-Builder shall be permitted to rely on the manufacturers or supplier's representations and shall not be responsible for any damages arising from failure of the material or equipment to perform in accordance with the manufacturer's or supplier's representations. Owner shall issue written decisions on proposed novel materials/equipment within five (5) business days, with lack of response indicating approval. If Owner elects to proceed, Design Builder shall have no liability for performance failures or related impacts on Sustainable Measures or the Sustainable Objective. Any remedies shall be limited to processing a Change for any replacement or alteration.

§ C.2.3 Construction Phase
§ C.2.3.1 The Design-Builder shall meet with the Owner to discuss alternatives in the event the Owner recognizes a condition that will affect achievement of a Sustainable Measure or achievement of the Sustainable Objective. If any condition is discovered by, or made known to, the Design-Builder that will adversely affect the Design-Builder's achievement of a Sustainable Measure for which the Design-Builder is responsible pursuant to the Sustainability Plan, the Design-Builder will promptly provide notice to the Owner and meet with the Owner to discuss alternatives to remedy the condition. Owner's failure to timely act to provide direction after Design-Builder's notice shall entitle Design-Builder to a Change for resulting time and cost.

§ C.2.3.2 The Design-Builder shall be responsible for preparing and completing the Sustainability Documentation required by the Design-Build Documents, including any Sustainability Documentation required to be submitted after Substantial Completion.

§ C.2.4 Waste Management
The Design-Builder, in accordance with the Design-Build Documents, shall prepare and submit to the Owner a construction waste management and disposal plan setting forth the procedures and processes for salvaging, recycling or disposing of construction waste generated from the Project. The Design-Builder shall recycle, reuse, remove or

dispose of materials as required by the Design-Build Documents. Costs associated with waste diversion, salvage, recycling documentation, and related reporting beyond standard disposal are reimbursable unless expressly included in the Design-Build Amendment.

§ C.2.5 Substantial Completion

Verification that the Project has achieved the Sustainable Objective, or the actual achievement of the Sustainable Objective, shall not be a condition precedent to issuance of a Certificate of Substantial Completion in accordance with Section 9.8.5 of the Agreement. Except for that portion of the Sustainability Documentation that by its nature must be provided after Substantial Completion, the Design-Builder shall submit to the Owner the Sustainability Documentation required from the Design-Builder by the Design-Build Documents no later than the date of Substantial Completion. Submission obligations are limited to documentation within Design-Builder's control. Third-party or Owner-dependent documentation shall not delay Substantial or Final Completion or payment. Owner shall issue a written list of only those outstanding items required from Design builder within five (5) business days, and undisputed sums remain payable.

§ C.2.6 Final Completion

§ C.2.6.1 Verification that the Project has achieved the Sustainable Objective, or the actual achievement of the Sustainable Objective, shall not be a condition precedent to issuance of the final Certificate for Payment in accordance with Section 9.10.1 of the Agreement. Post-Substantial Completion sustainability services by Design-Builder beyond 30 days are Additional Services.

§ C.2.6.2 In accordance with Section 9.10.2 of the Agreement, all Sustainability Documentation required from the Design-Builder by the Design-Build Documents shall be submitted to the Owner before final payment or any remaining retained percentage shall become due.

§ C.2.7 Project Registration and Submissions of Sustainability Documentation to the Certifying Authority

§ C.2.7.1 If the Sustainable Objective includes a Sustainability Certification, the Design-Builder shall perform the services set forth in this Section C.2.7.

§ C.2.7.2 The Design-Builder shall register the Project with the Certifying Authority. Registration fees and any other fees charged by the Certifying Authority, and paid by the Design-Builder, shall be a reimbursable expense. Reimbursable expenses include all Certifying Authority fees and costs, appeal fees, expedited review fees, and Design Builder's reasonable administrative costs.

§ C.2.7.3 Design-Builder's services include one initial submission and one resubmission per credit/prerequisite, with additional submissions, meetings, or appeals, constituting Additional Services, reimbursable at agreed rates.

§ C.2.7.4 Owner shall provide decisions/information within five (5) business days. Failure to do so constitutes approval where applicable and entitles Design-Builder to time and cost adjustments.

§ C.2.7.5 The Design-Builder shall collect, organize and manage the Sustainability Documentation; and submit the Sustainability Documentation to the Certifying Authority as required for the Sustainability Certification process.

§ C.2.7.6 Subject to Section C.3.4 and provided the Design-Builder receives timely notice from the Owner or Certifying Authority, the Design-Builder shall prepare and file necessary documentation with the Certifying Authority to appeal a ruling or other interpretation denying a requirement, prerequisite, credit or point necessary to achieve the Sustainability Certification. Design-Builder's appeal obligations are limited to the initial certification cycle. All post-issuance appeals, maintenance, or recertification efforts are owner's responsibility and cost.

§ C.2.7.7 The Design-Builder shall prepare and submit the application for certification of the Project to the Certifying Authority, including any required supporting documentation, in accordance with the Sustainability Plan.

§ C.2.7.8 The Design-Builder shall prepare responses to, and submit additional documentation required by, comments or questions received from the Certifying Authority.

§ C.2.7.9 Any certification, declaration or affirmation the Design-Builder makes to the Certifying Authority shall not constitute a warranty or guarantee to the Owner or the Owner's contractors or consultants.

§ C.2.8 Copyrights and Licenses

§ C.2.8.1 Solely for the purpose of obtaining or maintaining the Sustainability Certification, the Design-Builder grants to the Owner a nonexclusive license to submit the Design-Builder's Instruments of Service, directly or through third parties, to the Certifying Authority to comply with the requirements imposed by the Certifying Authority and further grants the Owner a nonexclusive license to allow the Certifying Authority to publish the Instruments of Service in accordance with the policies and agreements required by the Certifying Authority. The licenses granted in this Section C.2.8 are valid only if the Owner substantially performs its obligations under the Agreement, including prompt payment of all sums when due. The license is limited to submissions necessary for initial Sustainability Certification for this Project, is non-transferable (except to lenders), and expires upon initial certification decision. No reuse or publication beyond the Certifying Authority's requirements without Design-Builder's consent.

§ C.2.8.2 The Design-Builder and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project and to allow the Certifying Authority to publish the Instruments of Service, or any other information, in accordance with the policies and agreements required by the Certifying Authority.

§ C.2.8.3 Submission or distribution of Instruments of Service to meet requirements of a Certifying Authority, in connection with the Project, is not to be construed as publication in derogation of the reserved rights of the Design-Builder or those of the Architect, Consultants and Contractors.

ARTICLE C.3 OWNER

§ C.3.1 The Owner shall perform those Sustainable Measures identified as the responsibility of the Owner in the Sustainability Plan, or as otherwise required by the Design-Build Documents. The Owner shall require that each of its separate contractors and consultants performs the separate contractor's or consultant's services in accordance with the Sustainability Plan. Owner's failure to perform allocated Sustainable Measures or to provide required information constitutes a Change. Design-Builder shall have no responsibility for resulting failures to achieve Sustainable Measures or the Sustainable Objective.

§ C.3.2 The Owner shall provide to the Design-Builder information requested by the Design-Builder that is reasonably relevant and necessary for achievement of the Sustainable Objective. Owner's failure to perform allocated Sustainable Measures or to provide required information constitutes a Change. Design-Builder shall have no responsibility for resulting failures to achieve Sustainable Measures or the Sustainable Objective.

§ C.3.3 Unless the Design-Build Documents provide otherwise, the Owner shall provide the services of a commissioning agent who shall be responsible for commissioning of the Project. Owner's commissioning agent shall coordinate through the Design-Builder and comply with the Project schedule. Commissioning-driven delates or added requirements entitle Design-Builder to equitable adjustments.

§ C.3.4 The Owner shall be responsible for preparing, filing, and prosecuting appeals to the Certifying Authority, or taking any other actions determined by the Owner to be necessary or desirable, arising from the revocation or reduction of an awarded Sustainability Certification. Design-Builder's appeal obligations are limited to the initial certification cycle. All post-issuance appeals, maintenance, or recertification efforts are owner's responsibility and cost.

§ C.3.5 The Owner shall comply with the requirements of the Certifying Authority as they relate to the ownership, operation and maintenance of the Project both during construction and after completion of the Project.

ARTICLE C.4 CLAIMS AND DISPUTES

Waiver of Consequential Damages Relating to the Sustainable Objective. The Owner and Design-Builder waive claims against each other for consequential damages resulting from the failure of the Project to achieve the Sustainable Objective or one or more of the Sustainable Measures, including unachieved energy savings, unintended operational expenses, lost financial or tax incentives, or unachieved gains in worker productivity. The parties waive all special, incidental, exemplary, indirect, and consequential damages, including reputational harm and diminution in value, arising from or related to Sustainable Measures, the Sustainable Objective, or Sustainability Certification.

ARTICLE C.5 MISCELLANEOUS PROVISIONS

The Owner and Design-Builder acknowledge that achieving the Sustainable Objective is dependent on many factors beyond their control, such as the Owner's use and operation of the Project or the work or services provided by the Owner's separate contractors or consultants; or interpretation of credit requirements by a Certifying Authority. Accordingly, the Design-Builder does not warrant or guarantee that the Project will achieve the Sustainable Objective. Owner's exclusive remedy for Design-Builder's failure to diligently perform assigned Sustainable Measures is correction of nonconforming Work. No monetary damages are recoverable for failure to achieve any Sustainable Measure or the Sustainable Objective.

§ C.5.1 Where this Exhibit requires Owner approvals, information, or decisions, 'timely' means within five (5) business days after request. Failure to respond constitutes approval where permitted. Delays entitle Design-Builder to equitable adjustments.

ARTICLE C.6 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Sustainable Projects Exhibit, if any, are as follows:

« »

RFP# 2026-03-005 PNC/BANK REMODEL

EVALUATION CRITERIA- INDIVIDUAL SCORE SHEET

AREA LOCATION (S): CITY OF T OR C PD BUILDING REMODEL					
Company Name	**KR Construction**	**Rayz**	**J. Carrizol**	**Royalty Builder**	**RY**
Letter of Transmittle (Manditory)	PASS	PASS	PASS	FAIL	PASS
Acknowledgement of Receipt Form (Non-Mandatory)	PASS	PASS	PASS	FAIL	PASS
MANDITORY CRITERIA PASS/FAIL ONLY 0* POINTS-V.E.1					
Company Name	**KR Construction**	**Rayz**	**J. Carrizol**	**Royalty Builder**	**RY**
A. State of NM Licensed and Board-Certified Civil DESIGN BUILD TEAM	PASS	PASS	PASS	FAIL	PASS
B. Insurance	PASS	PASS	PASS	FAIL	PASS
C. Conflict of Interest	PASS	PASS	PASS	FAIL	PASS
D. Campaign Contribution Disclosure Form	PASS	PASS	PASS	FAIL	PASS
E. Acknowledgement of Addenda	PASS	PASS	PASS	FAIL	PASS
SCORED SECTION EVALUATION CRITERIA- POINTS AVAILABLE	**EVALUATOR**	**EVALUATOR**	**EVALUATOR**	**EVALUATOR**	**EVALUATOR**
Company Name	**KR Construction**	**Rayz**	**J. Carrizol**	**Royalty Builder**	**RY**
V.C Experience and Past Performance *TOTAL POSSIBLE POINTS: #175	168	112	164	N/A	13
V.D. Management and Technical Ability *TOTAL POSSIBLE POI0NTS: #250	242	172	230	N/A	25

CONTINUED ON NEXT PAGE

Company Name	KR Construction	Rayz	J. Carrizol	Royalty Builder	RY
V.E. Resources- Familiarity with Truth or Consequences and proximity to and/or familiarity with the area in which the potential projects under this contract will be located *TOTAL POSSIBLE POINTS: #100	**57**	**61**	**66**	**N/A**	**29**
V.F. Health and Safety *TOTAL POSSIBLE POINTS: #50	42	19	27	N/A	5
V.G. Terminations *TOTAL POSSIBLE POINTS: #25	20	8	8	N/A	5
V.H. Lititgation and Claims * TOTAL POSSIBLE POINTS: #25	20	5	5	N/A	6
COMBINED COST RESPONSE POINTS V.C-V.H	549	377	500	N/A	83
V.I. Oral Presentation- If selected. *TOTAL POSSIBLE POINTS: #200	181	0	162	N/A	0
COMBINED COST RESPONSE POINTS	**$563,420.00**	**$855,199.81**	**$504,666.02**	**N/A**	**$876,874.96**
V.J. Request for Cost Form (Separate Sealed Envelope) *TOTAL POSSIBLE POINTS: #175 NOTE: CPO TO FORMULATE	157	103	175	N/A	100

V.B.13 TOTAL POSSIBLE AWARDED POINTS: #1000 PENDING COST FORM	887	480	837	N/A	183
VETERAN PREFERNCE: 10 % RESIDENT PREFERENCE: 8% NATIVE AMERICAN: 8%	0%	0%	8%	N/A	0%
PREFERANCE TOTAL:	0%	0%	8%	N/A	0%
PREFERANCE SCORE TOTAL: NOTE: CPO WILL COMPILE	0	0	67	N/A	0
FINAL SCORE TOTAL: NOTE: CPO WILL COMPILE	**887**	**480**	**904**	N/A	**183**

OPEND BY: Carlos Miyagishima, CPO SIGNED: _____

WITNESSED BY: Kerin Salcedo, Accounting Officer SIGNED: _____

DATE: 27 May, 2026 TIME: 10:00 AM LOCATION: City Finance Office

Evaluation Distribution: May 7, 2026 @ 10:00 AM

Evalation RFP and Cost Discussion: May 28, 2026 @10:00 AM

*****RFP INTERVIEWS: June 2, 2026**

***To the Evaluator: I understand this process is confidential and should I require further information I will reach out directly to the CPO in writing for them to reachout through the proper channels.**

INITIAL _____

DATE _____

****PACKET DUE BACK TO CPO BY: TUESDAY, MAY 26, 2026 NO LATER THAN 10:00 AM**

City of Truth or Consequences

AGENDA REQUEST FORM

MEETING DATE: July 22, 2026

Agenda Item #: E.12(a)

SUBJECT: Approval of Purchase Requisitions over $60,000
DEPARTMENT: Procurement
DATE SUBMITTED: July 15, 2026
SUBMITTED BY: Carlos Miyagishima, Chief Procurement Officer
WHO WILL PRESENT THE ITEM: Carlos Miyagishima, Chief Procurement Officer

Summary/Background:

Per Resolution No 46 20/27 Execution of Contracts; Grant Agreements; Memoranda of Understanding; Joint Powers Agreements; Settlement Agreements; Purchases (Contract and Purchases Over S60,000).

Recommendation:

Approval Recommended by Chief Procurement Officer. Please see the attached purchase item list.

Attachments:

- Multiple GL accounts
- Tyler Financial Services

Click here to enter text.

Fiscal Impact (Finance): **Yes**

- **$ 86,705.83**
- Multiple GL accounts

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

None.

Approved For Submittal By: ☒ Department Director

Reviewed by: ☒ City Clerk ☒ Finance ☐ Legal ☒ Other: Carlos Miyagishima, Chief Procurement Officer

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 7-22-26

PROCURMENTS $60,000 AND OVER **2026-27 Fiscal Year**

COMMISSION MEETING 07/22/2026

Number	Vendor Name	Description	Requested By	Department	Total Amount	Procurement Type
A.	TYLER TECHNOLOGIES	TYLER FINANCIAL SERVICES	Carlos Miyagishima	Finance	$12,386.53	General - Finance: Software
B.				PD	$12,386.55	General - Police Department: Software
C.				Utility	$12,386.55	General - Utility: Software
D.				Electric	$12,386.55	General - Electric: Software
E.				Water	$12,386.55	General - Water: Software
F.				Sanitation	$12,386.55	General - Sanitation: Software
G.				Waste Water	$12,386.55	General - Waste Water: Software
			TOTAL		$86,705.83	

ATTEST:

Angela Torres, Clerk-Treasurer Date

Rolf Hechler, Mayor Date

Rolf Hechler
Mayor

Destiny Mitchell
Mayor Pro-Tem

Amanda Forrister
Commissioner

Ingo Hoeppner
Commissioner

Chaz M. Glines
Commissioner

Gary Whitehead
City Manager

505 Sims St.
Truth or Consequences, New Mexico 87901
P: 575-894-6673
www.torcnm.gov

July 15, 2026

To City Mayor, Pro-Tern and Commissioners.

RE: TYLER FINANCIAL SERVICES

The Procurement Department along with the all the Departments are requesting an approval amount of $86,705.83 from the multiple department funds. This will be for all of the department's accessibility fees for Tyler Technologies.

I will defer to Jocelyn Holguin, thank you.

Please, review the attached documents and approve the requested procurement. Thank you.

$86,705.83
Multiple Funds

Regards,

Carlos Miyagishima
Chief Procurement Officer

Commission Approved: Yes ☐ No ☐ Tabled ☐

Date of Approval/Denied/Tabled : _____

Notes : _____ Requisition : #96685

CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: June 18, 2026

Agenda Item #: E.3

SUBJECT: Purchase Requisitions between $20,000 and $60,000 Thousand & Over
DEPARTMENT: Procurement
DATE SUBMITTED: June 18, 2026
SUBMITTED BY: Jocelyn Holguin, Chief Financial Officer
WHO WILL PRESENT THE ITEM: Jocelyn Holguin, CFO

Summary/Background:

E. 3 NEW BUISNESS-OPEN PURCHASE ORDERS FY 26-27
Per Resolution No 46 20/21 Execution of Contracts; Grant Agreements; Memoranda of Understanding; Joint Powers Agreements; Settlement Agreements; Purchases (Contract and Purchases Over $20,000. 00).

Recommendation:

Items **purchase requisitions between $20,000 and $59,999.99 and items $60,000 thousand and over for the new Fiscal Year 26/27. This request for approval for the listed items such as contracts, services, and banking items, will assist in the approval items and *are City Manager reviewed and will be approved prior to issuing a purchase order. This process will avoid delays and be officially recorded in the minutes for the new fiscal year process for audit review of consent items.***

Attachments:

- Listing of Purchase Requisitions $60,000 or More
- Please see attached.

Click here to enter text.

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

Yes, see attached: Various Departments

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

Click here to enter text.

Approved For Submittal By: ☒ Department Director

Reviewed by: ☐ City Clerk ☒ Finance ☐ Legal ☒ Other: Chief Procurement Officer

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 06/24/2026

ORIGINAL

PROCURMENTS $60,000 AND OVER **2026-27 Fiscal Year**

COMMISSION MEETING 06/24/2026

Number	Vendor Name	Description	Requested By	Department	Total Amount	Procurement Type
Pending	Multiple-See Attached	Loans, Continuing Contracts, Electric Services	Jocelyn Holguin	Accounting	$1,793,522.00	On-Going
				AP	$2,052,524.85	
				Electric	$2,052,524.85	
			COMBINED TOTAL		$ 5,898,571.70	

ATTEST:

Angela Torres, Clerk-Treasurer 6/24/24
Date

Rolf Heimler, Mayor 6-24-24
Date

PLEASE NOTE: This purchase request is for the City Open Purchase Orders FY 26-27

ORIGINAL

OPEN PURCHASE ORDER LIST FOR COMISSION APPROVALS- DAY-TO-DAY SERVICES AND AGREEMENTS

*Once approved all requsitions will require supproting docuements for requistions prior to PO being issued.

Vendor	Description	GL #	Amount
Department-Finance-Accounting			
TorC Fire Department	Fire Dept Allotment	101-1005-48599	$30,000.00
Sierrra Vista Hospital	Hospital GRT Distribution	101-1017-48599	$500,000.00
General Fund	State Fire Admin Fee	209-1603-47595	$30,000.00
NM Finance Authority	Multi-Loan Payments	Multi	$825,522.00
Bank of Southwest	Wtr System Improv	403-1203-90910	$60,000.00
Taxation & Revenue	Water Conservation Fee	504-3803-43797	$22,000.00
Village of Williamsburg	Franchise Fee	Multi	$36,000.00
Village of Williamsburg	Sewer Receipts	506-4005-48798	$45,000.00
Tech 45 Airport Management	Monthly Management Contract	509-4403-48598	$245,000.00
			$1,793,522.00

Vendor	Description	GL #	Amount
Department-Finance-AP	**SEE ATTACHED:**		
City Utitlities	Estimate Fy 26/27	Combines Cost	$1,376,874.00
PEAC- Sharp Copies	Estimate Fy 26/27	Multi	$50,832.11
Sharp- Copes	Estimate Fy 26/27		$23,138.74
NM Self Insurers Fund	Estimate Fy 26/27		$450,000.00
Tyler	Estimate Fy 26/27		$90,000.00
Verizon Serivice	Estimate Fy 26/27		$61,680.00
			$2,052,524.85

Continued On Next Page:

REQUISITION

Requisition #: 96685

Date: 07/13/2026

Vendor #: 8694

ISSUED TO: TYLER TECHNOLOGIES INC
P O BOX 203556
DALLAS, TX 75320-3556

SHIP TO: City of Truth or Consequences
505 Sims St.
Truth or Consequences, NM 87901

ITEM	UNITS	DESCRIPTION	PROJECT #	PRICE	GL ACCOUNT NUMBER	AMOUNT
1	0	FINANCE-ASSET AND INVENTORY		0.00	101-1004-43815	569.42
					101-1007-43815	569.43
					502-3601-43815	569.43
					503-3702-43815	569.43
					504-3803-43815	569.43
					505-3904-43815	569.43
					506-4005-43815	569.43
2	0	PD-PORTION		0.00	101-1007-43815	11,817.12
3	0	UTILITITY-PORTION		0.00	502-3601-43815	11,817.12
4	0	ELECTRIC-PORTION		0.00	503-3702-43815	11,817.12
5	0	WATER DEPT		0.00	504-3803-43815	11,817.12
6	0	SANATION DEPARTMENT		0.00	505-3904-43815	11,817.12
7	0	WW PORTION		0.00	506-4005-43815	11,817.12
8	0	FINANCE PORTION		0.00	101-1004-43815	11,817.11

PO Description: TYLER FINANCIAL SERVICES

Detailed Description:

DOCUMENT NO. CI100-00285919- DIVIDED BETWEEN MULITIPLE DEPARTMENTS

SUBTOTAL:	86,705.83
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	86,705.83

Authorized By: _____

tyler technologies

Remittance:
Tyler Technologies, Inc
(FEIN 75-2303920)
P.O. Box 203556
Dallas, TX 75320-3556

Invoice

Invoice No	Date	Page
025-557736	06/30/2026	1 of 1

RECEIVED
JUL 10 2026
By MAIL SMK

Questions:
Tyler Technologies- Local Government
Phone: 1-800-772-2260 Press 2, then 2
Email: ar@tylertech.com

Bill To CITY OF TRUTH OR CONSEQUENCES
505 SIMS
TRUTH OR CONSEQUENCES, NM 87901

Ship To CITY OF TRUTH OR CONSEQUENCES
505 SIMS
TRUTH OR CONSEQUENCES, NM 87901

Cust No.-BillTo-ShipTo	Ord No	PO Number	Currency	Terms	Due Date
49101 - MAIN - MAIN	223151	F8Z4Q9 PO 83539	USD	NET30	07/30/2026

Description	Extended Price
ERP Pro 10 Financial Management Suite Annual SaaS Fees - 07/01/2026-06/30/2027	3,986.00

Milestone Details

Description:	Contract Amount:	Amount Invoiced:
Fixed Asset Scanning Interface - Subscription	1,993.00	1,993.00
Inventory Scanning Interface - Subscription	1,993.00	1,993.00

APPROVED
SIGNATURE / DATE 7/13/26

****ATTENTION****
Order your checks and forms from Tyler Business Forms at 877-749-2090 or tylerbusinessforms.com to guarantee 100% compliance with your software.

Subtotal	3,986.00
Sales Tax	$333.84
Invoice Total	4,319.84

tyler technologies

Remittance:
Tyler Technologies, Inc.
(FEIN 75-2303920)
P.O. Box 203556
Dallas, TX 75320-3556
Questions:
Phone: 1-800-772-2260 Press 2
Email: ar@tylertech.com

INVOICE

Document No.	Date	Page
CI100-00285919	06/01/26	1 of 2

Bill To: TRUTH OR CONSEQUENCES, NM CITY OF
505 SIMS
TRUTH OR CONSEQUENCES, NM 87901

Delivery To: TRUTH OR CONSEQUENCES, NM CITY OF
505 SIMS
TRUTH OR CONSEQUENCES, NM 87901

Cust #	Bill to Address ID	Delivery Address ID	Currency	Terms	Due Date
49101	LOC000028193	LOC000028193	USD	Net30	7/1/2026

Cust PO#	Sales Order	Billing Schedule
	SBI1000-000012409	211-2015140253

Contract Date	Description	Quantity	Unit Price	Extended Price
07/25/22	PCI Service Fee (Per Device) 07/01/2026 - 06/30/2027	3	$180.00	$540.00
	ERP Pro Utilities Annual Fees		**$31,515.58**	**$31,515.58**
11/24/15	Utility Access 07/01/2026 - 06/30/2027			
04/21/20	Additional Handheld Meter-Reader Interface - Subscription 07/01/2026 - 06/30/2027			
04/21/20	Meter Data Sync with Scheduler - Subscription 07/01/2026 - 06/30/2027			
05/23/22	Cashiering - Subscription 07/01/2026 - 06/30/2027			
05/23/22	Utility Billing Water/Gas - Subscription 07/01/2026 - 06/30/2027			
	ERP Pro Financials Annual Fees		**$44,271.83**	**$44,271.83**
05/23/22	Fixed Assets - Subscription 07/01/2026 - 06/30/2027			
05/23/22	Employee Access Pro 07/01/2026 - 06/30/2027			
05/23/22	Purchasing - Subscription 07/01/2026 - 06/30/2027			
05/23/22	Core Financials - Subscription 07/01/2026 - 06/30/2027			
05/23/22	Human Resources Management (Includes Position Budgeting) - Subscription 07/01/2026 - 06/30/2027			
05/23/22	Employee Access Pro Time & Attendance 07/01/2026 - 06/30/2027			



Remittance:
Tyler Technologies, Inc.
(FEIN 75-2303920)
P.O. Box 203556
Dallas, TX 75320-3556
Questions:
Phone: 1-800-772-2260 Press 2
Email: ar@tylertech.com

INVOICE

Document No.	Date	Page
CI100-00285919	06/01/26	2 of 2

****ATTENTION**** **Order your checks and forms from Tyler Business Forms at 877-749-2090 or Tylerbusinessforms.com to guarantee 100% compliance with your software.**	**Subtotal**	$ 76,327.41
	Sales Tax	$6,392.42
	Total	$ 82,719.83

City of Truth or Consequences

AGENDA REQUEST FORM

MEETING DATE: July 22, 2026

Agenda Item #: E.12(6)

SUBJECT: Approval of Purchase Requisitions over $60,000
DEPARTMENT: Procurement
DATE SUBMITTED: July 15, 2026
SUBMITTED BY: Carlos Miyagishima, Chief Procurement Officer
WHO WILL PRESENT THE ITEM: Carlos Miyagishima, Chief Procurement Officer

Summary/Background:

Per Resolution No 46 20/27 Execution of Contracts; Grant Agreements; Memoranda of Understanding; Joint Powers Agreements; Settlement Agreements; Purchases (Contract and Purchases Over $60,000).

Recommendation:

Approval Recommended by Chief Procurement Officer. Please see the attached purchase item list.

Attachments:

- CES Contract No. 2026-03-G1175-78
- North Fire Station Roof Coating
- This will be to maintain the roof of the North Fire Station with coating.

Fiscal Impact (Finance): **Yes**

- **$ 70,505.17**
- CES Contract No. 2026-03-G1175-78

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

None.

Approved For Submittal By: ☒ Department Director

Reviewed by: ☒ City Clerk ☒ Finance ☐ Legal ☒ Other: Carlos Miyagishima, Chief Procurement Officer

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 7-22-26

Rolf Hechler
Mayor

Destiny Mitchell
Mayor Pro-Tem

Amanda Forrister
Commissioner

Ingo Hoeppner
Commissioner

Chaz M. Glines
Commissioner

Gary Whitehead
City Manager

505 Sims St.
Truth or Consequences, New Mexico 87901
P: 575-894-6673
www.torcnm.gov

July 15, 2026

To City Mayor, Pro-Tern and Commissioners.

RE: N. FIRE STATION ROOF COATING

The Procurement Department along with the all the Departments are requesting an approval amount of $70,505.17 with a CES Contract #2026-03-G1175-78. This will be performed by Advanced Building Solutions, LLC, and it will be to maintain the roof of the North Fire Station with coating.

I will defer to Gary Whitehead, thank you.

Please, review the attached documents and approve the requested procurement. Thank you.

$70,505.17
Fire Fund – Maintenance-Building: 209-1603

Regards,

Carlos Miyagishima
Chief Procurement Officer

Commission Approved: Yes ☐ No ☐ Tabled ☐

Date of Approval/Denied/Tabled : _____

Notes : _____ Requisition : #96684

PROCURMENTS $60,000 AND OVER **2026-27 Fiscal Year**

COMMISSION MEETING 07/22/2026

Number	Vendor Name	Description	Requested By	Department	Total Amount	Procurement Type
A.	COOPERATIVE EDUCATIONAL SERVICES	N. FIRE STATION ROOF COATING	Carlos Miyagishima	Procurement	$70,505.17	CES Contract
B.						
C.						
D.						
			TOTAL		$70,505.17	

ATTEST:

Angela Torres, Clerk-Treasurer Date

Rolf Hechler, Mayor Date

REQUISITION

Requisition #: 96684

Date: 07/13/2026

Vendor #: 7379

ISSUED TO: COOPERATIVE EDUCATIONAL SERVICES
PO BOX 81045
ALBUQUERQUE, NM 87198-1045

SHIP TO: FIRE DEPT
401 McAdoo St.
Truth or Consequences, NM 87901

ITEM	UNITS	DESCRIPTION	PROJECT #	PRICE	GL ACCOUNT NUMBER	AMOUNT
1	1	NEW MEXICO GROSS RECEIPTS TAX		5,448.50	209-1603-47405	5,448.50
2	1	PAYMENT AND PERFORMANCE BOND		1,894.85	209-1603-47405	1,894.85
3	10	SHEET METAL WORKER		111.38	209-1603-47405	1,113.75
4	1	2,000 PSI PRESSURE WASHER WITH FULL-TIME OPER		2,664.24	209-1603-47405	2,664.24
5	1	EQUIPMENT DELIVERY, PICKUP, MOBILIZATION AND I		1,711.98	209-1603-47405	1,711.98
6	300	26 GAUGE CORRUGATED/RIBBED GALVANIZED ROOF		5.69	209-1603-47405	1,705.50
7	10,000	ACRYLIC ELASTOMERIC SURFACE/BASE COATING ONI		1.14	209-1603-47405	11,400.00
8	200	100% ACRYLIC ELASTOMERIC REFLECTIVE SURFACE C		220.94	209-1603-47405	44,187.00
9	30	100% ACRYLIC ELASTOMERIC REFLECTIVE SURFACE C		12.65	209-1603-47405	379.35

PO Description: N. FIRE STATION ROOF COATING

Detailed Description:

ELASTOMERIC ROOF COATING FOR THE NORTH FIRE STATION (9TH ST., TRUTH OR CONSEQUENCES)
PERFORMED BY ADVANCED BUILDING SOLUTIONS, LLC UNDER CES/GORDIAN JOB ORDER CONTRACT NO. 2026-03-G1175-78, JOB ORDER NO. 260615.00.
PRICE PROPOSAL TOTAL: $70,505.17
CES PRICE PROPOSAL, CONTRACT AWARD LETTER ATTACHED
PO TO BE ISSUED TO CES PER THE TRADITIONAL PURCHASE (GORDIAN) PROCESS; CES WILL ISSUE ITS OWN PO TO ADVANCED BUILDING SOLUTIONS.
FIRE DEPT.

SUBTOTAL:	70,505.17
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	70,505.17

Authorized By: _____

Job Order Contract

Price Proposal Summary - CSI

Date:	June 16, 2026
Contract Number:	2026-03-G1175-78
Job Order Number:	260615.00
Job Order Title:	City of Truth or Consequences Firestation Elastomeric Stucco
Contractor:	Advanced Building Solutions
Proposal Value:	$70,505.17
Proposal Name:	City of Truth or Consequences Firestation Elastomeric Stucco
Detailed Scope:	Advanced Building Solutions, LLC. P.O. Box 311 Elephant Butte, NM 87935

Project Name & Location:
City of Truth of Consequences
North Fire Station
9th St.
Truth or Consequences, NM 87935

Description of work:

Elastomeric Roof Coating

Pressure wash entire metal roof surface 9,980 sq. ft.

Clean out gutters throughout.

Remove skylights, replace w/26 gage R-panels.

Apply Prime base coat over entire roof surface 9,980 sq. ft.

Apply 4" Fabric and patch work to all seams, laps, cracks, and holes.

Apply (2) Heavy coats Poly glass.

Final Coat 71 over entire roof.

**Contractor recommends yearly maintenance. (pressure wash & gutter maintenance)

Category - 01 - General Requirements:	**$12,833.32**
Category - 07 - Thermal & Moisture Protection:	**$57,671.85**
Proposal Total	**$70,505.17**

This proposal total represents the correct total for the proposal. Any discrepancy between line totals, sub-totals and the proposal total is due to rounding of the line totals and sub-totals.

The Percent of NPP on this Proposal: 0.00%

Job Order Contract

Price Proposal Detail - CSI

Date: June 16, 2026

Contract Number: 2026-03-G1175-78
Job Order Number: 260615.00
Job Order Title: City of Truth or Consequences Firestation Elastomeric
Contractor: Advanced Building Solutions
Proposal Value: $70,505.17
Proposal Name: City of Truth or Consequences Firestation Elastomeric
Adjustment Factor(s) Used: 1.0000-No Adjustment, 1.5000-2. NWH less than $60k (State)

Rec#	CSI Number	Mod.	UOM	Description	Line Total
CSI - 01 - General Requirements					
1	01 22 16 00 0004		EA	New Mexico Gross Receipts Tax – Varies by County	$5,448.50
		Installation		Quantity 5,448.50 x Unit Price $1.00 x Factor 1.0000 = Total $5,448.50	
		User Note:		8.375 % tax	
2	01 22 16 00 0007		EA	PaymentAnd Performance BondBonding will be paid to the contractor for eligible costs as directed by Owner. Insert the appropriate quantity to adjust the base cost to the actual Bonding cost. A copy of the receipt, invoice, or proof of payment shall be submitted with the Price Proposal.	$1,894.85
		Installation		Quantity 1,894.85 x Unit Price $1.00 x Factor 1.0000 = Total $1,894.85	
		User Note:		3 %	
3	01 22 20 00 0029		HR	Sheet Metal WorkerFor tasks not included in the Construction Task Catalog® and as directed by owner only.	$1,113.75
		Installation		Quantity 10.00 x Unit Price $74.25 x Factor 1.5000 = Total $1,113.75	
4	01 22 23 00 0892		WK	2,000 PSI Pressure Washer With Full-Time Operator	$2,664.24
		Installation		Quantity 1.00 x Unit Price $1,776.16 x Factor 1.5000 = Total $2,664.24	
5	01 71 13 00 0003		EA	Equipment Delivery, Pickup, Mobilization And Demobilization Using A Tractor Trailer With Up To 53' BedIncludes loading, tie-down of equipment, delivery of equipment, off loading on site, rigging, dismantling, loading for return and transporting away. For equipment such as bulldozers, motor scrapers, hydraulic excavators, gradalls, road graders, loader-backhoes, heavy-duty construction loaders, tractors, pavers, rollers, bridge finishers, straight mast construction forklifts, telescoping boom rough terrain construction forklifts, telescoping and articulating boom man lifts with >40' boom lengths, etc.	$1,711.98
		Installation		Quantity 1.00 x Unit Price $1,141.32 x Factor 1.5000 = Total $1,711.98	
Subtotal for CSI - 01 - General Requirements:					**$12,833.32**
CSI - 07 - Thermal & Moisture Protection					
6	07 41 13 00 0008		SF	26 Gauge, Corrugated Or Ribbed, Galvanized Exposed Fastener Metal Roof Panels	$1,705.50
		Installation		Quantity 300.00 x Unit Price $3.79 x Factor 1.5000 = Total $1,705.50	
7	07 41 13 00 0067		SF	Acrylic Elastomeric, Surface Or Base Coating For Metal Roofing, One Coat55% solids by volume.	$11,400.00
		Installation		Quantity 10,000.00 x Unit Price $0.76 x Factor 1.5000 = Total $11,400.00	
8	07 51 13 00 0048		SQ	100% Acrylic Elastomeric, Reflective Surface Coating, Price Per CoatReflective coating for use over built-up, SBS and APP modified bitumen roofs. For use on smooth or granule surfaced roofing systems.	$44,187.00
		Installation		Quantity 200.00 x Unit Price $147.29 x Factor 1.5000 = Total $44,187.00	

Job Order Number: 260615.00
Job Order Title: City of Truth or Consequences Firestation Elastomeric Stucco

Rec#	CSI Number	Mod.	UOM	Description	Line Total
CSI - 07 - Thermal & Moisture Protection					
9	07 51 13 00 0046	Mod	SQ	For >20 To 40, Add	$379.35

	Quantity		Unit Price		Factor		Total
Installation	30.00	x	$8.43	x	1.5000	=	$379.35

User Note:

Subtotal for CSI - 07 - Thermal & Moisture Protection: $57,671.85

Proposal Total $70,505.17

This proposal total represents the correct total for the proposal. Any discrepancy between line totals, sub-totals and the proposal total is due to rounding of the line totals and sub-totals.

The Percent of NPP on this Proposal: 0.00%

Asst. Clerk
6/24/2026

city manager
6/24/2026

Contract Award Letter

December 16, 2025

Advanced Building Solutions
P.O. Box 311
Elephant Butte, NM 87935

RFP NUMBER: 2026-03
RFP DESCRIPTION: Job Order Contracting (JOC) - General Contractor, Construction Services
CONTRACT NUMBER: 2026-03-G1175-78
2026-03 JOC General Construction - Lot 1 Gordian Cooperative JOC

Dear Procurement Partner

Cooperative Educational Services (CES) thanks you for your response to our 2026-03 solicitation. After a thorough review of all submissions, we are pleased to inform you that your company has been selected to provide the products and/or services outlined in your proposal.

The Contract, together with the associated RFP documents, constitute the full Agreement between the parties. Please retain copies of all documents for your records.

This Indefinite Delivery / Indefinite Quantity (IDIQ) Contract will commence on December 13, 2025, and will expire on December 12, 2028, pursuant to 13-1-150 NMSA.

Sincerely yours,

Cooperative Educational Services

David Chavez

David Chavez
Executive Director, Chief Procurement Officer
Office: 505.344.5470

ACCEPTANCE OF PROPOSAL AND OFFER
AND CONTRACT AWARD

RFP NUMBER: 2026-03
RFP DESCRIPTION: Job Order Contracting (JOC) - General Contractor, Construction Services
CONTRACT NUMBER: 2026-03-G1175-78
Lot 1 Gordian (ezIQC)

CONTRACT

This contract award is being made by Cooperative Educational Services ("CES"), 10601 Research Rd. SE, Albuquerque, New Mexico 87123 effective this 13th day of December 2025, to Advanced Building Solutions, with its principal office located at P.O. Box 311, Elephant Butte, NM 87935, pursuant to the above referenced CES conducted Request for Proposal ("RFP") or Request for Bids ("RFB") procurement, and Contract Holder accepts the award and enters into this contract pursuant to the following terms and conditions.

RECITALS

Cooperative Educational Services (CES) is a cooperative procurement agency created by a Joint Powers Agreement as authorized by Section 11-1-1, et. seq., N.M.S.A., 1978, and Section 13-1-135 and procures tangible personal property, services and construction services ("Products, Services and/or Construction Services") pursuant to the New Mexico Procurement Code for the benefit of its Members and Participating Entities. The Members consist of public educational institutions in New Mexico that are signators to a Joint Powers Agreement establishing CES as their procurement agency. The Participating Entities are governmental and 501(C) (3) organizations that have entered into Participating Entity Agreements with CES which allow them to take advantage of the procurement efforts of CES.
The undersigned ("Contract Holder") has successfully responded to a RFP or RFB published by CES in accordance with the Procurement Code, (13-1-103, 111, 112), and Contract Holder is being awarded this RFP or RFB contract by CES which allows Contract Holder to offer Products, Services and Construction Services in accordance with the terms and conditions set forth herein and in the RFP or RFB documents and this contract award.

CONTRACT TERMS

1. The initial contract term shall be from the effective contract award date December 13, 2025, through December 12, 2028. CES reserves the right to renew the Contract through a written amendment signed by all required signatories, but in any case, the Contract shall not exceed the total number of years allowed pursuant to NMSA 1978 13-1-150. CES reserves the right to offer month-to-month extensions if it is determined by CES to be in the best interest of CES Members/Participating Entities

2. Contract Holder agrees and acknowledges that the contract terms and provisions are those contained in the above referenced RFP or RFB and agrees to furnish all Products, Services and/or Construction Services in compliance with all terms, conditions, specifications of and amendments to this RFP or RFB. Contract Holder understands that his obligations under this RFP or RFB contract extend to CES Members and Participating Entities who are third party beneficiaries of

this RFP or RFB procurement process. The Members/Participating Entities may negotiate with Contract Holder certain additional terms and conditions relating to the scope of services and other performance details. However, the terms and conditions of the RFP or RFB may not be altered or amended except with the approval of CES and in accordance with the State Procurement Code.

3. Contract Holder acknowledges and agrees that CES' purpose and function is to act as a cooperative procurement agent on behalf of its Members and Participating Entities so that they may take advantage of these procurement efforts. CES does not have any subsequent responsibility relating to the quality and fitness of any Products, or the performance of any Services and Construction Services by Contract Holder. Any purchase orders placed by a CES Member or Participating Entity with Contract Holder directly or through CES and any resulting contract between the Contract Holder and a CES Member or Participating Entity do not create any additional obligations on the part of CES.

4. For transactions which involve CES transmitting purchase orders from a Member/Participating Entity to Contract Holder, CES volunteers to act as a payment facilitator to make payments to Contract Holder with funds transferred to CES by the Member/Participating Entity in accordance with Member/Participating Entity's written instructions and to provide an accounting of all monies paid or received by CES pursuant to this Agreement. CES also volunteers to provide informal mediation services between Contract Holder and Member/Participating Entity in the event any dispute arises between them.

5. Contract Holder understand and agree that upon CES' receipt of funds from the Member/Participating Entity, CES has no right or authority to thereafter apply those funds to any purpose other than as instructed by Member/Participating Entity. CES shall incur no liability to Contract Holder except for liability arising from CES' own gross negligence or willful misconduct to the extent allowed by New Mexico law. Through this procurement process, Contract Holder is authorized to provide the described Products, Services or Construction Services. CES has no obligation or right to involve itself with the manner or method by which Contract Holder provides these Products, Services or Construction Services.

6. To the extent allowed by New Mexico law, Contract Holder agrees to hold CES harmless from all costs, expenses, attorney fees and judgments based upon claims between a Member/Participating Entity and Contract Holder in connection with the specified Products, Services or Construction Services provided by Contract Holder.

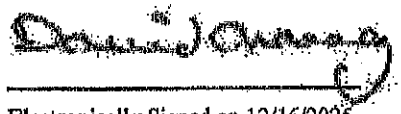
7. Contract Holder agrees that it will not assert any claim against CES in the event that a dispute arises regarding the alleged failure of Contract Holder or a Member/Participating Entity to perform as provided for in the RFP or RFB documents, any purchase order or other contract between Contract Holder and a Member/Participating Entity. This does not include claims against CES based upon the alleged gross negligence or intentional acts of CES.

8. Any liability incurred in connection with this Agreement shall be subject to the immunities and limitations of the New Mexico Tort Claims Act, §§ 41-4-1 et seq, NMSA 1978, as amended.

The Recitals are incorporated herein as contract terms.

Agreed effective the above date.

Cooperative Educational Services



Electronically Signed on 12/16/2025

Executive Director

Date: 12/11/2025

Advanced Building Solutions

Craig Stookey

Electronically Signed on 12/16/2025

owner

RFP 2026-03

JOB ORDER CONTRACTING

GENERAL CONSTRUCTION

RFP 2026-03 JOB ORDER CONTRACTING - GENERAL CONSTRUCTION

GENERAL SCOPE OF WORK AND SPECIFICATIONS

LOT 1 – GORDIAN COOPERATIVE JOC (FORMERLY EZIQC®)

PART I INTRODUCTION

A. GENERAL

The work performed under this solicitation will be set forth in each individual project's detailed specifications or detailed Scope of Work, as agreed upon by the CES Eligible Agency and the Contractor, and that is based on the product, services, or deliverables acquired through this solicitation. The CES General Terms and Conditions and Supplemental Construction Terms and Conditions including the Gordian "Guidelines for Using the Construction Task Catalog®" ("Big Note") contained on pages 00-1 to 00-6 of the Construction Task Catalog® are a part of this contract.

B. NOTICE

Indefinite delivery indefinite quantity (IDIQ) construction contracts' term and thresholds, resulting from this RFP, are pursuant to New Mexico Procurement Code, NMSA, 1978, 13-1-154.1

PART II SCOPE OF WORK AND SPECIFICATIONS

A. SCOPE OF WORK

Job Order Contracting (JOC) is an Indefinite Delivery Indefinite Quantity (IDIQ) construction delivery method that allows many projects to be completed through a single, publicly competed, competitively awarded contract. This single-solicitation process enables CES Members' projects to start faster and creates partnerships between project owners and awarded Contractors, resulting in higher quality work.

CES is seeking qualified, licensed general Contractor(s) in the State of New Mexico that hold a **GB, GA, or GF** who possess the qualifications, experience, and resources to provide construction services based on this solicitation. The scope of work may include, but is not limited to, general construction services relating to the repair, alteration, renovation, modernization, rehabilitation, demolition, and construction of infrastructures, buildings, structures, or other public facilities for CES Members and Participating Entities (CES Eligible Agency) pursuant to NMSA 1978 13-1-40. The Contractor will furnish all management, documentation, labor, materials, and equipment needed to perform and complete the scope of work stated for each individual project requested under this RFP. A contract awarded resulting from this solicitation is not project specific. Successful Offerors will market their CES contract to CES Members and Participating Entities for the work.

B. SPECIFICATIONS

1. Due to the nature of this Request for Proposal and the variety and level of construction products and services requested, the standard of quality and performance required in the specifications, and scope of work of individual projects, the minimum acceptable product and performance standards are those established by construction trade industry organizations, federal, state and local governmental agencies; or those of the product manufacturers specified in specific job orders, unless otherwise stated in the project's final detailed scope of work, specifications, addenda, drawings, manufacturer industry standards and, if applicable, CES' three-party agreement.

2. Contractor will pay for any failure to conform or for any defect. In addition, Contractor will fix any damage to CES Eligible Agency's controlled, real or personal property when that damage is the result of Contractor's failure to conform to contract requirements; any defect in equipment, material, workmanship, or design furnished; or in failure to comply with federal, state and local laws, codes, and regulations. The Contractor's warranty with respect to work done, repaired, or replaced under these conditions will run for one (1) year from the date of repair, replacement or substantial completion.

3. If Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the CES Eligible Agency will have the right to replace or otherwise remedy the failure, defect or damage at the Contractor's expense in accordance with New Mexico state law (NMSA 1978 13-4-18 through NMSA 1978 13-4-20).

4. Contractor will assist CES Eligible Agencies in evaluating and developing the scope of work for the purpose of repairing, replacing, renovating and maintaining existing facilities and constructing new facilities.

5. Contractor will perform Repairing, replacing, renovating and maintaining existing facilities and constructing new facilities that involves and requires multiple construction trades.

6. The Contractor may be required to provide minor drawings or sketches for small projects that contain a simple scope of work as required for filing for a permit when architectural or engineering services are not required

C. SUPPLEMENTAL REQUIREMENTS TO THE SCOPE OF WORK

These supplemental conditions are to be adhered to in addition to the CES General Terms and Conditions and CES Supplemental Terms and Conditions specified in the RFP for either Category or Lot(s) if awarded a contract.

1. At the issuance of each project or job order under this contract, the CES Eligible Agency and Contractor shall discuss the issues of access and special requirements that are to be observed during the execution of the work.

2. The Contractor shall perform all work in accordance with this contract, including provisions of all pricing, management, drawings, documents, labor, materials, supplies, parts, transportation, facilities, supervision, and equipment needed to complete each project.

3. Contractor shall maintain accurate and complete records, files, and documents to include state and local laws, ordinances, rules, regulations, manufacturers' instructions, and recommendations which are necessary and related to the work to be performed.

4. The Contractor shall clearly identify each individual product and service and its cost in accordance with the pricing methodology as prescribed in this RFP. A detailed price and cost proposal with all options that need to be considered shall be submitted to the CES Eligible Agency in the format required by this RFP (Gordian's Cooperative JOC or RS Means JOC Core™).

5. The Contractor shall prepare and submit required reports, records, maintain drawings current, and submit required information to the CES Eligible Agency. The Contractor shall provide submittals to include model, trade names, brand names and ratings, if applicable, for all materials necessary to complete the job. If CES or the CES Eligible Agency requests any information, the records and files shall be made available by the Contractor to the requesting party.

6. The Contractor may be required to provide minor architectural, structural, mechanical, electrical, civil, or other engineering services for small performance-based scopes of work as required for filings or permits when architectural or engineering services are not required.

D. JOC CONTRACTOR RESPONSIBILITIES

The procedure for initiating a specific job order under the CES JOC program is as follows:

1. The CES Eligible Agency may award an individual project to any Contractor awarded a contract through this RFP. Selection of the Contractor and award of the project may be based on one or more of the following criteria:
   a. Evaluation of past and current performance on projects of a similar nature and type of work, project size, construction management challenges, schedule performance, etc.
   b. Owner schedule and the availability and current workload of preferred Contractor.
   c. Management of project dollar volume within bonding limitations of the Contractor.
   d. Price, as it relates to the CES Eligible Agency's independent cost estimate or to an offer from any other Contractor.
   e. Contractor's responsiveness to the CES Eligible Agency for other projects.
   f. Other appropriate criteria as deemed in the best interest of the CES Eligible Agency.
2. The Contractor will schedule a site visit to discuss and develop the scope of work, determine the project requirements, and compile all pertinent documents. From this meeting, the Contractor and CES Eligible Agency shall come away, at a minimum, with the following:
   a. The general scope of work
   b. Existing site conditions
   c. Definition and refinement of project requirements
   d. Detailed scope of work (developed by Contractor in Job Order/Detailed Cost Proposal)

e. Establishing requirements for design drawings, sketches, submittals, catalogue cuts, samples, shop drawings, etc.

f. Tentative construction schedule (bar chart or critical path method [CPM] schedule)

g. Preliminary quantity estimates

h. Proposal due date

i. Methods and alternatives for accomplishing work (Normal working hours or Other than normal working hours)

j. Access to the site and protocol for admission

k. Staging area

l. Presence of hazardous materials

m. Liquidated damages. (Must be defined under separate Owner/Contractor Agreement)

3. Upon completion of the joint scope process, the Contractor shall prepare and submit a draft of the detailed scope of work, referencing any attachments required to accurately document the work to be accomplished to the CES Eligible Agency for review. The CES Eligible Agency will approve, amend or reject. The detailed scope of work, unless modified and agreed to by both the Contractor and the CES Eligible Agency, will be the basis on which the Contractor will develop its detailed price proposal and submit it to the CES Eligible Agency for its final acceptance or rejection. The Contractor does not have the right to refuse to perform any task, or any work required for the successful delivery of the project.

4. The Contractor shall include the following with the cost Proposal:

   a.1) Cost of the work including bonds (bonds shall be paid without mark-up and include subcontractor bonds for work by subcontractors over $125,000.00) and NMGRT without markup

   a.2) Minor drawings or sketches if needed for filings or permits

   a.3) List of anticipated subcontractors

   a.4) Construction schedule

   a.5) Special insurance, if required

   a.6) For special equipment, a copy of the warranty document, if required

   b. Other requested documents:

   b.1) Catalog cuts, submittals, technical data, drawings, or other information as required to evaluate the task.

   b.2) If the Contractor will perform the work with its own staff, or if the work is to be subcontracted, the Contractor shall not submit a quote from any supplier or subcontractor that the Contractor is not prepared to use. The CES Eligible Agency must be provided with three (3) quotes for the subcontracted work to be performed and the Contractors' cost proposal must include the lowest of the three (3) quotes. If three quotes cannot be obtained, the Contractor will provide the reason in writing for the CES Eligible Agency's approval. If approved, less than three quotes will be allowed.

b.3) Non-Pre-priced tasks include:

- Items that do not exist in the Construction Task Catalog® (CTC)
- Sole source materials or supplies if directed by the CES Eligible Agency or architectural drawing and specifications

The final price submitted for non-pre-priced tasks shall be in accordance with the following:

For Non-Pre-Priced Tasks Performed with Contractor's Own Staff:

A = The hourly rate for each trade classification not in the Construction Task Catalog® multiplied by the quantity.

B = The rate for each piece of Equipment not in the Construction Task Catalog® multiplied by the quantity.

C = Lowest of three independent quotes for all materials.

Total for a Non-Pre-Priced Tasks performed with Contractor's own staff = (A+B+C) x Non-Pre-Priced Task Adjustment Factor.

For Non-Pre-Priced Tasks Performed by Subcontractors:

If the Non-Pre-Priced Task is to be subcontracted, the Contractor must submit three independent quotes for the work. Lowest of three independent subcontractor quotes x Non-Pre-Priced Task Adjustment Factor.

b.4) After a Non-Pre-priced Task has been approved by CES, and the CES Eligible Agency, the Unit Price for such task will be established, and fixed as a permanent non-pre-priced Task which will no longer require price justification. The CES Eligible Agency reserves the right to request the Contractor provide price justification on previously approved non-pre-priced Tasks.

b.5) The CES Eligible Agency's acceptance whether a task is a Pre-Priced Task, or a Non-Pre-priced Task shall be final, binding and conclusive as to the Contractor. If a Contractor submits a non-pre-priced task and it is determined that the task exists in the Construction Task Catalog, the Contractor must remove the non-pre-priced task and replace the task using the pre-priced task obtained from the Construction Task Catalog® (CTC).

5. Contractor shall make the necessary arrangements for and obtain all filings and permits required for the Work, including the preparation of minor drawings, and other documents and information that may be required therefor. If the Contractor is required to pay an application fee for filing a project, a fee to obtain a building permit, or any other permit fee to the city, federal, state, county, or some other governmental or Authorities Having Jurisdiction, then the amount of such fee paid by the Contractor for which a receipt is obtained shall be treated as a reimbursable task to be paid with no mark-up. The cost of expediting services or equipment use fees are not reimbursable.

6. The Contractor's detailed price proposal shall be submitted by the date indicated at the Joint Scope meeting. All incomplete price proposals shall be rejected. The time allowed for preparation of the Contractor's price proposal will depend on the complexity and urgency of the project but should average between seven and fourteen days.

7. Under no circumstances, regardless of an emergency to include minor maintenance and repair projects requiring immediate completion, shall the Contractor proceed with the work without a Purchase Order from CES. If the Contractor proceeds with the work before a CES purchase order is issued, the Contractor performs the work at its own risk.
8. By submitting a detailed price proposal to the CES Eligible Agency, the Contractor agrees to perform the Detailed Scope of Work at the price submitted. It is the Contractor's responsibility to include the necessary tasks and quantities in the price proposal and apply the appropriate Adjustment Factor prior to delivering it to the CES Eligible Agency.
9. If the Contractor requires clarifications or additional information regarding the scope of work to prepare the detailed price proposal, the request must be submitted timely so that the work is not delayed.
10. Review of the Price Proposal and Issuance of CES Purchase Order.
    a. The CES Eligible Agency's representative will evaluate the Contractor's price proposal and determine if the proposed tasks and quantities support the scope of work for the project. The CES Eligible Agency's representative will be offered the opportunity to discuss and negotiate changes to the Contractor's price proposal.
    b. The Contractor may choose the means and methods of construction, unless those methods:
        b.1) Will constitute or create a hazard to the work, or to persons or property; or
        b.2) Will not produce finished work in accordance with the terms of the Contract; or
        b.3) Unnecessarily increases the price of the project when alternative means and methods are available.
11. The CES Eligible Agency reserves the right to reject a price proposal or cancel a project for any reason, and with a written notification, if it is in the best interest of the CES Eligible Agency. The CES Eligible Agency also reserves the right not to issue a Purchase Order to CES if it is determined to be in the best interests of the CES Eligible Agency. If the CES Eligible Agency performs such work by other means, the Contractor shall not recover any costs arising out of or related to the development of the detailed price proposal, including but not limited to the costs to attend the Joint Scope Meeting, review the Detailed Scope of Work, prepare a Price Proposal (including minor architectural and engineering services), subcontractor costs, and the costs to review the detailed price proposal with the CES Eligible Agency.
12. Each project shall refer to the Detailed Scope of Work and set forth the Contractor CES contract pricing and stated completion time for the project. All clauses of this Contract shall be applicable to each project.
13. CES will review all information submitted and, if CES finds the price proposal in compliance with the contract terms, conditions, specifications, and pricing, CES will issue the Contractor a CES Purchase Order. The price proposal shall include all other required documents relating to the identified project. The CES purchase order, signed by and delivered to the Contractor, constitutes CES and its Eligible Agency's acceptance of the Contractor's detailed price proposal. Upon receipt of the CES Purchase Order, the Contractor shall provide the CES Eligible Agency and CES with a Certificate of Insurance, naming the CES Eligible Agency as co-insured, and as applicable, 100% Performance and 100% Payment Bonds for the project.
14. The Contractor will prepare and submit with each detailed price proposal a bar chart or construction schedule setting forth the manner and sequence of the work including identifying all critical path

items. The Contractor shall perform the work in accordance with the schedule submitted and accepted by the CES Eligible Agency.

15. Changes in the work shall be dealt with by a Supplemental Price Proposal and amendments to the CES Eligible Agency and CES Purchase Orders, respectively. Additional time will be negotiated as appropriate for the scope of work.
16. Construction Task Catalog® Price Adjustments
    a. Material price spike adjustment: For the purpose of this clause, a "major spike" is defined as a spike in a specific material cost of more than **25%** above what the cost of that material was on the date the Construction Task Catalog® was issued. In the event a major spike occurs in a specific material cost, the Contractor may submit a request for a price modification to a Unit Price or individual Job Order. In order to initiate such a request, the Contractor shall:
        a.1) Identify the specific material that has experienced a major spike,
        a.2) Identify pre-priced task(s) or Job Orders that require the material experiencing a major spike, and
        a.3) Demonstrate that the spike exists by submitting a minimum of three quotes on material supplier letterhead to show that the current price meets the "major spike" definition above.
17. **Federal Government Tariffs:** In the event that prices are increased due to tariffs implemented by the federal government, such increases may be included in pricing as governmental surcharges. Vendors must provide detailed documentation on said tariffs and their impact on commodity pricing. All proposed increases must be approved by the CES prior to implementation. If the tariffs are removed during the contract term, then the tariff must be appropriately removed from the award.

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PART III LOT 1: GORDIAN COOPERATIVE JOC (Formerly ezIQC®)

LOT 1: GORDIAN COOPERATIVE JOC– REQUIREMENTS

PURCHASES BY CES ELIGIBLE AGENCIES

a. CES Eligible Agencies may purchase construction services from the Contractor utilizing this Contract through Gordian's Cooperative JOC – formerly known as ezIQC®. If the Contract is utilized by CES Eligible Agencies, the Contractor agrees to pay CES the CES 1.25% Contract Administrative Fee. **The Contractor agrees to pay directly to Gordian a 6.00% JOC System License Fee for a single project up to $1 million. For a single project over $1 million, the Contractor will pay Gordian a 6.00% License Fee on the first $1,000,000 of the Job Order Price and 3.25% on the remaining Job Order Price over $1,000,000.** Gordian will calculate the credit for the dollar value greater than $1,000,000. Gordian will apply a discount to the cost proposal to provide a JOC System License Fee credit of 2.75% on projects over $1 million. The Contractor shall include the 6.00% License Fee and the CES 1.25% Contract Administration Fee in its Adjustment Factors submitted with its proposal. Gordian and the Contractor shall mutually utilize Gordian's JOC Information Management System (JOC IMS") to track utilization, fees, and payments. The Contractor shall have no claim or right to any portion of the License Fees. Failure to pay License Fees in a timely manner shall be considered a material breach of this Contract and, at CES' sole discretion, may be deemed grounds for termination of this Contract.

b. CES and Gordian authorize the Contractor the use of CES' and Gordian's names, logos, trademarks, and CES' and Gordian-provided materials solely for the presentation and promotion of the availability and use of this Contract by CES Eligible Agencies. The Contractor authorizes CES and Gordian the use of the Contractor's name, logos, trademarks, and Contractor-provided materials in the presentation and promotion of the availability and use of this Contract by CES Eligible Agencies.

c. CES and Gordian shall not be liable or responsible for any obligation, including, but not limited to, payments due under a Job Order, Purchase Order or similar purchasing document issued to the Contractor by the Entity ("Purchase Order").

d. Remittance of License Fees: The Contractor shall remit License Fees to Gordian as follows:

Payments Made Payable to:	The Gordian Group, Inc.
Mail Checks to:	The Gordian Group, Inc. PO Box 79341 Baltimore, MD 21279-0341

e. Within two business days of receipt of a Purchase Order from CES, the Contractor must provide notification to Gordian by forwarding a copy of the Purchase Order to Gordian.

f. Within two business days of receiving an initial payment from CES, the Contractor must provide notification to Gordian of the initial payment by forwarding a copy of the submitted invoice to Gordian.

g. Unless otherwise agreed with Gordian, Contractor shall make progress payments for the JOC System License Fee in proportion to the percentage of construction completed to be invoiced at milestones

reasonably established by Gordian. The contractor shall pay all Gordian invoices within thirty (30) days of the date of the invoice and payment will be sent as specified by Gordian. License Fees not paid by the specified deadline shall bear an interest rate of 1.5% per month until paid or the maximum rate allowed by law, whichever is less.

h. CES and Gordian may request records from the Contractor for all cooperative purchasing through this Contract and payment of all License Fees. The Contractor hereby agrees and authorizes CES Eligible Agencies to provide a copy of each Purchase Order issued to Gordian. If discrepancies exist between cooperative purchasing activity and License Fees paid, CES or Gordian will provide written notification to the Contractor of discrepancies and allow the Contractor ten (10) days from the date of notification to resolve the discrepancy. In the event the Contractor does not resolve the discrepancy to the satisfaction of CES and/or Gordian, CES and/or Gordian reserve the right to engage a third party to conduct an independent audit of the Contractor's records and, in the event, Contractor is not in compliance with this Contract, Contractor shall reimburse the appropriate party for the cost and expense related to such audit.

LOT 1: GORDIAN COOPERATIVE JOC - SCOPE OF WORK

Price Proposal Preparation

When preparing a detailed price proposal for this Lot, the Contractor shall utilize the Construction Task Catalog® for Gordian Cooperative JOC as the pricing methodology to prepare their cost proposal for individual job order projects.

Gordian Cooperative JOC - Construction Task Catalog® Pricing Methodology

The Offeror responding to this Lot will be required to pay for the JOC System License Fee and a CES Contract Administrative Fee on all Job Orders issued. Successful Offerors will be provided with access to Gordian JOC IMS and will be required to use the current version of the Gordian Cooperative JOC Construction Task Catalog® to prepare a cost proposal covered by this Lot.

a. The Gordian Cooperative JOC Construction Task Catalog® pricing method is the only method for pricing projects covered by this Lot.

b. Each task shown in the Gordian Cooperative JOC Construction Task Catalog® includes the materials, equipment and labor that will be charged the Owner for the construction item.

c. All tasks, products and services required to complete the project's detailed scope of work provided must be listed.

d. A current edition of the Gordian Cooperative JOC Construction Task Catalog® shall be utilized for the Offeror's response to the RFP. A new edition is published at the start of each CES contract, and annually with adjustments and updates to reflect current material costs, equipment costs, labor rates, market conditions, etc., and are included in the new edition and will limit the need for item prices to be adjusted.

e. The quantity and unity of measure of a product or service must accurately represent the required need.

f. Each task selected to support the scope of work will be included in the Gordian Cooperative JOC detailed cost proposal and the Contractor's Adjustment Factor awarded for the region and project type will be applied to arrive at the final cost for each line item.

g. Since all mobilizations, transportation and travel costs for both the Contractor and its subcontractor's personnel are to be included in the Offeror's adjustment factor, if the Offeror intends to service CES procurement regions other than the region in which Offeror is located and intends to utilize subcontractor's that are not located in the CES procurement region where the project is located, the Offeror must take into consideration all of these variables and appropriately allow for them in its Adjustment Factor for each region it intends to serve.

h. The cost of plan checking/permits, performance and payment bond costs, tribal (TERO) taxes, and New Mexico Gross Receipt Taxes are shown as separate line items on the cost proposal with an applied Adjustment Factor of 1.000.

Performance and Payment Bond Costs

This percentage represents the cost the vendor incurs to provide a Performance and Payment Bond to the CES Eligible Agency for an individual project in excess of $25,000. The cost of the Performance and Payment Bond shall be a separate line item listed as "non-pre-priced".

1. **Gordian Cooperative JOC - Adjustment Factors**:
   It is the Contractor's competitively offered price adjustment to the unit prices as published in the Construction Task Catalog®. Contractors must offer nine (9) Adjustment Factors as follows:

Normal Working Hours (Defined as 7:00 a.m. to 5:00 p.m. Monday-Friday) (Outside Tribal Lands).

1. An Adjustment Factor for work during normal working hours when the total project cost (job order) is more than $60,000, requiring state wage rates.
2. An Adjustment Factor for work during normal working hours when the total project cost (job order) is less than $60,000 and does not require state wage rates.

Other Than Normal Working Hours (Defined as all hours not defined as normal hours above) (Outside Tribal Lands).

3. An Adjustment Factor for work during other than normal working hours when the total project cost (job order) is more than $60,000, requiring state wage rates.
4. An Adjustment Factor for work during other than normal working hours when the total project cost (job order) is less than $60,000 and does not require state wage rates.

Project Funded by Federal Funds or on Tribal Lands Performed During Normal Working Hours (Defined as 7:00 a.m. to 5:00 p.m. Monday-Friday)

5. An Adjustment Factor for work performed during normal working hours when the total project cost (job order) is in excess of $2,000, requiring federal wage rates.
6. An Adjustment Factor for work performed during normal working hours when the total project cost (job order) is less than $2,000 and does not require federal wage rates.

Project Funded by Federal Funds or on Tribal Lands Performed Other than Normal Working Hours (Defined as all hours not defined as normal hours above)

7. An Adjustment Factor for work performed during other than normal working hours when the total project cost (job order) is in excess of $2,000, requiring federal wage rates.
8. An Adjustment Factor for work performed during other than normal working hours when the total project cost (job order) is less than $2,000 and does not require federal wage rates.

Note: Adjustment Factors (5), (6), (7) and (8) are utilized for projects funded by federal funds and require Davis-Bacon prevailing wages or for projects located on tribal lands.

Note: The Adjustment Factors for Other than Normal Working Hours must be equal to or greater than the respective Adjustment Factors for Normal Working Hours.

9. **Non-Pre-Priced Tasks** Adjustment Factor for tasks that do not exist within the Construction Task Catalog® (CTC).

Performance & Payment Bond Cost (over $25,000 excluding NMGRT)

This percentage represents the cost the vendor incurs to provide a Performance and Payment Bond to the CES Eligible Agency for an individual project when it is required. The cost of the Performance and Payment bonds shall be listed as a separate line item.

Costs to Include in the Adjustment Factors

The Contractor, as part of the Offeror's response to this Lot 1, will propose an Adjustment Factor that will be applied to the Gordian Cooperative JOC Construction Task Catalog®. For guidance on costs to be included in the Adjustment Factors, the Contractor shall reference the Guidelines for Using the Construction Task Catalog® (Big Note) contained on pages 001 to 00-6 of the Construction Task Catalog®. Calculate Adjustment Factors to include, but not limited to:

a. All general cost (General Requirements) such as All general cost (General Requirements) including but not limited to home office overhead; all types of insurance, fringe benefits, payroll taxes, worker's compensation etc.; site visits; project meetings and owner support services; project development; travel; per diem; project office staff, supplies, equipment and paperwork; inspection and testing fees; training; supervision; project mobilization, close-out and other related costs.
b. Gordian's JOC System License Fee and CES Contract Administrative Fee.
c. Offerors whose home location is in one region and the project is in another must build into their Adjustment Factor the above costs associated for doing projects in other regions. No general conditions including but not limited to the above items shall be allowed in a project's proposal unless it is for the benefit of the CES Eligible Agency.
d. Offerors must provide support of CES pricing by indicating the percentage that their adjustment factors will be lower than what they have offered through other cooperative JOC contracts.

Annual Update to the Construction Task Catalog®

The Construction Task Catalog® issued as part of the bid documents will be in effect for the first year

of the Contract.

1) Prior to each anniversary of the effective date of the Contract, an updated Construction Task Catalog® will be provided to the Contractor for review. Once finalized, the updated Construction Task Catalog® will be effective for one year and will only be used for Job Orders issued during that year.

2) The Adjustment Factors submitted with the Offeror's proposal will remain in effect for the duration of the Contract.

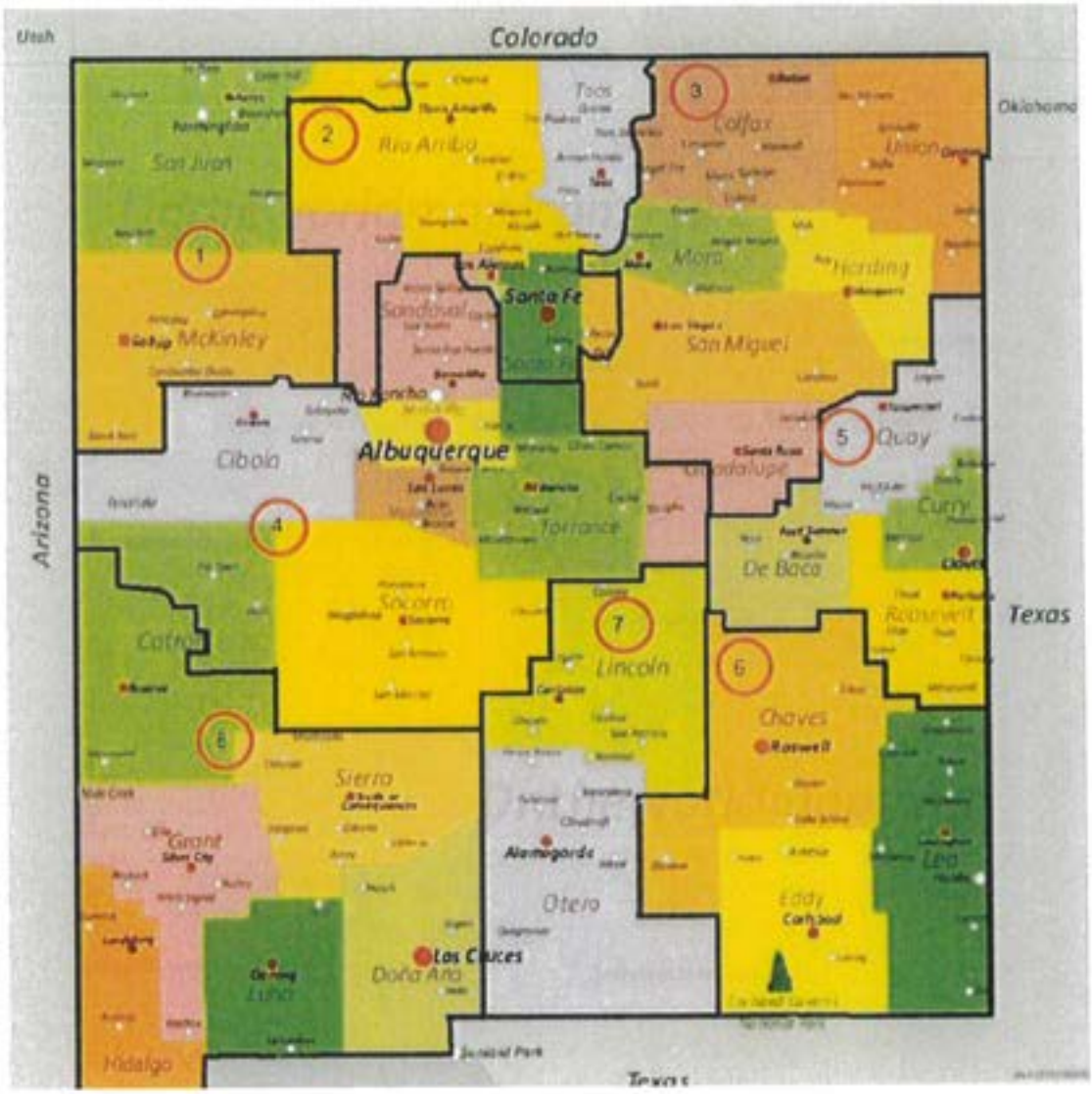
3) The Contractor shall use the Construction Task Catalog® in effect on the date the price proposal is due.

4) The Contractor cannot delay submitting a price proposal to take advantage of a scheduled update of the Construction Task Catalog®. In that event, the Contractor shall use the Construction Task Catalog® that would have been in effect without the delay.

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Geographic Area of Work

The Contractor will perform work primarily in a designated region as set forth in the map below. However, if a Contractor assigned to a different region is unable or unwilling to perform work, the CES Member may request the Contractor to perform work in such different region. If the Contractor performs work for such different region, it shall be at the Contractor's competitively bid Adjustment Factors. The Contractor may decline work outside its designated region.



COST PROPOSAL

Lot 1 Gordian (ezIQC) Job Order Contracting (JOC) - General Contractor, Construction Services 2026-03 Advanced Building Solutions

Product Name	Product Description	Unit Of Measure	All Regions	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Region 8
Normal Hours Requiring State Wage Rates (Outside Tribal Land)	Normal Working Hours (Defined as 7:00 a.m. to 5:00 p.m. Mondays-Fridays)(Outside Tribal Land). Factor for work in normal hours when the total project cost (job order) is in excess of $60,000, requiring state wage rates.	Cost Adjustmen Factor								1.5	1.5
Normal Hours Not Requiring State Wage Rates (Outside Tribal Land)	Normal Working Hours (Defined as 7:00 a.m. to 5:00 p.m. Mondays-Fridays)(Outside Tribal Land). Factor for work in normal hours when the total project cost (job order) is less than $60,000, not requiring state wage rates.	Cost Adjustmen Factor								1.5	1.5
Other Than Normal Hours Requiring State Wage Rates (Outside Tribal Lands)	Other Than Normal Working Hours(Outside Tribal Land) (As defined in the RFP documents). Factor for work performed in other than normal hours when the total project cost (job order) is in excess of $60,000, requiring state wage rates.	Cost Adjustmen Factor								1.5	1.5
Other Than Normal Hours Not Requiring State Wage Rates (Outside Tribal Lands)	Other than Normal Working Hours (Outside Tribal Lands) (As defined in the RFP documents). Factor for work performed in other than normal hours when the total project cost (job order) is less than $60,000, not requiring state rates.	Cost Adjustmen Factor								1.5	1.5
Project Funded by Federal Funds or on Tribal Land During Normal Working Hours	Normal Working Hours (Defined as 7:00 a.m. to 5:00 p.m. Mondays-Fridays). Factor for work in normal hours when project cost (job order) is in excess of $2,000, requiring federal wage rates and involves Federal Funds.	Cost Adjustmen Factor								1.5	1.5
Projects Funded by Federal Funds or on Tribal Lands Performed Outside Normal Working Hours	Other than Normal Working Hours (As defined in the RFP). Factor for work in other than normal working hours when project cost (job order), requiring federal wage rates and involves Federal Funds.	Cost Adjustmen Factor								1.5	1.5
Non-Pre-Priced	Non Pre-Priced (As defined in the RFP documents). An item of work required by the detailed scope of work, but not included in the Construction Task Catalog. If architectural and engineering services are required, they will be priced as a non pre-priced task.	Cost Adjustmen Factor								1.5	1.5
Performance & Payment Bond Percentage	This represents the percentage rate the contractor is charged by a surety company to provide a Performance and Payment Bond to the Member for an individual project when it is required. The Offeror is to indicate the percentage rate charged to obtain a bond on the total cost of an individual project.	Percent	%							3 %	3 %
Performance & Payment Bond Capacity in Dollars	This represents the maximum dollar amount a contractor is bonded by a surety company. Enter the capacity dollar amount here.	cost	$							$ 700000	$ 700000
Offeror's Support for CES Pricing	Offerors Support for CES Pricing. Percent of difference between CES Adjustment Factor and Adjustment Factor offered to another CES Member. Enter here percentage declared in the document by the same name.	Percent	%							3 %	3 %

City of Truth or Consequences

AGENDA REQUEST FORM

MEETING DATE: July 22, 2026

Agenda Item #: E.12 ©

SUBJECT: Approval of Purchase Requisitions over $60,000
DEPARTMENT: Procurement
DATE SUBMITTED: July 15, 2026
SUBMITTED BY: Carlos Miyagishima, Chief Procurement Officer
WHO WILL PRESENT THE ITEM: Carlos Miyagishima, Chief Procurement Officer

Summary/Background:

Per Resolution No 46 20/27 Execution of Contracts; Grant Agreements; Memoranda of Understanding; Joint Powers Agreements; Settlement Agreements; Purchases (Contract and Purchases Over S60,000).

Recommendation:

Approval Recommended by Chief Procurement Officer. Please see the attached purchase item list.

Attachments:

- General Fund
- Dispatch Services for FY26-27

Fiscal Impact (Finance): **Yes**

- **$ 281,587.00**
- **General Fund – Police (Other Contractual Services) : 101-1007**

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

None.

Approved For Submittal By: ☒ Department Director

Reviewed by: ☒ City Clerk ☒ Finance ☐ Legal ☒ Other: Carlos Miyagishima, Chief Procurement Officer

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 7-22-26

Rolf Hechler
Mayor

Destiny Mitchell
Mayor Pro-Tem

Amanda Forrister
Commissioner

Ingo Hoeppner
Commissioner

Chaz M. Glines
Commissioner

Gary Whitehead
City Manager

505 Sims St.
Truth or Consequences, New Mexico 87901
P: 575-894-6673
www.torcnm.gov

July 15, 2026

To City Mayor, Pro-Tem and Commissioners.

RE: DISPATCH SERVICES FOR FY26-27

The Procurement Department along with the all the Departments are requesting an approval amount of $281,587.00 with the General Fund – Police (Other Contractual Services). This will be for the 911 Dispatch Services throughout this fiscal year.

I will defer to Chief Tavison, thank you.

Please, review the attached documents and approve the requested procurement. Thank you.

$281,587.00
General Fund – Police (Other Contractual Services) : 101-1007

Regards,

Carlos Miyagishima
Chief Procurement Officer

Commission Approved: Yes ☐ No ☐ Tabled ☐

Date of Approval/Denied/Tabled : _____

Notes : _____ Requisition : #96613

PROCURMENTS $60,000 AND OVER **2026-27 Fiscal Year**

COMMISSION MEETING 07/22/2026

Number	Vendor Name	Description	Requested By	Department	Total Amount	Procurement Type
A.	SCRDA	DISPATCH SERVICES FOR FY26-27	Carlos Miyagishima	Procurement	$281,587.00	General Fund - Police
B.						
C.						
D.						
			TOTAL		$281,587.00	

ATTEST:

Angela Torres, Clerk-Treasurer Date

Rolf Hechler, Mayor Date

REQUISITION

Requisition #: 96613

Date: 07/07/2026

Vendor #: 2920

ISSUED TO: SCRDA
1712 N. Date Street, Suite G
T. OR C., NM 87901

SHIP TO: TCPD
507 McAdoo Street
Truth or Consequences, NM 87901

ITEM	UNITS	DESCRIPTION	PROJECT #	PRICE	GL ACCOUNT NUMBER	AMOUNT
1	0	DISPATCH SERVICES FOR FY26-27		0.00	101-1007-48599	281,587.00

PO Description: DISPATCH SERVICES FOR FY26-27

Detailed Description:

DISPATCH SERVICES FOR FY26-27 OPEN PO
TOTAL = $281,587.00
$70,396.75 PER QUARTER

SUBTOTAL:	281,587.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	281,587.00

Authorized By: _____

Sierra Co Regional Dispatch Authority
1712 N. Date Suite G
Truth or Consequences, NM 87901
Phone (575) 894-7111 Fax (575)894-1401



INVOICE

INVOICE #070012026
DATE: JULY 1, 2026

TO:
City of Truth or Consequences
505 Sims St.,
Truth or Consequences, NM 87901

FOR:

1st Quarter FY 2026-2027 911 Dispatch Services

DESCRIPTION	FY 25-26		Amount Due
1st Quarter FY 2026-2027 July 2026 thru September 2026 911 Dispatch Services	$70,396.75		$70,396.75
2nd Quarter FY 2026-2027 October 2026 thru December 2026	$70,396.75		
3rd Quarter FY 2026-2027 January 2027 thru March 2027	$70,396.75		
4th Quarter FY 2026-2027 April 2027 thru June 2027	$70,396.75		
Total for FY 2026-2027 911 Dispatch Services	$281,587.00		
		TOTAL	$70,396.75

City of Truth or Consequences

AGENDA REQUEST FORM

MEETING DATE: July 22, 2026

Agenda Item #: E.12(d)

SUBJECT: Approval of Purchase Requisitions over $60,000
DEPARTMENT: Procurement
DATE SUBMITTED: July 15, 2026
SUBMITTED BY: Carlos Miyagishima, Chief Procurement Officer
WHO WILL PRESENT THE ITEM: Carlos Miyagishima, Chief Procurement Officer

Summary/Background:

Per Resolution No 46 20/27 Execution of Contracts; Grant Agreements; Memoranda of Understanding; Joint Powers Agreements; Settlement Agreements; Purchases (Contract and Purchases Over $60,000).

Recommendation:

Approval Recommended by Chief Procurement Officer. Please see the attached purchase item list.

Attachments:

- Statewide Price Agreement 35-00000-22-00009
- 2027 Freightliner Refus Truck Truck

Fiscal Impact (Finance): **Yes**

- **$ 390,000.00**
- **Waste Fund – Waste Disposals : 505-3904**

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

None.

Approved For Submittal By: ☒ Department Director

Reviewed by: ☒ City Clerk ☒ Finance ☐ Legal ☒ Other: Carlos Miyagishima, Chief Procurement Officer

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 7-22-26

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Mayor

Destiny Mitchell
Mayor Pro-Tem

Amanda Forrister
Commissioner

Ingo Hoeppner
Commissioner

Chaz M. Glines
Commissioner

Gary Whitehead
City Manager

505 Sims St.
Truth or Consequences, New Mexico 87901
P: 575-894-6673
www.torcnm.gov

July 15, 2026

To City Mayor, Pro-Tern and Commissioners.

RE: 2027 FREIGHTLINER REFUS TRUCK

The Procurement Department along with the Waste Department is requesting an approval amount of $390,000.00 from the Waste Fund – Waste Disposals using Statewide Price Agreement No. 35-00000-22-00009. We already have a Rollover PO (82390-R1) with the vendor, but this would be for a new truck.

I will defer to Traci Alvarez, thank you.

Please, review the attached documents and approve the requested procurement. Thank you.

$390,000.00
Waste Fund – Waste Disposals: 505-3904

Regards,

Carlos Miyagishima

Chief Procurement Officer

Commission Approved: Yes ☐ No ☐ Tabled ☐

Date of Approval/Denied/Tabled : _____

Notes : _____ Requisition : #96534

PROCURMENTS $60,000 AND OVER **2026-27 Fiscal Year**

COMMISSION MEETING 07/22/2026

Number	Vendor Name	Description	Requested By	Department	Total Amount	Procurement Type
A.	LONESTAR FREIGHTLINER GROUP LLC	2027 FREIGHTLINER REFUS TRUCK	Carlos Miyagishima	Procurement	$390,000.00	Waste Fund
B.						
C.						
D.						
			TOTAL		$390,000.00	

ATTEST:

Angela Torres, Clerk-Treasurer Date

Rolf Hechler, Mayor Date

REQUISITION

Requisition #: 96534

Date: 07/01/2026

Vendor #: 8677

ISSUED TO: LONESTAR FREIGHTLINER GROUP LLC
12901 I-40 WEST FRONTAGE RD
ALBUQUERQUE, NM 87121-

SHIP TO: SANITATION
601 Nadyne Court
Truth or Consequences, NM 87901

ITEM	UNITS	DESCRIPTION	PROJECT #	PRICE	GL ACCOUNT NUMBER	AMOUNT
1	0	2027 FREIGHTLINER 108SD PLUS REFUS TRUCK		0.00	505-3904-80810	390,000.00

PO Description: 2027 FREIGHTLINER REFUS TRUCK

Detailed Description:

2027 FREIGHTLINER 108SD REFUS TRUCK
LONESTAR FREIGHTLINER GROUP LLC
SEE ATTACHED:
COMMISSION APPROVED:
*CAPITAL ITEM
SOLID WASTE

SUBTOTAL:	390,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	390,000.00

Authorized By: _____

Pete's Equipment Repair, Inc.

Cleaning and Protecting Our Communities

1412 Broadway NE
Albuquerque, NM 87102
(505) 242-6969 Phone
(505) 242-4156 Fax
www.petesequip.com

March 5, 2026

Lonestar Truck Group
12901 Frontage Rd. SW
Albuquerque, NM 87121
Pat Torres, Governmental Sales Associate

Dear Mr. Torres:

I am pleased to offer you a new 2026 New Way 33 yd Sidewinder Automated Side Loader body for $209,831.00. This price includes the following options and features:

- 33-yard, Automated Side Loader Body
- Strobe Light Package, Lower tailgate
- Hot Shift PTO, Tandem Vane, Drive Line
- Acrylic Urethane Enamel White
- Strobe Light Package, Upper tailgate
- Variable Grip Pressure Arm
- LED Body Lights
- Strobe Light Package, Lower tailgate
- Trough Cleanout Tool
- Hopper Floor Liner, 188 AR450
- Remote Grease Zerk Tailgate & Upper Cyl Hinge
- Cleanout Chute Extension
- Arm Powder Coat (Safety Yellow)
- 10 lb. Fire Extinguisher
- LED Mid Body back up lights
- Arm Control Joystick on Console
- Shovel/Broom Rack
- Camera System w/7" Color Monitor
- Arm Controls Keypad Under Seat
- Upper Light Bar w/(2) Stop/Tail
- Hopper Access Ladder
- Rake Teeth Breaker Bar
- 96 Gallon Arm 6 x 6 Chains
- Arm Cycle Counter

The purchase order should be addressed to Pete's Equipment Repair, Inc. as we are the sole dealer for New Way Refuse Trucks in the State of New Mexico. Delivery is estimated to be 120 days after chassis is received by New Way Refuse Trucks from chassis dealer. Quote is valid for 30 days from today's date. If you have any questions, please give me or Laurie Rebarchik a call.

Thank you for this opportunity,

Pete Marquez, Sr.
President

Prepared by:
Pat Torres
LONESTAR TRUCK GROUP
ALBUQUERQUE
12901 I-40 WEST FRONTAGE
ROAD
ALBUQUERQUE, NM 87121
Phone: 505-833-1000

A proposal for

NEW MEXICO DOT AND ALL POLITICAL SUB DIVISIONS

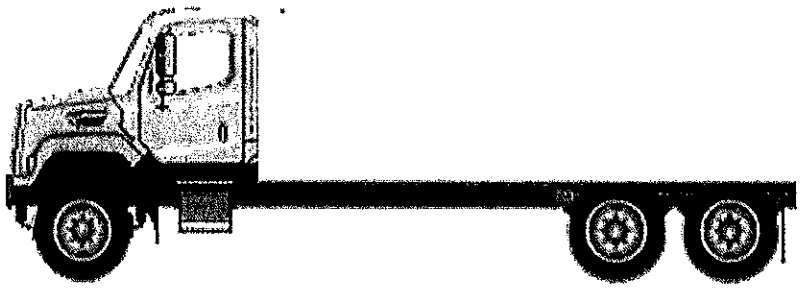
Prepared by

LONESTAR TRUCK GROUP ALBUQUERQUE

Pat Torres

Mar 11, 2026

Freightliner 108SD Plus



Components shown may not reflect all spec'd options and are not to scale

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Mr.Alvarez

Thank You for allowing me to be able to quote you on your next truck purchase. I have attached the new quote on the new Freightliner with the Dual Sit Down Right Hand Drive Conversion as well as the New Way Body Quote.Please see the attached. Please feel free to call me or e mail me with any questions you may have.

Respectfully,,

Pat Torres

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S P E C I F I C A T I O N P R O P O S A L

Data Code	Description	Weight Front	Weight Rear
Price Level			
PRL-30D	SD PRL-30D (EFF:MY27 ORDERS)		
Data Version			
DRL-027	SPECPRO21 DATA RELEASE VER 027		
Vehicle Configuration			
001-176	108SD PLUS CONVENTIONAL CHASSIS	6,829	3,748
004-227	2027 MODEL YEAR SPECIFIED		
002-004	SET BACK AXLE - TRUCK		
019-004	STRAIGHT TRUCK PROVISION, NON-TOWING		
003-001	LH PRIMARY STEERING LOCATION		
General Service			
AA1-002	TRUCK CONFIGURATION		
AA6-002	DOMICILED, USA (EXCLUDING CALIFORNIA AND CARB OPT-IN STATES)		
99D-027	EPA CLEAN IDLE LABEL - (INCLUDES 6X4 INCH LABEL ON LOWER FORWARD OF DRIVER DOOR)		
A85-001	REFUSE SERVICE		
A84-1GM	GOVERNMENT BUSINESS SEGMENT		
AA4-003	DRY BULK COMMODITY		
AA5-002	TERRAIN/DUTY: 100% (ALL) OF THE TIME, IN TRANSIT, IS SPENT ON PAVED ROADS		
AB1-008	MAXIMUM 8% EXPECTED GRADE		
AB5-001	SMOOTH CONCRETE OR ASPHALT PAVEMENT - MOST SEVERE IN-TRANSIT (BETWEEN SITES) ROAD SURFACE		
995-1A0	FREIGHTLINER SD VOCATIONAL WARRANTY		
A66-99D	EXPECTED FRONT AXLE(S) LOAD : 20000.0 lbs		
A68-99D	EXPECTED REAR DRIVE AXLE(S) LOAD : 44000.0 lbs		

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	Data Code	Description	Weight Front	Weight Rear
	A63-99D	EXPECTED GROSS VEHICLE WEIGHT CAPACITY : 64000.0 lbs		
Truck Service				
	AA3-062	REFUSE, SIDE LOAD OR REAR PACKER BODY - DOES NOT UNLOAD IN A LANDFILL		
	AF3-151	NEW ENGLAND TRUCK EQUIPMENT		
Engine				
	101-2NB	DD8 7.7L 6 CYL DUAL STAGE 350 HP @ 2200 RPM, 2600 GOV RPM, 1050 LB-FT @ 1200 RPM	-70	
Electronic Parameters				
	79A-070	70 MPH ROAD SPEED LIMIT		
	79B-000	CRUISE CONTROL SPEED LIMIT SAME AS ROAD SPEED LIMIT		
	79F-013	FLEET MANAGEMENT - DAILY ENGINE USAGE ENABLED		
	79K-012	PTO MODE ENGINE RPM LIMIT - 1500 RPM		
N	79P-004	PTO RPM WITH CRUISE SET SWITCH - 900 RPM		
N	79Q-004	PTO RPM WITH CRUISE RESUME SWITCH - 900 RPM		
	79S-001	PTO MODE CANCEL VEHICLE SPEED - 5 MPH		
	79U-007	PTO GOVERNOR RAMP RATE - 250 RPM PER SECOND		
	79W-002	TWO REMOTE PTO SPEEDS		
	79X-006	PTO SPEED 1 SETTING - 950 RPM		
	79Y-006	PTO SPEED 2 SETTING - 1200 RPM		
N	80C-001	ENGINE BRAKE WITH CRUISE CONTROL ENABLED AT 2 MPH ABOVE SET SPEED, 2 MPH INCREMENT BETWEEN BRAKING LEVELS		
N	80G-001	PTO MINIMUM RPM - 600		
	80L-001	ENABLE AUTO ENGINE RPM ELEVATE FOR EXTENDED IDLE		
	80S-013	PTO 1, NO SWITCH, TEM SUPPLIED REQUEST AND INTERLOCK, WITH PTO CONNECTIONS, NO INTERLOCKS		
	80T-013	PTO 2, NO SWITCH, TEM SUPPLIED REQUEST AND INTERLOCKS, WITH PTO CONNECTIONS, NO FACTORY INTERLOCKS		
	87W-021	PTO 2 MODE ENGINE RPM LIMIT - 1600 RPM		
Engine Equipment				
N	99C-024	EPA 2010/GHG 2024 CONFIGURATION		

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Data Code	Description	Weight Front	Weight Rear
13E-001	STANDARD OIL PAN		
105-001	ENGINE MOUNTED OIL CHECK AND FILL		
014-1B5	SIDE OF HOOD AIR INTAKE WITH DONALDSON HIGH CAPACITY AIR CLEANER WITH SAFETY ELEMENT, FIREWALL MOUNTED		
124-1D7	DR 12V 160 AMP 28-SI QUADRAMOUNT PAD ALTERNATOR WITH REMOTE BATTERY VOLT SENSE		
292-235	(2) DTNA GENUINE, FLOODED STARTING, MIN 2000CCA, 370RC, THREADED STUD BATTERIES		
290-017	BATTERY BOX FRAME MOUNTED		
281-001	STANDARD BATTERY JUMPERS		
282-001	SINGLE BATTERY BOX FRAME MOUNTED LH SIDE UNDER CAB		
291-017	WIRE GROUND RETURN FOR BATTERY CABLES WITH ADDITIONAL FRAME GROUND RETURN		
289-001	NON-POLISHED BATTERY BOX COVER		
293-058	NON-ESSENTIAL POSITIVE LOAD DISCONNECT, IN CAB CONTROL SWITCH MOUNTED OUTBOARD OF DRIVER SEAT	2	
295-029	POSITIVE AND NEGATIVE POSTS FOR JUMPSTART LOCATED ON FRAME NEXT TO STARTER	2	
306-015	PROGRESSIVE LOW VOLTAGE DISCONNECT AT 12.3 VOLTS FOR DESIGNATED CIRCUITS	2	
107-047	WABCO 20.0 CFM SINGLE CYLINDER AIR COMPRESSOR		
152-041	ELECTRONIC ENGINE INTEGRAL SHUTDOWN PROTECTION SYSTEM		
128-1A7	DETROIT MD COMPRESSION BRAKE WITH ON/OFF SWITCH		
016-1C3	RH OUTBOARD UNDER STEP MOUNTED HORIZONTAL AFTERTREATMENT SYSTEM ASSEMBLY WITH RH HORIZONTAL TAILPIPE		
28F-014	ENGINE AFTERTREATMENT DEVICE, AUTOMATIC OVER THE ROAD REGENERATION AND VIRTUAL REGENERATION REQUEST SWITCH IN CLUSTER		
239-001	STANDARD EXHAUST SYSTEM LENGTH		
237-052	RH STANDARD HORIZONTAL TAILPIPE		
23U-001	6 GALLON DIESEL EXHAUST FLUID TANK	-35	-10
30N-003	100 PERCENT DIESEL EXHAUST FLUID FILL		
23Y-001	STANDARD DIESEL EXHAUST FLUID PUMP MOUNTING		

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	Data Code	Description	Weight Front	Weight Rear
	43X-002	LH MEDIUM DUTY STANDARD DIESEL EXHAUST FLUID TANK LOCATION		
	43Y-001	STANDARD DIESEL EXHAUST FLUID TANK CAP		
	242-998	NO MUFFLER/TAILPIPE SHIELD	-10	
	273-059	ELECTRONICALLY CONTROLLED VARIABLE SPEED VISCOUS FAN DRIVE		
	276-001	AUTOMATIC FAN CONTROL WITHOUT DASH SWITCH, NON ENGINE MOUNTED		
	110-077	DETROIT ENGINE MOUNTED FUEL/WATER SEPARATOR WITH WATER-IN-FUEL SENSOR AND ESOC		
	118-001	FULL FLOW OIL FILTER		
N	266-104	1115 SQUARE INCH ALUMINUM RADIATOR		
	103-039	ANTIFREEZE TO -34F, OAT (NITRITE AND SILICATE FREE) EXTENDED LIFE COOLANT		
	171-007	GATES BLUE STRIPE COOLANT HOSES OR EQUIVALENT		
	172-001	CONSTANT TENSION HOSE CLAMPS FOR COOLANT HOSES		
	270-016	RADIATOR DRAIN VALVE		
	138-010	PHILLIPS-TEMRO 750 WATT/115 VOLT BLOCK HEATER	4	
	140-022	CHROME ENGINE HEATER RECEPTACLE MOUNTED UNDER LH DOOR		
	155-080	DELCO 12V 31MT STARTER WITH INTEGRATED MAGNETIC SWITCH		
Transmission				
N	342-582	ALLISON 3000 RDS AUTOMATIC TRANSMISSION WITH PTO PROVISION		
Transmission Equipment				
	343-312	ALLISON VOCATIONAL PACKAGE 142 - AVAILABLE ON 3000/4000 PRODUCT FAMILIES WITH VOCATIONAL MODEL RDS		
	84B-013	ALLISON VOCATIONAL RATING FOR REFUSE APPLICATIONS AVAILABLE WITH ALL PRODUCT FAMILIES		
	84C-023	PRIMARY MODE GEARS, LOWEST GEAR 1, START GEAR 1, HIGHEST GEAR 6, AVAILABLE FOR 3000/4000 PRODUCT FAMILIES ONLY		
	84D-023	SECONDARY MODE GEARS, LOWEST GEAR 1, START GEAR 1, HIGHEST GEAR 6, AVAILABLE FOR 3000/4000 PRODUCT FAMILIES ONLY		

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Data Code	Description	Weight Front	Weight Rear
84E-000	PRIMARY SHIFT SCHEDULE RECOMMENDED BY DTNA AND ALLISON, THIS DEFINED BY ENGINE AND VOCATIONAL USAGE		
84F-000	SECONDARY SHIFT SCHEDULE RECOMMENDED BY DTNA AND ALLISON, THIS DEFINED BY ENGINE AND VOCATIONAL USAGE		
84G-000	PRIMARY SHIFT SPEED RECOMMENDED BY DTNA AND ALLISON, THIS DEFINED BY ENGINE AND VOCATIONAL USAGE		
84H-000	SECONDARY SHIFT SPEED RECOMMENDED BY DTNA AND ALLISON, THIS DEFINED BY ENGINE AND VOCATIONAL USAGE		
84J-000	ENGINE BRAKE RANGE PRESELECT RECOMMENDED BY DTNA AND ALLISON, THIS DEFINED BY ENGINE AND VOCATIONAL USAGE		
84K-002	2ND GEAR ENGINE BRAKE ALTERNATE PRESELECT WITH MODERATE DOWNSHIFT STRATEGY		
84N-200	FUEL SENSE 2.0 DISABLED - PERFORMANCE - TABLE BASED		
84U-000	DRIVER SWITCH INPUT - DEFAULT - NO SWITCHES		
84V-001	DIRECTION CHANGE ENABLED WITH MULTIPLEXED SERVICE BRAKES - ALLISON 5TH GEN TRANSMISSIONS		
85E-011	MAXIMUM ENGINE SPEED FOR PTO ENGAGEMENT 1000 RPM		
353-074	QUICKFIT BODY LIGHTING CONNECTOR UNDER CAB, WITH BLUNTCUTS		
34C-011	ELECTRONIC TRANSMISSION WIRING TO CUSTOMER INTERFACE CONNECTOR		
362-2JV	(2) CUSTOMER INSTALLED CHELSEA 281 SERIES PTO'S		
363-011	PTO MOUNTING, LH AND RH SIDES OF MAIN TRANSMISSION		
341-018	MAGNETIC PLUGS, ENGINE DRAIN, TRANSMISSION DRAIN, AXLE(S) FILL AND DRAIN		
345-003	PUSH BUTTON ELECTRONIC SHIFT CONTROL, DASH MOUNTED		
97G-004	TRANSMISSION PROGNOSTICS - ENABLED 2013		
370-015	WATER TO OIL TRANSMISSION COOLER, IN RADIATOR END TANK	15	
346-003	TRANSMISSION OIL CHECK AND FILL WITH ELECTRONIC OIL LEVEL CHECK		

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Data Code	Description	Weight Front	Weight Rear
35T-001	ATF-SYNTHETIC AUTOMATIC TRANSMISSION FLUID		
Front Axle and Equipment			
400-1BB	DETROIT DA-F-20.0-5 20,000# FL1 71.0 KPI/3.74 DROP SINGLE FRONT AXLE	190	
402-030	MERITOR 16.5X6 Q+ CAST SPIDER CAM FRONT BRAKES, DOUBLE ANCHOR, FABRICATED SHOES	10	
403-002	NON-ASBESTOS FRONT BRAKE LINING		
419-023	CONMET CAST IRON FRONT BRAKE DRUMS		
427-001	FRONT BRAKE DUST SHIELDS	5	
409-006	FRONT OIL SEALS		
408-001	VENTED FRONT HUB CAPS WITH WINDOW, CENTER AND SIDE PLUGS - OIL		
416-022	STANDARD SPINDLE NUTS FOR ALL AXLES		
405-002	MERITOR AUTOMATIC FRONT SLACK ADJUSTERS		
406-001	STANDARD KING PIN BUSHINGS		
536-055	TRW THP-60 POWER STEERING WITH RCH45 AUXILIARY GEAR	130	
539-003	POWER STEERING PUMP		
534-003	4 QUART POWER STEERING RESERVOIR		
533-001	OIL/AIR POWER STEERING COOLER		
40T-002	CURRENT AVAILABLE SYNTHETIC 75W-90 FRONT AXLE LUBE		
Front Suspension			
620-006	20,000# FLAT LEAF FRONT SUSPENSION	310	
619-004	GRAPHITE BRONZE BUSHINGS WITH SEALS - FRONT SUSPENSION		
410-001	FRONT SHOCK ABSORBERS		
Rear Axle and Equipment			
420-1K8	MERITOR MT-44-14XP 44,000# R-SERIES TANDEM REAR AXLE WITH PUMP		2,610
421-586	5.86 REAR AXLE RATIO		
424-001	IRON REAR AXLE CARRIER WITH STANDARD AXLE HOUSING		
386-073	MXL 17T MERITOR EXTENDED LUBE MAIN DRIVELINE WITH HALF ROUND YOKES	60	60
388-073	MXL 17T MERITOR EXTENDED LUBE INTERAXLE DRIVELINE WITH HALF ROUND YOKES		

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452-006	DRIVER CONTROLLED TRACTION DIFFERENTIAL - BOTH TANDEM REAR AXLES		30
878-023	(1) INTERAXLE LOCK VALVE, (1) DRIVER CONTROLLED DIFFERENTIAL LOCK FORWARD-REAR AND REAR-REAR AXLE VALVE		
87A-017	INDICATOR LIGHT FOR EACH INTERAXLE LOCKOUT SWITCH, DISENGAGE INTERAXLE LOCK WITH IGNITION OFF		
87B-023	INDICATOR LIGHT AND BUZZER FOR EACH DIFFERENTIAL LOCKOUT SWITCH, ENGAGE AT SPEEDS 5 MPH PR LESS, DISENGAGE W/IGN OFF OR SPEEDS EXCEEDING 25 MPH		
423-020	MERITOR 16.5X7 Q+ CAST SPIDER CAM REAR BRAKES, DOUBLE ANCHOR,FABRICATED SHOES		
433-002	NON-ASBESTOS REAR BRAKE LINING		
434-003	STANDARD BRAKE CHAMBER LOCATION		
451-023	CONMET CAST IRON REAR BRAKE DRUMS		
440-006	REAR OIL SEALS		
426-1B3	BENDIX EVERSURE LONGSTROKE 2-DRIVE AXLES SPRING PARKING CHAMBERS		20
428-003	HALDEX AUTOMATIC REAR SLACK ADJUSTERS		
41T-002	CURRENT AVAILABLE SYNTHETIC 75W-90 REAR AXLE LUBE		
42T-001	STANDARD REAR AXLE BREATHER(S)		
Rear Suspension			
622-1CJ	HENDRICKSON RT463 @46,000# REAR SUSPENSION		810
621-016	HENDRICKSON RT/RTE - 7.19" SADDLE		
431-001	STANDARD AXLE SEATS IN AXLE CLAMP GROUP		
624-011	52 INCH AXLE SPACING		-20
628-004	STEEL BEAMS AND RUBBER CENTER BUSHINGS WITH BAR PIN ADJUSTABLE END CONNECTIONS		
623-006	FORE/AFT AND TRANSVERSE CONTROL RODS		100
439-001	REAR SHOCK ABSORBERS - ONE AXLE		40
Pusher / Tag Equipment			
429-998	NO PUSHER/TAG BRAKE DUST SHIELDS		
Brake System			
490-121	WABCO 4S/4M ABS WITH TRACTION CONTROL		

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871-001	REINFORCED NYLON, FABRIC BRAID AND WIRE BRAID CHASSIS AIR LINES		
46E-001	STANDARD AIR MANAGEMENT UNIT		
904-001	FIBER BRAID PARKING BRAKE HOSE		
412-001	STANDARD BRAKE SYSTEM VALVES		
46D-002	STANDARD AIR SYSTEM PRESSURE PROTECTION SYSTEM		
413-002	STD U.S. FRONT BRAKE VALVE		
432-003	RELAY VALVE WITH 5-8 PSI CRACK PRESSURE, NO REAR PROPORTIONING VALVE		
480-009	BW AD-9 BRAKE LINE AIR DRYER WITH HEATER	20	
479-003	AIR DRYER MOUNTED INBOARD ON LH RAIL		
460-001	STEEL AIR BRAKE RESERVOIRS		
477-004	PULL CABLES ON ALL AIR RESERVOIR(S)		
Trailer Connections			
476-998	NO AIR HOSE HANGER		
1AZ-998	NO TRAILER RECEPTACLE BRACKET		
Wheelbase & Frame			
545-675	6750MM (266 INCH) WHEELBASE		
546-102	7/16X3-9/16X11-1/8 INCH STEEL FRAME (11.11MMX282.6MM/0.437X11.13 INCH) 120KSI	750	170
547-001	1/4 INCH (6.35MM) C-CHANNEL INNER FRAME REINFORCEMENT	270	450
552-007	2450MM (96 INCH) REAR FRAME OVERHANG		
55W-009	FRAME OVERHANG RANGE: 91 INCH TO 100 INCH	-70	300
AC8-99D	CALC'D BACK OF CAB TO REAR SUSP C/L (CA) : 200.2 in		
AE8-99D	CALCULATED EFFECTIVE BACK OF CAB TO REAR SUSPENSION C/L (CA) : 197.2 in		
AE4-99D	CALC'D FRAME LENGTH - OVERALL : 401.62 in		
FSS-0LH	CALCULATED FRAME SPACE LH SIDE : 133.98 in		
FSS-0RH	CALCULATED FRAME SPACE RH SIDE : 146.08 in		
AM6-99D	CALC'D SPACE AVAILABLE FOR DECKPLATE : 0.0 in		
553-001	SQUARE END OF FRAME		
550-001	FRONT CLOSING CROSSMEMBER		

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Data Code	Description	Weight Front	Weight Rear
559-003	LIGHTWEIGHT HEAVY DUTY ALUMINUM ENGINE CROSSMEMBER	-12	
562-001	STANDARD MIDSHIP #1 CROSSMEMBER(S)		
572-001	STANDARD REARMOST CROSSMEMBER		
565-002	HEAVY DUTY SUSPENSION CROSSMEMBER		30
Chassis Equipment			
556-1E5	14 INCH PAINTED STEEL BUMPER		
558-001	FRONT TOW HOOKS - FRAME MOUNTED	15	
574-001	BUMPER MOUNTING FOR SINGLE LICENSE PLATE		
585-042	BETTS B-25 PAINTED MUDFLAP BRACKETS		15
590-998	NO REAR MUDFLAPS		
551-007	GRADE 8 THREADED HEX HEADED FRAME FASTENERS		
44Z-002	EXTERIOR HARNESSES WRAPPED IN ABRASION TAPE		
607-026	CLEAR FRAME RAILS (EXCEPT AIR DRYER) OUTBOARD BOTH RAILS BACK OF CAB TO REAR SUSPENSION		
Fifth Wheel			
578-998	NO FIFTH WHEEL		
Fuel Tanks			
204-152	70 GALLON/264 LITER ALUMINUM FUEL TANK - LH	5	
218-001	23 INCH DIAMETER FUEL TANK(S)		
215-005	PLAIN ALUMINUM/PAINTED STEEL FUEL/HYDRAULIC TANK(S) WITH PAINTED BANDS		
212-007	FUEL TANK(S) FORWARD		
664-001	PLAIN STEP FINISH		
205-001	FUEL TANK CAP(S)		
122-119	DAVCO 245 FUEL/WATER SEPARATOR WITH 12 VOLT HEAT	5	
216-020	EQUIFLO INBOARD FUEL SYSTEM		
202-016	HIGH TEMPERATURE REINFORCED NYLON FUEL LINE		
Tires			
093-2CC	MICHELIN XZU-S2 315/80R22.5 20 PLY RADIAL FRONT TIRES	100	

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094-1RK	MICHELIN X WORKS Z 11R22.5 16 PLY RADIAL REAR TIRES		168
510-1RK	MICHELIN X WORKS Z 11R22.5 16 PLY RADIAL SPARE TIRE		134
Hubs			
418-060	CONMET PRESET PLUS PREMIUM IRON FRONT HUBS		
450-060	CONMET PRESET PLUS PREMIUM IRON REAR HUBS		
Wheels			
502-579	MAXION WHEELS 10041 22.5X9.00 10-HUB PILOT 5.25 INSET 5-HAND STEEL DISC FRONT WHEELS	66	
505-545	MAXION WHEELS 90260 22.5X8.25 10-HUB PILOT 2-HAND HD STEEL DISC REAR WHEELS		160
511-428	ACCURIDE 28828 22.5X8.25 10-HUB PILOT 2-HAND HD STEEL DISC SPARE WHEEL		83
496-011	FRONT WHEEL MOUNTING NUTS		
497-011	REAR WHEEL MOUNTING NUTS		
Cab Exterior			
829-1A5	108 INCH BBC FLAT ROOF ALUMINUM CONVENTIONAL CAB		
650-008	AIR CAB MOUNTING		
648-002	NONREMOVABLE BUGSCREEN MOUNTED BEHIND GRILLE		
667-004	FRONT FENDERS SET-BACK AXLE		
678-001	LH AND RH GRAB HANDLES		
645-002	BRIGHT FINISH RADIATOR SHELL/HOOD BEZEL		
646-042	STATIONARY BLACK GRILLE WITH BRIGHT ACCENTS		
65X-003	CHROME HOOD MOUNTED AIR INTAKE GRILLE		
644-004	FIBERGLASS HOOD		
652-001	FREIGHTLINER NAME PLATES		
690-002	TUNNEL/FIREWALL LINER		
727-1AH	SINGLE 14 INCH ROUND POLISHED AIR HORN ROOF MOUNTED		
726-002	DUAL ELECTRIC HORNS		
728-001	SINGLE HORN SHIELD		
575-001	REAR LICENSE PLATE MOUNT END OF FRAME		

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312-067	HALOGEN COMPOSITE HEADLAMPS WITH BRIGHT BEZELS		
302-047	LED AERODYNAMIC MARKER LIGHTS		
311-001	DAYTIME RUNNING LIGHTS		
294-001	INTEGRAL STOP/TAIL/BACKUP LIGHTS		
300-015	STANDARD FRONT TURN SIGNAL LAMPS		
744-1BC	DUAL WEST COAST BRIGHT FINISH HEATED MIRRORS WITH LH AND RH REMOTE		
797-001	DOOR MOUNTED MIRRORS		
796-001	102 INCH EQUIPMENT WIDTH		
743-204	LH AND RH 8 INCH BRIGHT FINISH CONVEX MIRRORS MOUNTED UNDER PRIMARY MIRRORS		
74A-001	RH DOWN VIEW MIRROR		
74B-080	RH AND LH 8 INCH STAINLESS STEEL FENDER MOUNTED CONVEX MIRRORS WITH TRIPOD BRACKETS	8	
729-001	STANDARD SIDE/REAR REFLECTORS		
768-043	63X14 INCH TINTED REAR WINDOW		
661-003	TINTED DOOR GLASS LH AND RH WITH TINTED NON-OPERATING WING WINDOWS		
654-011	RH AND LH ELECTRIC POWERED WINDOWS		
663-013	1-PIECE SOLAR GREEN GLASS WINDSHELD		
659-007	8 LITER (2 GAL) WINDSHIELD WASHER RESERVOIR, CAB MOUNTED, WITHOUT FLUID LEVEL INDICATOR		
Cab Interior			
055-019	RUGGED TRIM PACKAGE		
707-107	GRAY & CARBON VINYL INTERIOR "RUGGED"		
70K-020	CARBON WITH PREMIUM GUNMETAL ACCENT (RUGGED)		
706-013	MOLDED DOOR PANEL		
708-013	MOLDED PLASTIC DOOR PANEL		
772-006	BLACK MATS WITH SINGLE INSULATION		
785-036	ASH CUP AND (1)LIGHTER,(1)12V POWER OUTLET		
691-001	FORWARD ROOF MOUNTED CONSOLE		
693-019	LH AND RH DOOR STORAGE POCKETS INTEGRATED INTO MOLDED DOOR PANELS		
738-021	DIGITAL ALARM CLOCK IN DRIVER DISPLAY		

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742-007	(2) CUP HOLDERS LH AND RH DASH		
680-029	M2/SD DASH		
720-004	10 LB. FIRE EXTINGUISHER WITH MOUNTING BRACKET	20	
700-002	HEATER, DEFROSTER AND AIR CONDITIONER		
701-001	STANDARD HVAC DUCTING		
703-005	MAIN HVAC CONTROLS WITH RECIRCULATION SWITCH		
170-045	STANDARD HEATER PLUMBING WITH BALL SHUTOFF VALVES AT SUPPLY LINES ONLY		
130-041	VALEO HEAVY DUTY A/C REFRIGERANT COMPRESSOR		
702-002	BINARY CONTROL, R-134A		
739-033	STANDARD INSULATION		
285-013	SOLID-STATE CIRCUIT PROTECTION AND FUSES		
280-007	12V NEGATIVE GROUND ELECTRICAL SYSTEM		
324-1B3	STANDARD LED CAB LIGHTING		
787-004	REMOTE KEYLESS ENTRY AND 2 TRANSMITTERS	2	
657-001	DOOR LOCKS AND IGNITION SWITCH KEYED THE SAME		
78G-004	KEY QUANTITY OF 4		
655-005	LH AND RH ELECTRIC DOOR LOCKS		
740-998	NO MATTRESS	-20	-15
722-002	TRIANGULAR REFLECTORS WITHOUT FLARES	10	
756-338	BASIC ISRINGHAUSEN HIGH BACK AIR SUSPENSION DRIVERS SEAT WTIH MECHANICAL LUMBAR AND INTEGRATED CUSHION EXTENSION	30	
760-338	BASIC ISRINGHAUSEN HIGH BACK AIR SUSPENSION PASSENGER SEAT WTIH MECHANICAL LUMBAR AND INTEGRATED CUSHION EXTENSION	25	10
711-004	LH AND RH INTEGRAL DOOR PANEL ARMRESTS		
758-1AK	BLACK VINYL DRIVER SEAT COVER		
761-1AK	BLACK VINYL PASSENGER SEAT COVER		
763-102	HIGH VISIBILITY ORANGE SEAT BELTS		
532-001	FIXED STEERING COLUMN		
540-070	4-SPOKE 18 INCH (450MM) LEATHER WRAPPED STEERING WHEEL WITH CHROME SWITCH BEZELS		

Prepared by:
Pat Torres
LONESTAR TRUCK GROUP
ALBUQUERQUE
12901 I-40 WEST FRONTAGE
ROAD
ALBUQUERQUE, NM 87121
Phone: 505-833-1000

	Data Code	Description	Weight Front	Weight Rear
	765-002	DRIVER AND PASSENGER INTERIOR SUN VISORS		
Instruments & Controls				
	106-002	ELECTRONIC ACCELERATOR CONTROL		
	732-998	NO INSTRUMENT PANEL-DRIVER		
	734-022	FULLY CONFIGURABLE CENTER INSTRUMENT PANELS		
N	87L-003	ENGINE PTO SPEED CONTROL WITH PARK BRAKE AND NEUTRAL INTERLOCKS		
	870-001	BLACK GAUGE BEZELS		
	486-001	LOW AIR PRESSURE INDICATOR LIGHT AND AUDIBLE ALARM		
	840-001	DUAL NEEDLE PRIMARY AND SECONDARY AIR PRESSURE GAUGE		
	198-003	DASH MOUNTED AIR RESTRICTION INDICATOR WITH GRADUATIONS		
	721-001	97 DB BACKUP ALARM		3
	149-015	ELECTRONIC CRUISE CONTROL WITH CONTROLS ON STEERING WHEEL SPOKES		
	156-007	KEY OPERATED IGNITION SWITCH AND INTEGRAL START POSITION; 4 POSITION OFF/RUN/START/ACCESSORY		
	811-044	PREMIUM INSTRUMENT CLUSTER WITH 5.0 INCH TFT COLOR DISPLAY		
	81B-003	DIGITAL PANEL LAMP DIMMER SWITCH IN DRIVER DISPLAY		
	160-038	HEAVY DUTY ONBOARD DIAGNOSTICS INTERFACE CONNECTOR LOCATED BELOW LH DASH		
	844-001	2 INCH ELECTRIC FUEL GAUGE		
	148-072	ENGINE REMOTE INTERFACE WITH ONE OR MORE SET SPEEDS		
	48H-003	QUICKFIT POWERTRAIN INTERFACE CONNECTOR UNDER CAB WITH CAPS		
	48C-003	QUICKFIT PROGRAMMABLE INTERFACE CONNECTOR(S) UNDER CAB WITH CAP		
	163-014	ENGINE REMOTE INTERFACE CONNECTOR AT POWERTRAIN INTERFACE CONNECTOR		
	856-001	ELECTRICAL ENGINE COOLANT TEMPERATURE GAUGE		
	854-008	DIGITAL ENGINE OIL TEMPERATURE IN DRIVER DISPLAY		
	852-002	ELECTRIC ENGINE OIL PRESSURE GAUGE		

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Data Code	Description	Weight Front	Weight Rear
864-022	DIGITAL TRANSMISSION OIL TEMPERATURE IN DRIVER DISPLAY		
867-004	ELECTRONIC OUTSIDE TEMPERATURE SENSOR DISPLAY IN DRIVER MESSAGE CENTER		
830-017	ENGINE AND TRIP HOUR METERS INTEGRAL WITHIN DRIVER DISPLAY		
372-123	PTO CONTROLS FOR ENHANCED VEHICLE ELECTRIC/ELECTRONIC ARCHITECTURE		
73H-014	(1) BACKUP CAMERA-END OF FRAME MOUNTED WITH 15 FOOT EXTRA LONG CABLE COILED AT END OF FRAME		
736-998	NO OBSTACLE DETECTION SYSTEM		
72J-998	NO DR ASSIST SYSTEM		
49B-004	ELECTRONIC STABILITY CONTROL		
73B-998	NO LANE DEPARTURE WARNING SYSTEM		
679-998	NO OVERHEAD INSTRUMENT PANEL		
35M-010	1 QUICKFIT PROGRAMABLE MODULE (QPM/XMC)	10	
1U1-002	TOP OF DASH RAM MOUNT WITHOUT POWER OR GROUND, FOR CUSTOMER FURNISHED DEVICE		
746-143	7" B-PANEL INTERACTIVE TOUCHSCREEN DISPLAY RADIO W/ USB-C, APPLE CARPLAY, ANDROID AUTO, BLUETOOTH/AM/FM/SXM/WB, WITH MICROPHONE		
747-001	DASH MOUNTED RADIO		
750-002	(2) RADIO SPEAKERS IN CAB		
753-001	AM/FM ANTENNA MOUNTED ON FORWARD LH ROOF	2	
748-006	POWER AND GROUND WIRING PROVISION OVERHEAD		
749-001	ROOF/OVERHEAD CONSOLE CB RADIO PROVISION		
75W-998	NO MULTIBAND ANTENNA		
78C-004	INTEROPERABLE SDAR ANTENNA, SHIP LOOSE		
810-027	ELECTRONIC MPH SPEEDOMETER WITH SECONDARY KPH SCALE, WITHOUT ODOMETER		
817-001	STANDARD VEHICLE SPEED SENSOR		
812-001	ELECTRONIC 3000 RPM TACHOMETER		
813-1C8	DETROIT CONNECT PLATFORM HARDWARE		

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Data Code	Description	Weight Front	Weight Rear
8D1-213	3 YEARS DETROIT CONNECT BASE PACKAGE(FEATURES VARY BY MODEL) DETROIT CONNECT PLATFORM		
6TS-008	(2) TMC RP1226 ACCESSORY CONNECTORS: (1) LOCATED BEHIND PASSENGER SIDE REMOVABLE DASH PANEL (1) CENTER OF OVERHEAD CONSOLE		
162-002	IGNITION SWITCH CONTROLLED ENGINE STOP		
81Y-005	PRE-TRIP INSPECTION FEATURE FOR EXTERIOR LAMPS ONLY		
264-030	(1) OVERHEAD MOUNTED LANYARD CONTROL FOR DRIVER AIR HORN		
883-998	NO TRAILER HAND CONTROL BRAKE VALVE		
836-015	DIGITAL VOLTAGE DISPLAY INTEGRAL WITH DRIVER DISPLAY		
660-008	SINGLE ELECTRIC WINDSHIELD WIPER MOTOR WITH DELAY		
304-030	ROTARY HEADLAMP SWITCH, MARKER LIGHTS/HEADLIGHTS SWITCH WITH PULL OUT FOR OPTIONAL FOG/ROAD LAMPS		
882-009	ONE VALVE PARKING BRAKE SYSTEM WITH WARNING INDICATOR		
299-020	SELF CANCELING TURN SIGNAL SWITCH WITH DIMMER, HEADLAMP FLASH, WASH/WIPE/INTERMITTENT		
298-046	INTEGRAL ELECTRONIC TURN SIGNAL FLASHER WITH 40 AMP (20 AMP PER SIDE) TRAILER LAMP CAPACITY		
87T-998	NO WRG/SW-OPTL #2,CHAS,AIR		
Design			
065-000	PAINT: ONE SOLID COLOR		
Color			
980-5F6	CAB COLOR A: L0006EY WHITE ELITE EY		
986-020	BLACK, HIGH SOLIDS POLYURETHANE CHASSIS PAINT		
962-972	POWDER WHITE (N0006EA) FRONT WHEELS/RIMS (PKWHT21, TKWHT21, W, TW)		
966-972	POWDER WHITE (N0006EA) REAR WHEELS/RIMS (PKWHT21, TKWHT21, W, TW)		
96F-972	POWDER WHITE (N0006EA) SPARE WHEEL/RIM (PKWHT21, TKWHT21, W, TW)		
964-020	STANDARD BLACK BUMPER PAINT		
963-003	STANDARD E COAT/UNDERCOATING		

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Data Code	Description	Weight Front	Weight Rear
Extended Front Axle Coverage			
WA4-039	AXLE: DETROIT FRONT ONLY: HD EXTREME 5 YEARS/200,000 MILES/322,000 KM EXTENDED AXLE COVERAGE		
Certification / Compliance			
996-001	U.S. FMVSS CERTIFICATION, EXCEPT SALES CABS AND GLIDER KITS		
Secondary Factory Options			
998-001	CORPORATE PDI CENTER IN-SERVICE ONLY		
99B-001	SHIP TO FONTAINE (MOUNT HOLLY, NC) PRIOR TO DELIVERY		
Sales Programs			
	NO SALES PROGRAMS HAVE BEEN SELECTED		

TOTAL VEHICLE SUMMARY

Weight Summary

	Weight Front	Weight Rear	Total Weight
Factory Weight*	8680 lbs	8896 lbs	17576 lbs
Total Weight*	8680 lbs	8896 lbs	17576 lbs

Extended Warranty

WAI-78Y	EXT ULTIMATE DETROIT ENGINE: DD8 SINGLE/DUAL STAGE 5 YEARS/200,000 MILES/322,000 KM. FEX APPLIES
WBB-21P	EXT ULTIMATE TRUCK CHASSIS: US MD EXTREME-SEVERE 5 YEARS/200,000 MILES/322,000 KM
WAK-121	ALLISON 3000 RDS TRANSMISSION FOR REFUSE EXTENDED WARRANTY, 5 YEARS/UNLIMITED MILEAGE FEX
WAL-253	AXLE: NON-DETROIT TANDEM REAR ONLY: HD EXTREME 5 YEAR/200,000 MILE/322,000 KM EXTENDED COVERAGE

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(+) Weights shown are estimates only.
If weight is critical, contact Customer Application Engineering.

(***) All cost increases for major components (Engines, Transmissions, Axles, Front and Rear Tires) and government mandated requirements, tariffs, and raw material surcharges will be passed through and added to factory invoices.

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CONDENSED SPECIFICATION PROPOSAL

	Data Code	Description	Weight Front	Weight Rear
Vehicle Configuration				
	001-176	108SD PLUS CONVENTIONAL CHASSIS	6,829	3,748
	002-004	SET BACK AXLE - TRUCK		
Engine				
	101-2NB	DD8 7.7L 6 CYL DUAL STAGE 350 HP @ 2200 RPM, 2600 GOV RPM, 1050 LB-FT @ 1200 RPM	-70	
Engine Equipment				
	128-1A7	DETROIT MD COMPRESSION BRAKE WITH ON/OFF SWITCH		
	016-1C3	RH OUTBOARD UNDER STEP MOUNTED HORIZONTAL AFTERTREATMENT SYSTEM ASSEMBLY WITH RH HORIZONTAL TAILPIPE		
Transmission				
N	342-582	ALLISON 3000 RDS AUTOMATIC TRANSMISSION WITH PTO PROVISION		
Front Axle and Equipment				
	400-1BB	DETROIT DA-F-20.0-5 20,000# FL1 71.0 KPI/3.74 DROP SINGLE FRONT AXLE	190	
Front Suspension				
	620-006	20,000# FLAT LEAF FRONT SUSPENSION	310	
Rear Axle and Equipment				
	420-1K8	MERITOR MT-44-14XP 44,000# R-SERIES TANDEM REAR AXLE WITH PUMP		2,610
	421-586	5.86 REAR AXLE RATIO		
Rear Suspension				
	622-1CJ	HENDRICKSON RT463 @46,000# REAR SUSPENSION		810
Wheelbase & Frame				
	545-675	6750MM (266 INCH) WHEELBASE		
	546-102	7/16X3-9/16X11-1/8 INCH STEEL FRAME (11.11MMX282.6MM/0.437X11.13 INCH) 120KSI	750	170
Fuel Tanks				
	204-152	70 GALLON/264 LITER ALUMINUM FUEL TANK - LH	5	
Tires				

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Data Code	Description	Weight Front	Weight Rear
093-2CC	MICHELIN XZU-S2 315/80R22.5 20 PLY RADIAL FRONT TIRES	100	
094-1RK	MICHELIN X WORKS Z 11R22.5 16 PLY RADIAL REAR TIRES		168
Wheels			
502-579	MAXION WHEELS 10041 22.5X9.00 10-HUB PILOT 5.25 INSET 5-HAND STEEL DISC FRONT WHEELS	66	
505-545	MAXION WHEELS 90260 22.5X8.25 10-HUB PILOT 2-HAND HD STEEL DISC REAR WHEELS		160
Cab Exterior			
829-1A5	108 INCH BBC FLAT ROOF ALUMINUM CONVENTIONAL CAB		
Color			
980-5F6	CAB COLOR A: L0006EY WHITE ELITE EY		
986-020	BLACK, HIGH SOLIDS POLYURETHANE CHASSIS PAINT		

Weight Summary

	Weight Front	Weight Rear	Total Weight
Factory Weight[+]	8680 lbs	8896 lbs	17576 lbs
Total Weight[+]	8680 lbs	8896 lbs	17576 lbs

ITEMS NOT INCLUDED IN ADJUSTED LIST PRICE

Other Factory Charges

DELIVERY & ORDER PROCESSING CHARGE

(+) Weights shown are estimates only.
If weight is critical, contact Customer Application Engineering.

(***) All cost increases for major components (Engines, Transmissions, Axles, Front and Rear Tires) and government mandated requirements, tariffs, and raw material surcharges will be passed through and added to factory invoices.

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QUOTATION

108SD PLUS CONVENTIONAL CHASSIS

SET BACK AXLE - TRUCK
DD8 7.7L 6 CYL DUAL STAGE 350 HP @ 2200 RPM, 2600 GOV RPM, 1050 LB-FT @ 1200 RPM
ALLISON 3000 RDS AUTOMATIC TRANSMISSION WITH PTO PROVISION
MERITOR MT-44-14XP 44,000# R-SERIES TANDEM REAR AXLE WITH PUMP
HENDRICKSON RT463 @46,000# REAR SUSPENSION
DETROIT DA-F-20.0-5 20,000# FL1 71.0 KPI/3.74 DROP SINGLE FRONT AXLE
20,000# FLAT LEAF FRONT SUSPENSION
108 INCH BBC FLAT ROOF ALUMINUM CONVENTIONAL CAB
6750MM (266 INCH) WHEELBASE
NO FIFTH WHEEL
7/16X3-9/16X11-1/8 INCH STEEL FRAME (11.11MMX282.6MM/0.437X11.13 INCH) 120KSI
2450MM (96 INCH) REAR FRAME OVERHANG
1/4 INCH (6.35MM) C-CHANNEL INNER FRAME REINFORCEMENT

			PER UNIT		TOTAL
VEHICLE PRICE	TOTAL # OF UNITS (1)	$	144,221	$	144,221
EXTENDED WARRANTY		$	8,096	$	8,096
DEALER INSTALLED OPTIONS		$	0	$	0
CUSTOMER PRICE BEFORE TAX		$	***152,317***	$	***152,317***
TAXES AND FEES					
FEDERAL EXCISE TAX (FET)		$	(387)	$	(387)
TAXES AND FEES		$	0	$	0
OTHER CHARGES		$	233,126	$	233,126
TRADE-IN					
TRADE-IN ALLOWANCE		$	(0)	$	(0)
BALANCE DUE	**(LOCAL CURRENCY)**	$	**385,056**	$	**385,056**

COMMENTS:
Projected delivery on ___ / ___ / ___ provided the order is received before ___ / ___ / ___.

APPROVAL:
Please indicate your acceptance of this quotation by signing below:

Customer: X_____ Date: ___ / ___ / ___.

Prepared by:
Pat Torres
LONESTAR TRUCK GROUP
ALBUQUERQUE
12901 I-40 WEST FRONTAGE
ROAD
ALBUQUERQUE, NM 87121
Phone: 505-833-1000

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City of Truth or Consequences

AGENDA REQUEST FORM

MEETING DATE: July 22, 2026

Agenda Item #: E.12e

SUBJECT: Approval of Purchase Requisitions over $60,000
DEPARTMENT: Procurement
DATE SUBMITTED: July 16, 2026
SUBMITTED BY: Carlos Miyagishima, Chief Procurement Officer
WHO WILL PRESENT THE ITEM: Carlos Miyagishima, Chief Procurement Officer

Summary/Background:

Per Resolution No 46 20/27 Execution of Contracts; Grant Agreements; Memoranda of Understanding; Joint Powers Agreements; Settlement Agreements; Purchases (Contract and Purchases Over S60,000).

Recommendation:

Approval Recommended by Chief Procurement Officer. Please see the attached purchase item list.

Attachments:

- General Fund – Buildings & Structures
- Other State Funded Projects Fund - PD Appropriation Grant 25-J3167
- PD GRT - Buildings & Structures
- Police Department Renovation Project

Fiscal Impact (Finance): **Yes**

- **$ 549,219.29**

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

None.

Approved For Submittal By: ☒ Department Director

Reviewed by: ☒ City Clerk ☒ Finance ☐ Legal ☒ Other: Carlos Miyagishima, Chief Procurement Officer

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 7-22-26

Rolf Hechler
Mayor

Destiny Mitchell
Mayor Pro-Tem

Amanda Forrister
Commissioner

Ingo Hoeppner
Commissioner

Chaz M. Glines
Commissioner

Gary Whitehead
City Manager

505 Sims St.
Truth or Consequences, New Mexico 87901
P: 575-894-6673
www.torcnm.gov

July 16, 2026

To City Mayor, Pro-Tem and Commissioners.

RE: POLICE DEPARTMENT RENOVATION PROJECT

The Procurement Department along with the Police Department are requesting an approval amount of $549,219.29 with the following multiple sources: General Fund – Buildings & Structures; Other State Funded Projects Fund - PD Appropriation Grant 25-J3167; PD GRT Fund - Buildings & Structures. This will be for the remodeling of the old PNC Bank, and will become the new Police Department.

I will defer to Chief Tavison, thank you.

Please, review the attached documents and approve the requested procurement. Thank you.

$549,219.29
Multiple Funds

Regards,

Carlos Miyagishima
Chief Procurement Officer

Commission Approved: Yes ☐ No ☐ Tabled ☐

Date of Approval/Denied/Tabled : _____

Notes : _____ Requisition : #96735

PROCURMENTS $60,000 AND OVER **2026-27 Fiscal Year**

COMMISSION MEETING 07/22/2026

Number	Vendor Name	Description	Requested By	Department	Total Amount	Procurement Type
A.	J. CARRIZAL GENERAL CONSTRUCTION INC	POLICE DEPARTMENT RENOVATION PROJECT	Carlos Miyagishima	Procurement	$549,219.29	Multiple Sources
B.						
C.						
D.						
			TOTAL		$549,219.29	

ATTEST:

Angela Torres, Clerk-Treasurer Date

Rolf Hechler, Mayor Date

REQUISITION

Requisition #: 96735

Date: 07/16/2026

Vendor #: 9427

ISSUED TO: J. CARRIZAL GENERAL CONSTRUCTION INC
1070 DIESEL
EL PASO, TX 79907-

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	POLICE DEPARTMENT RENOVATION PROJECT		0.00	380-7063-80805	356,400.00
2	0	POLICE DEPARTMENT RENOVATION PROJECT		0.00	101-1000-80805	75,000.00
3	0	POLICE DEPARTMENT REVOVATION PROJECT		0.00	296-2403-80805	73,266.02
4	0	ADD ALTERNATE - CARPET		0.00	296-2403-80805	2,110.72
5	0	GRT		0.00	296-2403-80805	21,221.28
					101-1000-80805	21,221.27

PO Description: POLICE DEPARTMENT RENOVATION PROJECT

Detailed Description:

POLICE DEPARTMENT FACILITIES PROJECT

CONSTRUCTION SERVICES PER THE ATTACHED SCOPE OF WORK

CAPITAL OUTLAY GRANT AGREEMENT NO. 25-J3167

SUBTOTAL:	549,219.29
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	549,219.29

Authorized By: _____

TENTATIVE LETTER NOTICE OF AWARD

Date of Issuance: July 8, 2026

Owner: City of Truth or Consequences Owner's Project No.: 2026-03-005

Project: PNC Bank/PD Remodel

Contract Name: PNC Bank/PD Remodel

Bidder: J. Carrizal General Construction, Inc.

Bidder's Address: 1070 Diesel Drive, El Paso, Texas 79907

You are notified that Owner has accepted your Bid dated Wednesday, July 8, 2026 for the above Contract, and that you are the Successful Bidder and are awarded a Contract for:

BASE BID: The project includes the renovation of the existing building for the Truth or Consequences Police Department. The Design Build Team will work in conjunction with architectural plans provided by Bill Buckley solar architects. The awarded contractor shall provide all materials, supplies, and the labor for the renovation of the building and site including required furniture, fixtures and equipment. Including materials and structural systems, alternative structural systems with cost consideration. The Design Build Team shall investigate the structural systems and material they consider suitable for this project regarding the local and state codes. Set forth in detail the architectural engineering has provided.

The project also includes the electrical construction requirements for transformers, vaults, electrical and power distribution systems, auxiliary power systems, switch gear, generator, lighting, switch, 6-strands cable connecting the two electrical rooms, re-run and replace all cables with CAT 6 cables, new subpanel in the SAT room, fire and safety, remove all unused cables, and signal system. Set forth in detail the quantities of materials, labor, overhead, insurance, taxes, etc. for the building renovation, as well as all sight work.

Coordination with Truth or Consequences and New Mexico Environment is needed to successfully complete the design phase of the project.

The Contract Price of the awarded Contract is **$506,776.74**, excluding New Mexico Gross Receipts Tax (NMGRT). The applicable NMGRT is **$42,442.55**, resulting in a total contract amount of **$549,219.29**, inclusive of tax. Contract Price is subject to adjustment based on the provisions of the Contract, including but not limited to those governing changes, Unit Price Work, and Work performed on a cost-plus-fee basis, as applicable.

Five (5) unexecuted counterparts of the Agreement accompany this Notice of Award, and one copy of the Contract Documents accompanies this Notice of Award, or has been transmitted or made available to Bidder electronically.

☒ Drawings will be delivered separately from the other Contract Documents.

You must comply with the following conditions precedent within 15 days of the date of receipt of this Notice of Award:

1. Deliver to Owner **[5]** counterparts of the Agreement, signed by Bidder (as Contractor).
2. Deliver with the signed Agreement(s) the Contract security (such as required performance and payment bonds) and insurance documentation, as specified in the Instructions to Bidders and in the General Conditions, Articles 2 and 6.

3. Other conditions precedent (if any): **[Describe other conditions that require Successful Bidder's compliance]**

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award, and declare your Bid security forfeited.

Within 10 days after you comply with the above conditions, Owner will return to you one fully signed counterpart of the Agreement, together with any additional copies of the Contract Documents as indicated in Paragraph 2.02 of the General Conditions.

Owner: City of Truth or Consequences

By *(signature)*: 

Name *(printed)*: Carlos Miyagishima

Title: Chief Procurement Officer

RFP #2026-03-005
PNC BANK/PD REMODEL
J. Canfield

EXHIBIT C

REQUEST FOR COST FORM

ORIGINAL

Reference Truth or Consequences Agreement #: RFP #2026-03-005

OWNER: Truth or Consequences

Design Build Team: PENDING FINAL SELECTION- TO BE FILLED OUT AND PLACED IN A SEPARATE SEALED ENVELOPE

BASE BID of prior authorized release amounts to date: $ 504,666.02
(Excluding NMGRT) Written in words.
Five hundred four thousands six hundred sixty-six dollars and two cents

AD ALTERNATIVE # 1 PROPSAL TO REPLACE CARPET IN BUILDING:
(Excluding NMGRT) Written in words.

Two thousand one hundred ten and seventy two cents $ 2,110.72

(Note: Cumulative release authorization amounts not to exceed $2,000,000 over four-year period)

PROJECT DESCRIPTION/SCOPE:

Note: For each project $25,000 and greater, a 100% labor, materials and performance bonds will be required of the Contractor and each subcontractor for the amount of work each sub-contractor is to perform.

Note: *New Mexico Local Public Works Projects* greater than $60,000 shall be subject to the State of New Mexico Minimum Wage Act. Reference Wage Decision number: **Pending**

In addition to the terms and conditions of the above-mentioned Truth or Consequences Agreement, the terms and conditions of this release are those dated as follows:

Document	Title
RFP #2026-03-005	PNC Bank/Police Department Remodel

(list other conditions)

Number	Date	Pages

SUBSTANTIAL COMPLETION:

The Contractor shall achieve Substantial Completion of the entire work not later than **March 22, 2026**, consecutive calendar days from the date of commencement, subject to adjustments of this Contract Time as provided in the Contract Documents.

LIQUIDATED DAMAGES:

The Contractor agrees to pay as liquidated damages, the sum of **Two-hundred and Fifty and Zero Cents ($250.00)** for each consecutive calendar day after the stipulated contract time the work remains incomplete.

OFFEROR NAME: Julian Carrizal

TOTAL FIXED RATE WITHOUT GRT $ 504,666.02

WRITTEN IN WORDS: Five hundred four thousand six hundred sixty-six dollars and two cents

OTHER COST/EXPENSES WITHOUT GRT $ 2,110.72

(PLEASE, PROVIED EXPLINATION ON SEPARATE DOCUMENTS AND REFERENCE)

WRITTEN IN WORDS: Two thousand one hundred ten and seventy-two cents

Typed/Printed Name: Julian Carrizal

Phone: 915-591-2377 Email: jcarrizal@jcgenconst.com

Company: J. Carrizal General Construction

Address: 1070 Diesel Dr

City/State/Zip: El Paso/Texas/79936

Signature of Authorized Contractor: _____ Pres
Name and Title

Date: 04/30/2026

ATTACHEMENT 1

Docusign Envelope ID: F22DAD18-2788-4839-9A7D-CA7FE97D2A1D

NEW MEXICO CAPITAL OUTLAY GRANT AGREEMENT
CAPITAL APPROPRIATION PROJECT

THIS AGREEMENT is made and entered into by and between the State of New Mexico, Department of Finance & Administration, 407 Galisteo Street, Santa Fe, NM 87501, (**"Department"**) and the City of Truth or Consequences, (**"Grantee"**) (individually **"Party"** and collectively **"Parties"**). This Agreement shall be effective as of the date the Department executes it (**"Effective Date"**).

WITNESSETH

WHEREAS, in the Laws of 2025, Chapter 159, Section 512, Paragraph 33, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

WHEREAS, the Department is granting to Grantee, and the Grantee is accepting the grant of funds from this appropriation, in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

AGREEMENT

I. PROJECT DESCRIPTION, GRANT AMOUNT, AND REVERSION

A. **25-J3167** (**"Project"**) 6/30/2029 (**"Reversion Date"**). Laws of 2025, Chapter 159, Section 512, Paragraph 33, Three Hundred Sixty Thousand Dollars and No Cents, $360,000.00, to plan, design, construct, renovate, furnish and equip police department facilities in Truth or Consequences in Sierra county;.

B. Grantee's total reimbursements shall not exceed $360,000.00 Three Hundred Sixty Thousand Dollars and No Cents, (**"Appropriation Amount"**) minus the allocation for Art in Public Places (**"AIPP amount"**), if applicable, $3,600.00 Three Thousand Six Hundred Dollars and No Cents, which equals $356,400.00 Three Hundred Fifty Six Thousand Four Hundred Dollars and No Cents (**"Adjusted Appropriation Amount"**).

C. In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited above in this Article I, the language of the laws cited herein shall control.

The information contained in Article I is referred to collectively as the **"Project Description."**

II. DISBURSEMENT LIMITATION

A. Upon the Effective Date, the Grantee shall submit to the Department a comprehensive procurement plan and expenditure plan, detailing a Project timeline with milestones, required procurements, and identifying expected expenditures per milestone (collectively, **"Project Budget"**). The Department shall review and approve the Project Budget by approving a Notice of

Department's Obligation ("**Notice of Obligation**"), in accordance with the Project Description, a sample of which is attached hereto as **Exhibit B** and incorporated herein by reference. After receipt of approved Notice of Obligation, the Grantee may be reimbursed for allowable costs up to the Adjusted Appropriation Amount. This Agreement and any reimbursements up to the Adjusted Appropriation Amount are expressly conditioned upon the following:

a. Irrespective of any Notice of Obligation, Grantee's expenditures shall be made in accordance with the Project Budget, on or before the Reversion Date and/or, if applicable, any Early Termination Date; and
b. The total amount received by Grantee shall not exceed the lesser of:
    i. the Adjusted Appropriation Amount identified in Article I (B) herein; or
    ii. the total of all amounts stated in the Notice(s) of Obligation evidencing the Department has received and accepted Grantee's Third Party Obligation(s); and
c. Grantee's expenditures are made and accounted for pursuant to the State Procurement Code, State's Model Accounting Practices, and execution of binding written obligations or purchase orders with third-party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project ("**Third Party Obligations**"); and
d. Grantee's submittal of timely Requests for Payment and supporting documentation in accordance with the procedures set forth in this Agreement; and
e. In the event capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:
    i. must be approved by the applicable oversight entity (if any) in accordance with §§ 13-6-2, 13-6-2.1, and 13-6-3; or
    ii. If no oversight entity is required to approve the transaction, the Department of Finance and Administration's Infrastructure Planning Development Division (IPDD) must approve it as complying with the law.

B. Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(e)(i) or (ii) herein, the Department may, in its sole and absolute discretion, unless inconsistent with State Board of Finance imposed conditions, reimburse Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, limited to planning and design expenditures; and

C. Grantee's submission of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:

a. Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third Party Obligation, and request the Third Party to begin work after issuance of a Notice of Obligation by the Department.
b. Grantee acknowledges and agrees that any Third Party Obligations agreed to prior to receiving a Notice of Obligation are its sole responsibility.
c. Grantee shall submit to the Department one copy of all Third Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party but prior to execution by the Grantee.

d. Department may, in its sole and absolute discretion, issue a Notice of Obligation for the particular amount of a Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is incorporated herein and attached hereto as **Exhibit B**.

D. Grantee shall provide all necessary qualified personnel, materials, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

E. Prior to entering into this Agreement, the Department conducted a risk assessment on the Grantee and a project readiness review for the Project. In accordance with State Model Accounting Practices, FIN 9.2, if the Department determines that the expenditure of Project funds by the Grantee requires special conditions, those conditions are identified and listed in **Exhibit C**, which is attached and incorporated by reference. The Parties agree that, to the extent the Department, in its sole and absolute discretion, determines additional special conditions are necessary or that existing special conditions are no longer required, it may update **Exhibit C** from time to time without the need for a formal amendment of this Agreement.

F. Project funds shall not be used for purposes other than those authorized by the Department in accordance with the Project Description.

G. Project funds cannot be used to reimburse the Grantee for indirect Project costs unless specifically allowed by law.

III. NOTICES

The following provisions shall apply whenever written notices, including written decisions, are to be given or received related to this Agreement.

A. The Grantee designates the person(s) listed below, or their successor, as their official representative(s) concerning all matters related to this Agreement:

Grantee:	City of Truth or Consequences
Name:	Rolf Hechler
Title:	Mayor
Address:	505 Sims St., Tor C, NM 87901
Email:	rhechler@torcnm.org
Telephone:	575-894-6673

B. The Grantee designates the person(s) listed below, or their successor, as their Fiscal Officer or Fiscal Agent concerning all matters related to this Agreement:

Grantee:	City of Truth or Consequences
Name:	Traci Alvarez
Title:	CFO
Address:	505 Sims St., T or C, NM 87901
Email:	talvarez@torcnm.org

Telephone: 575-952-0565

C. The Department designates the persons listed below, or their successors, as the Points of Contact for matters related to this Agreement.

Department: DFA/Local Government Division
Name: Melanie Viarrial
Title: Grant Manager
Address: Bataan Memorial Bldg. Rm 202, Santa Fe NM 87501
Email: melanie.viarrial@dfa.nm.gov
Telephone: 505-690-1561

The Parties agree that all notices, including written decisions, related to this Agreement shall be sent to the persons named above by email or regular mail. For mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five (5) calendar days after mailing, whichever shall first occur. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of the email.

IV. TERM & DEADLINE TO EXPEND FUNDS

A. The term of this Agreement shall begin on the Effective Date and terminate on the 30th day of June during the calendar year of the Reversion Date unless Terminated Before Reversion Date (**"Early Termination"**) pursuant to Article V herein (collectively **"Term"**).

B. The Project's funds must be expended on or before the Reversion Date and, if applicable, the Early Termination Date of this Agreement.

a. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Reversion Date or Early Termination Date.
b. For purposes of this Agreement, an expenditure of funds has occurred on the date the particular quantity of goods is delivered to and received by the Grantee, title to the goods is transferred to the Grantee, and/or as of the date particular services are rendered to and accepted by the Grantee.
c. For purposes of this Agreement, an encumbrance of funds pursuant to a contract or purchase order with a third party does not qualify as an expenditure.

V. EARLY TERMINATION

A. General Provision. The Department may terminate this Agreement before the Reversion Date based on the Completion of the Project, Complete Expenditure of the Adjusted Appropriation, and/or Violation of this Agreement. Early Termination hereunder includes:

a. Termination due to completion of the Project before the Reversion Date;
b. Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date;
c. Termination for violation of the terms of this Agreement; or
d. Termination for suspected mishandling of public funds, including but not limited to fraud, waste, abuse, and conflicts of interest.

B. Non-appropriation. This Agreement is expressly contingent upon the New Mexico State Legislature making sufficient appropriations and authorizations for the Project Description.

a. If the Legislature does not appropriate the Appropriation Amount, this Agreement shall terminate upon the Department giving the Grantee written notice of such termination. Such termination shall be effective as of the effective date of the law making the non-appropriation.
   i. The Department's decision as to whether sufficient appropriations or authorizations are available shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the State of New Mexico in the event of Early Termination of this Agreement.
b. As used herein, "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature:
   i. Deauthorization, reauthorization, or revocation of a prior authorization.

C. Grant Disbursements in the Event of Early Termination. In the event of Early Termination, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II above.

D. Notice. Either Party may terminate this Agreement prior to the Reversion Date by providing the other Party with a minimum of fifteen (15) days advance written notice of the Early Termination. Grantee hereby waives any rights to assert an impairment of contract claim against the State of New Mexico in the event of Early Termination of this Agreement by the Department.

VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

A. Department, in its sole and absolute discretion, may provide written notice to Grantee to suspend entering into further obligations. Upon the receipt of such written notice by the Grantee:

a. Grantee shall immediately suspend entering into new or further written obligations with third parties;
b. Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and
c. Department may direct the Grantee to implement a corrective action plan in accordance with Article VI (D) herein.

B. In the event of Suspension of this Agreement, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V herein. If the Suspension is lifted, the Department will consider further requests for a Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension. Where the Department, in its sole and absolute discretion, directs Grantee to suspend entering into new or further written obligations

with third parties pursuant to Article VI(A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension.

a. Such a corrective action plan must be approved by the Department and be signed by the Grantee.
b. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(c).
c. A corrective action plan shall be in addition to, and not in lieu of, any other equitable or legal remedy authorized hereunder or at law, including but not limited to Early Termination.

VII. AMENDMENTS

Unless expressly stated otherwise herein, this Agreement shall not be altered, changed, or amended except by an instrument in writing duly executed by both parties hereto with the same formalities as this agreement.

VIII. REPORTING

A. Database Reporting

a. Grantee shall provide the Department with quarterly reports of Project activity, entering the required Project information directly into a database required by the Department.
b. Additionally, Grantee shall certify on each Request for Payment form, attached hereto as **Exhibit A** and incorporated herein, that all information provided in the database is true and accurate, updates to the database have been maintained, and all Project activity complies with applicable law and the terms of this Agreement.
c. Grantee hereby acknowledges that failure to perform and/or certify updates to the database will jeopardize the reimbursement of funds. The Department shall give Grantee a minimum of fourteen (14) days' advance written notice of any changes to the information the Grantee is required to report.
d. At the Department's discretion, all reports required hereunder may be directed to and facilitated through an electronic database.
e. Quarterly reports shall be due on the last day of the month, that is, 30 days prior to the end of the quarter following the execution of this Agreement by the Department and ending during the quarter of the submission of the final request for reimbursement for the Project, or the following quarter.

B. Requests for Additional Information/Project Inspection

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may:

i. request such additional information regarding the Project as it deems necessary; and
ii. conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project.

Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department.

B. Requests for Additional Information/Project Inspection

a. During the term of this Agreement and the Record Retention Period, the Department may:
   i. Request additional information regarding the Project as it deems necessary and
   ii. Conduct on-site inspections of the Project at reasonable times and upon reasonable notice.
b. Grantee shall respond to such requests for additional information within the time established by the Department.

IX. REQUEST FOR PAYMENT PROCEDURES

A. Grantee shall request payment by submitting the form attached hereto as **Exhibit A**. Payment requests are subject to the following procedures:

a. Each Request for Payment must be in accordance with the Project Budget and contain proof of payment by the Grantee or liabilities incurred by the Grantee.
   i. Proof of payment must demonstrate the validity of an expenditure or liabilities incurred by Grantee.
   ii. However, Grantee may be reimbursed for unpaid liabilities only if the Department, in its sole and absolute discretion, agrees to do so and in accordance with any special conditions imposed by the Department.
   iii. The Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or in a shorter period than the Department may prescribe in writing.
   iv. The Department reserves the right to make such payments directly to the contractors or vendors as a special condition under this Agreement.
   v. The Grantee is required to certify to the Department proof of payment to the third-party contractor or vendor within five (5) business days from the date the Department reimburses the Grantee.

B. Until the Project is fully planned, designed, and all necessary procurements identified in the Project Budget are completed, Grantee's reimbursements will be limited to the planning, design, and procurement costs outlined in the Project Budget. Once the planning, designing, and procuring stages are complete, the Grantee must obligate at least ten percent (10%) of the Adjusted Appropriation Amount within one (1) year and must have utilized at least eighty-five percent (85%) of the Adjusted Appropriation Amount six (6) months before the reversion date.

C. Deadlines. Grantee shall submit requests for Payments to the Department on the earlier of:

a. Immediately as Grantee receives them, but at a maximum of thirty (30) days from when Grantee incurred the expenditure or liability; or
b. Twenty (20) days from the date of Early Termination or Reversion Date for expenditures or liabilities incurred before the Early Termination date or Reversion Date.

D. Grantee's failure to abide by the requirements set forth in Article II and Article IX herein may result in the denial of its Request for Payment. Department reserves the right to reject a payment request for the Project unless and until it is satisfied that the expenditures or liabilities are for permissible purposes within the meaning of the Project Description, identified within the Project Budget, and that the Grantee is otherwise in compliance with this Agreement.

a. Department's authority to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department under this Agreement, at law, or in equity.

X. PROJECT CONDITIONS AND RESTRICTIONS

A. The following general conditions and restrictions shall apply to the Project:

a. The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the State Procurement Code.
b. The Project's expenditures and liabilities must be accounted for in accordance with the State's Model Accounting Practices, as amended from time to time.
c. The Project must be implemented in accordance with the New Mexico Public Works Minimum Wage Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable.
d. The Project must provide a public benefit above and beyond any incidental benefit to private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico.
e. Without prior written approval from the Department and State Board of Finance, for the useful life of any asset purchased under this Agreement, Grantee shall not convert any property acquired, built, renovated, repaired, designed, or developed with Project funds to uses other than those specified in the Project Description.
    i. In addition to other remedies available at law or in equity, any disposal or conversion of property acquired, built, renovated, repaired, designed, or developed with Project funds without the Department's and the Board of Finance's express written approval will trigger the Department's right to reimbursement from Grantee of the Appropriated Amount, transfer proceeds from any disposition of property to the State, or otherwise provide consideration to the State for the Appropriated Amounts.
f. Grantee shall comply with all applicable federal and state laws, rules, and regulations pertaining to civil rights and equal employment opportunity.
    i. In accordance with all such laws, rules, and regulations, the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age, or handicap, be excluded from participation in the Project, use of the Project, employment with Grantee, or otherwise be denied benefits/subject to discrimination for any activity performed under this Agreement.
g. Where the Department, in its sole and absolute discretion, determines Grantee has failed to comply with the above conditions and restriction, Grantee agrees to take appropriate steps to correct any deficiencies immediately. The Grantee's failure to implement such appropriate steps within a reasonable time, but no longer than thirty (30) days after

notice from the Department, constitutes a breach of this Agreement and grounds for Early Termination.

XI. REPRESENTATIONS AND WARRANTIES

A. Reliance by Department.
   a. Grantee expressly acknowledges that the Department relies on the representations and warranties made by Grantee in this Agreement. Grantee acknowledges that such representations and warranties are a material inducement for the Department to enter into this Agreement and provide the Appropriated Amount.
   b. Grantee shall ensure all representations and warranties provided herein are true, accurate, and complete as of the date of the Effective Date and shall remain so throughout the Term of this Agreement. Grantee is responsible for promptly notifying the Department in writing of any changes or inaccuracies in the representations and warranties contained herein.

B. Grantee hereby represents and warrants the following:

   a. Grantee has taken all necessary steps to attain the legal authority to receive and expend the Project's funds.
   b. Grantee has duly authorized this Agreement, and the person executing it has authority to do so. Once executed by Grantee, this Agreement shall constitute a binding obligation of Grantee, enforceable according to its terms.
   c. Grantee's obligations hereunder do not conflict with any law, ordinance, or resolution applicable to Grantee, Grantee's charter (if applicable), or any judgment or decree to which Grantee is subject.
   d. Grantee has independently confirmed that the Project Description, including, but not limited to, the Appropriated Amount and Reversion Date, is consistent with the underlying appropriation in law.
   e. Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign and submit Requests for Payment on behalf of Grantee.
   f. Grantee will abide by New Mexico laws regarding conflicts of interest, governmental conduct, and whistleblower protection.
      i. Grantee agrees explicitly none of its officers or employees or its designees or agents, no member of the governing body, and no other public official of Grantee who exercises any function or responsibility with respect to this Agreement, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for the Project.
      ii. Further, Grantee will require all of its contractors to incorporate the language set forth in this paragraph prohibiting conflicts of interest in all subcontracts.
   g. No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of the State, any agency, or body in connection with the awarding of any Third Party Obligation.
      i. Grantee will require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans, and cooperative agreements.

C. Consequences of False or Misleading Representations. If any representation or warranty made by Grantee is found to be false or misleading, the Department shall have the right to exercise any or all of the following remedies:

a. **Termination of Agreement:** Department may terminate this Agreement immediately upon written notice to the Grantee.
b. **Repayment of Grant Funds:** Grantee shall repay all Appropriated Amounts disbursed under this Agreement, upon demand by the Department.
c. **Other Remedies:** Department may pursue any other remedies available at law or in equity.

D. Survival of Representations and Warranties. The representations and warranties made by the Grantee shall survive the Early Termination or expiration of this Agreement.

XII. PROJECT RECORDS

A. Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles and the State's Model Accounting Practices and, if feasible, maintain a separate bank account or fund with a separate organizational code to ensure separate budgeting and accounting of the funds.

B. For six (6) years following the Project's completion (**"Record Retention Period"**), Grantee shall maintain all Project-related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records sufficient to fully account for the amount and disposition of the Appropriated Amount from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department may prescribe.

C. Grantee shall make all Project records available to the Department, the Department's Independent Public Accountant, and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor or the Department finds any funds were improperly expended, Grantee shall be required to reimburse the State all amounts found to be improperly expended.

XIII. IMPROPERLY REIMBURSED FUNDS

If the Department determines part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, after ten (10) days' notice to Grantee and the opportunity to return such funds to the Department, the Department may offset any funds due to Grantee from the State, until the Appropriation Amount is fully repaid.

XIV. LIABILITY

Neither Party shall be responsible for liability incurred as a result of the other Party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to

immunities and limitations of the New Mexico Tort Claims Act.

XV. SCOPE OF AGREEMENT

This Agreement constitutes the entire and exclusive agreement between the Parties concerning the subject matter hereof. The Agreement supersedes all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

XVI. REQUIRED NON-APPROPRIATIONS CLAUSE

A. Grantee acknowledges and agrees to include a "non-appropriations" clause in all contracts between it and other parties that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

   a. "The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of the State of New Mexico (**"Legislature"**) for the performance of this Agreement.
   b. If the Legislature does not make sufficient appropriations and authorization, City of Truth or Consequences may immediately terminate this Agreement by giving Contractor written notice of such termination.
   c. The City of Truth or Consequences's decision as to whether sufficient appropriations are available shall be final and accepted by the Contractor. Contractor hereby waives any rights to assert an impairment of contract claim against the City of Truth or Consequences or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the City of Truth or Consequences or the State Department of Finance and Administration."

XVII. REQUIRED TERMINATION CLAUSE

A. Grantee acknowledges and agrees to include the following termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

   a. "This contract is funded in whole or in part by funds made available by the State of New Mexico (**"State"**). Should the State terminate its Agreement with the City of Truth or Consequences, the City of Truth or Consequences may terminate this contract immediately by providing Contractor written notice of such termination.
   b. In the event of termination pursuant to this paragraph, the City of Truth or Consequences's only liability to Contractor shall be for goods and services delivered and accepted prior to the termination date."

XVIII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA

A. Throughout the term of this Agreement, Grantee shall:

   a. Submit all reports of annual audits and agreed-upon procedures required by § 12-6-3(A)-(B), NMSA 1978 by the due dates established in § 2.2.2 NMAC, reports of which must be a

public record pursuant to § 12-6-5(A), NMSA 1978 within forty-five (45) days of delivery to the State Auditor;

b. Have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
c. Timely submit all required financial reports to its budgetary oversight agency (if any); and
d. Use accounting methods and procedures consistent with Generally Accepted Accounting Principles and the State's Model Accounting Principals to expend the Appropriated Amount in accordance with applicable law and account for and safeguard Project funds and assets acquired with Project funds.

B. In the event Grantee fails to comply with the requirements of subparagraph A of this Article XVIII, Department may take one or more of the following actions:

a. Suspend new or further obligations pursuant to Article VI(A) of this Agreement;
b. Require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;
c. Impose special conditions to address the non-compliance by giving Grantee notice of such special conditions in accordance with Article III of this Agreement;
    i. The Parties agree that any special conditions imposed to address non-compliance shall be incorporated into this Agreement, through **Exhibit C**, upon notice to Grantee, without need for formal amendment of this Agreement;
    ii. Special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III or
d. Terminate this Agreement pursuant to Article V(A) of this Agreement.

XIX. SEVERANCE TAX AND GENERAL OBLIGATION BONDS

A. Grantee acknowledges and agrees that the underlying appropriation for the Project may originate from the issuance of tax-exempt severance tax bonds or general obligation bonds by the State. Proceeds from such bonds are administered by the New Mexico State Board of Finance (**"SBOF"**), an entity separate and distinct from the Department.

a. Grantee acknowledges and agrees:
    i. It is Grantee's responsibility to determine through SBOF what (if any) conditions are currently imposed on the Project;
    ii. Department's failure to inform Grantee of an SBOF-imposed condition does not affect the validity or enforceability of the condition;
    iii. The SBOF may in the future impose further or different conditions upon the Project;
    iv. All SBOF conditions are attached to the Project and Appropriation Amount without the need for formal amendment of this Agreement;
    v. All applicable SBOF conditions must be satisfied before the SBOF will release to the Department funds subject to the condition(s) and
    vi. The Department's obligation to reimburse Grantee from the Project is expressly contingent upon the satisfaction of the then-current SBOF conditions.

B. Grantee acknowledges and agrees SBOF may, at its sole and absolute discretion, require reimbursement or remove eligibility for bond proceeds for the Project if the Project doesn't

proceed sufficiently.

a. Grantee must comply with the requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by Grantee in the Bond Questionnaire and Certification documents submitted to the SBOF.
b. Failure to comply may result in the reassignment of the bond proceeds. Upon reassignment of bond proceeds, this Agreement will be suspended until the entity has demonstrated readiness as determined by the SBOF and the Department.

C. Grantee acknowledges and agrees that this Agreement is subject to the SBOF's Bond Project Disbursements rule, § 2.61.6, NMAC, as may be amended from time to time or re-codified.

XX. GENERAL PROVISIONS

A. Assignment: Grantee's rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Grantee's rights and obligations approved by the State shall be subject to the provisions of this Agreement.

B. Subcontractors: Grantee shall not enter any subgrant or subcontract in connection with its obligations under this Agreement without the prior written approval of the State. Upon request, Grantee shall submit to the Department a copy of each such subgrant or subcontract.

C. Binding Effect: Except as otherwise provided, all provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority: Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations have been duly authorized.

E. Captions and References: The captions and headings in this Agreement are for the convenience of reference only and shall not be used to interpret, define, or limit its provisions. All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits, or other attachments are references to sections, subsections, exhibits, or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

F. Counterparts: This Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute the same agreement.

G. Digital Signatures: If any signatory signs this agreement using a digital signature in accordance with the State Policies regarding the use of digital signatures, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Agreement by reference.

H. Modification: Except as otherwise provided in this Agreement, any modification to this Agreement shall only be effective if agreed to in a formal amendment, properly executed and approved in accordance with applicable New Mexico law and State fiscal policies and rules.

Modifications permitted under this Agreement, other than Agreement amendments, shall conform to the policies issued by the State.

I. Statutes, Regulations, Fiscal Rules, and Other Authority: Any reference in this Agreement to a statute, regulation, policy, or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended after the Effective Date of this Agreement.

J. External Terms and Conditions: Notwithstanding anything to the contrary herein, the State shall not be subject to any provision included in any terms, conditions, or agreements appearing on Grantee's or a subcontractor's website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in this Agreement.

K. Severability: The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Agreement in accordance with its intent.

L. Survival of Certain Agreement Terms: Any provision of this Agreement that imposes an obligation on a Party after the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement and shall be enforceable by the other Party.

M. Third Party Beneficiaries: Except for the Parties' respective successors and assigns described in this Agreement, it does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits that third parties receive as a result of this Agreement are incidental to this Agreement and do not create any rights for such third parties.

N. Waiver: A Party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

O. Standard and Manner of Performance: Grantee shall perform its obligations under this Agreement in accordance with the highest standards of care, skill, and diligence in Grantee's industry, trade, or profession.

P. Licenses, Permits, and Other Authorizations: Grantee shall secure, prior to the Effective Date, and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement and shall ensure that all employees, agents, and subcontractors secure and maintain at all times during the term of their employment, agency or subcontractor, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

Q. Publicity: Any Publicity regarding the subject matter of this Agreement may not be released without prior written approval from the Department. For purposes of this agreement, "**Publicity**"

means notices, informational pamphlets, press releases, email responses, research, reports, signs, and similar public notices prepared by or for the Grantee or jointly with others.

a. Grantee shall obtain written approval prior to issuing any press release or making any public announcement regarding this agreement. Grantee agrees to obtain approval of the Department in advance with respect to all Public Relations, all communications with media, or all communications with any other member of the public with respect to this agreement, except to acknowledge that an agreement does exist.
b. For purposes of this agreement, "Public Relations" includes community relations and means those activities dedicated to maintaining the Department's image or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public.
c. Violations of either Article XX (Q)(a) or (b) shall constitute a material Breach of Agreement.

R. Data Sharing: The State intends to secure and collate specific data generated by Grantee under this Agreement to use in support of the State's organizational, policy-making, and management of public resource functions. State, in accordance with **Exhibit E**, attached hereto and incorporated herein by reference, reserves the right to require Grantee and/or its subcontractors to provide specific data relevant to the above-listed functions. Data provided by Grantee may be incorporated into existing or future developed State integrated analysis tools or databases, including but not limited to geographic information system (GIS) networks and databases accessible by the public. Dissemination of data collected may include historical data and projections based on such historical data.

a. To the extent any data transferred as part of this Agreement is legally determined to be the property of Subrecipient or its subcontractors, Subrecipient and/or its subcontractors grants State a nonexclusive, fully paid-up right and license to reproduce, use, distribute, do derivative works based on, and archive data transferred as part of this Agreement.

S. Venue and Choice of Law: This Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico, without regard to any conflict of law provisions. Any legal suit, action, or proceeding arising out of or related to this Agreement shall be instituted exclusively in the district courts located in Santa Fe, New Mexico. The Parties hereby irrevocably submit to the exclusive jurisdiction and venue of such courts in any such suit, action, or proceeding. The Parties waive any objection to the laying of the venue of any such suit, action, or proceeding in the district courts of Santa Fe, New Mexico, and irrevocably waive and agree not to plead or claim in any such court that any such suit, action, or proceeding brought in any such court has been brought in an inconvenient forum.

[SIGNATURE PAGE AND EXHIBITS FOLLOW]
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IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the Department's date of execution.

APPROVED BY DEPARTMENT:

Cabinet Secretary, Wayne Propst:

Signed by:
Wayne Propst
8EB4D668486A432...
Signature

9/11/2025
Date

Chief Financial Officer, Mackie Romero:

DocuSigned by:
Mackie Romero
6CA8727E89F840B...
Signature

9/10/2025
Date

Local Government Division Director, Cecilia Mavrommatis:

Signed by:
Cecilia Mavrommatis
C7E9C5973138484...
Signature

9/10/2025
Date

AS TO LEGAL FORM AND SUFFICIENCY

General Counsel's Office:

Signed by:
George Hypolite
8F9C3BE1455547B...
Signature

George Hypolite
(Print Name)

General Counsel
(Title)

APPROVED BY GRANTEE:

City of Truth or Consequences
Entity Name

Official with Authority to Bind Grantee:

Signature

Rolf Hechler (Print Name) | Mayor (Title)

8-13-2025
Date

Fiscal Officer or Chief Financial Officer:

Signature

Jocelyn Holguin (Print Name) | Finance Director (Title)

8-13-2025
Date

As To Legal Form And Sufficiency

Signature

Jaime Rubin (Print Name) | Attorney (Title)

8-13-2025
Date

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EXHIBIT A

Request for Payment Form and Certification

STATE OF NEW MEXICO
GRANT APPROPRIATION
Request for Payment Form
Exhibit A

I. Grantee Information (Must match your DFA Substitute W-9 Form)

A. Grantee: _____
B. Address: _____
(Complete Mailing, including Suite, if applicable)
_____
City, State, Zip
C. Contact Name/Phone #: _____
D. Grant No: _____
E. Project Title: _____
F. Grant Expiration Date: _____

II. Payment Computation

A.	Payment Request No.	
B.	Grant Amount:	$ 0.00
C.	AIPP Amount (If Applicable):	$ 0.00
D.	Funds Requested to Date:	$ 0.00
E.	Amount Requested this Payment:	
F.	Reversion Amount (if applicable):	$ 0.00
G.	Grant Balance:	$ 0.00

H. ☐ Final Request for Payment (if applicable)

III. Fiscal Year : 2026 (July 1, 2025-June 30, 2026)
(The State of NM Fiscal Year is July 1, 20XX through June 30, 20XX of the following year)

IV. Certifications

☐ I hereby certify that all conditions and requirements for Payments outlined in the Agreement have been met, including but not limited to:
a. Submission and approval of a Project Budget as per Article IV, Section A of the Agreement.
b. Compliance with the Project Budget and expenditure of funds in accordance with the State Procurement Code and the State's Model Accounting Practices.
c. Submission of supporting documentation as required by the Agreement.
d. Maintenance of all necessary records and documentation as stipulated in the Agreement.

☐ I attest that the information provided is correct, expenditures are properly documented and valid or actual receipts, and that the activity fully complies with Article IX, Sec. 14 of the New Mexico Constitution, known as the "anti-donation" clause.

☐ I hereby certify that all representations and warranties made in the Agreement remain true, accurate, and complete as of the date of this request, and will continue to be so throughout the term of the Agreement. I acknowledge that these representations and warranties are a material inducement for the Department to approve this pay request.

Grantee Fiscal Officer or Fiscal Agent (if applicable)

Printed Name

Date: _____

Grantee Representative

Printed Name

Date: _____

(State Agency Use Only)

Vendor Code: _____ Fund No.: _____ PO # _____ Loc No.: _____

I certify that the State Agency financial and vendor file information agree with the above submitted information.

ASD Officer Date

Division Grant Manager Date

Revised 7/2025

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EXHIBIT B

Notice of Department's Obligation Form

NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
EXHIBIT B

Notice of Obligation to Reimburse Grantee # _____

DATE: _____

TO: Department Representative: _____, Grant Manager

FROM: Grantee Entity: _____

Grantee Official Representative: _____

SUBJECT: Notice of Obligation to Reimburse Grantee

Grant Number: _____

Grant Termination Date: _____

As the designated representative of the Department for Grant Agreement number _____ entered into between Grantee and the Department, I certify that the Grantee has submitted to the Department the following third party obligation executed, in writing, by the third party's authorized representative:

Vendor or Contractor: _____

Third Party Obligation Amount: _____

Vendor or Contractor: _____

Third Party Obligation Amount: _____

I certify that the State is issuing this Notice of Obligation to Reimburse Grantee for permissible purposes within the scope of the project description, subject to all the terms and conditions of the above referenced Grant Agreement.

Grant Amount (Minus AIPP if applicable): _____

The Amount of this Notice of Obligation: _____

The Total Amount of all Previously Issued Notices of Obligation: _____

The Total Amount of all Notices of Obligation to Date: $ 0.00

Note: Contract amounts may exceed the total grant amount, but the invoices paid by the grant will not exceed the grant amount.

Department Rep. Approves: _____

Title: Grant Manager

Signature: _____

Date: _____

1 Administrative and/or Indirect Cost – generally, the legislation authorizing the issuance of bonds prohibits the use of its proceeds for indirect expenses (e.g. penalty fees or damages other than pay for work performed, attorney fees, and administrative fees). Such use of bond proceeds shall not be allowed unless specifically authorized by statute.

Revised 7/2025

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EXHIBIT C

Special Conditions (If Fiscal Agent Required or Anti Donations Issues Exist)

OPTIONAL EXHIBIT C
SPECIAL CONDITIONS

The capital outlay oversight requires grantees' accounting methods and procedures, including their internal control framework, to be scrutinized, so as to safeguard State capital outlay appropriations and assets acquired with such appropriations.

This Capital Outlay Special Grant Condition(s) **Exhibit C** is necessary pursuant to § 6-3b-1 et seq., NMSA 1978 (Public Finance Accountability Act) and MAPS Fin 9.2, due to the Grantees' material weaknesses, significant deficiencies, or findings that raised concerns as to the ability to expend grant funds in accordance with applicable law in the organization's FY[20XX] audit. The Special Conditions identified below apply to the authorized agent, [insert the Grantee or Fiscal Agent name].

Procurement - All purchases or contracts the Grantee enters that shall use funding from the Department capital appropriations grant must be approved by the Department prior to the initiation of implementing purchasing documents. The Grantee shall receive such prior approval via official correspondence from the Department, which may be through letter or email. The Grantee shall submit the following to the Department in pursuit of prior approval: purchasing policies and procedures, CFO certification, documentation of management and program approval, policies and procedures governing purchasing and contracting, a copy of the current procurement and contracting policies, and documentation regarding informing staff responsible for purchasing and contracting on such policies and procedures.

Budget - Provide documentation of approval of your current budget from DFA Local Government or other authoritative agency. Provide policies and procedures on who is responsible for and how annual budgets (expenditures and revenue) are established, monitored and adjusted. Provide a corrective action plan on how budget issues identified in your audit will be/have been addressed. Also include documentation on how staff responsible for budgeting is informed on budget policies and procedures.

Capital Assets - Provide a complete list of inventory including inventory control numbers and current location. Provide policies and procedures on capital assets and inventory and specify how the proposed purchased items will be included, tagged, and tracked in capital asset inventory. Also include documentation on how staff responsible for capital assets is informed on capital asset policies and procedures.

Travel and Per Diem - Provide policies and procedures on travel and per diem. Also include how staff who travel and those responsible for travel reimbursement are informed on travel and per diem policies and procedures.

Timely Audits – Provide policies and procedures on annual audits. Provide documentation on how and who is responsible for insuring that annual audits are completed timely. Also include documentation on how staff responsible for the annual audit is informed on audit policies and procedures.

Cash Management – policies and procedures on cash management of federal funds. Provide procedures used to draw and disburse federal funds. Provide procedures to reconcile draw amounts, deposits and disbursements; and to prepare federal cash reporting documents to ensure compliance with federal regulations.

The <Grantee> was required to, and has provided sufficient documentation regarding [insert specific names of the Special Condition(s)], as referenced in the <Grantee>'s [20XX] Audit file. Therefore, the criteria to enter into this agreement have been met.

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EXHIBIT D

Project Budget Worksheet *
*(Provided separately when grant agreement issued to Grantee)

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Exhibit E

Data Sharing Provisions for New Mexico Capital Outlay Agreements

I. **Introduction:**

This Data Sharing Provisions Exhibit ("Exhibit") is incorporated into the New Mexico Capital Outlay Agreements ("Agreements") between the State of New Mexico ("State") and [Insert Partner Name] ("Partner"). This Exhibit outlines the terms and conditions under which data will be shared between the Parties to ensure compliance with New Mexico state laws and regulations, focusing on data privacy, security, and compliance.

II. **Definitions:**

a. Authorized User: An employee, agent, assign, representative, independent contractor, or other person or entity authorized by Partner or State to access, use, or disclose information through this exhibit.

b. Confidential Information: All data or information shared in confidence, with the expectation that it will not be disclosed in an identifiable form. This includes data that is exempt from public disclosure under the New Mexico Inspection of Public Records Act (§ 14-2-1 et seq. NMSA 1978) or other relevant laws.

c. Data Storage: Electronic media that hold recorded information.

d. Data Transmission: The process of moving information over a network from its source to one or more destinations.

e. Direct Identifier: Records or data containing personal identifiers such as names, addresses, and social security numbers.

f. Disclosure: Permission to access, release, transfer, or otherwise communicate confidential information by any means to any third party, except as authorized by the Party that controls the record.

g. Encryption involves using algorithms to encode data, rendering it unreadable without a specific key. It may be necessary during data transmission and/or storage.

h. Information: Any data, figures, statistics, or other facts provided or learned about someone or something, including Confidential Information, that may be legally transmitted under this Exhibit.

i. Limited Dataset: A data file that omits Direct Identifiers.

j. Protected Personally Identifiable Information: Sensitive personal details such as social security numbers and financial account numbers, with specific exclusions as outlined in the Agreements.

III. **Purpose:**

The purpose of this exhibit is to promote transparency, facilitate information sharing between the parties, support better policy and decision-making, and enhance public services through collaborative

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data analysis from various sources.

IV. Use of Information:

a. Use of Information obtained or created under this exhibit shall be strictly limited to the purposes stated herein and in the agreements. The parties agree not to sell Information to third parties or use it for commercial, solicitation, or political purposes.

b. Each Party shall serve as the custodian of the Information and comply with all conditions for its use, including security measures to prevent unauthorized access.

c. The Parties shall follow all relevant federal and state laws and regulations governing the use of such Information.

V. Safeguarding Information:

a. Confidentiality: Access to Confidential Information shall be limited to the minimum necessary to accomplish the purposes of this Exhibit. Authorized Users must adhere to the confidentiality requirements.

b. Security: Security practices shall comply with the requirements of the New Mexico Department of Information Technology Act and related regulations. The Parties agree to notify each other within three business days of any suspected or actual security breach.

c. Information Storage and Transmission: Data Storage and Transmission shall take place on an encrypted server with appropriate security controls.

VI. Re-Disclosure of Information:

The Parties agree not to disclose Information except as required by law or with prior written approval of the other Party. If there is a public records request, the Party receiving it shall notify the other Party within three business days.

VII. Ownership of Information:

Legal title to Information shall remain with the provider. The Partner grants the State a royalty-free, non-exclusive, non-transferable license to use the Information in furtherance of the purposes outlined in this Exhibit.

AIA® Document A141® – 2014

Standard Form of Agreement Between Owner and Design-Builder

AGREEMENT made as of the 8 day of July in the year 2026
(In words, indicate day, month and year.)

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

City of Truth or Consequences
Annex Building - 401 McAdoo St.
Truth or Consequences, NM 87901

and the Design-Builder:
(Name, legal status, address and other information)

J. Carrizal General Construction
1070 Diesel Drive
El Paso, TX 79907

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

RFP #2026-03-005 PNC Bank/PD Remodel
210 Main Street
Truth or Consequences, NM 87901

The Owner and Design-Builder agree as follows.

TABLE OF ARTICLES

1 GENERAL PROVISIONS

2 COMPENSATION AND PROGRESS PAYMENTS

3 GENERAL REQUIREMENTS OF THE WORK OF THE DESIGN-BUILD CONTRACT

4 WORK PRIOR TO EXECUTION OF THE DESIGN-BUILD AMENDMENT

5 WORK FOLLOWING EXECUTION OF THE DESIGN-BUILD AMENDMENT

6 CHANGES IN THE WORK

7 OWNER'S RESPONSIBILITIES

8 TIME

9 PAYMENT APPLICATIONS AND PROJECT COMPLETION

10 PROTECTION OF PERSONS AND PROPERTY

11 UNCOVERING AND CORRECTION OF WORK

12 COPYRIGHTS AND LICENSES

13 TERMINATION OR SUSPENSION

14 CLAIMS AND DISPUTE RESOLUTION

15 MISCELLANEOUS PROVISIONS

16 SCOPE OF THE AGREEMENT

TABLE OF EXHIBITS

A DESIGN-BUILD AMENDMENT

B INSURANCE AND BONDS

C SUSTAINABLE PROJECTS

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Owner's Criteria

This Agreement is based on the Owner's Criteria set forth in this Section 1.1.
(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable" or "unknown at time of execution." If the Owner intends to provide a set of design documents, and the requested information is contained in the design documents, identify the design documents and insert "see Owner's design documents" where appropriate.)

§ 1.1.1 The Owner's program for the Project:
(Set forth the program, identify documentation in which the program is set forth, or state the manner in which the program will be developed.)



§ 1.1.2 The Owner's design requirements for the Project and related documentation:
(Identify below, or in an attached exhibit, the documentation that contains the Owner's design requirements, including any performance specifications for the Project.)

« »

§ 1.1.3 The Project's physical characteristics:
(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)

« »

§ 1.1.4 The Owner's anticipated Sustainable Objective for the Project, if any:
(Identify the Owner's Sustainable Objective for the Project such as Sustainability Certification, benefit to the environment, enhancement to the health and well-being of building occupants, or improvement of energy efficiency. If the Owner identifies a Sustainable Objective, incorporate AIA Document A141™–2014, Exhibit C, Sustainable Projects, into this Agreement to define the terms, conditions and Work related to the Owner's Sustainable Objective.)

« »

§ 1.1.5 Incentive programs the Owner intends to pursue for the Project, including those related to the Sustainable Objective, and any deadlines for receiving the incentives that are dependent on, or related to, the Design-Builder's services, are as follows:
(Identify incentive programs the Owner intends to pursue for the Project and deadlines for submitting or applying for the incentive programs.)

« »

§ 1.1.6 The Owner's budget for the Work to be provided by the Design-Builder is set forth below:
(Provide total for Owner's budget, and if known, a line item breakdown of costs.)

« »

§ 1.1.7 The Owner's design and construction milestone dates:

.1 Design phase milestone dates:

«»

.2 Submission of Design-Builder Proposal:

«»

.3 Phased completion dates:

«»

.4 Substantial Completion date:

«»

.5 Other milestone dates:

«»

§ 1.1.8 The Owner requires the Design-Builder to retain the following Architect, Consultants and Contractors at the Design-Builder's cost:
(List name, legal status, address and other information.)

.1 Architect

William Philip Buckley

.2 Consultants

« »

.3 Contractors

J. Carrizal General Construction

§ 1.1.9 Additional Owner's Criteria upon which the Agreement is based:
(Identify special characteristics or needs of the Project not identified elsewhere, such as historic preservation requirements.)

« »

§ 1.1.10 The Design-Builder shall confirm that the information included in the Owner's Criteria complies with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 1.1.10.1 If the Owner's Criteria conflicts with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner of the conflict.

§ 1.1.11 If there is a change in the Owner's Criteria, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 1.1.12 If the Design-Builder and Contractor intend to transmit Instruments of Service or any other information or documentation in digital form, or utilize building information modeling, they shall endeavor to establish written protocols governing the development, use, transmission, reliance, and exchange of digital data, including building information modeling.

§ 1.2 Project Team

§ 1.2.1 The Owner identifies the following representative in accordance with Section 7.1.1:
(List name, address and other information.)

Chief of Police, Luis Tavizon, (575) 894-7945, ltavizon@torcnm.gov
Assistant City Manager, Traci Alvarez, (575) 952-0565, talvarez@torcnm.gov
City Manager, Gary Whitehead, (575) 894-668, gwhitehead@torcnm.gov
Chief Financial Officer, Jocelyn Holguin, (575) 740-7323, jholguin@torcnm.gov
Chief Procurement Officer, Carlos Miyagishima, (575) 952-9301, cmiyagishima@torcnm.gov

§ 1.2.2 The persons or entities, in addition to the Owner's representative, who are required to review the Design-Builder's Submittals are as follows:
(List name, address and other information.)

« »

§ 1.2.3 The Owner will retain the following consultants and separate contractors:
(List discipline, scope of work, and, if known, identify by name and address.)

The work consists of design and construction services, based on the remolding of the PNC Bank Building-Address: 210 Main Ave, Truth or Consequences, NM 87901 for a new all-inclusive Police Department Building.

§ 1.2.4 The Design-Builder identifies the following representative in accordance with Section 3.1.2:
(List name, address and other information.)

« »
« »
« »
« »
« »
« »

§ 1.2.5 Neither the Owner's nor the Design-Builder's representative shall be changed without ten days' written notice to the other party.

§ 1.3 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 14.3, the method of binding dispute resolution shall be the following:
(Check the appropriate box. If the Owner and Design-Builder do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

[« »] Arbitration pursuant to Section 14.4

[« »] Litigation in a court of competent jurisdiction

[« »] Other: *(Specify)*

§ 1.4 Definitions

§ 1.4.1 Design-Build Documents. The Design-Build Documents consist of this Agreement between Owner and Design-Builder and its attached Exhibits (hereinafter, the "Agreement"); other documents listed in this Agreement; and Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, including the Design-Build Amendment, (2) a Change Order, or (3) a Change Directive.

§ 1.4.2 The Contract. The Design-Build Documents form the Contract. The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Design-Build Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and the Design-Builder.

§ 1.4.3 The Work. The term "Work" means the design, construction and related services required to fulfill the Design-Builder's obligations under the Design-Build Documents, whether completed or partially completed, and includes all labor, materials, equipment and services provided or to be provided by the Design-Builder. The Work may constitute the whole or a part of the Project.

§ 1.4.4 The Project. The Project is the total design and construction of which the Work performed under the Design-Build Documents may be the whole or a part, and may include design and construction by the Owner and by separate contractors.

§ 1.4.5 Instruments of Service. Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Design-Builder, Contractor(s), Architect, and Consultant(s) under their respective agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, digital models and other similar materials.

§ 1.4.6 Submittal. A Submittal is any submission to the Owner for review and approval demonstrating how the Design-Builder proposes to conform to the Design-Build Documents for those portions of the Work for which the Design-Build Documents require Submittals. Submittals include, but are not limited to, shop drawings, product data, and samples. Submittals are not Design-Build Documents unless incorporated into a Modification.

§ 1.4.7 Owner. The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized representative.

§ 1.4.8 Design-Builder. The Design-Builder is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term "Design-Builder" means the Design-Builder or the Design-Builder's authorized representative.

§ 1.4.9 Consultant. A Consultant is a person or entity providing professional services for the Design-Builder for all or a portion of the Work, and is referred to throughout the Design-Build Documents as if singular in number. To the extent required by the relevant jurisdiction, the Consultant shall be lawfully licensed to provide the required professional services.

§ 1.4.10 Architect. The Architect is a person or entity providing design services for the Design-Builder for all or a portion of the Work, and is lawfully licensed to practice architecture in the applicable jurisdiction. The Architect is referred to throughout the Design-Build Documents as if singular in number.

§ 1.4.11 Contractor. A Contractor is a person or entity performing all or a portion of the construction, required in connection with the Work, for the Design-Builder. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor is referred to throughout the Design-Build Documents as if singular in number and means a Contractor or an authorized representative of the Contractor.

§ 1.4.12 Confidential Information. Confidential Information is information containing confidential or business proprietary information that is clearly marked as "confidential."

§ 1.4.13 Contract Time. Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, as set forth in the Design-Build Amendment for Substantial Completion of the Work.

§ 1.4.14 Day. The term "day" as used in the Design-Build Documents shall mean calendar day unless otherwise specifically defined.

§ 1.4.15 Contract Sum. The Contract Sum is the amount to be paid to the Design-Builder for performance of the Work after execution of the Design-Build Amendment, as identified in Article A.1 of the Design-Build Amendment.

ARTICLE 2 COMPENSATION AND PROGRESS PAYMENTS

§ 2.1 Compensation for Work Performed Prior To Execution of Design-Build Amendment

§ 2.1.1 Unless otherwise agreed, payments for Work performed prior to Execution of the Design-Build Amendment shall be made monthly. For the Design-Builder's performance of Work prior to the execution of the Design-Build Amendment, the Owner shall compensate the Design-Builder as follows:
(Insert amount of, or basis for, compensation, including compensation for any Sustainability Services, or indicate the exhibit in which the information is provided. If there will be a limit on the total amount of compensation for Work performed prior to the execution of the Design-Build Amendment, state the amount of the limit.)

The City shall pay to the Contractor in full payment for services satisfactorily performed under the individual Task Orders based on the schedule of payments contained in the individual task order.

§ 2.1.2 The hourly billing rates for services of the Design-Builder and the Design-Builder's Architect, Consultants and Contractors, if any, are set forth below.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

« »

Individual or Position	Rate

§ 2.1.3 Compensation for Reimbursable Expenses Prior To Execution of Design-Build Amendment

§ 2.1.3.1 Reimbursable Expenses are in addition to compensation set forth in Section 2.1.1 and 2.1.2 and include expenses, directly related to the Project, incurred by the Design-Builder and the Design-Builder's Architect, Consultants, and Contractors, as follows:

.1 Transportation and authorized out-of-town travel and subsistence;
.2 Dedicated data and communication services, teleconferences, Project web sites, and extranets;
.3 Fees paid for securing approval of authorities having jurisdiction over the Project;
.4 Printing, reproductions, plots, standard form documents;
.5 Postage, handling and delivery;
.6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
.7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner;
.8 All taxes levied on professional services and on reimbursable expenses; and
.9 Other Project-related expenditures, if authorized in advance by the Owner.

§ 2.1.3.2 For Reimbursable Expenses, the compensation shall be the expenses the Design-Builder and the Design-Builder's Architect, Consultants and Contractors incurred, plus an administrative fee of « » percent (« » %) of the expenses incurred.

§ 2.1.4 Payments to the Design-Builder Prior To Execution of Design-Build Amendment

§ 2.1.4.1 Payments are due and payable upon presentation of the Design-Builder's invoice. Amounts unpaid « fifteen » (« 15 ») days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Design-Builder.
(Insert rate of monthly or annual interest agreed upon.)

« 1 » % « One Percent per month »

§ 2.1.4.2 Records of Reimbursable Expenses and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times for a period of two years following execution of the Design-Build Amendment or termination of this Agreement, whichever occurs first.

§ 2.2 Contract Sum and Payment for Work Performed After Execution of Design-Build Amendment

For the Design-Builder's performance of the Work after execution of the Design-Build Amendment, the Owner shall pay to the Design-Builder the Contract Sum in current funds as agreed in the Design-Build Amendment.

ARTICLE 3 GENERAL REQUIREMENTS OF THE WORK OF THE DESIGN-BUILD CONTRACT

§ 3.1 General

§ 3.1.1 The Design-Builder shall comply with any applicable licensing requirements in the jurisdiction where the Project is located.

§ 3.1.2 The Design-Builder shall designate in writing a representative who is authorized to act on the Design-Builder's behalf with respect to the Project.

§ 3.1.3 The Design-Builder shall perform the Work in accordance with the Design-Build Documents. The Design-Builder shall not be relieved of the obligation to perform the Work in accordance with the Design-Build Documents by the activities, tests, inspections or approvals of the Owner.

§ 3.1.3.1 The Design-Builder shall perform the Work in compliance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder performs Work contrary to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, the Design-Builder shall assume responsibility for such Work and shall bear the costs attributable to correction.

§ 3.1.3.2 Neither the Design-Builder nor any Contractor, Consultant, or Architect shall be obligated to perform any act which they believe will violate any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder determines that implementation of any instruction received from the Owner, including those in the Owner's Criteria, would cause a violation of any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner in writing. Owner shall respond within 5 business days to Design-Builder's notice. If Owner fails to timely respond, Design-Builder may proceed with a code-compliant solution consistent with Owner's Criteria, and is entitled to an equitable adjustment for time and cost. Upon verification by the Owner that a change to the Owner's Criteria is required to remedy the violation, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 3.1.4 The Design-Builder shall be responsible to the Owner for acts and omissions of the Design-Builder's employees, Architect, Consultants, Contractors, and their agents and employees, and other persons or entities performing portions of the Work.

§ 3.1.5 General Consultation. The Design-Builder shall schedule and conduct periodic meetings with the Owner to review matters such as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.6 When applicable law requires that services be performed by licensed professionals, the Design-Builder shall provide those services through qualified, licensed professionals. The Owner understands and agrees that the services of the Design-Builder's Architect and the Design-Builder's other Consultants are performed in the sole interest of, and for the exclusive benefit of, the Design-Builder.

§ 3.1.7 The Design-Builder, with the assistance of the Owner, shall prepare and file documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project.

§ 3.1.8 Progress Reports

§ 3.1.8.1 The Design-Builder shall keep the Owner informed of the progress and quality of the Work. On a monthly basis, or otherwise as agreed to by the Owner and Design-Builder, the Design-Builder shall submit written progress reports to the Owner, showing estimated percentages of completion and other information identified below:

- .1 Work completed for the period;
- .2 Project schedule status;
- .3 Submittal schedule and status report, including a summary of outstanding Submittals;
- .4 Responses to requests for information to be provided by the Owner;
- .5 Approved Change Orders and Change Directives;
- .6 Pending Change Order and Change Directive status reports;
- .7 Tests and inspection reports;
- .8 Status report of Work rejected by the Owner;
- .9 Status of Claims previously submitted in accordance with Article 14;
- .10 Cumulative total of the Cost of the Work to date including the Design-Builder's compensation and Reimbursable Expenses, if any;
- .11 Current Project cash-flow and forecast reports; and
- .12 Additional information as agreed to by the Owner and Design-Builder.

§ 3.1.8.2 In addition, where the Contract Sum is the Cost of the Work with or without a Guaranteed Maximum Price, the Design-Builder shall include the following additional information in its progress reports:

- .1 Design-Builder's work force report;
- .2 Equipment utilization report; and
- .3 Cost summary, comparing actual costs to updated cost estimates.

§ 3.1.9 Design-Builder's Schedules

§ 3.1.9.1 The Design-Builder, promptly after execution of this Agreement, shall prepare and submit for the Owner's information a schedule for the Work. The schedule, including the time required for design and construction, shall not exceed time limits current under the Design-Build Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the

Design-Build Documents, shall provide for expeditious and practicable execution of the Work, and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project.

§ 3.1.9.2 The Design-Builder shall perform the Work in general accordance with the most recent schedules submitted to the Owner.

§ 3.1.10 Certifications. Upon the Owner's written request, the Design-Builder shall obtain from the Architect, Consultants, and Contractors, and furnish to the Owner, certifications with respect to the documents and services provided by the Architect, Consultants, and Contractors (a) that, to the best of their knowledge, information and belief, the documents or services to which the certifications relate (i) are consistent with the Design-Build Documents, except to the extent specifically identified in the certificate, and (ii) comply with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities governing the design of the Project; and (b) that the Owner and its consultants shall be entitled to rely upon the accuracy of the representations and statements contained in the certifications. The Design-Builder's Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services. Any certifications shall be limited to the professional's knowledge, information, and belief, based on services performed with the standard of care, and shall not include guarantees, warranties, or certification of construction means/methods or third-party data.

§ 3.1.11 Design-Builder's Submittals

§ 3.1.11.1 Prior to submission of any Submittals, the Design-Builder shall prepare a Submittal schedule, and shall submit the schedule for the Owner's approval. The Owner's review shall be done in good faith and approval shall not unreasonably be delayed or withheld. The Submittal schedule shall (1) be coordinated with the Design-Builder's schedule provided in Section 3.1.9.1, (2) allow the Owner reasonable time to review Submittals, and (3) be periodically updated to reflect the progress of the Work. The Owner's failure to respond within the approved Submittal schedule constitutes deemed approval for sequencing purposes (not pricing), allowing Work to proceed. If the Design-Builder fails to submit a Submittal schedule, the Design-Builder shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of Submittals.

§ 3.1.11.2 By providing Submittals the Design-Builder represents to the Owner that it has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Design-Build Documents.

§ 3.1.11.3 The Design-Builder shall perform no portion of the Work for which the Design-Build Documents require Submittals until the Owner has approved the respective Submittal.

§ 3.1.11.4 The Work shall be in accordance with approved Submittals except that the Design-Builder shall not be relieved of its responsibility to perform the Work consistent with the requirements of the Design-Build Documents. The Work may deviate from the Design-Build Documents only if the Design-Builder has notified the Owner in writing of a deviation from the Design-Build Documents at the time of the Submittal. If Owner approves a Submittal that clearly identifies a deviation, such approval shall constitute Owner's authorization of that deviation, and a confirming Change Order will be executed and pricing/time impacts shall be agreed upon contemporaneously. The Design-Builder shall not be relieved of responsibility for errors or omissions in Submittals by the Owner's approval of the Submittals.

§ 3.1.11.5 All professional design services or certifications to be provided by the Design-Builder, including all drawings, calculations, specifications, certifications, shop drawings and other Submittals, shall contain the signature and seal of the licensed design professional preparing them. Submittals related to the Work designed or certified by the licensed design professionals, if prepared by others, shall bear the licensed design professional's written approval. The Owner and its consultants shall be entitled to reasonably rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

§ 3.1.12 Warranty. The Design-Builder warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless the Design-Build Documents require or permit otherwise. The

Design-Builder further warrants that the Work will conform to the requirements of the Design-Build Documents and will be free from defects, except for those inherent in the quality of the Work or otherwise expressly permitted by the Design-Build Documents. Work, materials, or equipment not conforming to these requirements may be considered defective. The Design-Builder's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Design-Builder, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner, the Design-Builder shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.1.13 Royalties, Patents and Copyrights

§ 3.1.13.1 The Design-Builder shall pay all royalties and license fees.

§ 3.1.13.2 The Design-Builder shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and its separate contractors and consultants harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Owner, or where the copyright violations are required in the Owner's Criteria. However, if the Design-Builder has reason to believe that the design, process or product required in the Owner's Criteria is an infringement of a copyright or a patent, the Design-Builder shall be responsible for such loss unless such information is promptly furnished to the Owner. Design-Builder shall have no duty to indemnify Owner if such information is timely provided to Owner. If the Owner receives notice from a patent or copyright owner of an alleged violation of a patent or copyright, attributable to the Design-Builder, the Owner shall give prompt written notice to the Design-Builder.

§ 3.1.14 Indemnification

§ 3.1.14.1 To the fullest extent permitted by law, the Design-Builder shall indemnify and hold harmless the Owner, including the Owner's agents and employees, from and against claims, damages, losses and expenses, including but not limited to reasonable and necessary attorneys' fees, arising out of or resulting from performance of the Work, but only to the extent caused by the negligent acts or omissions of the Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.1.14. Design-Builder shall have no duty to indemnify for concurrent negligence of indemnitees. Design-Builder's defense obligation is triggered only to the extent of Design-Builder's proportionate fault as finally determined by the trier of fact.

§ 3.1.14.2 The indemnification obligation under this Section 3.1.14 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them, under workers' compensation acts, disability benefit acts or other employee benefit acts.

§ 3.1.15 Contingent Assignment of Agreements

§ 3.1.15.1 Each agreement for a portion of the Work is assigned by the Design-Builder to the Owner, provided that

.1 assignment is effective only after termination of the Contract by the Owner for cause, pursuant to Sections 13.1.4 or 13.2.2, and only for those agreements that the Owner accepts by written notification to the Design-Builder and the Architect, Consultants, and Contractors whose agreements are accepted for assignment; and

.2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of an agreement, the Owner assumes the Design-Builder's rights and obligations under the agreement.

§ 3.1.15.2 Upon such assignment, if the Work has been suspended for more than 30 days, the compensation under the assigned agreement shall be equitably adjusted for increases in cost resulting from the suspension.

§ 3.1.15.3 Upon such assignment to the Owner under this Section 3.1.15, the Owner may further assign the agreement to a successor design-builder or other entity. If the Owner assigns the agreement to a successor design-

builder or other entity, the Owner shall nevertheless remain legally responsible for all of the successor design-builder's or other entity's obligations under the agreement.

§ 3.1.16 Design-Builder's Insurance and Bonds. The Design-Builder shall purchase and maintain insurance and provide bonds as set forth in Exhibit B.

ARTICLE 4 WORK PRIOR TO EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 4.1 General

§ 4.1.1 Any information submitted by the Design-Builder, and any interim decisions made by the Owner, shall be for the purpose of facilitating the design process and shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.1.2 The Design-Builder shall advise the Owner on proposed site use and improvements, selection of materials, and building systems and equipment. The Design-Builder shall also provide the Owner with recommendations, consistent with the Owner's Criteria, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 4.2 Evaluation of the Owner's Criteria

§ 4.2.1 The Design-Builder shall schedule and conduct meetings with the Owner and any other necessary individuals or entities to discuss and review the Owner's Criteria as set forth in Section 1.1. The Design-Builder shall thereafter again meet with the Owner to discuss a preliminary evaluation of the Owner's Criteria. The preliminary evaluation shall address possible alternative approaches to design and construction of the Project and include the Design-Builder's recommendations, if any, with regard to accelerated or fast-track scheduling, procurement, or phased construction. The preliminary evaluation shall consider cost information, constructability, and procurement and construction scheduling issues.

§ 4.2.2 After the Design-Builder meets with the Owner and presents the preliminary evaluation, the Design-Builder shall provide a written report to the Owner, summarizing the Design-Builder's evaluation of the Owner's Criteria. The report shall also include

.1 allocations of program functions, detailing each function and their square foot areas;

.2 a preliminary estimate of the Cost of the Work, and, if necessary, recommendations to adjust the Owner's Criteria to conform to the Owner's budget;

.3 a preliminary schedule, which shall include proposed design milestones; dates for receiving additional information from, or for work to be completed by, the Owner; anticipated date for the Design-Builder's Proposal; and dates of periodic design review sessions with the Owner; and

.4 the following:
(List additional information, if any, to be included in the Design-Builder's written report.)

§ 4.2.3 The Owner shall review the Design-Builder's written report and, if acceptable, provide the Design-Builder with written consent to proceed to the development of the Preliminary Design as described in Section 4.3. The consent to proceed shall not be understood to modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.3 Preliminary Design

§ 4.3.1 Upon the Owner's issuance of a written consent to proceed under Section 4.2.3, the Design-Builder shall prepare and submit a Preliminary Design to the Owner. The Preliminary Design shall include a report identifying any deviations from the Owner's Criteria, and shall include the following:

.1 Confirmation of the allocations of program functions;

.2 Site plan;

.3 Building plans, sections and elevations;

.4 Structural system;

.5 Selections of major building systems, including but not limited to mechanical, electrical and plumbing systems; and

.6 Outline specifications or sufficient drawing notes describing construction materials.

The Preliminary Design may include some combination of physical study models, perspective sketches, or digital modeling.

§ 4.3.2 The Owner shall review the Preliminary Design and, if acceptable, provide the Design-Builder with written consent to proceed to development of the Design-Builder's Proposal. The Preliminary Design shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.4 Design-Builder's Proposal

§ 4.4.1 Upon the Owner's issuance of a written consent to proceed under Section 4.3.2, the Design-Builder shall prepare and submit the Design-Builder's Proposal to the Owner. The Design-Builder's Proposal shall include the following:

.1 A list of the Preliminary Design documents and other information, including the Design-Builder's clarifications, assumptions and deviations from the Owner's Criteria, upon which the Design-Builder's Proposal is based;

.2 The proposed Contract Sum, including the compensation method and, if based upon the Cost of the Work plus a fee, a written statement of estimated cost organized by trade categories, allowances, contingencies, Design-Builder's Fee, and other items that comprise the Contract Sum;

.3 The proposed date the Design-Builder shall achieve Substantial Completion;

.4 An enumeration of any qualifications and exclusions, if applicable;

.5 A list of the Design-Builder's key personnel, Contractors and suppliers; and

.6 The date on which the Design-Builder's Proposal expires.

§ 4.4.2 Submission of the Design-Builder's Proposal shall constitute a representation by the Design-Builder that it has visited the site and become familiar with local conditions under which the Work is to be completed.

§ 4.4.3 If the Owner and Design-Builder agree on a proposal, the Owner and Design-Builder shall execute the Design-Build Amendment setting forth the terms of their agreement.

ARTICLE 5 WORK FOLLOWING EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 5.1 Construction Documents

§ 5.1.1 Upon the execution of the Design-Build Amendment, the Design-Builder shall prepare Construction Documents. The Construction Documents shall establish the quality levels of materials and systems required. The Construction Documents shall be consistent with the Design-Build Documents.

§ 5.1.2 The Design-Builder shall provide the Construction Documents to the Owner for the Owner's information. If the Owner discovers any deviations between the Construction Documents and the Design-Build Documents, the Owner shall promptly notify the Design-Builder of such deviations in writing. The Construction Documents shall not modify the Design-Build Documents unless the Owner and Design-Builder execute a Modification. The failure of the Owner to discover any such deviations shall not relieve the Design-Builder of the obligation to perform the Work in accordance with the Design-Build Documents.

§ 5.2 Construction

§ 5.2.1 Commencement. Except as permitted in Section 5.2.2, construction shall not commence prior to execution of the Design-Build Amendment.

§ 5.2.2 If the Owner and Design-Builder agree in writing, construction may proceed prior to the execution of the Design-Build Amendment. However, such authorization shall not waive the Owner's right to reject the Design-Builder's Proposal.

§ 5.2.3 The Design-Builder shall supervise and direct the Work, using the Design-Builder's best skill and attention. The Design-Builder shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Design-Build Documents give other specific instructions concerning these matters.

§ 5.2.4 The Design-Builder shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 5.3 Labor and Materials

§ 5.3.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services, necessary for proper execution and completion of the Work, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work.

§ 5.3.2 When a material or system is specified in the Design-Build Documents, the Design-Builder may make substitutions only in accordance with Article 6.

§ 5.3.3 The Design-Builder shall enforce strict discipline and good order among the Design-Builder's employees and other persons carrying out the Work. The Design-Builder shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 5.4 Taxes

The Design-Builder shall pay sales, consumer, use and similar taxes, for the Work provided by the Design-Builder, that are legally enacted when the Design-Build Amendment is executed, whether or not yet effective or merely scheduled to go into effect.

§ 5.5 Permits, Fees, Notices and Compliance with Laws

§ 5.5.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall secure and pay for the building permit as well as any other permits, fees, licenses, and inspections by government agencies, necessary for proper execution of the Work and Substantial Completion of the Project.

§ 5.5.2 The Design-Builder shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, applicable to performance of the Work.

§ 5.5.3 Concealed or Unknown Conditions. If the Design-Builder encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Design-Build Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Design-Build Documents, the Design-Builder shall promptly provide notice to the Owner before conditions are disturbed and in no event later than 21 days after first observance of the conditions or when reasonably discoverable with ordinary diligence, whichever is later. Upon timely notice, Design-Builder is entitled to an equitable adjustment to Contract Sum and Contract Time for material differences meeting the above described criteria, determined based on objective evidence. The Owner's role is to confirm scope/extent, not entitlement discretion. Failure to respond within 10 days is deemed confirmation of material difference for purposes of interim relief. If the Owner determines that the conditions at the site are not materially different from those indicated in the Design-Build Documents and that no change in the terms of the Contract is justified, the Owner shall promptly notify the Design-Builder in writing, stating the reasons. If the Design-Builder disputes the Owner's determination or recommendation, the Design-Builder may proceed as provided in Article 14.

§ 5.5.4 If, in the course of the Work, the Design-Builder encounters human remains, or recognizes the existence of burial markers, archaeological sites, or wetlands, not indicated in the Design-Build Documents, the Design-Builder shall immediately suspend any operations that would affect them and shall notify the Owner. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Design-Builder shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 14.

§ 5.6 Allowances

§ 5.6.1 The Design-Builder shall include in the Contract Sum all allowances stated in the Design-Build Documents. Items covered by allowances shall be supplied for such amounts, and by such persons or entities as the Owner may

direct, but the Design-Builder shall not be required to employ persons or entities to whom the Design-Builder has reasonable objection.

§ 5.6.2 Unless otherwise provided in the Design-Build Documents,

.1 allowances shall cover the cost to the Design-Builder of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

.2 the Design-Builder's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts, shall be included in the Contract Sum but not in the allowances; and

.3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 5.6.2.1 and (2) changes in Design-Builder's costs under Section 5.6.2.2.

§ 5.6.3 The Owner shall make selections of materials and equipment with reasonable promptness for allowances requiring Owner selection.

§ 5.7 Key Personnel, Contractors and Suppliers

§ 5.7.1 The Design-Builder shall not employ personnel, or contract with Contractors or suppliers to whom the Owner has made reasonable and timely objection. The Design-Builder shall not be required to contract with anyone to whom the Design-Builder has made reasonable and timely objection.

§ 5.7.2 If the Design-Builder changes any of the personnel, Contractors or suppliers identified in the Design-Build Amendment, the Design-Builder shall notify the Owner and provide the name and qualifications of the new personnel, Contractor or supplier. The Owner may reply within 14 days to the Design-Builder in writing, stating (1) whether the Owner has reasonable objection to the proposed personnel, Contractor or supplier or (2) that the Owner requires additional time to review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.7.3 Except for those persons or entities already identified or required in the Design-Build Amendment, the Design-Builder, as soon as practicable after execution of the Design-Build Amendment, shall furnish in writing to the Owner the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Owner may reply within 14 days to the Design-Builder in writing stating (1) whether the Owner has reasonable objection to any such proposed person or entity or (2) that the Owner requires additional time for review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.7.3.1 If the Owner has reasonable objection to a person or entity proposed by the Design-Builder, the Design-Builder shall propose another to whom the Owner has no reasonable objection. If the rejected person or entity was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute person or entity's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Design-Builder has acted promptly and responsively in submitting names as required.

§ 5.8 Documents and Submittals at the Site

The Design-Builder shall maintain at the site for the Owner one copy of the Design-Build Documents and a current set of the Construction Documents, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Submittals. The Design-Builder shall deliver these items to the Owner in accordance with Section 9.10.2 as a record of the Work as constructed.

§ 5.9 Use of Site

The Design-Builder shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Design-Build Documents, and shall not unreasonably encumber the site with materials or equipment.

§ 5.10 Cutting and Patching
The Design-Builder shall not cut, patch or otherwise alter fully or partially completed construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Design-Builder shall not unreasonably withhold from the Owner or a separate contractor the Design-Builder's consent to cutting or otherwise altering the Work.

§ 5.11 Cleaning Up
§ 5.11.1 The Design-Builder shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Design-Builder shall remove waste materials, rubbish, the Design-Builder's tools, construction equipment, machinery and surplus materials from and about the Project.

§ 5.11.2 If the Design-Builder fails to clean up as provided in the Design-Build Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Design-Builder.

§ 5.12 Access to Work
The Design-Builder shall provide the Owner and its separate contractors and consultants access to the Work in preparation and progress wherever located. The Design-Builder shall notify the Owner regarding Project safety criteria and programs, which the Owner, and its contractors and consultants, shall comply with while at the site.

§ 5.13 Construction by Owner or by Separate Contractors
§ 5.13.1 Owner's Right to Perform Construction and to Award Separate Contracts
§ 5.13.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces; and to award separate contracts in connection with other portions of the Project, or other construction or operations on the site, under terms and conditions identical or substantially similar to this Contract, including those terms and conditions related to insurance and waiver of subrogation. The Owner shall notify the Design-Builder promptly after execution of any separate contract. If the Design-Builder claims that delay or additional cost is involved because of such action by the Owner, the Design-Builder shall make a Claim as provided in Article 14.

§ 5.13.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Design-Builder" in the Design-Build Documents in each case shall mean the individual or entity that executes each separate agreement with the Owner.

§ 5.13.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces, and of each separate contractor, with the Work of the Design-Builder, who shall cooperate with them. The Design-Builder shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Design-Builder shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Design-Builder, separate contractors and the Owner until subsequently revised.

§ 5.13.1.4 Unless otherwise provided in the Design-Build Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or separate contractors, the Owner shall be deemed to be subject to the same obligations, and to have the same rights, that apply to the Design-Builder under the Contract.

§ 5.14 Mutual Responsibility
§ 5.14.1 The Design-Builder shall afford the Owner and separate contractors' reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Design-Builder's construction and operations with theirs as required by the Design-Build Documents.

§ 5.14.2 If part of the Design-Builder's Work depends upon construction or operations by the Owner or a separate contractor, the Design-Builder shall, prior to proceeding with that portion of the Work, prepare a written report to the Owner, identifying apparent discrepancies or defects in the construction or operations by the Owner or separate contractor that would render it unsuitable for proper execution and results of the Design-Builder's Work. Failure of the Design-Builder to report shall constitute an acknowledgment that the Owner's or separate contractors completed or partially completed construction is fit and proper to receive the Design-Builder's Work, except as to defects not then reasonably discoverable.

§ 5.14.3 The Design-Builder shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Design-Builder's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Design-Builder for costs the Design-Builder incurs because of a separate contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 5.14.4 The Design-Builder shall promptly remedy damage the Design-Builder wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 5.14.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching the Work as the Design-Builder has with respect to the construction of the Owner or separate contractors in Section 5.10.

§ 5.15 Owner's Right to Clean Up

If a dispute arises among the Design-Builder, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and will allocate the cost among those responsible.

ARTICLE 6 CHANGES IN THE WORK

§ 6.1 General

§ 6.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order or Change Directive, subject to the limitations stated in this Article 6 and elsewhere in the Design-Build Documents.

§ 6.1.2 A Change Order shall be based upon agreement between the Owner and Design-Builder. The Owner may issue a Change Directive without agreement by the Design-Builder.

§ 6.1.3 Changes in the Work shall be performed under applicable provisions of the Design-Build Documents, and the Design-Builder shall proceed promptly, unless otherwise provided in the Change Order or Change Directive.

§ 6.2 Change Orders

A Change Order is a written instrument signed by the Owner and Design-Builder stating their agreement upon all of the following:

.1 The change in the Work;

.2 The amount of the adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation; and

.3 The extent of the adjustment, if any, in the Contract Time.

§ 6.3 Change Directives

§ 6.3.1 A Change Directive is a written order signed by the Owner directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, or Contract Time. The Owner may by Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, and Contract Time being adjusted accordingly.

§ 6.3.2 A Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 6.3.3 If the Change Directive provides for an adjustment to the Contract Sum or, if prior to execution of the Design-Build Amendment, an adjustment in the Design-Builder's compensation, the adjustment shall be based on one of the following methods in order of preference:

.1 Unit prices stated in the Design-Build Documents or subsequently agreed upon;

.2 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;

.3 Agreed time and materials with fixed markups of ten percent (10%) overhead and five percent (5%) profit on Design-Builder self-performed Work, and five percent (5%) markup on Work performed by a subcontractor;; or

.4 As provided in Section 6.3.7.

§ 6.3.4 If unit prices are stated in the Design-Build Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Design-Builder, the applicable unit prices shall be equitably adjusted.

§ 6.3.5 Upon receipt of a Change Directive, the Design-Builder shall promptly proceed with the change in the Work involved and advise the Owner of the Design-Builder's agreement or disagreement with the method, if any, provided in the Change Directive for determining the proposed adjustment in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, or Contract Time.

§ 6.3.6 A Change Directive signed by the Design-Builder indicates the Design-Builder's agreement therewith, including adjustment in Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 6.3.7 If the Design-Builder does not respond within ten (10) days or disagrees with the method for adjustment in the Contract Sum or, if prior to execution of the Design-Build Amendment, the method for adjustment in the Design-Builder's compensation, the Owner shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase, an amount of ten percent (10%) overhead and five percent (5%) profit on Design-Builder self-performed Work, and five percent (5%) markup on Work performed by a subcontractor . In such case, and also under Section 6.3.3.3, the Design-Builder shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data limited to customary industry documentation for time and material changes (labor timecards, rental tickets, supplier invoices) and certified payroll where required. Design-Builder has no obligation to produce privileged/confidential information, and Owner's right to audit is limited to records directly related to the changed Work. Unless otherwise provided in the Design-Build Documents, costs for the purposes of this Section 6.3.7 shall be limited to the following:

.1 Additional costs of professional services;

.2 Costs of labor, including social security, unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;

.3 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;

.4 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Design-Builder or others;

.5 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and

.6 Additional costs of supervision and field office personnel directly attributable to the change.

§ 6.3.8 The amount of credit to be allowed by the Design-Builder to the Owner for a deletion or change that results in a net decrease in the Contract Sum or, if prior to execution of the Design-Build Amendment, in the Design-Builder's compensation, shall be actual net cost. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 6.3.9 Change Directives shall address time adjustments concurrently with cost determinations. Absent an agreement, a provisional time extension equal to impacted critical path days will be recognized, subject to a later true-up. Pending final determination of the total cost of a Change Directive to the Owner, the Design-Builder may request payment for Work completed under the Change Directive in Applications for Payment. The Owner will make an interim determination for purposes of certification for payment for those costs deemed to be reasonably justified. The Owner's interim determination of cost shall adjust the Contract Sum or, if prior to execution of the Design-Build Amendment, the Design-Builder's compensation, on the same basis as a Change Order, subject to the right of Design-Builder to disagree and assert a Claim in accordance with Article 14.

§ 6.3.10 When the Owner and Design-Builder agree with a determination concerning the adjustments in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Owner and Design-Builder shall execute a Change Order. Change Orders may be issued for all or any part of a Change Directive.

ARTICLE 7 OWNER'S RESPONSIBILITIES

§ 7.1 General

§ 7.1.1 The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all Project matters requiring the Owner's approval or authorization.

§ 7.1.2 The Owner shall render decisions in a timely manner and in accordance with the Design-Builder's schedule agreed to by the Owner. The Owner shall furnish to the Design-Builder, within 15 days after receipt of a written request, information necessary and relevant for the Design-Builder to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 7.2 Information and Services Required of the Owner

§ 7.2.1 The Owner shall furnish information or services required of the Owner by the Design-Build Documents with reasonable promptness.

§ 7.2.2 The Owner shall provide, to the extent under the Owner's control and if not required by the Design-Build Documents to be provided by the Design-Builder, the results and reports of prior tests, inspections or investigations conducted for the Project involving structural or mechanical systems; chemical, air and water pollution; hazardous materials; or environmental and subsurface conditions and information regarding the presence of pollutants at the Project site. Upon receipt of a written request from the Design-Builder, the Owner shall also provide surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site under the Owner's control.

§ 7.2.3 The Owner shall promptly obtain easements, zoning variances, and legal authorizations or entitlements regarding site utilization where essential to the execution of the Project.

§ 7.2.4 The Owner shall cooperate with the Design-Builder in securing building and other permits, licenses and inspections.

§ 7.2.5 The services, information, surveys and reports required to be provided by the Owner under this Agreement, shall be furnished at the Owner's expense, and except as otherwise specifically provided in this Agreement or elsewhere in the Design-Build Documents or to the extent the Owner advises the Design-Builder to the contrary in writing, the Design-Builder shall be entitled to rely upon the accuracy and completeness thereof. In no event shall the Design-Builder be relieved of its responsibility to exercise proper precautions relating to the safe performance of the Work.

§ 7.2.6 If the Owner observes or otherwise becomes aware of a fault or defect in the Work or non-conformity with the Design-Build Documents, the Owner shall give prompt written notice thereof to the Design-Builder.

§ 7.2.7 Prior to the execution of the Design-Build Amendment, the Design-Builder may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Design-Build Documents and the Design-Builder's Proposal. Thereafter, the Design-Builder may only request such evidence if (1) the Owner fails to make payments to the Design-Builder as the Design-Build Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Design-Builder identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Design-Builder.

§ 7.2.8 Except as otherwise provided in the Design-Build Documents or when direct communications have been specially authorized, the Owner shall communicate through the Design-Builder with persons or entities employed or retained by the Design-Builder.

§ 7.2.9 Unless required by the Design-Build Documents to be provided by the Design-Builder, the Owner shall, upon request from the Design-Builder, furnish the services of geotechnical engineers or other consultants for investigation of subsurface, air and water conditions when such services are reasonably necessary to properly carry out the design services furnished by the Design-Builder. In such event, the Design-Builder shall specify the services required. Such services may include, but are not limited to, test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, and necessary operations for anticipating subsoil conditions. The services of geotechnical engineer(s) or other consultants shall include preparation and submission of all appropriate reports and professional recommendations.

§ 7.2.10 The Owner shall purchase and maintain insurance as set forth in Exhibit B.

§ 7.3 Submittals

§ 7.3.1 The Owner shall review and approve or take other appropriate action on Submittals. Review of Submittals is not conducted for the purpose of determining the accuracy and completeness of other details, such as dimensions and quantities; or for substantiating instructions for installation or performance of equipment or systems; or for determining that the Submittals are in conformance with the Design-Build Documents, all of which remain the responsibility of the Design-Builder as required by the Design-Build Documents. The Owner's action will be taken in accordance with the submittal schedule approved by the Owner, and the Owner's failure to respond within the approved Submittal schedule constitutes deemed approval for sequencing purposes (not pricing), allowing Work to proceed. In the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Owner's judgment to permit adequate review. The Owner's review of Submittals shall not relieve the Design-Builder of the obligations under Sections 3.1.11, 3.1.12, and 5.2.3. The Owner's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Owner, of any construction means, methods, techniques, sequences or procedures. The Owner's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 7.3.2 Upon review of the Submittals required by the Design-Build Documents, the Owner shall notify the Design-Builder of any non-conformance with the Design-Build Documents the Owner discovers.

§ 7.4 Visits to the site by the Owner shall not be construed to create an obligation on the part of the Owner to make on-site inspections to check the quality or quantity of the Work. The Owner shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, because these are solely the Design-Builder's rights and responsibilities under the Design-Build Documents.

§ 7.5 The Owner shall not be responsible for the Design-Builder's failure to perform the Work in accordance with the requirements of the Design-Build Documents. The Owner shall not have control over or charge of, and will not be responsible for acts or omissions of the Design-Builder, Architect, Consultants, Contractors, or their agents or employees, or any other persons or entities performing portions of the Work for the Design-Builder.

§ 7.6 The Owner has the authority to reject Work that does not conform to the Design-Build Documents. The Owner shall have authority to require inspection or testing of the Work in accordance with Section 15.5.2, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Owner nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Owner to the Design-Builder, the Architect, Consultants, Contractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 7.7 The Owner shall determine the date or dates of Substantial Completion in accordance with Section 9.8 and the date of final completion in accordance with Section 9.10.

§ 7.8 Owner's Right to Stop Work

If the Design-Builder fails to correct Work which is not in accordance with the requirements of the Design-Build Documents as required by Section 11.2 or persistently fails to carry out Work in accordance with the Design-Build Documents, the Owner may issue a written order to the Design-Builder to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Design-Builder or any other person or entity, except to the extent required by Section 5.13.1.3.

§ 7.9 Owner's Right to Carry Out the Work

If the Design-Builder defaults or neglects to carry out the Work in accordance with the Design-Build Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case, an appropriate Change Order shall be issued deducting from payments then or thereafter due the Design-Builder the reasonable cost of correcting such deficiencies. If payments then or thereafter due the Design-Builder are not sufficient to cover such amounts, the Design-Builder shall pay the difference to the Owner.

ARTICLE 8 TIME

§ 8.1 Progress and Completion

§ 8.1.1 Time limits stated in the Design-Build Documents are of the essence of the Contract. By executing the Design-Build Amendment the Design-Builder confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.1.2 The Design-Builder shall not, except by agreement of the Owner in writing, commence the Work prior to the effective date of insurance, other than property insurance, required by this Contract. The Contract Time shall not be adjusted as a result of the Design-Builder's failure to obtain insurance required under this Contract.

§ 8.1.3 The Design-Builder shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.2 Delays and Extensions of Time

§ 8.2.1 If the Design-Builder is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or of a consultant or separate contractor employed by the Owner; or by changes ordered in the Work by the Owner; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Design-Builder's control; or by delay authorized by the Owner pending mediation and binding dispute resolution or by other causes that the Owner determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Owner may determine. Owner's discretion is limited to confirming factual duration. For delays caused by Owner, Owner's consultants or separate contractors, or by Change Orders, in addition to a time extension, Design-Builder is also entitled to compensation for reasonable, substantiated delay costs (including extended general conditions), via Change Order.

§ 8.2.2 Claims relating to time shall be made in accordance with applicable provisions of Article 14.

§ 8.2.3 This Section 8.2 does not preclude recovery of damages for delay by either party under other provisions of the Design-Build Documents.

ARTICLE 9 PAYMENT APPLICATIONS AND PROJECT COMPLETION

§ 9.1 Contract Sum

The Contract Sum is stated in the Design-Build Amendment.

§ 9.2 Schedule of Values

Where the Contract Sum is based on a stipulated sum or Guaranteed Maximum Price, the Design-Builder, prior to the first Application for Payment after execution of the Design-Build Amendment shall submit to the Owner a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Design-Builder shall submit to the Owner an itemized Application for Payment for completed portions of the Work. The application shall be notarized, if required, and supported by data substantiating the Design-Builder's right to payment as the Owner may require, such as copies of requisitions from the Architect, Consultants, Contractors, and material suppliers, and shall reflect retainage if provided for in the Design-Build Documents.

§ 9.3.1.1 As provided in Section 6.3.9, Applications for Payment may include requests for payment on account of changes in the Work that have been properly authorized by Change Directives, or by interim determinations of the Owner, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Design-Builder does not intend to pay the Architect, Consultant, Contractor, material supplier, or other persons or entities providing services or work for the Design-Builder, unless such Work has been performed by others whom the Design-Builder intends to pay.

§ 9.3.2 Unless otherwise provided in the Design-Build Documents, payments shall be made for services provided as well as materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Design-Builder with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

§ 9.3.3 The Design-Builder warrants that title to all Work, other than Instruments of Service, covered by an Application for Payment will pass to the Owner no later than the time of payment. The Design-Builder further warrants that, upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Design-Builder's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Design-Builder, Architect, Consultants, Contractors, material suppliers, or other persons or entities entitled to make a claim by reason of having provided labor, materials and equipment relating to the Work.

§ 9.4 Certificates for Payment

The Owner shall, within seven days after receipt of the Design-Builder's Application for Payment, issue to the Design-Builder a Certificate for Payment indicating the amount the Owner determines is properly due, and notify the Design-Builder in writing of the Owner's reasons for withholding certification in whole or in part as provided in Section 9.5.1. Owner shall pay undisputed certified amounts within fifteen (15) days of Certificate for Payment; undisputed amounts not paid when due shall accrue interest at 1% per month until paid.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Owner may withhold a Certificate for Payment in whole or in part to the extent reasonably necessary to protect the Owner due to the Owner's determination that the Work has not progressed to the point indicated in the Design-Builder's Application for Payment, or the quality of the Work is not in accordance with the Design-Build Documents. If the Owner is unable to certify payment in the amount of the Application, the Owner will notify the Design-Builder as provided in Section 9.4. If the Design-Builder and Owner cannot agree on a revised amount, the Owner will promptly issue a Certificate for Payment for the amount that the Owner deems to be due and owing. Owner may withhold only the portion of a payment reasonably related to the specific issue; all undisputed portions shall be timely certified and paid. The Owner may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary to protect the Owner from loss for which the Design-Builder is responsible because of

.1 defective Work, including design and construction, not remedied;

.2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Design-Builder;

.3 failure of the Design-Builder to make payments properly to the Architect, Consultants, Contractors or others, for services, labor, materials or equipment;
.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a separate contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
.7 repeated failure to carry out the Work in accordance with the Design-Build Documents.

§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.3 If the Owner withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Design-Builder and to the Architect or any Consultants, Contractor, material or equipment suppliers, or other persons or entities providing services or work for the Design-Builder to whom the Design-Builder failed to make payment for Work properly performed or material or equipment suitably delivered. However, before issuing any joint check, Owner shall provide seven (7) days' notice to Design-Builder and an opportunity to cure. Joint checks shall be limited to the amount at issue and shall not constitute a default.

§ 9.6 Progress Payments

§ 9.6.1 After the Owner has issued a Certificate for Payment, the Owner shall make payment within fifteen (15) days; undisputed amounts not paid when due shall accrue interest at 1% per month until paid.

§ 9.6.2 The Design-Builder shall pay each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder no later than the time period required by applicable law, but in no event more than seven days after receipt of payment from the Owner the amount to which the Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder is entitled, reflecting percentages actually retained from payments to the Design-Builder on account of the portion of the Work performed by the Architect, Consultant, Contractor, or other person or entity. The Design-Builder shall, by appropriate agreement with each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder, require each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder to make payments to subconsultants and subcontractors in a similar manner.

§ 9.6.3 The Owner will, on request and if practicable, furnish to the Architect, a Consultant, Contractor, or other person or entity providing services or work for the Design-Builder, information regarding percentages of completion or amounts applied for by the Design-Builder and action taken thereon by the Owner on account of portions of the Work done by such Architect, Consultant, Contractor or other person or entity providing services or work for the Design-Builder.

§ 9.6.4 The Owner has the right to request written evidence from the Design-Builder that the Design-Builder has properly paid the Architect, Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, amounts paid by the Owner to the Design-Builder for the Work. If and only if the Design-Builder fails to furnish such evidence within seven days, the Owner shall have the right to contact the Architect, Consultants, and Contractors to ascertain whether they have been properly paid. The Owner's right to contact is limited to confirming amounts that have been paid and amounts that remain due. The Owner shall have no obligation to pay or to see to the payment of money to a Consultant or Contractor, except as may otherwise be required by law.

§ 9.6.5 Design-Builder payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Design-Build Documents.

§ 9.6.7 Unless the Design-Builder provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Design-Builder for Work properly performed by the Architect, Consultants,

Contractors and other person or entity providing services or work for the Design-Builder, shall be held by the Design-Builder for the Architect and those Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Design-Builder, shall create any fiduciary liability or tort liability on the part of the Design-Builder for breach of trust or shall entitle any person or entity to an award of punitive damages against the Design-Builder for breach of the requirements of this provision.

§ 9.7 Failure of Payment

If the Owner does not issue a Certificate for Payment, through no fault of the Design-Builder, within the time required by the Design-Build Documents, then the Design-Builder may, upon seven additional days' written notice to the Owner, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Design-Builder's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Design-Build Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work for its intended use. The date of Substantial Completion is the date certified by the Owner in accordance with this Section 9.8.

§ 9.8.2 When the Design-Builder considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Design-Builder shall prepare and submit to the Owner a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Design-Builder to complete all Work in accordance with the Design-Build Documents.

§ 9.8.3 Upon receipt of the Design-Builder's list, the Owner shall make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Owner's inspection discloses any item, whether or not included on the Design-Builder's list, which is not sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Design-Builder shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Owner. In such case, the Design-Builder shall then submit a request for another inspection by the Owner to determine Substantial Completion.

§ 9.8.4 Effective at the date of Substantial Completion identified in the Certificate of Substantial Completion, Owner shall assume responsibility for property insurance for the Work and any occupied portions of the building. Design-Builder's builder's risk obligations terminate as of the date of Substantial Completion, except as required for remaining Work in unoccupied areas..

§ 9.8.5 When the Work or designated portion thereof is substantially complete, the Design-Builder will prepare for the Owner's signature a Certificate of Substantial Completion that shall, upon the Owner's signature, establish the date of Substantial Completion; establish responsibilities of the Owner and Design-Builder for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Design-Builder shall finish all items on the list accompanying the Certificate. Warranties required by the Design-Build Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.6 The Certificate of Substantial Completion shall be submitted by the Design-Builder to the Owner for written acceptance of responsibilities assigned to it in the Certificate. Upon the Owner's acceptance, and consent of surety, if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Design-Build Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Design-Builder, provided such occupancy or use is consented to, by endorsement or otherwise, by the insurer providing property insurance and authorized by public

authorities having jurisdiction over the Project. Partial occupancy shall trigger: (a) transfer of risk of loss and property insurance to Owner for the occupied portion; (b) commencement of warranties solely for the occupied systems; and (c) equitable adjustment for added protection, re-sequencing, and inefficiency costs. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Design-Builder have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Design-Build Documents. When the Design-Builder considers a portion substantially complete, the Design-Builder shall prepare and submit a list to the Owner as provided under Section 9.8.2. Consent of the Design-Builder to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Design-Builder.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner and Design-Builder shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Design-Build Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Design-Builder's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner will promptly make such inspection. When the Owner finds the Work acceptable under the Design-Build Documents and the Contract fully performed, the Owner will, subject to Section 9.10.2, promptly issue a final Certificate for Payment.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Design-Builder submits to the Owner (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work, for which the Owner or the Owner's property might be responsible or encumbered, (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Design-Build Documents to remain in force after final payment is currently in effect, (3) a written statement that the Design-Builder knows of no substantial reason that the insurance will not be renewable to cover the period required by the Design-Build Documents, (4) consent of surety, if any, to final payment, (5) as-constructed record copy of the Construction Documents marked to indicate field changes and selections made during construction, (6) manufacturer's warranties, product data, and maintenance and operations manuals, and (7) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, or releases and waivers of liens, claims, security interests, or encumbrances, arising out of the Contract, to the extent and in such form as may be designated by the Owner. If an Architect, a Consultant, or a Contractor, or other person or entity providing services or work for the Design-Builder, refuses to furnish a release or waiver required by the Owner, the Design-Builder may furnish a bond satisfactory to the Owner to indemnify the Owner against such liens, claims, security interests, or encumbrances. If such liens, claims, security interests, or encumbrances remains unsatisfied after payments are made, the Design-Builder shall refund to the Owner all money that the Owner may be compelled to pay in discharging such liens, claims, security interests, or encumbrances, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Design-Builder or by issuance of Change Orders affecting final completion, the Owner shall, upon application by the Design-Builder, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Design-Build Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Design-Builder to the Owner prior to issuance of payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- **.1** liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
- **.2** failure of the Work to comply with the requirements of the Design-Build Documents; or
- **.3** terms of special warranties required by the Design-Build Documents.

§ 9.10.5 Acceptance of final payment by the Design-Builder shall constitute a waiver of claims by the Design-Builder except those previously made in writing and identified by the Design-Builder as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Design-Builder shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Design-Builder shall be responsible for precautions for the safety of, and reasonable protection to prevent damage, injury or loss to

.1 employees on the Work and other persons who may be affected thereby;

.2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Design-Builder or the Architect, Consultants, or Contractors, or other person or entity providing services or work for the Design-Builder; and

.3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, or structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 10.2.2 The Design-Builder shall comply with, and give notices required by, applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property, or their protection from damage, injury or loss.

§ 10.2.3 The Design-Builder shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notify owners and users of adjacent sites and utilities of the safeguards and protections.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods, are necessary for execution of the Work, the Design-Builder shall exercise utmost care, and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Design-Builder shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Design-Build Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3, caused in whole or in part by the Design-Builder, the Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Design-Builder is responsible under Sections 10.2.1.2 and 10.2.1.3; except damage or loss attributable to acts or omissions of the Owner, or anyone directly or indirectly employed by the Owner, or by anyone for whose acts the Owner may be liable, and not attributable to the fault or negligence of the Design-Builder. The foregoing obligations of the Design-Builder are in addition to the Design-Builder's obligations under Section 3.1.14.

§ 10.2.6 The Design-Builder shall designate a responsible member of the Design-Builder's organization, at the site, whose duty shall be the prevention of accidents. This person shall be the Design-Builder's superintendent unless otherwise designated by the Design-Builder in writing to the Owner.

§ 10.2.7 The Design-Builder shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property. If the Owner or Design-Builder suffers injury or damage to person or property because of an act or omission of the other, or of others for whose acts such party is legally responsible, written notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials

§ 10.3.1 The Design-Builder is responsible for compliance with any requirements included in the Design-Build Documents regarding hazardous materials. If the Design-Builder encounters a hazardous material or substance not addressed in the Design-Build Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Design-Builder, the Design-Builder shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing.

§ 10.3.2 Upon receipt of the Design-Builder's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Design-Builder and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Design-Build Documents, the Owner shall furnish in writing to the Design-Builder the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Design-Builder will promptly reply to the Owner in writing stating whether or not the Design-Builder has reasonable objection to the persons or entities proposed by the Owner. If the Design-Builder has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Design-Builder has no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Design-Builder. Hazardous materials delays that extend beyond ten (10) days from the date of Design Builder's written notice to Owner shall be compensable. By Change Order, Design-Builder shall be entitled to an equitable adjustment for all reasonable additional costs, including demobilization, remobilization, protection, and inefficiencies, plus agreed markup, and to an extension of Contract Time for all impacts suffered by Design Builder.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Design-Builder, the Architect, Consultants, and Contractors, and employees of any of them, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area, if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to, or destruction of, tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for materials or substances the Design-Builder brings to the site unless such materials or substances are required by the Owner's Criteria. The Owner shall be responsible for materials or substances required by the Owner's Criteria, except to the extent of the Design-Builder's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Design-Builder shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Design-Builder brings to the site and negligently handles, or (2) where the Design-Builder fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence. Design-Builder's indemnity under this 10.3.5 applies only to hazardous materials it brings to the site and to the extent of Design-Builder's negligence. There is no indemnity obligation for pre-existing or Owner-required materials used in accordance with the Design-Build Documents.

§ 10.3.6 If, without negligence on the part of the Design-Builder, the Design-Builder is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Design-Build Documents, the Owner shall indemnify the Design-Builder for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Design-Builder shall act, at the Design-Builder's discretion, to prevent threatened damage, injury or loss.

ARTICLE 11 UNCOVERING AND CORRECTION OF WORK

§ 11.1 Uncovering of Work

The Owner may request to examine a portion of the Work that the Design-Builder has covered to determine if the Work has been performed in accordance with the Design-Build Documents. If such Work is in accordance with the Design-Build Documents, the Owner and Design-Builder shall execute a Change Order to adjust the Contract Time and Contract Sum, as appropriate. If such Work is not in accordance with the Design-Build Documents, the costs of uncovering and correcting the Work shall be at the Design-Builder's expense and the Design-Builder shall not be entitled to a change in the Contract Time unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs and the Contract Time will be adjusted as appropriate.

§ 11.2 Correction of Work

§ 11.2.1 Before or After Substantial Completion. The Design-Builder shall promptly correct Work rejected by the Owner or failing to conform to the requirements of the Design-Build Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for any design consultant employed by the Owner whose expenses and compensation were made necessary thereby, shall be at the Design-Builder's expense.

§ 11.2.2 After Substantial Completion

§ 11.2.2.1 In addition to the Design-Builder's obligations under Section 3.1.12, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Design-Build Documents, any of the Work is found not to be in accordance with the requirements of the Design-Build Documents, the Design-Builder shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Design-Builder a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of the Work, if the Owner fails to notify the Design-Builder and give the Design-Builder an opportunity to make the correction, the Owner waives the rights to require correction by the Design-Builder and to make a claim for breach of warranty. If the Design-Builder fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, the Owner may correct it in accordance with Section 7.9.

§ 11.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 11.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Design-Builder pursuant to this Section 11.2.

§ 11.2.3 The Design-Builder shall remove from the site portions of the Work that are not in accordance with the requirements of the Design-Build Documents and are neither corrected by the Design-Builder nor accepted by the Owner.

§ 11.2.4 The Design-Builder shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether completed or partially completed, caused by the Design-Builder's correction or removal of Work that is not in accordance with the requirements of the Design-Build Documents.

§ 11.2.5 Nothing contained in this Section 11.2 shall be construed to establish a period of limitation with respect to other obligations the Design-Builder has under the Design-Build Documents. Establishment of the one-year period for correction of Work as described in Section 11.2.2 relates only to the specific obligation of the Design-Builder to correct the Work, and has no relationship to the time within which the obligation to comply with the Design-Build Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Design-Builder's liability with respect to the Design-Builder's obligations other than specifically to correct the Work.

§ 11.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Design-Build Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be affected whether or not final payment has been made.

ARTICLE 12 COPYRIGHTS AND LICENSES

§ 12.1 Drawings, specifications, and other documents furnished by the Design-Builder, including those in electronic form, are Instruments of Service. The Design-Builder, and the Architect, Consultants, Contractors, and any other person or entity providing services or work for any of them, shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements, or for similar purposes in connection with the Project, is not to be construed as publication in derogation of the reserved rights of the Design-Builder and the Architect, Consultants, and Contractors, and any other person or entity providing services or work for any of them.

§ 12.2 The Design-Builder and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 12.3 Upon execution of the Agreement, the Design-Builder grants to the Owner a limited, irrevocable and non-exclusive license to use the Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under the Design-Build Documents. The license granted under this section permits the Owner to authorize its consultants and separate contractors to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Design-Builder rightfully terminates this Agreement for cause as provided in Section 13.1.4 or 13.2.1 the license granted in this Section 12.3 shall terminate.

§ 12.3.1 The Design-Builder shall obtain non-exclusive licenses from the Architect, Consultants, and Contractors, that will allow the Design-Builder to satisfy its obligations to the Owner under this Article 12. The Design-Builder's licenses from the Architect and its Consultants and Contractors shall also allow the Owner, in the event this Agreement is terminated for any reason other than the default of the Owner or in the event the Design-Builder's Architect, Consultants, or Contractors terminate their agreements with the Design-Builder for cause, to obtain a limited, irrevocable and non-exclusive license solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner (1) agrees to pay to the Architect, Consultant or Contractor all amounts due, and (2) provide the Architect, Consultant or Contractor with the Owner's written agreement to indemnify and hold harmless the Architect, Consultant or Contractor from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's alteration or use of the Instruments of Service.

§ 12.3.2 In the event the Owner alters the Instruments of Service without the author's written authorization or uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Design-Builder, Architect, Consultants, Contractors and any other person or entity providing services or work for any of them, from all claims and causes of action arising from or related to such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Design-Builder, Architect, Consultants, Contractors and any other person or entity providing services or work for any of them, from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's alteration or use of the Instruments of Service under this Section 12.3.2. The terms of this Section 12.3.2 shall not apply if the Owner rightfully terminates this Agreement for cause under Sections 13.1.4 or 13.2.2.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination or Suspension Prior to Execution of the Design-Build Amendment

§ 13.1.1 If the Owner fails to make payments to the Design-Builder for Work prior to execution of the Design-Build Amendment in accordance with this Agreement, such failure shall be considered substantial nonperformance and

cause for termination or, at the Design-Builder's option, cause for suspension of performance of services under this Agreement. If the Design-Builder elects to suspend the Work, the Design-Builder shall give seven days' written notice to the Owner before suspending the Work. In the event of a suspension of the Work, the Design-Builder shall have no liability to the Owner for delay or damage caused by the suspension of the Work. Before resuming the Work, the Design-Builder shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

§ 13.1.2 If the Owner suspends the Project, the Design-Builder shall be compensated for the Work performed prior to notice of such suspension. When the Project is resumed, the Design-Builder shall be compensated for expenses incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

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

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

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

§ 13.1.6 In the event of termination not the fault of the Design-Builder, the Design-Builder shall be compensated for Work performed prior to termination, together with Reimbursable Expenses then due and any other expenses directly attributable to termination for which the Design-Builder is not otherwise compensated. In no event shall the Design-Builder's compensation under this Section 13.1.6 be greater than the compensation set forth in Section 2.1.

§ 13.2 Termination or Suspension Following Execution of the Design-Build Amendment
§ 13.2.1 Termination by the Design-Builder
§ 13.2.1.1 The Design-Builder may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Design-Builder, the Architect, a Consultant, or a Contractor, or their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, for any of the following reasons:

.1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

.2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;

.3 Because the Owner has not issued a Certificate for Payment and has not notified the Design-Builder of the reason for withholding certification as provided in Section 9.5.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Design-Build Documents; or

.4 The Owner has failed to furnish to the Design-Builder promptly, upon the Design-Builder's request, reasonable evidence as required by Section 7.2.7.

.5. If Owner fails to make payment of any certified and undisputed amount within 21 days of the due date, after 7 days' notice, Design-Builder may suspend work, and if Owner does not cure within an additional 7 days, Design-Builder may terminate and recover as set forth in 13.2.1.3

§ 13.2.1.2 The Design-Builder may terminate the Contract if, through no act or fault of the Design-Builder, the Architect, a Consultant, a Contractor, or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 13.2.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 13.2.1.3 If one of the reasons described in Section 13.2.1.1 or 13.2.1.2 exists, the Design-Builder may, upon seven days' written notice to the Owner, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

§ 13.2.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Design-Builder or any other persons or entities performing portions of the Work under contract with the Design-Builder because the Owner has repeatedly failed to fulfill the Owner's obligations under the Design-Build Documents with respect to matters important to the progress of the Work, the Design-Builder may, upon seven additional days' written notice to the Owner, terminate the Contract and recover from the Owner as provided in Section 13.2.1.3.

§ 13.2.2 Termination by the Owner For Cause

§ 13.2.2.1 The Owner may terminate the Contract if the Design-Builder

- **.1** fails to submit the Proposal by the date required by this Agreement, or if no date is indicated, within a reasonable time consistent with the date of Substantial Completion;
- **.2** repeatedly refuses or fails to supply an Architect, or enough properly skilled Consultants, Contractors, or workers or proper materials;
- **.3** fails to make payment to the Architect, Consultants, or Contractors for services, materials or labor in accordance with their respective agreements with the Design-Builder;
- **.4** repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- **.5** is otherwise guilty of *substantial breach* of a provision of the Design-Build Documents. *Substantial breach* means a material failure causing material adverse impact to schedule, cost, safety, or quality.

§ 13.2.2.2 When any of the above reasons exist, the Owner shall tender to Design-Builder a written notice of default that specifies the alleged default in reasonable detail, and after allowing Design-Builder 14 days to cure said default, or if the alleged default cannot be reasonably cured within 14 days, after allowing Design-Builder a reasonable opportunity beyond 14 days to cure said default, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Design-Builder and the Design-Builder's surety, if any, an additional seven days' written notice, terminate employment of the Design-Builder and may, subject to any prior rights of the surety:

- **.1** Exclude the Design-Builder from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Design-Builder;
- **.2** Conditioned on payment of all sums due and owing through the effective date of Termination, accept assignment of the Architect, Consultant and Contractor agreements pursuant to Section 3.1.15; and
- **.3** Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Design-Builder, the Owner shall furnish to the Design-Builder a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 13.2.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 13.2.2.1, the Design-Builder shall not be entitled to receive further payment until the Work is finished.

§ 13.2.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Design-Builder. If such costs and damages exceed the unpaid balance, the Design-Builder shall pay the difference to the Owner. The obligation for such payments shall survive termination of the Contract.

§ 13.2.3 Suspension by the Owner for Convenience

§ 13.2.3.1 The Owner may, without cause, order the Design-Builder in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 13.2.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 13.2.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- **.1** that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Design-Builder is responsible; or
- **.2** that an equitable adjustment is made or denied under another provision of the Contract.

§ 13.2.4 Termination by the Owner for Convenience

§ 13.2.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 13.2.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Design-Builder shall

.1 cease operations as directed by the Owner in the notice;

.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and,

.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing Project agreements, including agreements with the Architect, Consultants, Contractors, and purchase orders, and enter into no further Project agreements and purchase orders.

§ 13.2.4.3 In case of such termination for the Owner's convenience, the Design-Builder shall be entitled to receive (1) payment for Work executed; (2) reasonable, substantiated demobilization, termination, and settlement costs; and (3) overhead and profit on the unperformed Work equal to ten percent (10%) overhead and five (5%) profit of the unpaid balance of the Contract Sum, less costs saved. However, if termination for cause follows a determination that Owner breached the Agreement, then Design-Builder shall be entitled to recover lost profit on the entire unperformed Work.

ARTICLE 14 CLAIMS AND DISPUTE RESOLUTION

§ 14.1 Claims

§ 14.1.1 Definition. A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Design-Builder arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 14.1.2 Time Limits on Claims. The Owner and Design-Builder shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other, arising out of or related to the Contract in accordance with the requirements of the binding dispute resolution method selected in Section 1.3, within the time period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Design-Builder waive all claims and causes of action not commenced in accordance with this Section 14.1.2.

§ 14.1.3 Notice of Claims

§ 14.1.3.1 Prior To Final Payment. Prior to Final Payment, Claims by either the Owner or Design-Builder must be initiated by written notice to the other party within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 14.1.3.2 Claims Arising After Final Payment. After Final Payment, Claims by either the Owner or Design-Builder that have not otherwise been waived pursuant to Sections 9.10.4 or 9.10.5, must be initiated by prompt written notice to the other party. The notice requirement in Section 14.1.3.1 and the Initial Decision requirement as a condition precedent to mediation in Section 14.2.1 shall not apply.

§ 14.1.4 Continuing Contract Performance. Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 13, the Design-Builder shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Design-Build Documents.

§ 14.1.5 Claims for Additional Cost. If the Design-Builder intends to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the portion of the Work that relates to the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 14.1.6 Claims for Additional Time

§ 14.1.6.1 If the Design-Builder intends to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Design-Builder's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 14.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 14.1.7 Claims for Consequential Damages

The Design-Builder and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

.2 damages incurred by the Design-Builder for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 13. However, this waiver does not apply to: (a) Owner's failure to make undisputed payments when due; (b) a party's willful misconduct or fraud; or (c) third-party IP claims within Section 3.1.13.2. Nothing contained in this Section 14.1.7 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Design-Build Documents.

§ 14.2 Initial Decision

§ 14.2.1 An initial decision shall be required as a condition precedent to mediation of all Claims between the Owner and Design-Builder initiated prior to the date final payment is due, excluding those arising under Sections 10.3 and 10.4 of the Agreement and Sections B.3.2.9 and B.3.2.10 of Exhibit B to this Agreement, unless 30 days have passed after the Claim has been initiated with no decision having been rendered. Unless otherwise mutually agreed in writing, the Owner shall render the initial decision on Claims.

§ 14.2.2 Procedure

§ 14.2.2.1 Claims Initiated by the Owner. If the Owner initiates a Claim, the Design-Builder shall provide a written response to Owner within ten days after receipt of the notice required under Section 14.1.3.1. Thereafter, the Owner shall render an initial decision within ten days of receiving the Design-Builder's response: (1) withdrawing the Claim in whole or in part, (2) approving the Claim in whole or in part, or (3) suggesting a compromise.

§ 14.2.2.2 Claims Initiated by the Design-Builder. If the Design-Builder initiates a Claim, the Owner will take one or more of the following actions within ten days after receipt of the notice required under Section 14.1.3.1: (1) request additional supporting data, (2) render an initial decision rejecting the Claim in whole or in part, (3) render an initial decision approving the Claim, (4) suggest a compromise or (5) indicate that it is unable to render an initial decision because the Owner lacks sufficient information to evaluate the merits of the Claim.

§ 14.2.3 In evaluating Claims, the Owner may, but shall not be obligated to, consult with or seek information from persons with special knowledge or expertise who may assist the Owner in rendering a decision. The retention of such persons shall be at the Owner's expense.

§ 14.2.4 If the Owner requests the Design-Builder to provide a response to a Claim or to furnish additional supporting data, the Design-Builder shall respond, within ten days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Owner when the response or supporting data will be furnished or (3) advise the Owner that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Owner will either reject or approve the Claim in whole or in part.

§ 14.2.5 The Owner's initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) identify any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties

but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 14.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 14.2.6.1.

§ 14.2.6.1 Either party may, within 30 days from the date of an initial decision, demand in writing that the other party file for mediation within 60 days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 14.2.7 In the event of a Claim against the Design-Builder, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Design-Builder's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 14.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 14.3 Mediation

§ 14.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 14.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 14.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this Section 14.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

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

§ 14.4 Arbitration

§ 14.4.1 If the parties have selected arbitration as the method for binding dispute resolution in Section 1.3, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

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

§ 14.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

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

§ 14.4.4 Consolidation or Joinder

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

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

§ 14.4.4.3 The Owner and Design-Builder grant to any person or entity made a party to an arbitration conducted under this Section 14.4, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Design-Builder under this Agreement.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located except that, if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 14.4.

§ 15.2 Successors and Assigns

§ 15.2.1 The Owner and Design-Builder, respectively, bind themselves, their partners, successors, assigns and legal representatives to the covenants, agreements and obligations contained in the Design-Build Documents. Except as provided in Section 15.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 15.2.2 The Owner may, without consent of the Design-Builder, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Design-Build Documents. The Design-Builder shall execute all consents reasonably required to facilitate such assignment.

§ 15.2.3 If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute certificates, other than those required by Section 3.1.10, the Owner shall submit the proposed language of such certificates for review at least 14 days prior to the requested dates of execution. If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute consents reasonably required to facilitate assignment to a lender, the Design-Builder, Architect, Consultants, or Contractors shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to them for review at least 14 days prior to execution. The Design-Builder, Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

§ 15.3 Written Notice

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

§ 15.4 Rights and Remedies

§ 15.4.1 Duties and obligations imposed by the Design-Build Documents, and rights and remedies available thereunder, shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

§ 15.4.2 No action or failure to act by the Owner or Design-Builder shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

§ 15.5 Tests and Inspections

§ 15.5.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Design-Build Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Design-Builder shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Design-Builder shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Design-Builder.

§ 15.5.2 If the Owner determines that portions of the Work require additional testing, inspection or approval not included under Section 15.5.1, the Owner will instruct the Design-Builder to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Design-Builder shall give timely notice to the Owner of when and where tests and inspections are to be made so that the Owner may be present for such procedures. Such costs, except as provided in Section 15.5.3, shall be at the Owner's expense.

§ 15.5.3 If such procedures for testing, inspection or approval under Sections 15.5.1 and 15.5.2 reveal failure of the portions of the Work to comply with requirements established by the Design-Build Documents, all costs made necessary by such failure shall be at the Design-Builder's expense.

§ 15.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Design-Build Documents, be secured by the Design-Builder and promptly delivered to the Owner.

§ 15.5.5 If the Owner is to observe tests, inspections or approvals required by the Design-Build Documents, the Owner will do so promptly and, where practicable, at the normal place of testing.

§ 15.5.6 Tests or inspections conducted pursuant to the Design-Build Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 15.6 Confidential Information

If the Owner or Design-Builder transmits Confidential Information, the transmission of such Confidential Information constitutes a warranty to the party receiving such Confidential Information that the transmitting party is authorized to transmit the Confidential Information. If a party receives Confidential Information, the receiving party shall keep the Confidential Information strictly confidential and shall not disclose it to any other person or entity except as set forth in Section 15.6.1.

§ 15.6.1 A party receiving Confidential Information may disclose the Confidential Information as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. A party receiving Confidential Information may also disclose the Confidential Information to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of Confidential Information as set forth in this Contract.

§ 15.7 Capitalization

Terms capitalized in the Contract include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

§ 15.8 Interpretation

§ 15.8.1 In the interest of brevity the Design-Build Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 15.8.2 Unless otherwise stated in the Design-Build Documents, words which have well-known technical or construction industry meanings are used in the Design-Build Documents in accordance with such recognized meanings.

ARTICLE 16 SCOPE OF THE AGREEMENT

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

.1 AIA Document A141™–2014, Standard Form of Agreement Between Owner and Design-Builder

.2 AIA Document A141™–2014, Exhibit A, Design-Build Amendment, if executed

.3 AIA Document A141™–2014, Exhibit B, Insurance and Bonds

.4 AIA Document A141™–2014, Exhibit C, Sustainable Projects, if completed

.5 AIA Document E202™-2022, BIM Exhibit for Sharing Models with Project Participants, Where Model Versions May Not be Enumerated as a Contract Document, if completed, or the following:

«»

.6 Other:

«»

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

OWNER *(Signature)*	**DESIGN-BUILDER** *(Signature)*
Rolf Hechler, Mayor	Julian Carrizal, Owner/President
(Printed name and title)	*(Printed name and title)*

AIA® Document A141® – 2014

Exhibit A

Design-Build Amendment

This Amendment is incorporated into the accompanying AIA Document A141™–2014, Standard Form of Agreement Between Owner and Design-Builder dated the 8 day of July in the year 2026 (the "Agreement")
(In words, indicate day, month and year.)

for the following PROJECT:
(Name and location or address)

RFP #2026-03-005 PNC Bank/PD Remodel
210 Main Street
Truth or Consequences, NM 87901

THE OWNER:
(Name, legal status and address)

City of Truth or Consequences
401 McAdoo St.
Truth or Consequences, NM 87901

THE DESIGN-BUILDER:
(Name, legal status and address)

J. Carrizal General Construction, Inc.
1070 Diesel Drive
El Paso, TX 79907

The Owner and Design-Builder hereby amend the Agreement as follows.

TABLE OF ARTICLES

A.1 CONTRACT SUM

A.2 CONTRACT TIME

A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

A.4 DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS

A.5 COST OF THE WORK

ARTICLE A.1 CONTRACT SUM

§ A.1.1 The Owner shall pay the Design-Builder the Contract Sum in current funds for the Design-Builder's performance of the Contract after the execution of this Amendment. The Contract Sum shall be one of the following and shall not include compensation the Owner paid the Design-Builder for Work performed prior to execution of this Amendment:
(Check the appropriate box.)

[X] Stipulated Sum, in accordance with Section A.1.2 below

[« »] Cost of the Work plus the Design-Builder's Fee, in accordance with Section A.1.3 below

[« »] Cost of the Work plus the Design-Builder's Fee with a Guaranteed Maximum Price, in accordance with Section A.1.4 below

(Based on the selection above, complete Section A.1.2, A.1.3 or A.1.4 below.)

§ A.1.2 Stipulated Sum

§ A.1.2.1 The Stipulated Sum shall be « » ($ « »), subject to authorized adjustments as provided in the Design-Build Documents.

§ A.1.2.2 The Stipulated Sum is based upon the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:
(State the numbers or other identification of accepted alternates. If the Owner is permitted to accept other alternates subsequent to the execution of this Amendment, attach a schedule of such other alternates showing the change in Stipulated Sum for each and the deadline by which the alternate must be accepted.)

« »

§ A.1.2.3 Unit prices, if any:
Unit prices in Exhibit A-8 apply with stated quantity ranges. Deviations beyond ranges trigger equitable adjustments to unit prices.

Item	Units and Limitations	Price per Unit ($0.00)

§ A.1.3 Cost of the Work Plus Design-Builder's Fee

§ A.1.3.1 The Cost of the Work is as defined in Article A.5, Cost of the Work.

§ A.1.3.2 The Design-Builder's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Design-Builder's Fee, and the method for adjustment to the Fee for changes in the Work.)

« »

§ A.1.4 Cost of the Work Plus Design-Builder's Fee With a Guaranteed Maximum Price

§ A.1.4.1 The Cost of the Work is as defined in Article A.5, Cost of the Work.

§ A.1.4.2 The Design-Builder's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Design-Builder's Fee and the method for adjustment to the Fee for changes in the Work.)

« »

§ A.1.4.3 Guaranteed Maximum Price

§ A.1.4.3.1 The sum of the Cost of the Work and the Design-Builder's Fee is guaranteed by the Design-Builder not to exceed « » ($ « »), subject to additions and deductions for changes in the Work as provided in the Design-Build Documents. Costs that would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Design-Builder without reimbursement by the Owner. The Guaranteed Maximum Price shall be equitably adjusted for (a) changes in law, codes, or taxes after the Guaranteed Maximum price date, (b) force majeure market escalations exceeding 5 percent (5%) on critical commodities substantiated by bids or indices, and (c) Owner-caused delays affecting procurement.
(Insert specific provisions if the Design-Builder is to participate in any savings.)

« »

§ A.1.4.3.2 Itemized Statement of the Guaranteed Maximum Price
Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, allowances, contingencies, alternates, the Design-Builder's Fee, and other items that comprise the Guaranteed Maximum Price.
(Provide information below or reference an attachment.)

« »

§ A.1.4.3.3 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:
(State the numbers or other identification of accepted alternates. If the Owner is permitted to accept other alternates subsequent to the execution of this Amendment, attach a schedule of such other alternates showing the change in the Cost of the Work and Guaranteed Maximum Price for each and the deadline by which the alternate must be accepted.)

« »

§ A.1.4.3.4 Unit Prices, if any: Unit Prices apply only to scope specifically identified and are subject to quantity ranges. Quantities outside ranges constitute a Change Order.
(Identify item, state the unit price, and state any applicable quantity limitations.)

Item	Units and Limitations	Price per Unit ($0.00)

§ A.1.4.3.5 Assumptions, if any, on which the Guaranteed Maximum Price is based: The Guaranteed Maximum Price is expressly conditioned on the assumptions in Exhibit A-1. Any deviation shall be a Change in the Work entitling Design Builder to an equitable adjustment in Guaranteed Maximum Price and Contract Time for delays or cost impacts due to epidemics, supply chain disruptions, labor shortages, or material price spikes beyond Design-Builder's control and verified by market data.

« »

§ A.1.5 Payments
§ A.1.5.1 Progress Payments
§ A.1.5.1.1 Based upon Applications for Payment submitted to the Owner by the Design-Builder, the Owner shall make progress payments on account of the Contract Sum to the Design-Builder as provided below and elsewhere in the Design-Build Documents.

§ A.1.5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

« »

§ A.1.5.1.3 Provided that an Application for Payment is received not later than the « 5th » day of the month, the Owner shall make payment of the certified amount to the Design-Builder not later than the « 20th » day of the « same » month. If an Application for Payment is received by the Owner after the application date fixed above, payment shall be made by the Owner not later than « fifteen » (« 15 ») days after the Owner receives the Application for Payment. All past due payments shall bear interest at the rate of 1% per month until paid in full.
(Federal, state or local laws may require payment within a certain period of time.)

§ A.1.5.1.4 With each Application for Payment where the Contract Sum is based upon the Cost of the Work, or the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner to demonstrate that cash disbursements already made by the Design-Builder on account of the Cost of the Work equal or exceed (1) progress payments already received by the Design-Builder, less (2) that portion of those payments attributable to the Design-Builder's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

§ A.1.5.1.5 With each Application for Payment where the Contract Sum is based upon a Stipulated Sum or Cost of the Work with a Guaranteed Maximum Price, the Design-Builder shall submit the most recent schedule of values in accordance with the Design-Build Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. Compensation for design services, if any, shall be shown separately. Where the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder's Fee shall be shown separately. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule of values, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§ A.1.5.1.6 In taking action on the Design-Builder's Applications for Payment, the Owner shall be entitled to rely on the accuracy and completeness of the information furnished by the Design-Builder and shall not be deemed to have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Sections A.1.5.1.4 or A.1.5.1.5, or other supporting data; to have made exhaustive or continuous on-site inspections; or to have made examinations to ascertain how or for what purposes the Design-Builder has used amounts previously paid. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner. Owner's review shall not delay payment. Audits may occur post payment. Payment shall not be withheld pending audit absent documents, good faith discrepancies exceeding 2% of the Application.

§ A.1.5.1.7 Except with the Owner's prior approval, the Design-Builder shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site. Notwithstanding, Owner pre-approves advance payments for long-lead items and bulk purchases if title vests in owner and items are insured and stored per §A.1.5.2.2 standards.

§ A.1.5.2 Progress Payments—Stipulated Sum

§ A.1.5.2.1 Applications for Payment where the Contract Sum is based upon a Stipulated Sum shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ A.1.5.2.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

.1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of [redacted] percent ([redacted] %) on the Work. Pending final determination of cost to the Owner of Changes in the Work, amounts not in dispute shall be included as provided in Section 6.3.9 of the Agreement;

.2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of [redacted] percent ([redacted] %); however, retainage on stored materials shall be 0 percent (0%) if title and insurance meet §A.1.5.1.7 requirements.

.3 Subtract the aggregate of previous payments made by the Owner; and

.4 Subtract amounts, if any, the Owner has withheld or nullified, as provided in Section 9.5 of the Agreement. Owner may withhold only amounts subject to a specific, written notice of dispute; undisputed portions shall be certified and paid.

§ A.1.5.2.3 The progress payment amount determined in accordance with Section A.1.5.2.2 shall be further modified under the following circumstances:

.1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Owner shall determine for incomplete Work, retainage applicable to such work and unsettled claims. Retainage release shall occur upon issuance of the Certificate of Substantial Completion, less amounts for the punch list not exceeding 200% of the reasonable completion cost

.2 Upon Substantial Completion of the Work, retainage on accepted portions shall be released except amounts reasonably necessary for incomplete or defective items; and,

.3 Add, if final completion of the Work is thereafter materially delayed through no fault of the Design-Builder, any additional amounts payable in accordance with Section 9.10.3 of the Agreement.

§ A.1.5.2.4 Reduction or limitation of retainage, if any, shall be as follows: Upon 50 percent (50%) completion, retainage reduces to 2.5 percent (2.5%) on remaining Work, and to 0 percent (0%)for completed trade packages. *(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections A.1.5.2.2.1 and A.1.5.2.2.2 above, and this is not explained elsewhere in the Design-Build Documents, insert provisions here for such reduction or limitation.)*

« »

§ A.1.5.3 Progress Payments—Cost of the Work Plus a Fee

§ A.1.5.3.1 Where the Contract Sum is based upon the Cost of the Work plus a fee without a Guaranteed Maximum Price, Applications for Payment shall show the Cost of the Work actually incurred by the Design-Builder through the end of the period covered by the Application for Payment and for which Design-Builder has made or intends to make actual payment prior to the next Application for Payment.

§ A.1.5.3.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

.1 Take the Cost of the Work as described in Article A.5 of this Amendment;

.2 Add the Design-Builder's Fee, less retainage of 5percent (5%). The Design-Builder's Fee shall be computed upon the Cost of the Work described in the preceding Section A.1.5.3.2.1 at the rate stated in Section A.1.3.2; or if the Design-Builder's Fee is stated as a fixed sum in that Section, an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work in that Section bears to a reasonable estimate of the probable Cost of the Work upon its completion;

.3 Subtract retainage of 5percent (5%) from that portion of the Work that the Design-Builder self-performs, with such retainage being equal to the general retainage percentage and to be reduced on the same schedule;

.4 Subtract the aggregate of previous payments made by the Owner;

.5 Subtract the shortfall, if any, indicated by the Design-Builder in the documentation required by Section A.1.5.1.4 or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.6 Subtract amounts, if any, for which the Owner has withheld or withdrawn a Certificate of Payment as provided in the Section 9.5 of the Agreement. Owner may withhold only amounts subject to a specific, written notice of dispute; undisputed portions shall be certified and paid.

§ A.1.5.3.3 The Owner and Design-Builder shall agree upon (1) a mutually acceptable procedure for review and approval of payments to the Architect, Consultants, and Contractors and (2) the percentage of retainage held on agreements with the Architect, Consultants, and Contractors, and the Design-Builder shall execute agreements in accordance with those terms. Procedures and retainage shall be commercially reasonable and consistent with this Agreement. Retainage for design/consultant agreements shall not exceed 5 percent (5%) and shall be released upon their phase completion.

§ A.1.5.4 Progress Payments—Cost of the Work Plus a Fee with a Guaranteed Maximum Price

§ A.1.5.4.1 Applications for Payment where the Contract Sum is based upon the Cost of the Work Plus a Fee with a Guaranteed Maximum Price shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Design-Builder on account of that portion of the Work for which the Design-Builder has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ A.1.5.4.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

.1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 6.3.9 of the Agreement.

.2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

.3 Add the Design-Builder's Fee, less retainage of « » percent (« » %). The Design-Builder's Fee shall be computed upon the Cost of the Work at the rate stated in Section A.1.4.2 or, if the Design-Builder's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;

.4 Subtract retainage of « » percent (« » %) from that portion of the Work that the Design-Builder self-performs;

.5 Subtract the aggregate of previous payments made by the Owner;

.6 Subtract the shortfall, if any, indicated by the Design-Builder in the documentation required by Section A.1.5.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.7 Subtract amounts, if any, for which the Owner has withheld or nullified a payment as provided in Section 9.5 of the Agreement. Owner may withhold only amounts subject to a specific, written notice of dispute; undisputed portions shall be certified and paid.

§ A.1.5.4.3 The Owner and Design-Builder shall agree upon (1) a mutually acceptable procedure for review and approval of payments to the Architect, Consultants, and Contractors and (2) the percentage of retainage held on agreements with the Architect, Consultants, and Contractors; and the Design-Builder shall execute agreements in accordance with those terms.

§ A.1.5.5 Final Payment

§ A.1.5.5.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Design-Builder not later than 30 days after the Design-Builder has fully performed the Contract and the requirements of Section 9.10 of the Agreement have been satisfied, except for the Design-Builder's responsibility to correct non-conforming Work discovered after final payment or to satisfy other requirements, if any, which extend beyond final payment. Further, final payment is due within 15 days after satisfaction of §9.10; amounts unpaid bear interest at 1 percent (1%) per month.

§ A.1.5.5.2 If the Contract Sum is based on the Cost of the Work, the Owner's auditors will review and report in writing on the Design-Builder's final accounting within 30 days after the Design-Builder delivers the final accounting to the Owner. Based upon the Cost of the Work the Owner's auditors report to be substantiated by the Design-Builder's final accounting, and provided the other conditions of Section 9.10 of the Agreement have been met, the Owner will, within seven days after receipt of the written report of the Owner's auditors, either issue a final Certificate for Payment, or notify the Design-Builder in writing of the reasons for withholding a certificate as provided in Section 9.5.1 of the Agreement. If Owner's auditors do not issue a report within 30 days, the final accounting is deemed accepted. Any withholding must be stated with specificity and limited to the disputed amount, with the undisputed balance certified and paid.

ARTICLE A.2 CONTRACT TIME

§ A.2.1 Contract Time, as defined in the Agreement at Section 1.4.13, is the period of time, including authorized adjustments, for Substantial Completion of the Work.

§ A.2.2 The Design-Builder shall achieve Substantial Completion of the Work not later than 240 calendar days from the date of this Amendment, subject to equitable extensions for Owner-caused delay, changes, force majeure, and unforeseen conditions. No phased Substantial Completion is required unless expressly listed, and any additional phases shall be a Change in Work.

§ A.2.3 Liquidated damages shall not apply; alternatively, liquidated damages are capped at 0.05 percent (0.05%) of the Contract Sum per day, aggregate cap 3 percent (3%). A $2,500.00/day bonus applies for early Substantial Completion, uncapped.

« »

Portion of Work	Substantial Completion Date

, subject to adjustments of the Contract Time as provided in the Design-Build Documents.
(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

« »

ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

§ A.3.1 The Contract Sum and Contract Time set forth in this Amendment are based on the following:

§ A.3.1.1 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

§ A.3.1.2 The Specifications:
The specifications and Drawings listed in Exhibit A-5 are incorporated by reference.

« »

Section	Title	Date	Pages

§ A.3.1.3 The Drawings:
The specifications and Drawings listed in Exhibit A-5 are incorporated by reference.

« »

Number	Title	Date

§ A.3.1.4 The Sustainability Plan, if any:
(If the Owner identified a Sustainable Objective in the Owner's Criteria, identify the document or documents that comprise the Sustainability Plan by title, date and number of pages, and include other identifying information. The Sustainability Plan identifies and describes the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner's and Design-Builder's roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews, testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project, as those terms are defined in Exhibit C to the Agreement.)

Title	Date	Pages

Other identifying information:

« »

§ A.3.1.5 Allowances and Contingencies:
Allowances, Contingencies, and Assumptions are set forth in Exhibit A-1; these control over general notes in even of conflict. Furthermore, Allowances listed in Exhibit A-1 are included in the Guaranteed Maximum Price, with overruns/underruns adjusting the Guaranteed Maximum price via Change Orders.

.1 Allowances

« »

.2 Contingencies

Design-Builder's contingency of __% is included for scope gaps, coordination, and estimating inaccuracies within the defined documents. Its use it at Design-Builder's discretion with reporting but without requiring Change Order.

§ A.3.1.6 Design-Builder's assumptions and clarifications:
Allowances, Contingencies, and Assumptions are set forth in Exhibit A-1; these control over general notes in even of conflict.

« »

§ A.3.1.7 Deviations from the Owner's Criteria as adjusted by a Modification:
Deviations from Owner's Criteria are listed in Exhibit A-6. Any unlisted deviation is a Change in the Work.

« »

§ A.3.1.8 To the extent the Design-Builder shall be required to submit any additional Submittals to the Owner for review, indicate any such submissions below:

« »

ARTICLE A.4 DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS
§ A.4.1 The Design-Builder's key personnel are identified below. Owner approves the key personnel listed in Exhibit A-7. Design Builder may replace with equally or more qualified personnel upon notice. Owner's approval shall not be unreasonably withheld.
(Identify name, title and contact information.)

.1 Superintendent

« »

.2 Project Manager

« »

.3 Others

« »

§ A.4.2 The Design-Builder shall retain the following Consultants, Contractors and suppliers, identified below:
Listed trade partners are pre-approved. Owner objections must be in writing within 5 business days, and with good cause.

« »

ARTICLE A.5 COST OF THE WORK
§ A.5.1 Cost To Be Reimbursed as Part of the Contract
§ A.5.1.1 Labor Costs
§ A.5.1.1.1 Wages of construction workers directly employed by the Design-Builder to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ A.5.1.1.2 With the Owner's prior approval, wages or salaries of the Design-Builder's supervisory and administrative personnel when stationed at the site. Owner pre-approves the personnel roles and incentive programs listed in Exhibit A-2; amounts paid under those programs are reimbursable.
(If it is intended that the wages or salaries of certain personnel stationed at the Design-Builder's principal or other offices shall be included in the Cost of the Work, identify below the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)

Person Included	Status (full-time/part-time)	Rate ($0.00)	Rate (unit of time)

§ A.5.1.1.3 Wages and salaries of the Design-Builder's supervisory or administrative personnel engaged at factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ A.5.1.1.4 Costs paid or incurred by the Design-Builder for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Section A.5.1.1.

§ A.5.1.1.5 Bonuses, profit sharing, incentive compensation and any other discretionary payments paid to anyone hired by the Design-Builder or paid to the Architect or any Consultant, Contractor or supplier, with the Owner's prior approval. Owner pre-approves the personnel roles and incentive programs listed in Exhibit A-2; amounts paid under those programs are reimbursable.

§ A.5.1.2 Contract Costs. Payments made by the Design-Builder to the Architect, Consultants, Contractors and suppliers in accordance with the requirements of their subcontracts.

§ A.5.1.3 Costs of Materials and Equipment Incorporated in the Completed Construction

§ A.5.1.3.1 Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.

§ A.5.1.3.2 Costs of materials described in the preceding Section A.5.1.3.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Design-Builder, with any credit for surplus sales being the net of reasonable handling, storage or retail costs. If Owner elects to take title, DB is reimbursed for associated handling and delivery. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ A.5.1.4 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ A.5.1.4.1 Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Design-Builder at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Design-Builder shall mean fair market value.

§ A.5.1.4.2 Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Design-Builder at the site and costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Design-Builder-owned item may not exceed the purchase price of any comparable item. Rates of Design-Builder-owned equipment and quantities of equipment shall be subject to the Owner's prior approval. Owner approves the equipment rate schedule in Exhibit A-3. Design-Builder-owned equipment rates at or below schedule are deemed approved.

§ A.5.1.4.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ A.5.1.4.4 Costs of document reproductions, electronic communications, postage and parcel delivery charges, dedicated data and communications services, teleconferences, Project websites, extranets and reasonable petty cash expenses of the site office.

§ A.5.1.4.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, with the Owner's prior approval.

§ A.5.1.5 Miscellaneous Costs

§ A.5.1.5.1 Premiums for that portion of insurance and bonds required by the Design-Build Documents that can be directly attributed to the Contract. With the Owner's prior approval self-insurance for either full or partial amounts of the coverages required by the Design-Build Documents.

§ A.5.1.5.2 Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Design-Builder is liable.

§ A.5.1.5.3 Fees and assessments for the building permit and for other permits, licenses and inspections for which the Design-Builder is required by the Design-Build Documents to pay.

§ A.5.1.5.4 Fees of laboratories for tests required by the Design-Build Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 15.5.3 of the Agreement or by other provisions of the Design-Build Documents, and which do not fall within the scope of Section A.5.1.6.3.

§ A.5.1.5.5 Royalties and license fees paid for the use of a particular design, process or product required by the Design-Build Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Design-Build Documents; and payments made in accordance with legal judgments against the Design-Builder resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Design-Builder's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the second to last sentence of Section 3.1.13.2 of the Agreement or other provisions of the Design-Build Documents, then they shall not be included in the Cost of the Work.

§ A.5.1.5.6 With the Owner's prior approval, costs for electronic equipment and software directly related to the Work. Owner pre-approves the categories and caps in Exhibit A-4 for electronic equipment/software, legal/ADR costs (excluding Design-Builder-Owner disputes), relocation, and travel; items within caps are reimbursable without further approval.

§ A.5.1.5.7 Deposits lost for causes other than the Design-Builder's negligence or failure to fulfill a specific responsibility in the Design-Build Documents.

§ A.5.1.5.8 With the Owner's prior approval, which shall not be unreasonably withheld, legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Design-Builder, reasonably incurred by the Design-Builder after the execution of the Agreement and in the performance of the Work. Prior approval is deemed granted for third party claims requiring immediate action to meet court or agency deadlines, subject to prompt notice and cost reporting.

§ A.5.1.5.9 With the Owner's prior approval, expenses incurred in accordance with the Design-Builder's standard written personnel policy for relocation, and temporary living allowances of, the Design-Builder's personnel required for the Work. Owner pre-approves the categories and caps in Exhibit A-4 for electronic equipment/software, legal/ADR costs (excluding Design-Builder-Owner disputes), relocation, and travel; items within caps are reimbursable without further approval.

§ A.5.1.5.10 That portion of the reasonable expenses of the Design-Builder's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work. Owner pre-approves the categories and caps in Exhibit A-4 for electronic equipment/software, legal/ADR costs (excluding Design-Builder-Owner disputes), relocation, and travel; items within caps are reimbursable without further approval.

§ A.5.1.6 Other Costs and Emergencies

§ A.5.1.6.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

§ A.5.1.6.2 Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property. Emergency costs are promptly reimbursable; any negligence determinations shall occur after payment, with adjustments only upon clear and convincing evidence and limited to the differential.

§ A.5.1.6.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Design-Builder, Contractors or suppliers, provided that such damaged or nonconforming Work was not caused by negligence or failure to fulfill a specific responsibility of the Design-Builder and only to the extent that the cost of repair or correction is not recovered by the Design-Builder from insurance, sureties, Contractors, suppliers, or others.

§ A.5.1.7 Related Party Transactions

§ A.5.1.7.1 For purposes of Section A.5.1.7, the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Design-Builder; any entity in which any stockholder in, or management employee of, the Design-Builder owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Design-Builder. The term "related party" includes any member of the immediate family of any person identified above.

§ A.5.1.7.2 If any of the costs to be reimbursed arise from a transaction between the Design-Builder and a related party, the Design-Builder shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Design-Builder shall procure the Work, equipment, goods or service from the related party, as a Contractor, according to the terms of Section A.5.4. If the Owner fails to authorize the transaction, the Design-Builder shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Section A.5.4. Owner's authorization shall not be unreasonably withheld, conditioned, or delayed; consent is deemed granted if no objection is received within 10 business days after notice.

§ A.5.2 Costs Not to Be Reimbursed as Part of this Contract

The Cost of the Work shall not include the items listed below:

- **.1** Salaries and other compensation of the Design-Builder's personnel stationed at the Design-Builder's principal office or offices other than the site office, except as specifically provided in Section A.5.1.1;
- **.2** Expenses of the Design-Builder's principal office and offices other than the site office;
- **.3** Overhead and general expenses, except as may be expressly included in Section A.5.1;
- **.4** The Design-Builder's capital expenses, including interest on the Design-Builder's capital employed for the Work;
- **.5** Except as provided in Section A.5.1.6.3 of this Agreement, costs due to the negligence or failure of the Design-Builder, Contractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract;
- **.6** Any cost not specifically and expressly described in Section A.5.1;
- **.7** Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- **.8** Notwithstanding he foregoing, any cost reasonably inferable from, or necessary to execute, the Work as described in the Deign-Build Documents and the Guaranteed Maximum price Assumptions (Exhibit A-1) shall be included in the Cost of Work.

§ A.5.3 Discounts, Rebates, and Refunds

§ A.5.3.1 Cash discounts obtained on payments made by the Design-Builder shall accrue to the Owner if (1) before making the payment, the Design-Builder included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Design-Builder with which to make payments; otherwise, cash discounts shall accrue to the Design-Builder. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Design-Builder shall make provisions so that they can be obtained. Moreover, Design-Builder shall use commercially reasonable efforts to secure discounts/rebates. Administrative costs to obtain such discounts/rebates are reimbursable, and credits shall be net of such costs.

§ A.5.3.2 Amounts that accrue to the Owner in accordance with Section A.5.3.1 shall be credited to the Owner as a deduction from the Cost of the Work.

§ A.5.4 Other Agreements

§ A.5.4.1 When the Design-Builder has provided a Guaranteed Maximum Price, and a specific bidder (1) is recommended to the Owner by the Design-Builder; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Design-Build Documents without reservations or exceptions,

but the Owner requires that another bid be accepted, then the Design-Builder may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Design-Builder and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner. Any Owner-directed substitution shall entitle Design Builder to (a) a Guaranteed Maximum Price increase equal to the higher of the price delta or the substantiated cost impact, (b) a commensurate extension of Contract Time, and (c) relief for performance impacts, including quality or coordination costs reasonably incurred.

§ A.5.4.2 Agreements between the Design-Builder and Contractors shall conform to the applicable payment provisions of the Design-Build Documents, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If an agreement between the Design Builder and a Contractor is awarded on a cost plus a fee basis, the Design-Builder shall provide in the agreement for the Owner to receive the same audit rights with regard to the Cost of the Work performed by the Contractor as the Owner receives with regard to the Design-Builder in Section A.5.5, below.

§ A.5.4.3 The agreements between the Design-Builder and Architect and other Consultants identified in the Agreement shall be in writing. These agreements shall be promptly provided to the Owner upon the Owner's written request.

§ A.5.5 Accounting Records

The Design-Builder shall keep full and detailed records and accounts related to the cost of the Work and exercise such controls as may be necessary for proper financial management under the Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Design-Builder's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Contractor's proposals, purchase orders, vouchers, memoranda and other data relating to the Contract. Owner's access is subject to reasonable scheduling and protection of confidential/proprietary information; Owner shall execute a confidentiality agreement, and Design-Builder may redact unrelated pricing and trade secrets. The Design-Builder shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law. Owner's audit rights expire 18 months after Substantial Completion; absent fraud, paid Applications become final and non-audible 180 days after payment.

§ A.5.6 Relationship of the Parties

The Design-Builder accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to exercise the Design-Builder's skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests.

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

OWNER *(Signature)*	**DESIGN-BUILDER** *(Signature)*
Rolf Hechler, Mayor	Julian Carrizal, Owner/President
(Printed name and title)	*(Printed name and title)*

Notices.

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To: City of T or C

Carlos Miyagishima, Chief Procurement Officer
505 Sims St.

Truth or Consequences, NM 87901

To: J. Carrizal General Construction

Julian Carrizal
1070 Diesel Drive
El Paso, Texas 79907

By: _____ Date: _____
Julian Carrizal, Owner/President

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the City Chief Procurement Officer below:

By: _____ Date: _____
Gary Whitehead, City Manager

ON BEHALF OF BOARD OF CITYCOMMISSIONERS APPROVED, ADOPTED AND PASSED on this 8 day of July, 2026.

_____
Rolf Hechler, Mayor

Attest:

_____
Angela Torres, City of T or C Clerk

City of T or C Chief Procurement Officer:

By: _____ Date: _____
Carlos Miyagishima, CPO

AIA® Document A141® - 2014
Exhibit B

Insurance and Bonds

for the following PROJECT:
(Name and location or address)

RFP #2026-03-005 PNC Bank/PD Remodel
210 Main Street
Truth or Consequences, NM 87901

THE OWNER:
(Name, legal status and address)

City of Truth or Consequences
401 McAdoo St.
Truth or Consequences, NM 87901

THE DESIGN-BUILDER:
(Name, legal status and address)

J. Carrizal General Construction, Inc.
1070 Diesel Drive
El Paso, TX 79907

THE AGREEMENT
This Insurance Exhibit is part of the accompanying agreement for the Project, between the Owner and the Design-Builder (hereinafter, the Agreement), dated the 8 day of July in the year 2026.
(In words, indicate day, month and year.)

TABLE OF ARTICLES

B.1 GENERAL

B.2 DESIGN BUILDER'S INSURANCE AND BONDS

B.3 OWNER'S INSURANCE

B.4 SPECIAL TERMS AND CONDITIONS

ARTICLE B.1 GENERAL
The Owner and Design-Builder shall purchase and maintain insurance and provide bonds as set forth in this Exhibit B. Where a provision in this Exhibit conflicts with a provision in the Agreement into which this Exhibit is incorporated, the provision in this Exhibit will prevail.

ARTICLE B.2 DESIGN BUILDER'S INSURANCE AND BONDS
§ B.2.1 The Design-Builder shall purchase and maintain the following types and limits of insurance from a company or companies lawfully authorized to do business in the jurisdiction where the Project is located. The Design-Builder shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 11.2.2.1 of the Agreement, unless a different duration is stated below:
(If the Design-Builder is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

« »

§ B.2.1.1 Commercial General Liability with policy limits of not less than « One Million » ($ 1,000,000.00) for each occurrence and « Two Million » ($ « 2,000,000.00 ») in the aggregate providing coverage for claims including

.1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;

.2 personal injury;

.3 damages because of injury to or destruction of tangible property;

.4 bodily injury or property damage arising out of completed operations; and

.5 contractual liability applicable to the Design-Builder's obligations under Section 3.1.14 of the Agreement.

§ B.2.1.2 Automobile Liability covering vehicles owned by the Design-Builder and non-owned vehicles used by the Design-Builder with policy limits of not less than « One million » ($ « 1,000,000.00 ») combined single limit per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles specified in this Section B.2.1.2, along with any other statutorily required automobile coverage.

§ B.2.1.3 The Design-Builder may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess liability insurance, provided such primary and excess insurance policies result in the same or greater coverage as those required under Sections B.2.1.1 and B.2.1.2.

§ B.2.1.4 Workers' Compensation at statutory limits.

§ B.2.1.5 Employers' Liability with policy limits as provided below:

« »

§ B.2.1.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than « One Million » ($ « 1,000,000.00 ») per claim and « Two Million » ($ « 2,000,000.00 ») in the aggregate. Claims-made policies shall maintain a retroactive date no later than commencement of services and be continuously maintained or extended by a discovery period of not less than two (2) years following Substantial Completion.

§ B.2.1.7 Pollution Liability covering performance of the Work, with policy limits of not less than « One Million » ($ « 1,000,000.00 ») per claim and « Two Million » ($ « 2,000,000.00 ») in the aggregate.

§ B.2.1.7.1 The Design-Builder may obtain a combined Professional Liability and Pollution Liability policy to satisfy the requirements set forth in Sections B.2.1.6 and B.2.1.7, with combined policy limits that are not less than « Two Million » ($ « 2,000,000.00 ») per claim and « Two Million » ($ « 2,000,000.00 ») in the aggregate. Claims-made policies shall maintain a retroactive date no later than commencement of services and be continuously maintained or extended by a discovery period of not less than two (2) years following Substantial Completion.

§ B.2.1.8 Design-Builder/Owner shall provide written notice to the other party of cancellation or non-renewal actually issued by the insurer and not rescinded, within ten (10) business days after receipt of insurer's written notice. Notice of 'threatened' cancellation is not required..

§ B.2.1.9 Additional Insured Obligations. The Owner and its consultants and contractors shall be additional insureds on the Design-Builder's primary and excess insurance policies for Commercial General Liability, Automobile Liability and Pollution Liability. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies. The additional insured coverage shall apply to both ongoing operations and completed operations. The policy limits applicable to the additional insureds shall be the same amount applicable to the named insured or, if the policy provides otherwise, policy limits not less than the amounts required under this Agreement. Additional insured status shall be provided only to Owner and to other parties with whom Design-Builder has a direct written agreement requiring such status, and only to the extent required by that agreement.

§ B.2.1.10 Certificates of Insurance. The Design-Builder shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article B.2: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon Owner's written request. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 of the Agreement and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section B.2.1. The certificates will show the Owner and its consultants and contractors as additional insureds on the Design-Builder's primary and excess insurance policies for Commercial General Liability, Automobile Liability, and Pollution Liability. Information concerning reduction of coverage on account of revised limits, claims paid under the General Aggregate or both, shall be furnished by the Design-Builder with reasonable promptness. Certificates are for evidence only and confer no rights; obligation to provide certificates terminates after the maintenance periods stated in Section B.2.1. Insurer notices sent to certificate holders shall satisfy the notice obligation.

§ B.2.2 Performance Bond and Payment Bond
The Design-Builder shall provide surety bonds as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum ($0.00)

§ B.2.2.1 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Agreement, the Design-Builder shall promptly furnish a copy of the bonds or shall permit a copy to be made.

§ B.2.3 If any required coverage, limit, or endorsement is unavailable on commercially reasonable terms, the parties shall negotiate an alternative program or appropriate equitable adjustment.

ARTICLE B.3 OWNER'S INSURANCE
§ B.3.1 Owner's Liability Insurance
The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

§ B.3.2 Property Insurance
§ B.3.2.1 Unless otherwise provided, at the time of execution of the Design-Build Amendment, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus the value of subsequent Modifications and cost of materials supplied or installed by others, comprising the total value for the entire Project at the site on a replacement cost basis without optional deductibles. If any construction that is part of the Work shall commence prior to execution of the Design-Build Amendment, the Owner shall, prior to commencement of construction, purchase and maintain property insurance as described above in an amount sufficient to cover the total value of the Work at the site on a replacement cost basis without optional deductibles. The insurance required under this section shall include interests of the Owner, Design-Builder, Architect, Consultants, Contractors, and Subcontractors in the Project. The property insurance shall be maintained, unless otherwise provided in the Design-Build Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of the insurance, until the Owner has issued a Certificate of Substantial Completion in accordance with Section 9.8 of the Agreement. Unless the parties agree otherwise, upon issuance of a Certificate of Substantial Completion, the Owner shall replace the insurance policy required under this Section B.3.2 with another property insurance policy written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 11.2.2 of the Agreement.

§ B.3.2.1.1 The insurance required under Section B.3.2.1 shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for the Design-Builder's services and expenses required as a result of such insured loss.

§ B.3.2.1.2 If the insurance required under Section B.3.2.1 requires deductibles, the Owner shall pay costs not covered because of such deductibles.

§ B.3.2.1.3 The insurance required under Section B.3.2.1 shall cover portions of the Work stored off the site, and also portions of the Work in transit.

§ B.3.2.1.4 Partial occupancy or use in accordance with Section 9.9 of the Agreement shall not commence until the insurance company or companies providing the insurance required under Section B.3.2.1 have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Design-Builder shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

§ B.3.2.2 Boiler and Machinery Insurance. The Owner shall purchase and maintain boiler and machinery insurance, which shall specifically cover commissioning, testing, or breakdown of equipment required by the Work, if not covered by the insurance required in Section B.3.2.1. This insurance shall include the interests of the Owner, Design-Builder, Architect, Consultants, Contractor and Subcontractors in the Work, and the Owner and Design-Builder shall be named insureds.

§ B.3.2.3 If the Owner does not intend to purchase the insurance required under Sections B.3.2.1 and B.3.2.2 with all of the coverages in the amounts described above, the Owner shall inform the Design-Builder in writing prior to any construction that is part of the Work. The Design-Builder may then obtain insurance that will protect the interests of the Owner, Design-Builder, Architect, Consultants, Contractors, and Subcontractors in the Work. The cost of the insurance shall be charged to the Owner by an appropriate Change Order. If the Owner does not provide written notice, and the Design-Builder is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, the Owner shall bear all reasonable costs and damages attributable thereto.

§ B.3.2.4 Loss of Use Insurance. At the Owner's option, the Owner may purchase and maintain insurance to insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Design-Builder for loss of use of the Owner's property, including consequential losses due to fire or other hazards covered under the property insurance required under this Exhibit B to the Agreement.

§ B.3.2.5 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Section B.3.2.7 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

§ B.3.2.6 Before an exposure to loss may occur, the Owner shall file with the Design-Builder a copy of each policy that includes insurance coverages required by this Section B.3.2. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. The Owner shall provide written notification to the Design-Builder of the cancellation or expiration of any insurance required by this Article B.3. The Owner shall provide such written notice within five (5) business days of the date the Owner is first aware of the cancellation or expiration, or is first aware that the cancellation or expiration is threatened or otherwise may occur, whichever comes first.

§ B.3.2.7 Waivers of Subrogation. The Owner and Design-Builder waive all rights against (1) each other and any of their consultants, subconsultants, contractors and subcontractors, agents and employees, each of the other, and (2) any separate contractors described in Section 5.13 of the Agreement, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to Section B.3.2 or other property insurance applicable to the Work and completed construction, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Design-Builder, as appropriate, shall require of the separate contractors described in Section 5.13 of the Agreement, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of the other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

§ B.3.2.8 A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section B.3.2.10. The Design-Builder shall pay the Architect, Consultants and Contractors their just shares of insurance proceeds received by the Design-Builder, and by appropriate agreements, written where legally required for validity, the Design-Builder shall require the Architect, Consultants and Contractors to make payments to their consultants and subcontractors in similar manner.

§ B.3.2.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Design-Builder. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Design-Builder after notification of a Change in the Work in accordance with Article 6 of the Agreement.

§ B.3.2.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of a loss to the Owner's exercise of this power. If an objection is made, the dispute shall be resolved in the manner selected by the Owner and Design-Builder as the method of binding dispute resolution in the Agreement. If the Owner and Design-Builder have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.

§ B.3.3 If any required coverage, limit, or endorsement is unavailable on commercially reasonable terms, the parties shall negotiate an alternative program or appropriate equitable adjustment.

ARTICLE B.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:



AIA® Document A141® – 2014

Exhibit C

Sustainable Projects

for the following PROJECT:
(Name and location or address)

RFP #2026-03-005 PNC Bank/PD Remodel
210 Main Street, Truth or Consequences, NM 87901

THE OWNER:
(Name, legal status and address)

City of Truth or Consequences
401 McAdoo St., Truth or Consequences, NM 87901

THE DESIGN-BUILDER:
(Name, legal status and address)

J. Carrizal General Construction, Inc.
1070 Diesel Drive, El Paso, TX 79907

THE AGREEMENT
This Sustainable Projects Exhibit is part of the accompanying agreement for the Project between the Owner and Design-Builder (hereinafter, the Agreement) dated the 8 day of July in the year 2026.
(In words, indicate day, month and year.)

TABLE OF ARTICLES

C.1 GENERAL PROVISIONS

C.2 DESIGN-BUILDER

C.3 OWNER

C.4 CLAIMS AND DISPUTES

C.5 MISCELLANEOUS PROVISIONS

C.6 SPECIAL TERMS AND CONDITIONS

ARTICLE C.1 GENERAL PROVISIONS

§ C.1.1 This Exhibit, in conjunction with the Sustainability Plan and other Design-Build Documents, establishes requirements of the Owner, and the services to be provided by the Design-Builder, when the Project includes a Sustainable Objective. Except in the case of a conflict with the Owner's Criteria, where a provision in this Exhibit conflicts with a provision in the Agreement into which this Exhibit is incorporated, the provision in this Exhibit will prevail. Notwithstanding Owner's Criteria, in the event of any inconsistency regarding sustainability services, Sustainable Measures, or Sustainability Documentation, Exhibit C shall control. Any change to Owner's Criteria impacting the Sustainability Plan shall require a signed Modification allocating time and cost.

§ C.1.2 Definitions

§ C.1.2.1 Sustainable Objective. The Sustainable Objective is the Owner's goal of incorporating Sustainable Measures into the design, construction, maintenance and operations of the Project to achieve a Sustainability Certification or other benefit to the environment, to enhance the health and well-being of building occupants, or to improve energy efficiency. If not set forth in the Owner's Criteria, the Sustainable Objective will be identified in the Sustainability Plan.

§ C.1.2.2 Sustainable Measure. A Sustainable Measure is a specific design or construction element, or post occupancy use, operation, maintenance or monitoring requirement, that must be completed in order to achieve the Sustainable Objective. The Owner and Design-Builder shall each have responsibility for the Sustainable Measure(s) allocated to them in the Sustainability Plan.

§ C.1.2.3 Sustainability Plan. The Sustainability Plan is a Design-Build Document that identifies and describes: the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner's and Design-Builder's roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews; testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project. Design-Builder's obligations are limited to Sustainable Measures expressly allocated to Design-Builder in the Sustainability Plan incorporated into the Design-Build Amendment. Any subsequent change to the Sustainable Objective or Sustainable Measures shall be treated as a Change with equitable adjustment.

§ C.1.2.4 Sustainability Certification. The Sustainability Certification is the initial third-party certification of sustainable design, construction, or environmental or energy performance, such as LEED®, Green Globes™, Energy Star or another rating or certification system, that may be designated as the Sustainable Objective or part of the Sustainable Objective for the Project. The term Sustainability Certification shall not apply to any recertification or certification occurring subsequent to the initial certification.

§ C.1.2.5 Sustainability Documentation. The Sustainability Documentation includes all documentation related to the Sustainable Objective, or to a specific Sustainable Measure, that the Owner or Design-Builder is required to prepare in accordance with the Design-Build Documents. Responsibility for preparation of specific portions of the Sustainability Documentation will be allocated among the Owner and Design-Builder in the Sustainability Plan and may include documentation required by the Certifying Authority.

§ C.1.2.6 Certifying Authority. The Certifying Authority is the entity that establishes criteria for achievement of a Sustainability Certification and is authorized to grant or deny a Sustainability Certification.

ARTICLE C.2 DESIGN-BUILDER

§ C.2.1 Scope of Design-Builder's Sustainability Services Prior to Execution of the Design-Build Amendment

§ C.2.1.1 The Design-Builder shall provide the Sustainability Services described in this Section C.2.1 in conjunction with the Work described in Article 4 of the Agreement.

§ C.2.1.2 Sustainability Certification Agreements. If the anticipated Sustainable Objective set forth in the Owner's Criteria includes a Sustainability Certification, the Design-Builder shall provide the Owner with copies of all agreements required by the Certifying Authority to register the Project and pursue the Sustainability Certification. The Owner and Design-Builder will review and confirm that the terms of those agreements are acceptable to the Owner before moving forward with the Sustainability Services under this Article C.2. The Owner agrees to execute all documents required by the Certifying Authority to be executed by the Owner; including any documentation required to establish the authority of the Design-Builder, the Architect, Contractor, or a Consultant, as an agent of the Owner for the limited purpose of pursuing the Sustainability Certification.

§ C.2.1.3 Preliminary Design

§ C.2.1.3.1 Sustainability Workshop. Prior to the conclusion of Preliminary Design, the Design-Builder, and as necessary the Design-Builder's Architect, Contractors, and Consultants, shall conduct a Sustainability Workshop with the Owner and, as requested by the Design-Builder, with the Owner's consultants, during which the participants will: review and discuss potential Sustainability Certifications; establish the Sustainable Objective; discuss potential Sustainable Measures to be targeted; examine strategies for implementation of the Sustainable Measures; and discuss the potential impact of the Sustainable Measures on the Project schedule and on the Owner's program and budget.

§ C.2.1.3.2 Sustainability Plan

§ C.2.1.3.2.1 Following the Sustainability Workshop, the Design-Builder shall prepare a Sustainability Plan based on the Sustainable Objective and targeted Sustainable Measures.

§ C.2.1.3.2.2 The Design-Builder shall submit the proposed Sustainability Plan to the Owner as part of the Design-Builder's submission of the Preliminary Design in accordance with Section 4.3.1 of the Agreement. The Sustainability Plan shall not change the Owner's Criteria unless the Owner and Design-Builder execute a Modification reflecting any such change.

§ C.2.1.4 Design-Builder's Proposal

§ C.2.1.4.1 As part of the Design-Builder's submission of the Design-Builder's Proposal, in accordance with Section 4.4.1 of the Agreement, the Design-Builder shall advise the Owner of any adjustments to the Sustainability Plan.

§ C.2.1.4.2 If the Owner and Design-Builder agree upon the Design-Builder's Proposal, including the Sustainability Plan, the Owner and Design-Builder shall include the Sustainability Plan in the Design-Build Amendment executed in accordance with Section 4.4.3 of the Agreement.

§ C.2.2 Work Following Execution of the Design-Build Amendment

§ C.2.2.1 The Design-Builder shall perform those Sustainable Measures identified as the responsibility of the Design-Builder in the approved Sustainability Plan and any approved changes to the Sustainability Plan.

§ C.2.2.2 Construction Documents. The Construction Documents prepared by the Design-Builder shall incorporate the Sustainable Measures identified in the Sustainability Plan, as appropriate.

§ C.2.2.3 As part of the Sustainable Measures, the Work may require the use of materials and equipment that have had limited testing or verification of performance. The Design-Builder may be unable to determine whether the materials or equipment will perform as represented by the manufacturer or supplier. The Design-Builder shall discuss with the Owner the proposed use of such materials or equipment, and potential effects on the Sustainable Objective that may occur if the materials or equipment fail to perform in accordance with the manufacturers or supplier's representations. The Owner will render a written decision regarding the use of such materials or equipment in a timely manner. In the event the Owner elects to proceed with the use of such materials or equipment, the Design-Builder shall be permitted to rely on the manufacturers or supplier's representations and shall not be responsible for any damages arising from failure of the material or equipment to perform in accordance with the manufacturer's or supplier's representations. Owner shall issue written decisions on proposed novel materials/equipment within five (5) business days, with lack of response indicating approval. If Owner elects to proceed, Design Builder shall have no liability for performance failures or related impacts on Sustainable Measures or the Sustainable Objective. Any remedies shall be limited to processing a Change for any replacement or alteration.

§ C.2.3 Construction Phase

§ C.2.3.1 The Design-Builder shall meet with the Owner to discuss alternatives in the event the Owner recognizes a condition that will affect achievement of a Sustainable Measure or achievement of the Sustainable Objective. If any condition is discovered by, or made known to, the Design-Builder that will adversely affect the Design-Builder's achievement of a Sustainable Measure for which the Design-Builder is responsible pursuant to the Sustainability Plan, the Design-Builder will promptly provide notice to the Owner and meet with the Owner to discuss alternatives to remedy the condition. Owner's failure to timely act to provide direction after Design-Builder's notice shall entitle Design-Builder to a Change for resulting time and cost.

§ C.2.3.2 The Design-Builder shall be responsible for preparing and completing the Sustainability Documentation required by the Design-Build Documents, including any Sustainability Documentation required to be submitted after Substantial Completion.

§ C.2.4 Waste Management

The Design-Builder, in accordance with the Design-Build Documents, shall prepare and submit to the Owner a construction waste management and disposal plan setting forth the procedures and processes for salvaging, recycling or disposing of construction waste generated from the Project. The Design-Builder shall recycle, reuse, remove or

dispose of materials as required by the Design-Build Documents. Costs associated with waste diversion, salvage, recycling documentation, and related reporting beyond standard disposal are reimbursable unless expressly included in the Design-Build Amendment.

§ C.2.5 Substantial Completion
Verification that the Project has achieved the Sustainable Objective, or the actual achievement of the Sustainable Objective, shall not be a condition precedent to issuance of a Certificate of Substantial Completion in accordance with Section 9.8.5 of the Agreement. Except for that portion of the Sustainability Documentation that by its nature must be provided after Substantial Completion, the Design-Builder shall submit to the Owner the Sustainability Documentation required from the Design-Builder by the Design-Build Documents no later than the date of Substantial Completion. Submission obligations are limited to documentation within Design-Builder's control. Third-party or Owner-dependent documentation shall not delay Substantial or Final Completion or payment. Owner shall issue a written list of only those outstanding items required from Design builder within five (5) business days, and undisputed sums remain payable.

§ C.2.6 Final Completion
§ C.2.6.1 Verification that the Project has achieved the Sustainable Objective, or the actual achievement of the Sustainable Objective, shall not be a condition precedent to issuance of the final Certificate for Payment in accordance with Section 9.10.1 of the Agreement. Post-Substantial Completion sustainability services by Design-Builder beyond 30 days are Additional Services.

§ C.2.6.2 In accordance with Section 9.10.2 of the Agreement, all Sustainability Documentation required from the Design-Builder by the Design-Build Documents shall be submitted to the Owner before final payment or any remaining retained percentage shall become due.

§ C.2.7 Project Registration and Submissions of Sustainability Documentation to the Certifying Authority
§ C.2.7.1 If the Sustainable Objective includes a Sustainability Certification, the Design-Builder shall perform the services set forth in this Section C.2.7.

§ C.2.7.2 The Design-Builder shall register the Project with the Certifying Authority. Registration fees and any other fees charged by the Certifying Authority, and paid by the Design-Builder, shall be a reimbursable expense. Reimbursable expenses include all Certifying Authority fees and costs, appeal fees, expedited review fees, and Design Builder's reasonable administrative costs.

§ C.2.7.3 Design-Builder's services include one initial submission and one resubmission per credit/prerequisite, with additional submissions, meetings, or appeals, constituting Additional Services, reimbursable at agreed rates.

§ C.2.7.4 Owner shall provide decisions/information within five (5) business days. Failure to do so constitutes approval where applicable and entitles Design-Builder to time and cost adjustments.

§ C.2.7.5 The Design-Builder shall collect, organize and manage the Sustainability Documentation; and submit the Sustainability Documentation to the Certifying Authority as required for the Sustainability Certification process.

§ C.2.7.6 Subject to Section C.3.4 and provided the Design-Builder receives timely notice from the Owner or Certifying Authority, the Design-Builder shall prepare and file necessary documentation with the Certifying Authority to appeal a ruling or other interpretation denying a requirement, prerequisite, credit or point necessary to achieve the Sustainability Certification. Design-Builder's appeal obligations are limited to the initial certification cycle. All post-issuance appeals, maintenance, or recertification efforts are owner's responsibility and cost.

§ C.2.7.7 The Design-Builder shall prepare and submit the application for certification of the Project to the Certifying Authority, including any required supporting documentation, in accordance with the Sustainability Plan.

§ C.2.7.8 The Design-Builder shall prepare responses to, and submit additional documentation required by, comments or questions received from the Certifying Authority.

§ C.2.7.9 Any certification, declaration or affirmation the Design-Builder makes to the Certifying Authority shall not constitute a warranty or guarantee to the Owner or the Owner's contractors or consultants.

§ C.2.8 Copyrights and Licenses

§ C.2.8.1 Solely for the purpose of obtaining or maintaining the Sustainability Certification, the Design-Builder grants to the Owner a nonexclusive license to submit the Design-Builder's Instruments of Service, directly or through third parties, to the Certifying Authority to comply with the requirements imposed by the Certifying Authority and further grants the Owner a nonexclusive license to allow the Certifying Authority to publish the Instruments of Service in accordance with the policies and agreements required by the Certifying Authority. The licenses granted in this Section C.2.8 are valid only if the Owner substantially performs its obligations under the Agreement, including prompt payment of all sums when due. The license is limited to submissions necessary for initial Sustainability Certification for this Project, is non-transferable (except to lenders), and expires upon initial certification decision. No reuse or publication beyond the Certifying Authority's requirements without Design-Builder's consent.

§ C.2.8.2 The Design-Builder and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project and to allow the Certifying Authority to publish the Instruments of Service, or any other information, in accordance with the policies and agreements required by the Certifying Authority.

§ C.2.8.3 Submission or distribution of Instruments of Service to meet requirements of a Certifying Authority, in connection with the Project, is not to be construed as publication in derogation of the reserved rights of the Design-Builder or those of the Architect, Consultants and Contractors.

ARTICLE C.3 OWNER

§ C.3.1 The Owner shall perform those Sustainable Measures identified as the responsibility of the Owner in the Sustainability Plan, or as otherwise required by the Design-Build Documents. The Owner shall require that each of its separate contractors and consultants performs the separate contractor's or consultant's services in accordance with the Sustainability Plan. Owner's failure to perform allocated Sustainable Measures or to provide required information constitutes a Change. Design-Builder shall have no responsibility for resulting failures to achieve Sustainable Measures or the Sustainable Objective.

§ C.3.2 The Owner shall provide to the Design-Builder information requested by the Design-Builder that is reasonably relevant and necessary for achievement of the Sustainable Objective. Owner's failure to perform allocated Sustainable Measures or to provide required information constitutes a Change. Design-Builder shall have no responsibility for resulting failures to achieve Sustainable Measures or the Sustainable Objective.

§ C.3.3 Unless the Design-Build Documents provide otherwise, the Owner shall provide the services of a commissioning agent who shall be responsible for commissioning of the Project. Owner's commissioning agent shall coordinate through the Design-Builder and comply with the Project schedule. Commissioning-driven delates or added requirements entitle Design-Builder to equitable adjustments.

§ C.3.4 The Owner shall be responsible for preparing, filing, and prosecuting appeals to the Certifying Authority, or taking any other actions determined by the Owner to be necessary or desirable, arising from the revocation or reduction of an awarded Sustainability Certification. Design-Builder's appeal obligations are limited to the initial certification cycle. All post-issuance appeals, maintenance, or recertification efforts are owner's responsibility and cost.

§ C.3.5 The Owner shall comply with the requirements of the Certifying Authority as they relate to the ownership, operation and maintenance of the Project both during construction and after completion of the Project.

ARTICLE C.4 CLAIMS AND DISPUTES

Waiver of Consequential Damages Relating to the Sustainable Objective. The Owner and Design-Builder waive claims against each other for consequential damages resulting from the failure of the Project to achieve the Sustainable Objective or one or more of the Sustainable Measures, including unachieved energy savings, unintended operational expenses, lost financial or tax incentives, or unachieved gains in worker productivity. The parties waive all special, incidental, exemplary, indirect, and consequential damages, including reputational harm and diminution in value, arising from or related to Sustainable Measures, the Sustainable Objective, or Sustainability Certification.

ARTICLE C.5 MISCELLANEOUS PROVISIONS

The Owner and Design-Builder acknowledge that achieving the Sustainable Objective is dependent on many factors beyond their control, such as the Owner's use and operation of the Project or the work or services provided by the Owner's separate contractors or consultants; or interpretation of credit requirements by a Certifying Authority. Accordingly, the Design-Builder does not warrant or guarantee that the Project will achieve the Sustainable Objective. Owner's exclusive remedy for Design-Builder's failure to diligently perform assigned Sustainable Measures is correction of nonconforming Work. No monetary damages are recoverable for failure to achieve any Sustainable Measure or the Sustainable Objective.

§ C.5.1 Where this Exhibit requires Owner approvals, information, or decisions, 'timely' means within five (5) business days after request. Failure to respond constitutes approval where permitted. Delays entitle Design-Builder to equitable adjustments.

ARTICLE C.6 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Sustainable Projects Exhibit, if any, are as follows:

« »

RFP# 2026-03-005 PNC/BANK REMODEL

EVALUATION CRITERIA- INDIVIDUAL SCORE SHEET

AREA LOCATION (S): CITY OF T OR C PD BUILDING REMODEL					
Company Name	**KR Construction**	**Rayz**	**J. Carrizol**	**Royalty Builder**	**RY**
Letter of Transmittle (Manditory)	PASS	PASS	PASS	FAIL	PASS
Acknowledgement of Receipt Form (Non-Mandatory)	PASS	PASS	PASS	FAIL	PASS
MANDITORY CRITERIA PASS/FAIL ONLY 0* POINTS-V.E.1					
Company Name	**KR Construction**	**Rayz**	**J. Carrizol**	**Royalty Builder**	**RY**
A. State of NM Licensed and Board-Certified Civil DESIGN BUILD TEAM	PASS	PASS	PASS	FAIL	PASS
B. Insurance	PASS	PASS	PASS	FAIL	PASS
C. Conflict of Interest	PASS	PASS	PASS	FAIL	PASS
D. Campaign Contribution Disclosure Form	PASS	PASS	PASS	FAIL	PASS
E. Acknowledgement of Addenda	PASS	PASS	PASS	FAIL	PASS
SCORED SECTION EVALUATION CRITERIA- POINTS AVAILABLE	**EVALUATOR**	**EVALUATOR**	**EVALUATOR**	**EVALUATOR**	**EVALUATOR**
Company Name	**KR Construction**	**Rayz**	**J. Carrizol**	**Royalty Builder**	**RY**
V.C Experience and Past Performance *TOTAL POSSIBLE POINTS: #175	168	112	164	N/A	13
V.D. Management and Technical Ability *TOTAL POSSIBLE POI0NTS: #250	242	172	230	N/A	25

CONTINUED ON NEXT PAGE

Company Name	KR Construction	Rayz	J. Carrizol	Royalty Builder	RY
V.E. Resources- Familiarity with Truth or Consequences and proximity to and/or familiarity with the area in which the potential projects under this contract will be located *TOTAL POSSIBLE POINTS: #100	57	61	66	N/A	29
V.F. Health and Safety *TOTAL POSSIBLE POINTS: #50	42	19	27	N/A	5
V.G. Terminations *TOTAL POSSIBLE POINTS: #25	20	8	8	N/A	5
V.H. Lititgation and Claims * TOTAL POSSIBLE POINTS: #25	20	5	5	N/A	6
COMBINED COST RESPONSE POINTS V.C-V.H	549	377	500	N/A	83
V.I. Oral Presentation- If selected. *TOTAL POSSIBLE POINTS: #200	181	0	162	N/A	0
COMBINED COST RESPONSE POINTS	$563,420.00	$855,199.81	$504,666.02	N/A	$876,874.96
V.J. Request for Cost Form (Separate Sealed Envelope) *TOTAL POSSIBLE POINTS: #175 NOTE: CPO TO FORMULATE	157	103	175	N/A	100

V.B.13 TOTAL POSSIBLE AWARDED POINTS: #1000 PENDING COST FORM	887	480	837	N/A	183
VETERAN PREFERNCE: 10 % RESIDENT PREFERENCE: 8% NATIVE AMERICAN: 8%	0%	0%	8%	N/A	0%
PREFERANCE TOTAL:	0%	0%	8%	N/A	0%
PREFERANCE SCORE TOTAL: NOTE: CPO WILL COMPILE	0	0	67	N/A	0
FINAL SCORE TOTAL: NOTE: CPO WILL COMPILE	**887**	**480**	**904**	N/A	**183**

OPEND BY: Carlos Miyagishima, CPO SIGNED: _____
WITNESSED BY: Kerin Salcedo, Accounting Officer SIGNED: _____
DATE: 27 May, 2026 TIME: 10:00 AM LOCATION: City Finance Office

Evaluation Distribution: May 7, 2026 @ 10:00 AM
Evalation RFP and Cost Discussion: May 28, 2026 @10:00 AM

*****RFP INTERVIEWS: June 2, 2026**

***To the Evaluator: I understand this process is confidential and should I require further information I will reach out directly to the CPO in writing for them to reachout through the proper channels.**

INITIAL _____

DATE _____

****PACKET DUE BACK TO CPO BY: TUESDAY, MAY 26, 2026 NO LATER THAN 10:00 AM**

CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: July 22, 2026

Agenda Item #: E.13

SUBJECT: Request for USDA proposal requirements amending Section 14-35 Rules, and Regulations of City Manager
DEPARTMENT: City Clerk's Office
DATE SUBMITTED: July 15, 2026
SUBMITTED BY: Angela A. Torres
WHO WILL PRESENT THE ITEM: City Manager Whitehead

Summary/Background:
We are requesting the Commission allow staff to move forward with USDA concurrence and publication of a new ordinance to update section 14-35 A-E.

Recommendation:

Allow staff to move forward with USDA concurrence and publication of a new ordinance.

Attachments:

- Code 14-35 USDA Proposal

-

Fiscal Impact (Finance): Choose an item.

-

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

-

Approved For Submittal By: ☒ Department Director

Reviewed by: ☒ City Clerk ☒ Finance ☒ Legal ☐ Other: Click here to enter text.

Final Approval: ☒ City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. - Ordinance No. -
Continued To: - Referred To: -
☐ Approved ☐ Denied ☐ Other: -
File Name: CC Agendas 7-22-26

Section 14-35 Rules and Regulations of the City Manger

City Code 14-35-b

The City Manager shall include within each year's budget provision for providing a capital improvement account within the Joint Utility Fund. The portion of the Joint Utility Fund revenues that shall be set aside for this account shall be two and one-quarter percent of the revenues generated by each of the revenue generating utility departments. The funds in this account are to be used for Utility System Capital Improvement projects as approved by the City Commission. These reserve funds shall be collected and set aside in addition to any other reserve fund or bond requirements of the Joint Utility Fund.

City Code 14-35-c

The City Manger shall include within each year's budget provision for providing an Emergency Repair Account within the Joint Utility Fund. A total of $12,500 per year is to be set aside for this account. Each revenue generating utility department will generate their share of the yearly $12,500 to be set aside in the their yearly revenues. The fund should be kept in an interest bearing account and when the amount reaches the amount of $1,000,000.00 and funds in excess of $1,000,000.00 may be transferred to the Joint Utility Capital Improvement Fund by direction of the City Commission. The funds held in this reserve account are only to be used when an emergency repair condition occurs on one of the City's Utility Systems. These reserve funds shall be collected and set aside in addition to any other reserve fund or bond requirements of the Joint Utility Fund.

City Code 14-35-d

The City Manger shall include within each year's budget provision of providing a Wastewater Treatment Plant Repair and Replacement Account as required by the grant funding obtained for the construction of the existing Wastewater Treatment Plant. The funds that shall be set aside for this are to be one and three-quarters percent of the revenues generated by the Wastewater Department of the City. The use of these funds shall be restricted to repair and replacement projects at the Wastewater Treatment Plant as approved by the City Commission. These reserve funds shall be collected and set aside in addition to any other reserve fund or bond requirements of the Joint Utility Fund.

City Code 14-35-e

The City Manger shall include within each year's budget provision for providing a Electrical Construction Account within the Joint Utility Fund. A total of $10,000 per year is to be set aside for this account from revenues generate by the electrical division. The fund should be kept in an interest bearing acount and when the amount reaches the amount of $1,000,000.00 and funds in excess of $1,000,000.00 may be transferred to the Joint Utility Capital Improvemnt Fund by direction of the City Commission. The funds held in this reserve account may be used at any time but are only to be used for major capital outlays relating to the electrical system. These reserve funds shall be collected and set aside in addition to any other reserve fund or bond requirements of the Joint Utility Fund.

MEMORANDUM

TO: City Commission; Finance Department
FROM: City Manager's Office
DATE: July 15, 2026
RE: USDA Loan Compliance — Recommended Fund Restructuring, Cash Transfers, and Ordinance Amendment (Sec. 14-35)

Purpose

This memo presents the actions required to bring the City's Water and Wastewater Departments into compliance with United States Department of Agriculture (USDA) loan reserve requirements, and to align the Code of Ordinances accordingly. USDA loan agreements require two categories of reserve: (1) a Debt Service Reserve, and (2) a Short-Lived Asset Reserve, sized to each fund's engineering-based replacement schedule.

This memo recommends three coordinated actions:

1. Retitle two existing reserve accounts — one of which funds the elimination of the Emergency Repair Account program — to stand up the USDA-required Short-Lived Asset Reserves for the Water and Wastewater Departments, using their current balances as the seed funding.

2. Transfer cash totaling $1,138,935.85 from department cash accounts into the USDA Wastewater Debt Reserve, the USDA Water Service Debt Account, and the Electrical Construction Reserve.

3. Amend Sec. 14-35 of the Code of Ordinances to formally establish the USDA debt service and short-lived asset reserve requirements, eliminate the Emergency Repair Account program, broaden the capital improvement and reserve provisions from the Joint Utility Fund to all Enterprise Funds, and increase the Electrical Construction Account's annual contribution.

The full engineering-based short-lived asset schedules supporting the Wastewater and Water reserve levels are attached in their entirety as Appendix A and Appendix B. The Sec. 14-35 language below reflects the attorney/finance-reviewed redline (Sec_14-35_Revised_7-11-26_gw.docx).

Background

The City's USDA loan agreements for the Water and Wastewater Systems each require the establishment of a Debt Service Reserve and a Short-Lived Asset Reserve. The Short-Lived Asset Reserve is sized using an engineering inventory of equipment expected to require replacement within defined time bands (1-5, 5-10, 10-15), with an annual reserve contribution calculated for each asset.

Per the attached schedules (Appendix A and Appendix B):

- Wastewater Department — total short-lived asset replacement cost of $1,224,280.00, requiring an annual reserve contribution of $122,428.00 (excluding the items 16-20 years and/or flagged as duplicates in the source engineering report — see Appendix A note).

- Water Department — total short-lived asset replacement cost of $1,059,150.00, requiring an annual reserve contribution of $105,442.00 (excluding the items 16-20 years and/or flagged as duplicates in the source engineering report — see Appendix B note).

These figures show the funding levels recommended below and should guide future annual budget appropriations to each reserve. Note that the reviewed ordinance language funds the short-lived asset requirement through a single,

generic 1.75% set-aside (or General Fund transfer) applicable to any Enterprise fund carrying a USDA loan, rather than separate fund-specific rates — the department-level figures above remain useful as the underlying budget planning basis even though the ordinance itself is now written generically.

Recommended Actions

1. Fund / Account Title Changes

The following two existing reserve accounts are recommended for retitling. Repurposing the Emergency Repairs Reserve balance directly supports the elimination of the Emergency Repair Account program described in the Ordinance Amendment section below.

Account No.	Current Title	Current Balance	New Title	Purpose
316-9103-10317	Emergency Repairs Reserve	$149,264.75	Water Department Short-Lived Asset Account	Repurposes the eliminated Emergency Repair Account balance to seed the USDA-required Water Short-Lived Asset Reserve.
317-9203-10138	Wastewater Repair Reserve	$150,394.08	Wastewater Short-Lived Asset Reserve	Renames the existing reserve to align with the USDA-required Wastewater Short-Lived Asset Reserve.

Combined starting balance available for the two USDA short-lived asset reserves: $299,658.83.

2. Cash Transfers

The following cash transfers are recommended to fund the USDA debt service reserve obligations for the Water and Wastewater Departments, and to capitalize the Electrical Construction Reserve.

From Account	To Account	Amount	Purpose
506-4303-10113 (Wastewater Cash)	USDA Wastewater Debt Reserve Account	$72,974.80	Fulfills the USDA debt service reserve obligation for the Wastewater Department loan.
504-3803-10113 (Water Cash)	USDA Water Service Debt Account	$65,961.05	Fulfills the USDA debt service reserve obligation for the Water Department loan.
503-3702-10113 (Electric Dept. Cash)	318-930-310-139 (Electric Construction Reserve)	$1,000,000.00	Capitalizes the Electrical Construction Reserve for major electrical system capital outlays.
	Total Transferred	**$1,138,935.85**	

3. Ordinance Amendment — Sec. 14-35

The following reflects the reviewed redline of Sec. 14-35 of the Code of Ordinances. It eliminates the Emergency Repair Account program (struck through), reduces the capital improvement set-aside to a flat two percent (2%), broadens the Joint Utility Fund provisions to all Enterprise Funds, raises the Electrical Construction Account's annual contribution to $50,000, and establishes the USDA Loan Obligations subsection covering the Debt Service Reserve, Short-Lived Asset Reserve, and Short-Lived Reserve funding requirement described above.

Sec. 14-35. - Rules and regulations of the City Manager.

(a) Additional rules and regulations not inconsistent with the intent of this section may be prepared by the City Manager.

(City Code 14-35-b)

(b) The City Manager shall include within each year's budget provision for providing a capital improvement account to be utilized by all Enterprise funds. ~~within the Joint Utility Fund~~. The portion of the ~~Joint Utility~~ Enterprise Fund Revenues that shall be set aside for this account shall **be two percent (2%) of the** revenue generated by each of the revenue generating utility departments. The funds in this account are to be used for **all Utility System Capital Improvement** projects as approved by the City Commission. These reserve funds shall be collected and set aside in addition to any other reserve fund or bond requirements of the ~~Joint Utility Fund~~ Enterprise Funds.

Formerly subsection City Code 14-35-c — proposed for deletion (Emergency Repair Account program eliminated):

~~The City Manager shall include within each year's budget provisions for providing an Emergency Repair Account within the Joint Utility Fund. A total of $12,500.00 per year is to be set aside for this account. Each revenue generating utility department will generate their share of the yearly $12,500.00 to be set aside in their yearly revenues. This fund should be kept in an interest bearing account and when the amount reaches the amount of $1,000,000.00 and funds in excess of $1,000,000.00 may be transferred to the Joint Utility Capital Improvement Fund by direction of the City Commission. The funds held in this reserve account are only to be used when an emergency repair condition occurs on one of the City's Utility Systems. These reserve funds shall be collected and set aside in addition to any other reserve fund or bond requirements of the Joint Utility Fund.~~

(City Code 14-35-d) Replacement language

(c) The City Manager shall include within each year's budget provisions for satisfying the reserve requirements of any outstanding United States Department of Agriculture (USDA) loan obligations of the City. Should the City, or any utility department or division thereof, hold a loan through the USDA Rural Development program or another USDA lending agency, the City Manager shall ensure that the following USDA reserve and repair and replacement requirements are met:

(1) **Debt Service Reserve.** As a condition of the USDA loan, the City shall establish and maintain a debt service reserve fund. This reserve shall be funded at a rate of ten percent of one annual loan installment per year, for a period of ten years, or until the balance of the reserve equals one full annual loan installment, whichever occurs first.

(2) **Short-Lived Asset Reserve.** In addition to the debt service reserve required above, the City shall establish and maintain a short-lived asset reserve account for each Enterprise fund that carries an outstanding USDA loan. The amount and funding schedule of this reserve shall be determined individually for each such department, in accordance with the requirements of the applicable USDA loan agreement. It is the city's responsibility to assess each division's asset needs on an annual basis in preparation of the annual budget. Funds are not intended to accrue without utilization. The City Commission may approve expenditures when short-lived assets need repair or replacement.

(3) **Short-Lived Reserve Requirements.** As required by the grant and loan funding obtained for construction of a City project, the City shall, for so long as it holds an outstanding USDA loan, set aside one and three-quarters percent (1.75%) of the revenues generated or General Fund transfer. The

use of these funds shall be restricted to repairing short-lived assets as approved by the City Commission.

(City Code 14-35-e)

(d) The City Manager shall include within each year's budget provisions for providing an Electrical Construction Account. ~~within the Joint Utility Fund.~~ **A total of** ~~$10,000.00~~ **$50,000.00 per year** is to be set aside for this account from revenues generated by the electrical division. This fund should be kept in an interest-bearing account. Annual contribution may be suspended only when the fund exceeds $1,000,000.00 (one-million dollars). ~~and when the amount reaches the amount of $1,000,000.00 and funds more than $1,000,000.00 may be transferred to the Joint Utility Capital Improvement Fund by direction of the City Commission.~~ The funds held in this reserve account may be used at any time ~~but are only to be used~~ for major capital outlays relating to the electrical system. The funds held in this reserve account may be utilized, as a loan, by other enterprise funds to support reimbursable infrastructure grants with City Commission approval. These reserve funds shall be collected and set aside in addition to any other reserve fund or bond requirements of the ~~Joint Utility~~ Enterprise Funds.

(e) The funds for these reserve accounts shall be transferred from each **Enterprise Fund** to each reserve account on a quarterly basis. The City Commission may opt to increase these minimum amounts at their pleasure during the yearly budget review process.

(Code 1962, § 3-3-10; Ord. No. 402, § 1, 1-11-93; Ord. No. 499, 7-23-01; Ord. No. 502, 11-13-01; Ord. No. 506, § 1, 2-25-02; Ord. No. 590, 8-26-08; Ord. No. ____, § __, __-__-__)

Appendix A: Wastewater Department — Short-Lived Assets Reserve Schedule

Source: Wastewater_-_Shortlived_Assets_USDA.pdf, dated 9/5/2019 (WEP 2-1 & WEP 3-1). Reproduced in its entirety below.

Type of Reserve	Description	Replacement Cost	Annual Reserve
1-5 Years	Anoxic Basin Mixers (2)	$21,000.00	$4,200.00
1-5 Years	Anoxic Basin MLSS Pump	$10,500.00	$2,100.00
1-5 Years	Clancy Lift Stn Biofilter	$4,000.00	$800.00
1-5 Years	Clancy Lift Stn Mechanical Screen	$40,000.00	$8,000.00
1-5 Years	Clarifier Mixer (2)	$16,000.00	$3,200.00
1-5 Years	Chemical Feed Pump (2)	$7,798.00	$1,560.00
1-5 Years	Grit Pump Motor	$1,462.00	$292.00
1-5 Years	Influent Lift Motor Pumps (2)	$15,596.00	$3,119.00
1-5 Years	Existing Chemical Feed Pumps (2)	$7,800.00	$1,560.00
1-5 Years	Existing Grit Pump Motors	$1,500.00	$300.00
1-5 Years	Existing Influent Lift Pump Motors (2)	$15,600.00	$3,120.00
1-5 Years	UV Bulbs	$19,300.00	$3,860.00
5-10 Years	Bar Screen	$39,000.00	$3,900.00
5-10 Years	Clancy Lift Stn 60 hp Motor (3)	$60,000.00	$6,000.00
5-10 Years	Collection System Pumps	$214,500.00	$21,450.00
5-10 Years	Effluent Ultra-sonic Flowmeter	$20,000.00	$2,000.00
5-10 Years	Nickel Lift Stn 2 hp Motor (2)	$20,000.00	$2,000.00
5-10 Years	North Date Lift Stn 10 hp Motor (2)	$20,000.00	$2,000.00
5-10 Years	Reuse Pumps Controls	$19,500.00	$1,950.00
5-10 Years	Reuse Pump Controls	$9,747.00	$975.00
10-15 Years	BFP Polymer Feed System	$26,000.00	$1,733.00
10-15 Years	Clancy Lift Stn Metering System	$13,400.00	$893.00
10-15 Years	BFP Polymer Feed System	$19,495.00	$1,300.00
10-15 Years	Effluent Ultra-sonic Flowmeter	$9,747.00	$650.00
10-15 Years	Grit Pump	$4,874.00	$325.00
10-15 Years	Influent Lift Pumps (3)	$58,484.00	$3,899.00
10-15 Years	Influent Ultra-sonic Flow Meter	$14,621.00	$975.00
10-15 Years	Reuse Lift Pumps (2)	$19,495.00	$1,300.00
10-15 Years	Sludge Pump (2)	$29,242.00	$1,949.00

Type of Reserve	Description	Replacement Cost	Annual Reserve
10-15 Years	Sludge Pump Controls	$24,368.00	$1,625.00
10-15 Years	Sludge Pump for BFP System	$14,621.00	$975.00
10-15 Years	Existing Grit Pump	$6,500.00	$433.00
10-15 Years	Existing Influent Lift Pumps (3)	$78,000.00	$5,200.00
10-15 Years	Existing Reuse Lift Pumps	$26,000.00	$1,733.00
10-15 Years	Existing Sludge Pump (2)	$39,300.00	$2,620.00
10-15 Years	Existing Sludge Pumps Controls	$32,500.00	$2,167.00
10-15 Years	Influent Ultra-sonic Flow Meter	$19,500.00	$1,300.00
10-15 Years	Mims Metering System	$13,400.00	$893.00
10-15 Years	Nickel Lift Stn Metering System	$13,400.00	$893.00
10-15 Years	North Date Lift Stn Metering System	$13,400.00	$893.00
10-15 Years	Sludge Pump for BFP System	$19,500.00	$1,300.00
		Short lived Assets Reserve	
	TOTAL	**$1,059,150.00**	**$105,442.00**
16-20 Years	Aerators/Mixers of Aerobic Digester (4)	$160,000.00	$16,000.00
16-20 Years	Influent Lift Pump Controls	$146,211.00	$9,747.00
16-20 Years	Existing Vaults/Lift Stations (2)	$156,000.00	$10,400.00
16-20 Years	SCADA system	$165,706.00	$11,047.00
16-20 Years	Sewer Line Rodding Equipment	$312,000.00	$31,200.00
	TOTAL	**$939,917.00**	**$78,394.00**
	TOTAL	**$1,999,067.00**	**$183,836.00**
Duplicates			
5-10 Years	Collection System Pumps	$107,221.00	$10,722.00
5-10 Years	Bar Screen	$19,495.00	$1,950.00
10-15 Years	Oxidation Oval Aspirating Aerator Units (10)	$292,422.00	$19,495.00
10-15 Years	Existing Influent Lift Pumps Controls	$195,000.00	$13,000.00
5-10 Years	Sewer Line Rodding Equipment	$155,958.00	$15,596.00
10-15 Years	Vaults/Lift Stations (2)	$116,969.00	$7,798.00
10-15 Years	Oxidation Oval Aspirating Aerators Units (10)	$389,900.00	$25,993.00
10-15 Years	SCADA	$221,000.00	$14,733.00
		$1,497,965.00	$109,287.00

Note: The rows under "Duplicates" are line items the source engineering report flagged as appearing more than once in the inventory; they are excluded from the totals above and are included here only for completeness and audit trail.

Appendix B: Water Department Short-Lived Assets Reserve Schedule

Reproduced in its entirety below.

Type of Reserve	Description	Replacement Cost	Annual Reserve
1-5 Years	250 HP Booster Pump Motors x2	$31,200.00	$3,120.00
1-5 Years	Booster Pump Station No. 2 Pump No. 1 Motor	$7,690.00	$769.00
1-5 Years	Cielo Vista Pump Station Pump No. 1 Motor	$700.00	$70.00
1-5 Years	Cielo Vista Pump Station Pump No. 2 Motor	$680.00	$68.00
1-5 Years	Cook St. Treatment Facility Pump No. 1 Motor	$16,070.00	$1,607.00
1-5 Years	Cook Street Treatment Facility Pump #2 Motor	$16,070.00	$1,607.00
1-5 Years	Well #1 Pump Motor	$33,910.00	$3,391.00
1-5 Years	Well #4 Pump Motor	$33,910.00	$3,391.00
1-5 Years	Well #6 Pump Motor	$39,510.00	$3,951.00
1-5 Years	Well #7 Pump Motor	$39,510.00	$3,951.00
1-5 Years	Well #8 Pump Motor	$39,510.00	$3,951.00
	Subtotal — 1-5 Years	**$258,760.00**	**$25,876.00**
5-10 Years	Booster Pump Station #2 Pump #1 Motor	$7,690.00	$769.00
5-10 Years	Booster Pump Station No. 2 Flow Meter	$5,200.00	$520.00
5-10 Years	Cielo Vista Pump Station Electrical System	$51,980.00	$5,198.00
5-10 Years	Cielo Vista Pump Station Pump No. 1	$31,190.00	$3,119.00
5-10 Years	Cielo Vista Pump Station Pump No. 2 / No. 3	$10,400.00	$1,040.00
5-10 Years	SCADA System Software	$38,600.00	$3,860.00
5-10 Years	Well No. 4 Flow Meter	$5,200.00	$520.00
5-10 Years	Well No. 4 pump Electrical System	$47,480.00	$4,748.00
5-10 Years	Well No. 6 Flow Meter	$5,200.00	$520.00
5-10 Years	Well No. 6 pump Electrical System	$69,860.00	$6,986.00
5-10 Years	Well No. 7 Flow Meter	$5,200.00	$520.00
5-10 Years	Well No. 7 pump Electrical System	$67,820.00	$6,782.00
5-10 Years	Well No. 8 Flow Meter	$5,200.00	$520.00
5-10 Years	Well No. 8 pump Electrical System	$69,860.00	$6,986.00
	Subtotal — 5-10 Years	**$420,880.00**	**$42,088.00**
10-15 Years	0.2 MG Electrical/Control System	$41,590.00	$4,159.00
10-15 Years	0.3 MG Electrical Control System	$41,590.00	$4,159.00
10-15 Years	Cook St Treatment Facility Electrical System	$51,980.00	$5,198.00
10-15 Years	Cook St. Treatment Facility Flow Meter	$5,200.00	$520.00

Type of Reserve	Description	Replacement Cost	Annual Reserve
10-15 Years	Pershing Booster Pump Station No. 2 Back-up Generator	$51,980.00	$5,198.00
10-15 Years	Pershing Booster pump Station No. 2 Electrical System	$51,980.00	$5,198.00
10-15 Years	Pershing Booster Pump Station No. 2, Pump No. 1	$62,380.00	$6,238.00
10-15 Years	Pershing Booster Pump Station No. 2, Pump No. 2	$62,380.00	$6,238.00
10-15 Years	Pump Control Panel/Soft Starter	$83,170.00	$8,317.00
10-15 Years	Well No. 1 Flow Meter	$5,200.00	$520.00
10-15 Years	Well No. 1 pump Electrical System	$37,240.00	$3,724.00
10-15 Years	Well No. 2 Flow Meter	$5,200.00	$520.00
10-15 Years	Well No. 2 pump Electrical System	$44,750.00	$4,475.00
	Subtotal — 10-15 Years	**$544,640.00**	**$54,464.00**
	Short-Lived Assets :	**$1,224,280.00**	**$122,428.00**
16-20 Years	Gas-Chlorination System	$160,610.00	$16,061.00
16-20 Years	SCADA System RTUs	$121,310.00	$12,131.00
16-20 Years	0.2 MG Steel Storage Tank	$26,148.67	$2,614.87
16-20 Years	0.3 MG Steel Storage Tank	$39,223.00	$3,922.30
16-20 Years	1.2 MG Steel Storage Tank on Cemetery Rd.	$156,892.01	$15,689.20
16-20 Years	250 HP Vertical Turbine Booster Pump x2	$249,500.00	$24,950.00
16-20 Years	3.0 MG Steel Storage Tank on Cemetery Rd	$261,486.69	$26,148.67
16-20 Years	3.0 MG Steel Storage Tank on Morgan St.	$261,486.69	$26,148.67
	Subtotal — 16-20 Years	**$1,276,657.06**	**$127,665.71**
	GRAND TOTAL	**$2,500,937.06**	**$250,093.71**
Duplicates			
5-10 Years	New Well Pump and Motor	$40,000.00	$4,000.00
5-10 Years	Well #1 Pump	$12,420.00	$2,070.00
5-10 Years	Well #2 Pump	$16,550.00	$2,758.33
5-10 Years	Well #2 Pump Motor	$3,310.00	$662.00
5-10 Years	Well #4 Pump	$33,910.00	$5,651.67
5-10 Years	Well #6 Pump	$39,510.00	$6,585.00
5-10 Years	Well #7 Pump	$39,510.00	$6,585.00
5-10 Years	Well #8 Pump	$27,580.00	$4,596.67

Note: The rows under "Duplicates" are line items the source engineering report flagged as appearing more than once in the inventory; they are excluded from the totals above and are included here only for completeness and audit trail.

WATER																		
Debt Service Reserve	**Description**	**Loan Amount**		**Reserve Req.**	**2024**	**2025**	**2026**	**2027**	**2028**	**2029**	**2030**	**2031**	**2032**	**2033**	**2034**	**2035**	**2036**
WEP 4-1 #106232	Water System Improvements	5,487,000.00	7/14/2023	204,120.00	18,711.00	20,412.00	20,412.00	20,412.00	20,412.00	20,412.00	20,412.00	20,412.00	20,412.00	20,412.00	1,701.00		
WEP ____ #106227	Water System Improvements	4,811,000.00	5/19/2026	157,173.00			7,929.33	15,717.30	15,717.30	15,717.30	15,717.30	15,717.30	15,717.30	15,717.30	15,717.30	15,717.30	11,787.98
WEP ____ #106230	Water System Improvements	2,873,800.00	3/19/2026	99,869.60			2,456.73	9,986.96	9,986.96	9,986.96	9,986.96	9,986.96	9,986.96	9,986.96	9,986.96	9,986.96	7,490.18
				461,162.60	18,711.00	20,412.00	30,798.05	46,116.26	46,116.26	46,116.26	46,116.26	46,116.26	46,116.26	46,116.26	27,405.26	25,704.26	19,278.15
				Running Balance		39,123.60	69,921.65	116,037.91	162,154.17	208,270.43	254,386.69	300,502.95	346,619.21	392,735.47	420,140.73	445,845.03	465,123.18
SEWER																		
Debt Service Reserve	**Description**	**Loan Amount**		**Reserve Req.**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**		
WEP 1-1 #106224	Wastewater Treatment Plant	910000	5/11/2016	34,073.00	288.94	3,467.30	3,467.30	3,467.30	3,467.30	3,467.30	3,467.30	3,467.30	3,467.30	3,467.30	4,953.29		
WEP 2-1 #106225	Wastewater Treatment Plant	715000	9/5/2016	24,453.00	203.78	2,445.30	2,445.30	2,445.30	2,445.30	2,445.30	2,445.30	2,445.30	2,445.30	2,445.30	2,445.30		
WEP 3-1 #106226	Wastewater Treatment Plant	315000	9/5/2016	11,772.00	98.10	1,177.20	1,177.20	1,177.20	1,177.20	1,177.20	1,177.20	1,177.20	1,177.20	1,177.20	1,177.20		
				70,298.00	590.82	7,089.80	7,089.80	7,089.80	7,089.80	7,089.80	7,089.80	7,089.80	7,089.80	7,089.80	8,575.79		
				Running Balance		7,680.62	14,770.42	21,860.22	28,950.02	36,039.82	43,129.62	50,219.42	57,309.22	64,399.02	72,974.80		

CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

Agenda Item #: F.1

MEETING DATE: July 22, 2026

SUBJECT: Discussion/Action – Approve Resolution 05 26/27 Participation in Local Government Road Fund Program Administered by New Mexico Department of Transportation and Execute Grant Agreement Co-Op Project Fund

DEPARTMENT: Streets Dept

DATE SUBMITTED: July 6, 2026

SUBMITTED BY: Brenden Anglin

WHO WILL PRESENT THE ITEM: Brenden Anglin

Summary/Background:

The City has received an award offer from the 2026/2027 Local Government Road Fund Co-Op Program for a total project amount of $135,911.00 ($101,933.00Grant/$33,978.00Match). The scope of work includes East 8TH Ave, East 7Th Ave, East 5TH Ave, Kruger, and Jones ST. The application submitted was for a full project cost of $135,911.00. It is the intent to complete the full project using local bond funds.

Recommendation:

Approve the Grant Agreement with Resolution 05 26/27

Attachments:

- NMDOT LGRF Award Letter
- Grant Agreement and Resolution
- 2026/2027 NMDOT LGRF Co-Op Application

-

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 7-22-26

EXHIBIT C

City of Truth or Consequenses RESOLUTION

PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM ADMINISTERED BY NEW MEXICO DEPARTMENT OF TRANSPORTATION

WHEREAS, the **City of Truth or Consequenses** and the New Mexico Department of Transportation have entered into a cooperative grant agreement under the Local Government Road Fund Program for a local road project.

WHEREAS, the total cost of the project will be **$135,911** to be funded in proportional share by the parties hereto as follows:

CN L100669 Project Funding	**Department Share**	**Public Entity Share**	**Total Project Cost**
Funding Source 1	**75%**	**25%**	**100%**
FY 2027 Local Government Road Fund Pavement Rehabilitation/Improvements, Reconstruction, Design, and Construction Management of City Streets.	**$101,933**	**$33,978**	**$135,911**

WHEREAS, the **City of Truth or Consequenses** shall pay all costs, which exceed the total project cost of **$135,911**.

NOW THEREFORE, be it resolved in official session that **City of Truth or Consequenses** determines, resolves, and orders as follows:

a. The project for this Cooperative Agreement is adopted and has a priority standing.
b. The Cooperative Agreement terminates on **12/31/2027** and the **City of Truth or Consequenses** incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.
c. The agent of the **City of Truth or Consequenses,** _____(name or title), shall have signature authority to bind the **City of Truth or Consequenses** to the terms and conditions of this Cooperative Agreement, and shall have authority to request in writing and secure extensions to the Cooperative Agreement on behalf of the **City of Truth or Consequenses** in the manner set forth by the Cooperative Agreement.

NOW THEREFORE, be it resolved by the **City of Truth or Consequenses** to enter into Cooperative Agreement for Project Control Number **L100669** with the New Mexico Department of Transportation for the LGRF Program for fiscal year **2027** for **East 8th Ave, East 7th Ave, Kruger St, East 5th Ave, and Jones St. - Pavement Rehabilitation/Improvements, Reconstruction, Design, and Construction Management of City Streets.** within the control of **City of Truth or Consequenses** in the State of New Mexico.

(Appropriate Signatures below (Council, Commission, School Board, Tribe, Pueblo, Nation, etc.)

_____ DATE _____
(PRINTED NAME, POSITION)

_____ DATE _____
(PRINTED NAME, POSITION)

_____ DATE _____
(PRINTED NAME, POSITION)

Contract No. _____
Vendor No. 0000054340
Control No. HW2L100669

LOCAL GOVERNMENT ROAD FUND
COOPERATIVE AGREEMENT

This Agreement is between the **New Mexico Department of Transportation** (Department) and **City of Truth or Consequenses** (Public Entity), collectively referred as the "parties." This Agreement is effective as of the date of the last party to sign it on the signature page below.

Pursuant to NMSA 1978, Sections 67-3-28 and 67-3-28.2, and State Transportation Commission Policy No. 44, and

Pursuant to the Public Entity's resolution that assumes ownership, liability, and maintenance responsibility for the project scope, or related amenities, and required funding to support the Project identified herein, the parties agree as follows:

1. Purpose.

The purpose of this Agreement is to provide Local Government Road Funds to the Public Entity for the Project, as described in Control No. L100669, and the Public Entity's resolution attached as **Exhibit C**. See:

Pavement Rehabilitation/Improvements, Reconstruction, Design, and Construction Management of City Streets.

The Project is a joint and coordinated effort for which the parties each have authority or jurisdiction. This Agreement specifies and delineates the rights and duties of the parties.

2. Project Funding.

a. The estimated total cost for the Project is **One Hundred Thirty Five Thousand Nine Hundred Eleven Dollars and No Cents ($135,911)** to be funded in proportional share by the parties as follows:

Project Funding	Department Share	Public Entity Share	Total Project Cost
Funding Source 1	**75%**	**25%**	
FY 2027 Local Government Road Fund **For the purpose stated above in Section 1.**	**$101,933**	**$33,978**	**$135,911**
		Total Project Cost	**$135,911**

b. The Public Entity shall pay all Project costs, which exceed the Total Project Cost.
c. Any costs incurred by the Public Entity prior to this Agreement are not eligible for reimbursement and are not included in the amount listed in this Section 2.

3. The Department Shall:

Pay the Department's Share of Project Funding identified in Section 2, Paragraph a, to the Public Entity in a single lump sum payment after:

a. Receipt of a cover letter requesting funds;
b. Receipt of a Notice of Award and Notice to Proceed;
c. Receipt of Estimated Summary of Costs and Quantities;
d. Verification of available Local Government Road Funds and Public Entity's local matching funds identified in Section 2, Paragraph a; and
e. All required documents must include Department Project and Control Number.

4. The Public Entity Shall:

a. Act in the capacity of lead agency for the Project described in Section 1.
b. Submit an estimate of the Project, including work to be performed and cost to the District Engineer within thirty (30) calendar days of execution of this Agreement, or as otherwise agreed to in writing by the parties.
c. Be solely responsible for all proportional matching funds identified in Section 2. Certify that these matching funds have been appropriated, budgeted, and approved for expenditure prior to execution of this Agreement.
d. Pay all costs, and perform and supply or contract for all labor and material, for the purpose as described in Section 1 and the Project estimate approved by the District Engineer.
e. Procure and award any contract in accordance with applicable procurement law, rules, regulations and ordinances.
f. In accordance with project parameters, assume the lead planning and implementation role and sole responsibility for environmental, archaeological, utility clearances; railroad and Intelligent Transportation System (ITS) clearances; right-of-way acquisition; project development and design; and project construction and management.
g. Cause all designs and plans to be performed under the direct supervision of a Registered New Mexico Professional Engineer, when applicable, as approved by the Department.
h. Obtain all required written agreements or permits, as applicable, from all public and private entities.
i. Allow the Department to inspect the Project to confirm that the Project is constructed in accordance with the provisions of this Agreement. Disclosures of any failure to meet such requirements and standards as identified by the Department, will result in termination for default, including without limitation the Public Entity's costs for funding, labor, equipment and materials.
j. Complete the project within eighteen (18) months of approval of funding by the State Transportation Commission.
k. Within thirty (30) calendar days of completion, provide written certification that all work under this Agreement was performed in accordance with either the New Mexico Department of Transportation's Standard Specification, Current Edition; American Public Works Association (APWA) Specifications; Department approved Public Entity

established Specifications; or Department Specifications established for Local Government Road Fund projects, by submitting the **Project Certification of Design, Construction, and Cost form,** attached as **Exhibit B.**

l. Within thirty (30) calendar days of completion, furnish the Department an **AS BUILT Summary of Costs and Quantities** form, attached as **Exhibit C.** The report should reflect the total cost of the Project as stated in the **Project Certification of Design, Construction, and Cost** form.

m. Failure to provide the **Project Certification of Design, Construction, and Cost** form and an **AS BUILT Summary of Costs and Quantities** report within thirty (30) calendar days of Project completion is a material breach of this Agreement and Public Entity shall reimburse to the Department all funds disbursed in accordance with this Agreement.

n. Upon completion, maintain all Public Entity facilities that were constructed or reconstructed under this Agreement.

5. Both Parties Agree:

a. Upon termination of this Agreement any remaining property, materials, or equipment belonging to the Department will be accounted for and disposed of by the Public Entity as directed by the Department.

b. Any unexpended or unencumbered balance from the Local Government Road Fund appropriated for this Project reverts to the Department. These balances, if any, must be reimbursed to the Department within thirty (30) calendar days of project completion or expiration of this Agreement, whichever occurs first.

c. This Project is not being incorporated into the State Highway System and the Department is not assuming maintenance responsibility or liability.

d. Pursuant to NMSA 1978, Section 67-3-28.2, Local Government Road Funds granted under this provision cannot be used by the Public Entity to meet a required match under any other program.

e. As applicable for state-funded projects, the provisions of the Tribal/Local Public Agency (T/LPA) State Funding Handbook (Current Edition), and for projects with federal funds, the provisions of the Tribal/Local Public Agency (T/LPA) Federal Funding Handbook (Current Edition), are incorporated by reference and control the contractual rights and obligations of the parties unless in conflict with the specific terms expressed in this Agreement or any amendments.

6. Term.

This Agreement becomes effective upon signature of all Parties. The effective date is the date when the last party signed the Agreement on the signature page below. This Agreement terminates on **12/31/2027.** In the event an extension to the term is needed, the Public Entity shall provide through a duly authorized agent written notice along with detailed justification to the Department sixty (60) calendar days prior to the expiration date to ensure timely processing of an Amendment.

7. Termination.

a. If the Public Entity fails to comply with any provision of this Agreement, the Department may terminate this Agreement by providing thirty (30) calendar days written notice.

b. The Department may terminate this Agreement if the funds identified in Section 2 have not been contractually committed within one year from the effective date of this Agreement.

c. If sufficient appropriations and authorizations are not made, this Agreement will terminate immediately upon written notice of the Department to the Public Entity.
d. Neither party has any obligation after termination, except as stated in Sections 4, 5, and 16.

8. Third Party Beneficiary.

It is not intended by any of the provisions of this Agreement to create in the public or any member of the public a third party beneficiary or to authorize anyone not a party to the Agreement to maintain suit for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies), and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

9. Liability.

As between the Department and Public Entity, neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Sections 41-4-1, *et seq.*, and other applicable law.

10. Contractors Insurance Requirements.

The Public Entity shall require contractors and subcontractors hired for the Project to have a general liability insurance policy, with limits of liability of at least $1,000,000 per occurrence. The Department is to be named as an additional insured on the contractors and subcontractor's policy and a certificate of insurance and endorsements listing the Department as an additional insured must be provided to the Department and must state that coverage provided under the policy is primary over any other valid insurance.

To the fullest extent permitted by law, the Public Entity shall require the contractor and subcontractors to defend, indemnify and hold harmless the Department from and against any liability, claims, damages, losses or expenses (including but not limited to attorney's fees, court costs, and the cost of appellate proceedings) arising out of or resulting from the negligence, act, error, or omission of the contractor and subcontractor in the performance of the Project, or anyone directly or indirectly employed by the contractor or anyone for whose acts they are liable in the performance of the Project.

11. Scope of Agreement.

This Agreement incorporates agreements, covenants, and understandings between the parties concerning the subject matter. All such covenants, agreements, and understandings have been merged into this Agreement. No prior agreement or understandings, verbal or otherwise, of the parties or their agents are valid or enforceable unless included in this Agreement.

12. Terms of this Agreement.

The terms of this Agreement are lawful. Performance of all duties and obligations must conform with and not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

13. Legal Compliance.

The Public Entity shall comply with all applicable federal, state, and local laws, and Department regulations and policies in the performance of this Agreement, including, but not limited to laws governing civil rights, equal opportunity compliance, environmental issues, workplace safety, employer-employee relations and all other laws governing operations of the workplace. The Public Entity shall include the requirements of this Section 13 in each contract and subcontract at all tiers.

14. Equal Opportunity Compliance.

The parties agree to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States will, on the grounds of race, color, national origin, ancestry, sex, sexual preference, age, disability, or other protected class, be excluded from employment with, or participation in, any program or activity performed under this Agreement. If the Public Entity is found to not comply with these requirements during the term of this Agreement, the parties agree to take appropriate steps to correct these deficiencies, subject to Section 7 above.

15. Appropriations and Authorizations.

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the governing board of the Public Entity, the Legislature of New Mexico, or the Congress of the United States if federal funds are involved, for performance of the Agreement. If sufficient appropriations and authorizations are not made by the Public Entity, Legislature of New Mexico, or the Congress of the United States if federal funds are involved, this Agreement will terminate upon written notice being given by one party to the other. The Department and Public Entity are expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure.

16. Accountability of Receipts and Disbursements.

There shall be strict accountability for all receipts and disbursements relating to this Agreement. The Public Entity shall maintain all records and documents relative to the Project for a minimum of five years after completion of the Project. The Public Entity shall furnish the Department and State Auditor, upon demand, any and all such records relevant to this Agreement. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense supported by such insufficient documentation must be reimbursed to the Department within thirty (30) calendar days. If an audit finding determines that specific funding was inappropriate or not related to the Project, the Public Entity shall reimburse that portion to the Department within thirty (30) calendar days of written notification.

17. Severability.

In the event that any portion of this Agreement is determined to be void, unconstitutional or otherwise unenforceable, the remainder of this Agreement will remain in full force and effect.

18. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue is proper in a New Mexico Court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G).

19. Amendment.

This Agreement may be altered, modified, or amended only by an instrument in writing executed by the parties.

The remainder of this page is intentionally left blank.

In witness whereof, each party is signing this Agreement on the date stated opposite that party's signature.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By:_____ Date: _____
Cabinet Secretary or Designee

Approved as to form and legal sufficiency by the New Mexico Department of Transportation's Office of General Counsel

By:_____ Date: _____
Assistant General Counsel

City of Truth or Consequenses

By:_____ Date: _____

Title: _____

Attest: _____
City of Truth or Consequenses Clerk or Designee

EXHIBIT A
PROJECT CERTIFICATION OF
DESIGN, CONSTRUCTION, AND COST

TO: New Mexico Department of Transportation
District _____ LGRF Coordinator

Cooperative Agreement No. _____ Control No. _____
Joint Powers Agreement No. _____ Control No. _____

Entity: _____

Scope of Work (Including Routes and Termini):

_____
_____
_____
_____
_____

I, the undersigned, in my capacity as _____ of _____ state that:

1. The design is in compliance with all state laws, rules, regulations, and local ordinances and was performed in accordance with the provisions set forth in this Agreement and in the Tribal/Local Public Agency State Funding Handbook (Current Edition);

2. Construction of the project was performed in accordance with standards and specifications set forth in:

_____
and completed on _____, 20_____; and

3. That the total project cost of _____, with New Mexico Department of Transportation 75% share of _____ and the Public Entity share of _____ (as submitted in attached "As Built Summary of Costs and Quantities") is accurate, legitimate, and appropriate for the project.

_____ _____
Name Date

_____
Print Name

_____
Title

EXHIBIT B

AS BUILT SUMMARY
OF COSTS AND QUANTITIES
CONTRACT

ENTITY: _____ No.: _____ CN: _____

PROJECT No.: _____

TERMINI: _____

_____

SCOPE OF WORK: _____

_____

ITEM NO.	ITEM DESCRIPTION	UNIT	ESTIMATED QUANTITY	FINAL QUANTITY	UNIT COST	FINAL COST

EXHIBIT C

City of Truth or Consequenses RESOLUTION

PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM ADMINISTERED BY NEW MEXICO DEPARTMENT OF TRANSPORTATION

WHEREAS, the **City of Truth or Consequenses** and the New Mexico Department of Transportation have entered into a cooperative grant agreement under the Local Government Road Fund Program for a local road project.

WHEREAS, the total cost of the project will be **$135,911** to be funded in proportional share by the parties hereto as follows:

CN L100669 Project Funding	**Department Share**	**Public Entity Share**	**Total Project Cost**
Funding Source 1	**75%**	**25%**	**100%**
FY 2027 Local Government Road Fund Pavement Rehabilitation/Improvements, Reconstruction, Design, and Construction Management of City Streets.	**$101,933**	**$33,978**	**$135,911**

WHEREAS, the **City of Truth or Consequenses** shall pay all costs, which exceed the total project cost of **$135,911**.

NOW THEREFORE, be it resolved in official session that **City of Truth or Consequenses** determines, resolves, and orders as follows:

a. The project for this Cooperative Agreement is adopted and has a priority standing.
b. The Cooperative Agreement terminates on **12/31/2027** and the **City of Truth or Consequenses** incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.
c. The agent of the **City of Truth or Consequenses,** _____(name or title), shall have signature authority to bind the **City of Truth or Consequenses** to the terms and conditions of this Cooperative Agreement, and shall have authority to request in writing and secure extensions to the Cooperative Agreement on behalf of the **City of Truth or Consequenses** in the manner set forth by the Cooperative Agreement.

NOW THEREFORE, be it resolved by the **City of Truth or Consequenses** to enter into Cooperative Agreement for Project Control Number **L100669** with the New Mexico Department of Transportation for the LGRF Program for fiscal year **2027** for **East 8th Ave, East 7th Ave, Kruger St, East 5th Ave, and Jones St. - Pavement Rehabilitation/Improvements, Reconstruction, Design, and Construction Management of City Streets.** within the control of **City of Truth or Consequenses** in the State of New Mexico.

(Appropriate Signatures below (Council, Commission, School Board, Tribe, Pueblo, Nation, etc.)

_____ DATE _____

(PRINTED NAME, POSITION)

_____ DATE _____

(PRINTED NAME, POSITION)

_____ DATE _____

(PRINTED NAME, POSITION)

CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

Agenda Item #: F.2

MEETING DATE: July 22, 2026

SUBJECT: Discussion/Action – Approve Resolution 6 26/27 Participation in Local Government Road Fund Program Administered by New Mexico Department of Transportation Municipal Arterial Project Funds and Execute Grant Agreement
DEPARTMENT: Streets Dept
DATE SUBMITTED: July 6, 2026
SUBMITTED BY: Brenden Anglin
WHO WILL PRESENT THE ITEM: Brenden Anglin

Summary/Background:
The city has received an award offer from the 2026/2027 Municipal Arterial Programs, Local Government Road fund CO-OP program for a total Project cost amount $248,259.00 with ($62,065.00Match/186,194.00Grant) the proposed project scope is Clancy and McAdoo Street reconstruction of Pavement. The application was for full project cost of $248,259.00 it is the intent to complete the full project using local bond funds

Recommendation:
Approve, the Grant Agreement with Resolution 06 26/27

Attachments:

- NMDOT MAP Award Letter
- Grant Agreement and Resolution 06 26/27
- 2026/2027 NMDOT MAP Application CO-OP

-

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 7-22-26

EXHIBIT C
City of Truth or Consequenses RESOLUTION

PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM ADMINISTERED BY NEW MEXICO DEPARTMENT OF TRANSPORTATION

WHEREAS, the **City of Truth or Consequenses** and the New Mexico Department of Transportation have entered into a cooperative grant agreement under the Local Government Road Fund Program for a local road project.

WHEREAS, the total cost of the project will be **$248,259** to be funded in proportional share by the parties hereto as follows:

CN L100691 Project Funding	**Department Share**	**Public Entity Share**	**Total Project Cost**
Funding Source 1	**75%**	**25%**	**100%**
FY 2027 Local Government Road Fund Planning, Design, Construction, Reconstruction, Pavement Rehabilitation, Construction Management, Drainage and Misc. Improvements.	**$186,194**	**$62,065**	**$248,259**

WHEREAS, the **City of Truth or Consequenses** shall pay all costs, which exceed the total project cost of **$248,259.**

NOW THEREFORE, be it resolved in official session that **City of Truth or Consequenses** determines, resolves, and orders as follows:

a. The project for this Cooperative Agreement is adopted and has a priority standing.
b. The Cooperative Agreement terminates on **6/30/2028** and the **City of Truth or Consequenses** incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.
c. The agent of the **City of Truth or Consequenses,** _____(name or title), shall have signature authority to bind the **City of Truth or Consequenses** to the terms and conditions of this Cooperative Agreement, and shall have authority to request in writing and secure extensions to the Cooperative Agreement on behalf of the **City of Truth or Consequenses** in the manner set forth by the Cooperative Agreement.

NOW THEREFORE, be it resolved by the **City of Truth or Consequenses** to enter into Cooperative Agreement for Project Control Number **L100691** with the New Mexico Department of Transportation for the LGRF Program for fiscal year **2027** for **Clancy Street from Main Avenue to Broadway Street and McAdoo Street from Main Street toClancy Street - Planning, Design, Construction, Reconstruction, Pavement Rehabilitation, Construction Management, Drainage and Misc. Improvements** within the control of **City of Truth or Consequenses** in the State of New Mexico.

(Appropriate Signatures below (Council, Commission, School Board, Tribe, Pueblo, Nation, etc.)

_____ _____
(PRINTED NAME, POSITION) DATE

_____ _____
(PRINTED NAME, POSITION) DATE

_____ _____
(PRINTED NAME, POSITION) DATE

Contract No. _____
Vendor No. 0000054340
Control No. HW2L100691

MUNICIPAL ARTERIAL PROGRAM
COOPERATIVE AGREEMENT

This Agreement is between the **New Mexico Department of Transportation** (Department) and **City of Truth or Consequenses** (Public Entity), collectively referred to as the "parties." This Agreement is effective as of the date of the last party to sign it on the signature page below.

Pursuant to NMSA 1978, Sections 67-3-28 and 67-3-28.2, and State Transportation Commission Policy No. 44, and

Pursuant to the Public Entity's resolution that assumes ownership, liability, and maintenance responsibility for the project scope, or related amenities, and required funding to support the Project identified herein, the parties agree as follows:

1. Purpose.
The purpose of this Agreement is to provide Local Government Road Funds to the Public Entity for the Project, as described on Control No. **L100691**, and the Public Entity's resolution attached as **Exhibit C**. See:

Planning, Design, Construction, Reconstruction, Pavement Rehabilitation, Construction Management, Drainage and Misc. Improvements

The Project is a joint and coordinated effort for which the parties each have authority or jurisdiction. This Agreement specifies and delineates the rights and duties of the parties.

2. Project Funding.
a. The estimated total cost for the Project is **Two Hundred Forty Eight Thousand Two Hundred Fifty Nine Dollars and No Cents ($248,259)** to be funded in proportional share by the parties as follows:

Project Funding	Department Share	Public Entity Share	Total Project Cost
Funding Source 1	75%	25%	
FY 2027 Local Government Road Fund For the purpose stated above in Section 1.	$186,194	$62,065	$248,259
		Total Project Cost	$248,259

b. The Public Entity shall pay all Project costs, which exceed the Total Project Cost.
c. Any costs incurred by the Public Entity prior to this Agreement are not eligible for reimbursement and are not included in the amount listed in this Section 2.

3. The Department Shall:

Pay the Department's Share of Project Funding, as identified in Section 2, Paragraph a, to the Public Entity in a single lump sum payment after:

a. Receipt of a cover letter requesting funds;
b. Receipt of a Notice of Award (or Work Order) and Notice to Proceed;
c. Receipt of Estimated Summary of Costs and Quantities;
d. Verification of available Local Government Road Funds and Public Entity's local matching funds identified in Section 2, Paragraph a; and
e. All required documents must include Department Project and Control Number.

4. The Public Entity Shall:

a. Act in the capacity of lead agency for the Project described in Section 1.
b. Be solely responsible for all proportional matching funds identified in Section 2. Certify that these matching funds have been appropriated, budgeted, and approved for expenditure prior to execution of this Agreement.
c. Pay all costs, and perform and supply or contract for all labor and material, for the purpose as described in Section 1 and the construction work specified in the Project's plans.
d. Advertise, let, and supervise Project construction, including to procure and award any contract in accordance with applicable procurement law, rules, regulations and ordinances.
e. In accordance with project parameters, assume the lead planning and implementation role and sole responsibility for environmental, archaeological, utility clearances; railroad and Intelligent Transportation System (ITS) clearances; right-of-way acquisition; project development and design; and project construction and management.
f. Cause all designs and PS&Es to be performed under the direct supervision of a Registered New Mexico Professional Engineer.
g. Obtain all required written agreements or permits relating to any realignment of Public Entity's roads, when applicable, from all public and private entities.
h. Initiate the preliminary engineering, survey, and all design activities, and coordinate Project construction.
i. Consider provisions for pedestrian, bicycle and equestrian facilities in the Project design in accordance with NMSA 1978, Section 67-3-62.
j. Initiate and cause to be prepared the necessary Plans, Specifications, and Estimates (PS&E) for this Project.
k. Design the Project in accordance with **Exhibit A, "Minimum Design Standards"**, which is incorporated into this Agreement.
l. Adhere to **Exhibit B, "Minimum Survey and Right of Way Acquisition Requirements"**, which is incorporated into this Agreement.
m. Comply with **Exhibit D, "Construction Phase Duties and Obligations"**, which is incorporated into this Agreement.
n. Make no changes in design or scope of work, unless for safety reasons and with documented approval of the Department.
o. Allow the Department to inspect the Project to confirm that the Project is constructed in

accordance with the provisions of this Agreement. Disclosures of any failure to meet such requirements and standards, as identified by the Department, will result in termination of this Agreement, for default, including without limitation its costs for funding, labor, equipment, and materials.

p. Complete the project within twenty-four (24) months of approval of funding by the State Transportation Commission.
q. Prior to Project construction, furnish the Department's District 1 Office the "**Certification of the Pre-Construction Contract Phase**" form, attached as **Certification No. 1**.
r. Within thirty (30) calendar days of completion, furnish the Department's District 1 Office the **"Certification of Construction Phase"** form, attached as **Certification No. 2.**
s. Within thirty (30) calendar days of completion, furnish the Department's District 1 Office the **"AS BUILT Summary of Costs and Quantities"** form, attached as **Certification No. 3.** The report should reflect the total cost of project as stated in **"Certification of Construction Phase"** form.
t. Failure to timely provide **Certification Nos. 1, 2** and **3**, listed above, will be considered a material breach of this Agreement and Public Entity shall reimburse to the Department all funds disbursed in accordance with this Agreement.
u. Upon completion, maintain all the Public Entity's facilities constructed or reconstructed under this Agreement.

5. Both Parties Agree:

a. Upon termination of this Agreement any remaining property, materials, or equipment belonging to the Department will be accounted for and disposed of by the Public Entity as directed by the Department.
b. Any unexpended or unencumbered balance from the Local Government Road Fund appropriated for this project reverts to the Department. These balances, if any, must be reimbursed to the Department within thirty (30) calendar days of project completion or expiration of this Agreement, whichever occurs first.
c. This Project is not being incorporated into the State Highway System and the Department is not assuming maintenance responsibility or liability.
d. Pursuant to NMSA 1978, Section 67-3-28.2, Local Government Road Funds granted under this provision cannot be used by the Public Entity to meet a required match under any other program.
e. As applicable for state-funded projects, the provisions of the Tribal/Public Agency (T/LPA) State Funding Handbook (Current Edition), and for projects with federal funds, the provisions of the Tribal/Local Public Agency (T/LPA) Federal Funding Handbook (Current Edition), are incorporated by reference and control the contractual rights and obligations of the parties unless in conflict with the specific terms expressed in this Agreement or any amendments.

6. Term.

This Agreement becomes effective upon signature of all Parties. The effective date is the date when the last party signed the Agreement on the signature page below. This Agreement terminates on **June 30, 2028.** In the event an extension to the term is needed, the Public Entity shall provide through a duly authorized agent written notice along with detailed justification

to the Department sixty (60) calendar days prior to the expiration date to ensure timely processing of an Amendment.

7. **Termination.**
   a. If the Public Entity fails to comply with any provision of this Agreement, the Department may terminate this Agreement by providing thirty (30) calendar days written notice.
   b. The Department may terminate this Agreement if the funds identified in Section 2 have not been contractually committed within one year from the effective date of this Agreement.
   c. If sufficient appropriations and authorizations are not made, this Agreement will terminate immediately upon written notice of the Department to the Public Entity.
   d. Neither party has any obligation after termination, except as stated in Sections 4, 5, and 16.

8. **Third Party Beneficiary.**
   It is not intended by any of the provisions of this Agreement to create in the public or any member of the public a third party beneficiary or to authorize anyone not a party to the Agreement to maintain suit for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies), and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

9. **Liability.**
   As between the Department and Public Entity, neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, *et seq.*, and other applicable law.

10. **Contractors Insurance Requirements.**
    The Public Entity shall require contractors and subcontractors hired for the Project to have a general liability insurance policy, with limits of liability of at least $1,000,000 per occurrence. The Department is to be named as an additional insured on the contractors and subcontractor's policy and a certificate of insurance and endorsements listing the Department as an additional insured must be provided to the Department and must state that coverage provided under the policy is primary over any other valid insurance.

    To the fullest extent permitted by law, the Public Entity shall require the contractor and subcontractors to defend, indemnify and hold harmless the Department from and against any liability, claims, damages, losses or expenses (including but not limited to attorney's fees, court costs, and the cost of appellate proceedings) arising out of or resulting from the negligence, act, error, or omission of the contractor and subcontractor in the performance of the Project, or anyone directly or indirectly employed by the contractor or anyone for whose acts they are liable in the performance of the Project.

11. **Scope of Agreement.**
    This Agreement incorporates all agreements, covenants, and understandings between the parties concerning the subject matter. All such covenants, agreements, and understandings have been merged into this Agreement. No prior Agreement or understandings, verbal or

otherwise, of the parties or their agents are valid or enforceable unless included in this Agreement.

12. Terms of this Agreement.

The terms of this Agreement are lawful. Performance of all duties and obligations must conform with and not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

13. Legal Compliance.

The Public Entity shall comply with all applicable federal, state, and local laws, and Department regulations and policies in the performance of this Agreement, including, but not limited to laws governing civil rights, equal opportunity compliance, environmental issues, workplace safety, employer-employee relations and all other laws governing operations of the workplace. The Public Entity shall include the requirements of this Section 13 in each contract and subcontract at all tiers.

14. Equal Opportunity Compliance.

The parties agree to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States will, on the grounds of race, color, national origin, ancestry, sex, sexual preference, age, disability, or other protected class, be excluded from employment with, or participation in, any program or activity performed under this Agreement. If the Public Entity is found to not comply with these requirements during the term of this Agreement, the parties agree to take appropriate steps to correct these deficiencies, subject to Section 7 above.

15. Appropriations and Authorizations.

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the governing board of the Public Entity, the Legislature of New Mexico, or the Congress of the United States, if federal funds are involved, for performance of the Agreement. If sufficient appropriations and authorizations are not made by the Public Entity, Legislature of New Mexico, or the Congress of the United States if federal funds are involved, this Agreement will terminate upon written notice being given by one party to the other. The Department and Public Entity are expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure.

16. Accountability of Receipts and Disbursements.

There shall be strict accountability for all receipts and disbursements relating to this Agreement. The Public Entity shall maintain all records and documents relative to the Project for a minimum of five years after completion of the Project. The Public Entity shall furnish the Department and State Auditor, upon demand, any and all such records relevant to this Agreement. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense supported by such insufficient documentation must be reimbursed to the Department within thirty (30) calendar days. If an audit finding determines that specific funding was inappropriate or not related to the Project, the Public Entity shall

reimburse that portion to the Department within thirty (30) calendar days of written notification.

17. Severability.

In the event that any portion of this Agreement is determined to be void, unconstitutional or otherwise unenforceable, the remainder of this Agreement will remain in full force and effect.

18. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue is proper in a New Mexico Court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G).

19. Amendment.

This Agreement may be altered, modified, or amended only by an instrument in writing executed by the parties.

The remainder of this page is intentionally left blank.

In witness whereof, each party is signing this Agreement on the date stated opposite that party's signature.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By:_____ Date: _____
Cabinet Secretary or Designee

Recommended By District 1

By:_____ Date: _____
District Engineer

Approved as to form and legal sufficiency by the New Mexico Department of Transportation's Office of General Counsel

By:_____ Date: _____
Assistant General Counsel

City of Truth or Consequenses

By:_____ Date: _____

Title: _____

Attest: _____
Name and Title

EXHIBIT A
Minimum Design Standards

1. The design shall provide for all facilities as required by law (ADA compliance, bicycle paths, etc.).
2. The pavement shall be designed for a 20-year life as a minimum for new construction or reconstruction, or for a 10-year life as a minimum for rehabilitation.
3. The following documents shall be used as a minimum in the design of this Project:
   a. FHWA Manual of Uniform Traffic Control Devices, Current Edition as amended;
   b. AASHTO A Policy on Geometric Design of Highways and Streets, Current Edition ("Green Book");
   c. AASHTO Guide for the Development of Bicycle Facilities, Current Edition;
   d. **DEPARTMENT**'s Regulations for Driveway and Median Opening on Non-Access Controlled Highways, Current Update;
   e. **DEPARTMENT'S** Urban Drainage Design Criteria;
   f. **DEPARTMENT'S** Geotechnical Manual, Current Update;
   g. **DEPARTMENT'S** Action Plan;
   h. **DEPARTMENT'S** Tribal/Public Agency State Funding Handbook; Current Edition;
   i. **DEPARTMENT'S** Handbook of Hazardous Waste Management, Current Edition;
   j. **DEPARTMENT'S** Location Study Procedures;
   k. AASHTO Guide to Design of Pavement Structures, Current Edition, and;
   l. Other design publications as outlined in the **DEPARTMENT'S** Tribal/Public Agency State Funding Handbook.
   m. The **Public Entity** may use **Public Entity** established local design standards if approved by the District Engineer, for each Project.

EXHIBIT B

Minimum Survey and Right of Way Acquisition Requirements

1. Establish and permanently reference stations and monuments.
2. Determine and record sufficient topography to assure all relevant landmarks are shown. Include items such as buildings, sidewalks, driveways, walls, trees, etc.
3. Obtain and plot existing profile grade and cross-sections where necessary. Plot curb profiles as needed.
4. All utilities above and below ground and their owners shall be shown.
5. The surveyor shall verify, ascertain, and certify the right-of-way design plans.
6. All surveying and right-of-way mapping is to be performed in accordance with the **DEPARTMENT'S** Surveying Requirements, Current Edition, and Minimum Standards for Surveying, NMSA 1978, Sections 61-23-1 to 61-23-32.
7. All **DEPARTMENT** Right of Way Handbooks, particularly Right of Way Handbook (Current Edition, Local Public Agencies, shall be adhered to for all R/W operations, including Title Search, Property Survey, Right of Way Mapping, Appraisal, Appraisal Review, Acquisition (including donations), Relocation, and Right of Way Certification. Only qualified personnel may undertake Right of Way functions. **Public Entity** staff or consultants may not be used to perform any R/W functions unless the **Public Entity** certifies that each individual is qualified to perform each individual right of way activity, such as Title search, property survey, mapping, appraisal, etc. Right of Way operations shall conform to State statutes and Federal regulations. Future Federal funding for Project shall be jeopardized if right of way operations do not conform to State statutes and Federal regulations.
8. Obtain and prepare Title Reports that meet **DEPARTMENT** format and standards, for all affected R/W parcels.
9. Right of Way mapping shall be done in accordance with the "Attachment 2" checklist of the **DEPARTMENT'S** Right of Way Mapping Development Procedures Current Update. The surveyor shall verify and certify the checklist and the Right of Way maps.
10. Appraisals shall not begin until the **Public Entity** has 100% complete R/W maps. **Public Entity** or contracted (fee) appraisers shall not be used unless fully qualified.
11. Appraisal Reports shall be prepared in conformance with Federal and Statutes and regulations.

In no event shall the appraisal review function be contracted to a consultant. One purpose of appraisal review is to assure that the appraisal meets **DEPARTMENT** requirements prior to the initiation of acquisition.

12. **Public Entity** or contracted (fee) negotiators shall not be used unless fully qualified.
13. The **Public Entity** shall maintain all records and documents relating to the Right of Way acquisition for a minimum of five (5) years, and shall record all transfer of ownership documents with the County Clerk. **DEPARTMENT** personnel shall be provided access to Project R/W files upon reasonable notice.
14. The **Public Entity** shall furnish the **DEPARTMENT** with a written certification (R/W Certification) stating that Right of Way acquisition (and relocations, if applicable) has been performed in compliance with Federal and State laws and regulations.

EXHIBIT C
City of Truth or Consequenses RESOLUTION

PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM ADMINISTERED BY NEW MEXICO DEPARTMENT OF TRANSPORTATION

WHEREAS, the **City of Truth or Consequenses** and the New Mexico Department of Transportation have entered into a cooperative grant agreement under the Local Government Road Fund Program for a local road project.

WHEREAS, the total cost of the project will be **$248,259** to be funded in proportional share by the parties hereto as follows:

CN L100691 Project Funding	**Department Share**	**Public Entity Share**	**Total Project Cost**
Funding Source 1	**75%**	**25%**	**100%**
FY 2027 Local Government Road Fund Planning, Design, Construction, Reconstruction, Pavement Rehabilitation, Construction Management, Drainage and Misc. Improvements	**$186,194**	**$62,065**	**$248,259**

WHEREAS, the **City of Truth or Consequenses** shall pay all costs, which exceed the total project cost of **$248,259**.

NOW THEREFORE, be it resolved in official session that **City of Truth or Consequenses** determines, resolves, and orders as follows:

a. The project for this Cooperative Agreement is adopted and has a priority standing.
b. The Cooperative Agreement terminates on **6/30/2028** and the **City of Truth or Consequenses** incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.
c. The agent of the **City of Truth or Consequenses,** _____(name or title), shall have signature authority to bind the **City of Truth or Consequenses** to the terms and conditions of this Cooperative Agreement, and shall have authority to request in writing and secure extensions to the Cooperative Agreement on behalf of the **City of Truth or Consequenses** in the manner set forth by the Cooperative Agreement.

NOW THEREFORE, be it resolved by the **City of Truth or Consequenses** to enter into Cooperative Agreement for Project Control Number **L100691** with the New Mexico Department of Transportation for the LGRF Program for fiscal year **2027** for **Clancy Street from Main Avenue to Broadway Street and McAdoo Street from Main Street toClancy Street - Planning, Design, Construction, Reconstruction, Pavement Rehabilitation, Construction Management, Drainage and Misc. Improvements** within the control of **City of Truth or Consequenses** in the State of New Mexico.

(Appropriate Signatures below (Council, Commission, School Board, Tribe, Pueblo, Nation, etc.)

_____ _____
(PRINTED NAME, POSITION) DATE

_____ _____
(PRINTED NAME, POSITION) DATE

_____ _____
(PRINTED NAME, POSITION) DATE

EXHIBIT D

Construction Phase Duties and Obligations

1. The **Public Entity** shall be responsible for all construction engineering, including Project supervision, surveying, inspection and testing when surveying and testing are not contracting items.
2. The **Public Entity's** general conditions, standard drawings and specifications may be used if approved by the **DEPARTMENT'S** District Engineer.

CERTIFICATION NO. 1

CERTIFICATION OF THE PRE-CONSTRUCTION CONTRACT PHASE

Control No. L100691

I, _____, in my capacity as_____ of _____ do hereby certify with reference to the aforementioned Project Control Number as follows:

1. That the **Public Entity** has complied with the terms and conditions of the pre-construction phase requirements set forth in this Agreement.
2. That the design for this Project is in compliance with all state laws, rules, regulations, and local ordinances and in the rules and regulations of the **DEPARTMENT**.
3. The **Public Entity** (including, but not limited to, Temporary Construction Permits and Construction Maintenance Easements) has acquired that all necessary right(s)-of -way for the construction or reconstruction of this Project in compliance with the **DEPARTMENT'S** Right of Way Handbook (Current Edition) Local Public Agencies, and Exhibit B.
4. That all utilities within the location of this construction Project (check one or both of the following conditions):
   ___a. have been relocated
   ___b. are scheduled for relocation prior to or concurrent with construction of this Project and have been coordinated with the appropriate utility.
5. That the **Public Entity** has encumbered the necessary funds to complete the Project.
6. That the **Public Entity** has fully complied with the requirements of NMSA 67-3-62.
7. That roadway(s) and intersection(s) shall operate at a minimum Level of Service of C or D (LOS C or D) for the Projected 20 year design traffic volumes as specified in A Policy on Geometric Design of Highways and Streets, (Current Edition).
8. That traffic data collection, traffic projections, and traffic impact studies on this Project have been developed in conformance with the **DEPARTMENT'S** New Mexico Traffic Survey and Standards (Current Edition).
9. That no angle parking has been provided in this Project.

10. That the **Public Entity** has completed a (check, which of the following conditions exists):

_____a. 20 year pavement design; or

_____b. 10 year pavement design with provision for extending the pavement life to 20 years, and has incorporated it in the plans and specifications for this Project.

11. That the **Public Entity** has completed a Project drainage report, which meets the **DEPARTMENT'S** minimum drainage criteria as referenced in the **DEPARTMENT'S** Drainage Manual.

12. All drainage costs have been prorated between the **DEPARTMENT** and the **Public Entity** if applicable, according to the **DEPARTMENT'S** Drainage Policy and Administrative Memorandum (Current Update) and prorated calculations have been approved in writing by the **DEPARTMENT'S** Drainage Section.

13. That the **Public Entity** has completed all required Environmental Documentation and clearances for this Project using guidance contained in the **DEPARTMENT'S** Action Plan,(Current Edition).

14. That the **Public Entity** has completed all required Archaeological Documentation and clearances for this Project using guidance contained in the **DEPARTMENT'S** Action Plan, (Current Edition).

15. That the following attached Agreement(s) have been executed, when required, for construction or reconstruction of this Project (attach copies to this certification):

    a. Lighting;

    b. signalization;

    c. storm sewer and lift station;

    d. landscape;

    e. road exchange; and

    f. any other applicable agreements.

16. That the **Public Entity** has complied with and certifies compliance with all applicable provisions of Exhibit A.

17. That this certification procedure has been executed prior to advertisements for contract bids or commencement of this Project.

IN WITNESS WHEREOF, _____ in his/her capacity as _____ of _____ does hereby certify that the aforementioned matters stated herein are true to his/her knowledge and belief and does hereby set his/her hand and seal this day and year specified below:

City of Truth or Consequenses

By:_____ Date: _____

Mayor

ATTEST:

By:_____ Date: _____

Public Entity Clerk

When completed, send Certification No. 1 to:

District LGRF Coordinator

Department of Transportation

CERTIFICATION NO. 2

CERTIFICATION OF THE CONSTRUCTION PHASE

Control No. L100691

I, _____, in my capacity as _____ of _____ do hereby certify with reference to the aforementioned Project Control Number as follows:

1. That the **Public Entity** has complied with the terms and conditions of the construction phase requirements under this Agreement.
2. That the **Public Entity** has complied with and certifies that the Project plan complies with all publications identified in Exhibit A.
3. That all work in Control No. **L100691** was performed in accordance with the Agreement.
4. That the total Project cost of _____, with New Mexico Department of Transportation "**DEPARTMENT**" 75% share of _____ and the **Public Entity** share of _____ (as submitted in attached "As Built Summary of Costs and Quantities") is accurate, legitimate, and appropriate for the Project.
5. That the construction of the Project was completed on _____ of _____, 20[#]

IN WITNESS WHEREOF, _____ in his/her capacity as _____ of _____ does hereby certify the aforementioned matters stated herein are true to his/her knowledge and belief and does hereby set his/her hand and seal this day and year specified below:

City of Truth or Consequenses

By:_____ Date: _____

Mayor

ATTEST:

By:_____ Date: _____

Public Entity Clerk

When completed, send Certification No. 2 to:

District LGRF Coordinator, Department of Transportation

CERTIFICATION NO. 3

AS BUILT SUMMARY

OF COSTS AND QUANTITIES

CONTRACT

ENTITY: _____ No.: _____ CN: _____

PROJECT No.: _____

TERMINI: _____

_____

SCOPE OF WORK: _____

_____

ITEM NO.	ITEM DESCRIPTION	UNIT	ESTIMATED QUANTITY	FINAL QUANTITY	UNIT COST	FINAL COST

CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

Agenda Item #: F.3

MEETING DATE: July 22, 2026

SUBJECT: Discussion/Action: Resolution No. 07 26/27 Authorizing Acceptance of Colonias Infrastructure Fund Project No. CIF-7113; Roads/Drainage Infrastructure and Marie Street Improvements.
DEPARTMENT: Community Development
DATE SUBMITTED: July 16, 2026
SUBMITTED BY: Traci Alvarez
WHO WILL PRESENT THE ITEM: Traci Alvarez, Assistant City Manager

Summary/Background:
The City has been awarded Colonias Infrastructure Funding in the amount of $1,363,637 to for its Roads/Drainage Infrastructure Project - T or C Marie Street Improvements. The approved funding structure consists of a 10% loan in the amount of $136,364, and a 90% grant in the amount of $1,227,273. The loan component is a 20-year term at a net effective interest rate of .25% (0% interest rate with an administrative fee component of ¼ of 1%). The loan and grant are to be used by the City to design and construct roadway, curb and gutter, drainage and ADA compliance improvements. A resolution is required to accept the award and verify the match in the amount of $136,364. Once all readiness to proceed items are completed, grant/loan documents will be issued and presented to the Commission for acceptance.

Recommendation:
Approve Resolution No. 07 26/27 and authorize City Management to execute and submit required readiness to proceed items.

Attachments:
- Colonias Presentation Handout
- CIF-7113 Award Letter
- Resolution 07 26/27

-

Fiscal Impact (Finance): **Yes**
Identified in the CIF-7113 Award Letter

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

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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 7-22-26

T or C Marie Street Improvements

2026 Colonias Infrastructure Project Fund - Roads, Drainage, and Flood Control Project

FUNDING REQUEST **$1,363,636.00**

SCOPE

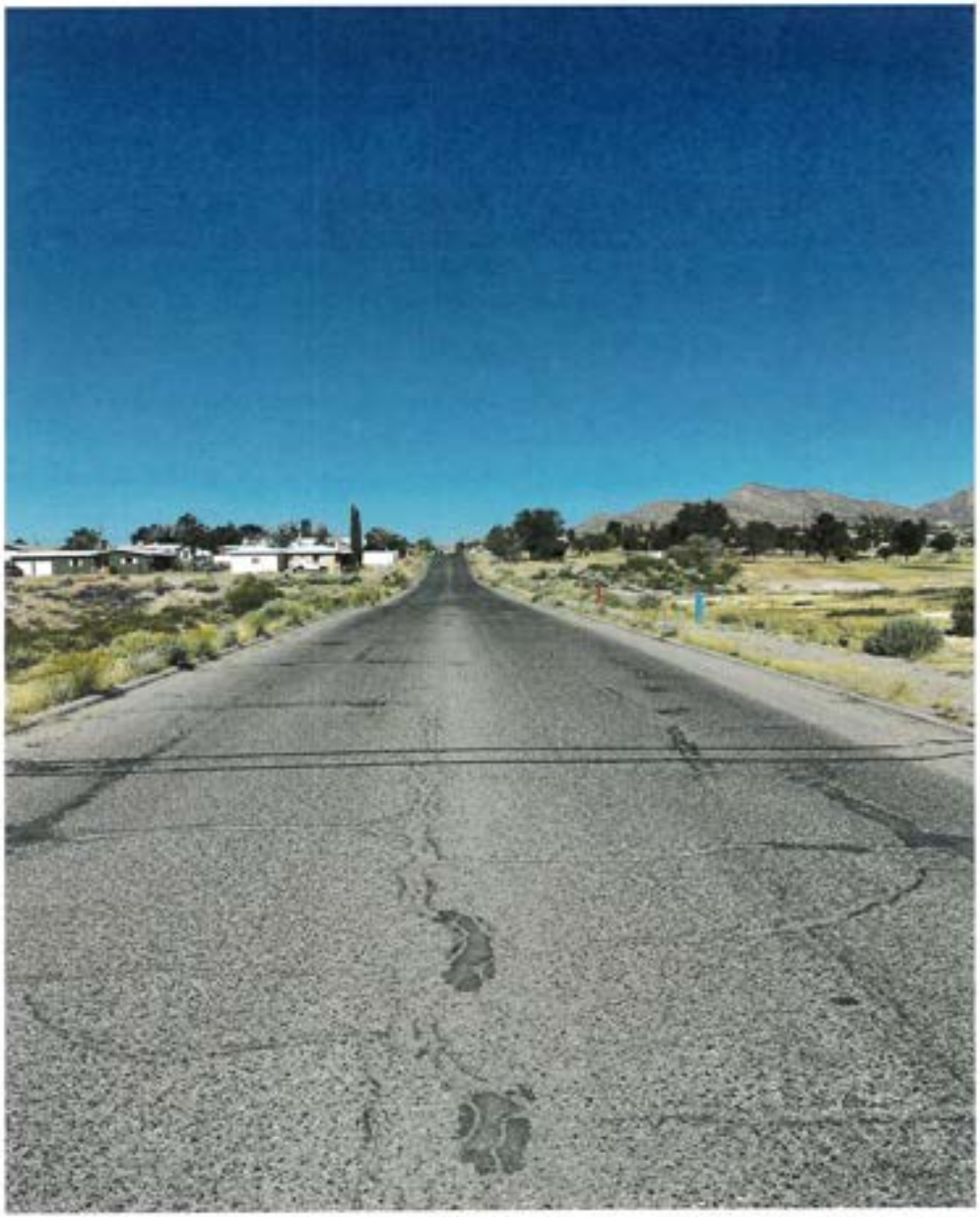
Design and construction services to rehabilitate a deteriorating roadway and associated infrastructure, incorporating safety enhancements, ADA-compliant improvements, and multimodal features to improve mobility, accessibility, and long-term community health.

SUMMARY

The Marie Street Improvements Project will modernize a key community corridor to address safety deficiencies, accessibility gaps, and recurring flooding hazards associated with the Marie Street Dam. The project will implement safety upgrades, ADA-compliant improvements, and multimodal features—including bike lanes, pedestrian connections to schools, traffic-calming measures, and improved roadway striping—to protect pedestrians, cyclists, and motorists.

By reconstructing deteriorating pavement, upgrading intersections, and improving drainage, the project will reduce long-term maintenance costs, mitigate flooding risks, and enhance system resilience. Identified as a top infrastructure priority, these improvements directly support the City's Vision Zero Safety Action Plan, advancing equitable mobility and safer travel conditions for residents, students, and visitors.

The project will also strengthen regional connectivity, linking neighborhoods, schools, and businesses, while supporting public health, economic activity, and quality of life in the surrounding community.



T or C Marie Street Improvements

2026 Colonias Infrastructure Project Fund - Roads, Drainage, and Flood Control Project

BENEFITS

- ✓ **Improved Safety:** Safer travel for motorists, pedestrians, and cyclists
- ✓ **ADA Accessibility:** Enhanced mobility for all users
- ✓ **Flood Mitigation:** Reduced spring flooding and drainage hazards
- ✓ **Multimodal Mobility:** Bike lanes, sidewalks, and pedestrian connections
- ✓ **Infrastructure Resilience:** Reduced maintenance costs and stronger corridor reliability
- ✓ **Community & Economic Impact:** Better connectivity to schools, neighborhoods, and businesses





NEW MEXICO
FINANCEAUTHORITY

June 30, 2026

Via Email
City of Truth or Consequences
Attn: Gary Whitehead, City Manager
505 Sims Street
Truth or Consequences, NM 87901
gwhitehead@torcnm.gov

RE: Colonias Infrastructure Project No. CIF-7113; Roads/Drainage Infrastructure; Marie Street Improvements

Dear Mr. Whitehead:

The Board of Directors of the New Mexico Finance Authority ("NMFA") met on June 25, 2026, to approve the final terms, structure, and conditions of Colonias Infrastructure Funding in the amount of $1,363,637 to City of Truth or Consequences ("City") for its Roads/Drainage Infrastructure Project. This action is a result of the Colonias Infrastructure Board recommendations approved on May 14, 2026.

The approved funding structure consists of a 10% loan in the amount of $136,364, and a 90% grant in the amount of $1,227,273. The loan component is a 20-year term at a net effective interest rate of .25% (0% interest rate with an administrative fee component of ¼ of 1%). The loan and grant are to be used by the City to design and construct roadway, curb and gutter, drainage and ADA compliance improvements.

To secure the funding agreement for the award, the City must submit the following Readiness to Proceed items **no later than October 31, 2026,** by email only to Colonias@nmfa.net.

SUBMISSION OF READINESS TO PROCEED ITEMS

This funding is conditional, and the City must submit the following Readiness to Proceed ("RTP") items, as applicable, before the loan/grant agreement can be scheduled to close:

1. A monthly draw-down schedule of project expenditures, including Month and Year;
2. Verification of match in the amount of $136,364;
3. Verification of complete and approved plans/specification prior to disbursement of construction funds;
4. Verification that right-of-way, easements, and permits have been secured;
5. Updated Open Meetings Act Resolution (7/9/2026);
6. All contingencies must be satisfied **no later than October 31, 2026**; and
7. Any additional information requested by the Colonias Infrastructure Board or the NMFA Board.

Compliance with the RTP process is required to secure the funding for this project. To prevent

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any delays in securing the funding, please begin preparing the RTP information upon receipt of this notice. When all the RTP criteria have been submitted, outside counsel for NMFA will draft the funding agreement and will contact the City directly for closing arrangements.

As part of the technical oversight of Colonias Infrastructure Funds, the City may be required to submit project documentation (design and construction plans, contracts, bids, etc.), for review and/or approval.

Please contact me at Colonias@nmfa.net or (505) 992-9688 if you have any questions regarding the RTP information.

Sincerely,

Sharon J. Romero

Sharon J. Romero
Lead Program Administrator

cc: Tracy Alvarez, City of TorC, talvarez@torcnm.org
Jocelyn Holguin, City of TorC, jholguin@torcnm.gov
Gary Whitehead, City of TorC, gwhitehead@torcnm.gov
Christie Soulsby, Wilson & Co., christie.soulsby@wilsonco.com
Ashley Martinez, Wilson & Co., Ashley.martinez@wilsonco.com

RESOLUTION NO. 07 26/27

AUTHORIZING ACCEPTANCE OF COLONIAS INFRASTRUCTURE FUND PROJECT NO. CIF-7113; ROADS/DRAINAGE INFRASTRUCTURE; MARIE STREET IMPROVEMENTS

WHEREAS, the City Commission of the City of Truth or Consequences adopted Resolution No. 39 25/26 Authorizing and Approving Submission of a Completed Application for Financial Assistance and Project Approval to the New Mexico Finance Authority for the Colonias Infrastructure Fund for **Roads/Drainage Infrastructure; Marie Street Improvements**; and

WHEREAS, the New Mexico Finance Authority ("Authority") has recommended and approved the funding award; and

WHEREAS, the approved funding structure consists of a 10% loan in the amount of $136,364, and a 90% grant in the amount of $1,227,273; and

WHEREAS, a match is required as part of the funding structure.

NOW THEREFORE, BE IT RESOLVED THAT, the Governing Body of the City of Truth or Consequences, New Mexico, hereby accepts the NMFA CIF award of 10% loan in the amount $136,364, and a 90% grant in the amount of $1,227,273 and approves the required cash match in the amount of $136,364; and approves that City Manager Gary Whitehead is hereby designated as the City's representative on behalf of the NMFA Colonias Infrastructure Fund Project No. **CIF-7113** and is authorized as signatory authority and has designated the Assistant City Manager as signatory authority in his absence and shall work with staff to execute, sign, and submit required documentation.

PASSED, APPROVED AND ADOPTED this 22nd day of July, 2026.

_____
Rolf Hechler, Mayor

ATTEST:

_____
Angela Torres, City Clerk

CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

Agenda Item #: F.4

MEETING DATE: July 22, 2026

SUBJECT: Resolution Approving Participation in the South Central Council of Governments (SCCOG) Program for FY 2026-2027
DEPARTMENT: City Manager's Office
DATE SUBMITTED: July 13, 2026
SUBMITTED BY: Johanna Muñoz, Executive Assistant
WHO WILL PRESENT THE ITEM: Gary Whitehead, City Manager

Summary/Background:
The City is a member of the South Central Council of Governments (SCCOG), District 7. SCCOG has requested renewal of the City's FY 2026-2027 membership, with annual dues remaining unchanged at $2,187.00. SCCOG participation requires approval by resolution of the governing body.

Recommendation:Staff recommends approval of the resolution authorizing the City's continued SCCOG membership and payment of $2,187.00 in FY 2026-2027 dues.

Attachments:

- SCCOG Membership Dues Invoice Request Letter (June 15, 2026)

Fiscal Impact (Finance): Yes
$2,187.00 - SCCOG FY 2026-2027 annual membership dues (same as prior year).

Legal Review (City Attorney): N/A
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 agenda 7-22-26

South Central
COUNCIL OF GOVERNMENTS
District 7

June 15, 2026

Members

State Legislator:
Senator Mary Kay Papen

Doña Ana County

City of Las Cruces

City of Sunland Park

City of Anthony

City of Socorro

Socorro County

City of Truth or Consequences

Sierra County

Town of Mesilla

Village of Hatch

Village of Magdalena

Village of Williamsburg

City of Elephant Butte

Lower Rio Grande Public Water Works Authority

San Antonio Mutual Domestic Water Consumer Association

Polvadera Mutual Domestic Water Consumer Association

Doña Ana Mutual Domestic Water Consumer Association

Anthony Water & Sanitation District

City Manager
City of Truth or Consequences
505 Simms Street
Truth or Consequences, NM 87901

Re: Request for Membership Dues for FY 2026-2027- Invoice

Dear Mr. Gary Whitehead:

This letter is a request to City of Truth or Consequences for your membership in the South Central Council of Governments (SCCOG) for FY 26-27. Please find enclosed a membership dues invoice. This year's dues for City of Truth or Consequences will remain the same in the amount of **$ 2,187.00**.

It is required that your participation with the SCCOG be passed by resolution. For your convenience, a resolution is enclosed for the governing body's review and approval.

Your membership and participation in the SCCOG is crucial to our concerted efforts in the district. If you have any questions with respect to our request, please contact me at your earliest possible convenience.

Sincerely,

Jay Armijo
Executive Director

Enclosure

Main Office
P.O. Box 1072
600 Hwy. 195, Suite B & C
Elephant Butte, NM 87935
Phone: 575-744-4857
Fax: 575-744-5021

Jay Armijo, Executive Director
Email: jarmijo@sccog-nm.com
Website: www.sccog-nm.com

Mesilla Office
P.O. Box 297
2231 Avenida de Mesilla
Mesilla, NM 88046-0297
Email: tigoolsby@sccog-nm.com
Ph: 575-524-3262 Ext. 110

RESOLUTION NO. _____

APPROVING PARTICIPATION IN THE PROGRAM OF THE SOUTH CENTRAL COUNCIL OF GOVERNMENTS, INC. FOR FISCAL YEAR 2026-2027

WHEREAS, City of Truth or Consequences (herein-after known as the "Member"), desires to be a participating member in the program and policy development for the South Central Council of Governments, Inc. (hereinafter known as "SCCOG"); and

WHEREAS, it is necessary and desirable that an agreement setting forth the services to be performed by the SCCOG for the Member be entered into, wherewith the SCCOG is agreeing to furnish the following:

A. Implement the work program as established by the SCCOG Board of Directors for the 2026-2027 Fiscal Year.

B. Provide the Member, when requested, with technical, grant program planning, economic development, strategic overall planning and management assistance.

C. Address problems, issues and opportunities of a regional nature which go beyond single municipal or county jurisdictional boundaries and serve as a liaison and advocate for local governments within the region at the state and federal levels.

D. Provide information dissemination about statewide regional and community initiatives to foster greater coordination and efficiency of the programs.

WHEREAS, it is necessary to set forth the sum to be paid by the Member to the SCCOG as annual dues, thereby placing the Member with voting powers on the SCCOG Board of Directors, with an agreement to furnish the following:

A. To participate, through their designated representatives or alternate, in the SCCOG's policy development process by attending meetings, helping formulate the annual work program, reviewing the SCCOG Goals and Objectives, and the District Comprehensive Economic Development Strategy (CEDS).

B. To pay to the SCCOG the sum of **$2,187.00** annual membership dues as payment of the aforementioned services for the period beginning July 1, 2026 and ending June 30, 2027.

C. The Member hereby appoints _____, as their designated representative and _____ as alternate.

NOW THEREFORE, BE IT RESOLVED THAT the Member and the SCCOG hereby mutually agree to the aforementioned provisions of this Resolution and Agreement.

DONE this _____ day of _____, 2026 at _____, New Mexico.

Attestation: Member Government

_____

Clerk, or other Authorized Official Signature of Authorized Official

Attest : South Central Council of Governments, Inc.

_____

Jay Armijo, Executive Director Chairman, Dr. Robert Coleman