



A G E N D A

Carlsbad City Council Regular Meeting
Janell Whitlock Municipal Complex
114 S. Halagueno Street
Carlsbad, New Mexico
September 12, 2023 at 6:00 p.m.

Invocation – Pledge of Allegiance

1. Approval of Agenda
2. Consider Approval of Resolution 2023-53, a Resolution making certain Budgetary Adjustments to the 2023-24 Fiscal Year Budget
3. Routine and Regular Business

All matters under this heading are considered routine by the City Council and will be acted upon in one motion. There will be no separate discussion of these items. If discussion is desired on a particular item, upon request, that item may be removed from the Routine and Regular Business and be considered separately.

- A. **Minutes of the Special City Council Meeting held on August 17, 2023**
- B. **Minutes of the Regular City Council Meeting held on August 22, 2023**
- C. **Minutes of the Special City Council Meeting held on August 31, 2023**
- D. **City Personnel Report**
- E. **Purchasing**
 - 1) Consider Approval to Advertise Invitation to Bid for a 16-foot drop deck trailer for Facility Maintenance to be used for various city events
 - 2) Consider Approval to Reject and Re-Bid 2023-08 for HVAC replacement project for the Riverwalk Recreation Center
- F. **Monthly Reports**
 - 1) Human Resources Department August 2023
 - 2) Utilities Department July 2023
- G. **Set the Date: October 24, 2023**
 - 1) Ordinance rezoning part of "R-1" Residential 1 District to "R-R" Rural Residential District for an approximately 1.766 acre property located East of Hamilton Street
 - 2) Ordinance rezoning part of "R-1" Residential 1 District to "C-1" Commercial 1 District for an approximately 0.24 acre property located at 400 Kircher Street
 - 3) Ordinance rezoning part of "C-2" Commercial 2 District to "R-2" Residential 2 District for an approximately 0.16 acre property located at 513 S Alameda Street
 - 4) Ordinance rezoning part of "R-1" Residential 1 District to "C-2" Commercial 2 District for an approximately 0.94 acre property located at 2908 San Jose Blvd

4. Consider Approval of request from BW Gas dba as Allsup's for a Transfer of Ownership and change of location of Retailer Liquor License No 4026 with off-premises consumption located at 1010 S Canal
5. Consider Approval to join Holtec International as a co-plaintiff in litigation in federal court against the State of New Mexico and approval of an Indemnity Agreement
6. Consider Approval to accept and approve the Energy Efficiency and Conservation Strategy for the City of Carlsbad
7. Consider Approval to accept the RAISE Grant Award from the U.S. Department of Transportation for the Preliminary Plan of the Dark Canyon Bridge and Bikeway Project
8. Consider Approval to accept a grant from the New Mexico Department of Finance for the Double Eagle Waterline Replacement project
9. Consider Approval of Resolution 2023-54, a Resolution authorizing filing of an application to the New Mexico Department of Transportation for Funding Assistance for Carlsbad Transit for FY 2024-2025
10. Consider Approval of Resolution 2023-55, a Resolution authorizing the acceptance of New Mexico Department of Environment Capital Appropriation Grant for the purchase and equipment of an Automated Meter Reading System for the Water Department
11. Consider Approval of Resolution 2023-56, a Resolution authorizing the acceptance of New Mexico Department of Environment Capital Grant for the National Parks Highway Sewer System Improvements and Construction
12. Consider Approval of Resolution 2023-57, a Resolution authorizing the acceptance of New Mexico Department of Environment Capital Grant for the construction and equipment of a second Sewer Wet Well for the Primary Sewer Lift Station
13. Consider Approval of Ordinance 2023-17, an Ordinance authorizing the second correction of Lease Description, Amendment and Ratification of an Oil and Gas Lease with SPC Resources LLC
 - A. Public Hearing
 - B. Approval of Ordinance
14. Consider Approval of Ordinance 2023-18, an Ordinance amending a portion of Section 63(a) and (b) of Chapter 34 of the Code of Ordinances, regarding the proximity of wells, tanks or pipelines to buildings
 - A. Public Hearing
 - B. Approval of Ordinance

15. Council Committee Reports

16. Adjourn



FOR INFORMATION ONLY

Agendas and City Council minutes are available on the City web site: cityofcarlsbadnm.com or may be viewed in the Office of the City Clerk during normal and regular business hours.

Public Comments - three minute time limit per person. The City request all comments be respectful and courteous in nature.

CARLSBAD CITY COUNCIL MEETING SCHEDULE

- Regular Meeting - Tuesday, September 26, 2023 at 6:00 p.m.
- Regular Meeting – Tuesday, October 10, 2023 at 6:00 p.m.

If you require hearing interpreter, language interpreters or auxiliary aids in order to attend and participate in the above meeting, please contact the City Administrator's office at (575) 887-1191 at least 48 hours prior to the scheduled meeting time.

RESOLUTION NO. 2023-53

**A RESOLUTION MAKING CERTAIN BUDGETARY
ADJUSTMENTS TO THE 2023-24 FISCAL YEAR BUDGET**

WHEREAS, it is necessary to amend the 2023-24 fiscal year budget to adjust revenues, transfers and expenditures as reflected on the attached pages, and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF CARLSBAD that the 2023-24 fiscal year budget be amended as attached.

INTRODUCED, PASSED, ADOPTED AND APPROVED this 12th day of September 2023.

Mayor

ATTEST:

City Clerk

Description		Revenues & Transfers		Costs		Approvals		
Fund / Department	Item	Increase (Decrease) to Fund		Labor, Operating, Capital Increase (Decrease) to Fund		Dates		
		Amount	R or T	Amount	L, O, C	Budget Com	Council	DFA
August 2023								
General Fund - Public Safety	Donation from Carlsbad Community Anti-Drug & Gang Coalition will be used to purchase police supplies	10,000.00	R	(10,000.00)	O	8/25/2023		
General Fund - Parks	Additional cost of installation of equipment at the Splash Pad at Friendship Park			(325,000.00)	C	8/25/2023		
Lodgers' Tax - Promotional	Red Rocket - Local event promotion and social ad buy - Advertising			(60,000.00)	O	8/25/2023		
Lodgers' Tax - Promotional	Carlsbad Mainstreet - Hutton Broadcasting - Advertising			(15,000.00)	O	8/25/2023		
Lodgers' Tax - Non-Promotional	Additional cost of installation and equipment at the golf course driving range			(300,000.00)	C	8/25/2023		
Lodgers' Tax - Discretionary	Additional cost of installation and equipment at the golf course driving range			(350,000.00)	C	8/25/2023		

Description			Revenues & Transfers		Costs	
			Increase (Decrease)		Personnel, Operating, Capital Increase (Decrease)	
Fund / Department	Increase/Decrease	Item	Amount	R or T	Amount	L, O, C
August 2023						
General Fund - Planning & Regulation	Increase Capital	Transfer operating funds to Cameras project due to an increase in the cost of the cameras			274.63	C
General Fund - Planning & Regulation	Decrease Operating		(274.63)			O
General Fund - Community Development	Increase Capital	Transfer funds from the closed Museum HVAC Controls project to the Hall of Fame project			25,000.00	C
General Fund - Museum	Decrease Capital		(25,000.00)			C
General Fund - Riverwalk	Increase Capital	Transfer funds from the Riverwalk elevator project to the Facility Maintenance elevator project			542.11	C
General Fund - Facility Maintenance	Decrease Capital		(542.11)			C

**LINKED MINUTES OF A SPECIAL MEETING OF THE CITY COUNCIL OF THE
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE JANELL WHITLOCK
MUNICIPAL COMPLEX BUILDING ON AUGUST 17, 2023 AT 4:00 P.M.**

Present:	Dale Janway	Mayor
	Lisa A. Anaya Flores	Councilor
	Edward T. Rodriguez	Councilor
	Jason O. Chavez	Councilor
	Wesley A. Carter	Councilor
	Jeff Forrest	Councilor
	Karla Niemeier	Councilor
	Judith E. Waters	Councilor
Absent:	Mark C. Walterscheid	Councilor
Also Present:	John Lowe	City Administrator
	K.C. Cass	Deputy City Administrator
	Ted Cordova	Deputy City Administrator
	Wendy Austin	Deputy City Administrator
	Denise Madrid-Boyea	City Attorney
	Nadine Mireles	City Clerk
	Quay Dominguez	Compliance Clerk
	Mike Abell	Director of Utilities
	Wayne Hatfield	IT Director
	Jeff Patterson	Planning Director
	Shane Skinner	Police Chief
	Patrick Cass	Public Works Director
	Maria O'Brien	City Water Attorney
	Steve McCutcheon	Citizen

Time Stamps and headings below correspond to recording of meeting and the recording is hereby made a part of the official record.

0:00:00 **Call Meeting to Order**

0:00:32 Invocation - Pledge of Allegiance

0:01:06 **1. APPROVAL OF AGENDA**

0:01:07 **MOTION**
The motion was made by Councilor Carter and seconded by Councilor Anaya-Flores to approve the Agenda.

0:01:11 **VOTE**

The vote was as follows: Yes - Carter, Rodriguez, Forrest, Niemeier, Anaya-Flores, Chavez, Waters; No - None; Absent - Walterscheid; the motion carried.

0:01:24 **2. CONSIDER APPROVAL OF AGREEMENT BETWEEN THE CITY OF CARLSBAD AND SELECT ENERGY SERVICES, LLC**

Mr. Lowe said this is an agreement with Select Energy for the sale of water in the Tatum wellfield. He said this item was heard at the regular meeting of the Water and Sewer Board of Commissioners and was approved with a vote of four in favor and one absent.

Mr. Lowe introduced Maria O'Brien, the City's water attorney. **Ms. O'Brien** said this agreement implements a long-standing goal of the City to develop the Tatum wellfield and be able to integrate it with the City's water supplies and other wellfields. She said the City acquired rights to the Tatum wellfield in the 1970s. She said the idea was to have three different sources, Tatum wellfield, Sheepdraw and Double Eagle, to integrate, balance, and serve the City of Carlsbad's long-term needs and interests. **Ms. O'Brien** said the idea was to put out a RFP for the sale of water from the three wells to a third-party to generate revenue with the sale of water that could be put back into development of additional wells and construction of the pipeline. She said the City of Carlsbad went out for RFP in 2019 with one respondent, Select Energy Services, and since 2019 there has been negotiations with Select to come to an agreement that benefits the City and fulfill the goals of getting data and generating revenue. She said it is a five-year agreement with the ability to renew the agreement for another five years.

Councilor Forrest asked if there is a limit on how much water they can pump. **Ms. O'Brien** said the City is limited by the water rights. She said Select has the right to take up to 2736-acre feet per year. **Councilor Forrest** asked if the City of Carlsbad has plenty of water for its residents with Double Eagle and Sheepdraw. **Ms. O'Brien** said yes.

Councilor Chavez asked what is the possible generated revenue. **Ms. O'Brien** said if Select takes the full amount, the revenue would be approximately \$5.3 million. She said the pipeline estimation cost is about \$12 million. **Councilor Chavez** asked if we could develop our entire system and connect it off of Tatum. **Ms. O'Brien** said yes.

Councilor Neimeier said during the last Council meeting, we were informed of the watering restrictions in our town which made her believe that our water table is lower than it should be. She said she understands the revenue we would generate from this but it seems as if we do not have enough water. **Ms. O'Brien** said Sheepdraw is sensitive to drought and that is what drives the conservation Ordinance. She said selling water from Tatum does nothing to affect Sheepdraw, but what it could do in the long-term is generate revenue to connect the different water source. She said it is not sacrificing Sheepdraw at all in the short-term and what it is potentially doing in the

long-term is helping us preserve Sheepdraw by drawing on another source and balancing and managing the different sources.

Councilor Rodriguez said we do not have access to the Tatum well water at this time because we are not connected and selling these rights would generate the money to connect it. **Ms. O'Brien** said that is correct. She said the drought restrictions are to manage the water so we are not putting Sheepdraw in jeopardy. She said the aquafer recovers quickly because it is limestone and it gets recharged from the mountain front and the Pecos River. She said we were very conservative when we did the technical limitations for what triggers in the conservation Ordinance so we do not get to the point to where it would not recover.

Mayor Janway asked Steve McCutcheon to come to the podium and speak on this project.

Mr. McCutcheon said the funds that Mr. Lowe and Ms. O'Brien spoke about earlier will all go back into the water and sewer funds. He said they will allow the management of the city to develop that and utilize the water. He said the wells have been sitting there for a long time. He said it has been a project that has been in development for at least 6 years and he thinks we are fortunate to have put this together. He said the price is competitive and the water will have to be transported a long way. He said you have to use a small amount of freshwater to keep the recycle facilities operating. He said their long-term goal for this water is to use that in their recycling facilities.

Mayor Janway said he wants to thank Councilor Waters and Councilor Carter for their hard work and support that has gone into this project.

0:25:33 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Carter to approve of the Agreement between the City of Carlsbad and Select Energy Services, LLC.

0:25:39 **VOTE**

The vote was as follows: Yes - Carter, Rodriguez, Forrest, Niemeier, Anaya-Flores, Chavez, Waters; No - None; Absent - Walterscheid; the motion carried.

0:25:55 **3. ADJOURN**

0:26:00 **MOTION**

The motion was made by Councilor Anaya-Flores and seconded by Councilor Waters to adjourn.

0:26:06 **VOTE**

The vote was as follows: Yes - Carter, Rodriguez, Forrest, Niemeier, Anaya-Flores, Chavez, Waters; No - None; Absent - Walterscheid; the motion carried.

0:26:18 Adjourn
There being no further business, the meeting was adjourned at 6:26 p.m.

Dale Janway, Mayor

ATTEST:

Nadine Mireles, City Clerk

DRAFT

**LINKED MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE JANELL WHITLOCK
MUNICIPAL COMPLEX BUILDING ON AUGUST 22, 2023 AT 6:00 P.M.**

Present: Dale Janway Mayor
Lisa A. Anaya Flores Councilor
Edward T. Rodriguez Councilor
Jason O. Chavez Councilor
Wesley A. Carter Councilor
Mark C. Walterscheid Councilor
Jeff Forrest Councilor
Karla Niemeier Councilor
Judith E. Waters Councilor

Absent:

Also Present: John Lowe City Administrator
K.C. Cass Deputy City Administrator
Ted Cordova Deputy City Administrator
Wendy Austin Deputy City Administrator
Denise Madrid-Boyea City Attorney
Nadine Mireles City Clerk
Angie Barrios-Testa Director of Municipal Services
Mike Abell Director of Utilities
Wayne Hatfield IT Director
Brent Griffith IT Technician
Melissa Salcido Finance Director
Ken Ahrens Fire Chief
Jeff Patterson Planning Director
Shane Skinner Police Chief
Patrick Cass Public Works Director
Gerry Washburn Carlsbad Municipal Schools
Haden Barrera Carlsbad Dept. of Development
Alex Millican Citizen
Wayne Ballard NMT3S LLC
Phil Houston Lifehouse, Inc.
George Dunagan Lifehouse, Inc.
Shera Browning Lifehouse, Inc.
Brenda Rector Citizen
Connie Spinks Citizen

Time Stamps and headings below correspond to recording of meeting and the recording is hereby made a part of the official record.

0:00:00 **Call Meeting to Order**

0:00:13 Invocation – Pledge of Allegiance

0:00:46 **Mayor Janway introduced Dr. Washburn, Superintendent of Carlsbad Municipal Schools, to address City Council members.**

Dr. Washburn said the Carlsbad Municipal Schools (CMS) have had a successful start to the school year. He said they have 87 new students and 6,995 total, Pre-K through 12th grade. He said the traffic on Lea St. has been an issue, however a car loop has been added behind Cottonwood Elementary and it should relieve some of it. He said the City continues to work with CMS and the traffic on Lea St. has been flowing significantly better.

0:03:44 **1. APPROVAL OF AGENDA**

0:03:48 **MOTION**

The motion was made by Councilor Carter and seconded by Councilor Waters to approve the Agenda.

0:03:53 **VOTE**

The vote was as follows: Yes - Carter, Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores, Chavez, Waters; No - None; Absent - None; the motion carried.

0:04:05 **2. CITY OF CARLSBAD FINANCIALS - JULY 2023**

Mrs. Salcido reviewed the revenues and expenditures as of July 2023 for the General Fund and selected Enterprise and Special Funds contained within the City Budget.

0:05:34 **3. ROUTINE AND REGULAR BUSINESS**

- A. Minutes of the Regular City Council Meeting held on August 8, 2023
- B. City Personnel Report
- C. Purchasing
 - 1) Consider Approval to Award RFP 2023-07 to EMS/MC for EMS Billing and Collection Services for the Carlsbad Fire Department
 - 2) Consider Approval to Award RFP 2023-10 to Smithco Construction for the Double Eagle Waterline Replacement Project
- D. Contracts and Agreements
 - 1) Consider Approval of Agreement between the City of Carlsbad and Carlsbad Soccer League for Sport Services at the Bob Forrest Youth Sports Complex
 - 2) Consider Approval of Renewal Agreement between the City of Carlsbad and Molzen-Corbin for Engineering Services at the Cavern City Air Terminal

- 3) Consider Approval of Renewal Agreement with JB Flight Services for Entrance Sign at the Cavern City Air Terminal
- E. Monthly Reports
 - 1) Community Development Department July 2023
 - 2) Municipal Court Department July 2023
 - 3) Municipal Services Department July 2023
 - 4) Transportation and Facilities Department July 2023
- F. Set the Date: September 12, 2023
 - 1) Ordinance authorizing the correction of Lease Description, Amendment and Ratification of an Oil and Gas Lease with SPC Resources LLC.

Mayor Janway asked Mr. Lowe to briefly discuss Agenda item D2, Consider Approval of Renewal Agreement between the City of Carlsbad and Molzen-Corbin for Engineering Services at the Cavern City Air Terminal.

Mr. Lowe said in 2022 the City conducted a request for proposals (RFP) for engineering services for the Cavern City Air Terminal. He said a RFP was awarded to Molzen-Corbin which would extend the agreement for one year. He said the lead engineer with Molzen-Corbin is Kent Fryer who has been with the City for a number of years and does a great job.

0:06:25 **MOTION**

The motion was made by Councilor Carter and seconded by Councilor Rodriguez to approve Routine and Regular Business.

0:06:32 **VOTE**

The vote was as follows: Yes - Carter, Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores, Chavez, Waters; No - None; Absent - None; the motion carried.

0:06:46 **4. CONSIDER APPROVAL OF REQUEST BY DAWSON GEOPHYSICAL TO CONDUCT 3D GEOPHYSICAL SURVEYS ON CITY OWNED PROPERTIES EAST OF THE CITY IN THE WESTERN FARMS AREA**

Mr. Lowe said Dawson had a similar request with the City in the past and have done a good job and are a good company to work with. He said with this agreement the City will be compensated \$2,812 and Dawson will be surveying 187 acres on the Western Farms property.

0:07:33 **MOTION**

The motion was made by Councilor Forrest and seconded by Councilor Walterscheid to approve of the request by Dawson Geophysical to conduct 3D Geophysical Surveys on City owned properties East of the City in the Western Farms area.

0:07:38 **VOTE**

The vote was as follows: Yes - Carter, Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores, Chavez, Waters; No - None; Absent - None; the motion carried.

0:07:52 **5. CONSIDER APPROVAL TO ACCEPT NMDOT AVIATION DIVISION GRANT FOR THE RECONSTRUCTION OF THE TERMINAL APRON TARMAC AT THE CAVERN CITY AIRPORT**

Mr. Lowe said this is a request to enter into an agreement with the Department of Transportation (DOT) for the reconstruction of the Terminal Air Tarmac at the Cavern City Airport. He said the DOT will fund \$5 million and there is no City match. **Mr. Lowe** said the funding is part of the \$55 million House Bill 2 that was passed in the 2023 Legislature. He said this project will allow us to accommodate bigger planes on the tarmac area.

0:08:34 **MOTION**

The motion was made by Councilor Niemeier and seconded by Councilor Walterscheid to approve to accept NMDOT Aviation Division Grant for the reconstruction of the Terminal Apron Tarmac at the Cavern City Airport.

0:08:41 **VOTE**

The vote was as follows: Yes - Carter, Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores, Chavez, Waters; No - None; Absent - None; the motion carried.

0:08:56 **6. CONSIDER APPROVAL OF REQUEST BY CAVERN CITY RENAISSANCE FESTIVAL TO HOST A RENAISSANCE FESTIVAL ON CITY PROPERTY AT THE CARLSBAD BEACH PARK AND SERVE ALCOHOL (BEER, WINE, & SPIRITS)**

Mr. Patterson said Cavern City Renaissance Festival wishes to host a Renaissance Festival on Friday, September 29, 2023 and Saturday, September 30, 2023 at the Carlsbad Beach Park. He said the event will be from 4:00 pm to 8:00 pm on Friday, September 29th, and from 10:00 am to 8:00 pm on Saturday, September 30th. He said set up for the event will begin on Thursday, September 28th, and the tear down of the event will take place on Sunday, October 1st. **Mr. Patterson** said the event organizers plan to bring in food trucks, vendors, a variety of entertainment, and an armored combat professional knights' tournament, along with alcohol vendors (beer, wine and spirits) offered by breweries, wineries, meaderies, and a distillery. He said the event will be a paid ticketed entry event and the entire event area will be fenced off by the event organizers. He said the event organizers would like for the event to be an open-alcohol carry throughout the event area. He said the festival will have one entrance for attendees and security will be provided. **Mr. Patterson** said all entrants, 21 years or older, can obtain a bracelet to wear, which will be a requirement to purchase beer or liquor within the event. He said all designated drivers that enter the event will be given a separate bracelet as identification. He said no alcohol will be allowed to be taken out of the designated event area. **Mr. Patterson** said if this request is approved, the Planning Department recommends the following requirements; the alcohol server shall obtain all required licenses and permits, all breweries, wineries, meaderies and distilleries and the alcohol server shall comply with all laws, rules, regulations,

requirements, and restrictions for service at the location, included but not limited to the fencing of the service area, carding of customers and providing appropriate security; Cavern City Renaissance Festival and all breweries, wineries, meaderies, and distilleries shall name the City of Carlsbad as an additional insured on their general liability insurance and liquor server insurance at an amount to be approved by the City Administrator; and the designated event area shall not include the Beach Park Splash pad, which shall remain open and unobstructed for public use.

Mayor Janway asked if there were any questions or comments for Mr. Patterson.

Councilor Chavez said Council members approved this last year and asked if there was alcohol. **Mr. Patterson** said yes, they asked for permission to serve beer, wine, and spirits. **Councilor Chavez** asked if it was only for a designated area. **Mr. Patterson** said no, it was an open-alcohol carry throughout the event.

0:12:38 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Niemeier to approve of request by Cavern City Renaissance Festival to host a Renaissance Festival on City Property at the Carlsbad Beach Park and serve Alcohol (Beer, Wine, & Spirits).

0:12:44 **VOTE**

The vote was as follows: Yes - Carter, Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores, Chavez, Waters; No - None; Absent - None; the motion carried.

0:12:58 **7. CONSIDER APPROVAL OF RESOLUTION 2023-41, A RESOLUTION SUPPORTING THE KEEP CARLSBAD BEAUTIFUL PROGRAM AND THE EXPENDITURE OF LITTER CONTROL AND BEAUTIFICATION GRANT FUNDS FOR FY24**

Mr. Lowe said this is an annual agreement with the New Mexico Department of Tourism for a grant in the amount of \$24,323. He said these funds are utilized for the litter prevention ads, youth clean-ups, Keep America Beautiful affiliate dues, and the annual conference in Washington, D.C.

Councilor Walterscheid asked who is going to be the face of Keep Carlsbad Beautiful since there is no longer a Director. **Mr. Lowe** said City Administration is working together to carry on the mission of this program until a decision is made.

0:14:03 **MOTION**

The motion was made by Councilor Chavez and seconded by Councilor Forrest to approve of Resolution 2023-41, a Resolution supporting the Keep Carlsbad Beautiful Program and the Expenditure of Litter Control and Beautification Grant Funds for FY24.

0:14:10 **VOTE**

The vote was as follows: Yes - Carter, Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores, Chavez, Waters; No - None; Absent - None; the motion carried.

0:14:22 **8. CONSIDER APPROVAL OF RESOLUTION 2023-42, A RESOLUTION REQUIRING THE REMOVAL OF THE RUINED, DAMAGED OR DILAPIDATED BUILDINGS OR STRUCTURES, RUINS, RUBBISH, WRECKAGE, AND DEBRIS AT 410 TAMPICO STREET OWNER: MARIA ACOSTA-DUENAS**

Mrs. Madrid-Boyea said the property is located in a residential neighborhood. She said there appears to be a dilapidated structure on the property and a large amount of rubbish, debris, and weeds. She said the Eddy County Assessor's Office lists a Maria Acosta-Duenas as owning or having an interest in the property. She said we have information that the owner possibly lives out of the country now. **Mrs. Madrid-Boyea** said the property is vacant and not secure. She said Code Enforcement has been to the property and the structure has been red-tagged. She said the building continues to degrade, and a Notice of Violation was sent to the owner on December 17, 2022. She said the property was recently inspected by Code Enforcement, the Building Inspector and the Fire Chief, and they found it remains out of compliance with applicable codes. **Mrs. Madrid-Boyea** said the ruined or dilapidated structure remains on the property and remains unsecured. She said the Fire Chief found that the property presents an extreme fire hazard for responding fire fighters and emergency personnel and recommends the building be demolished, the property be cleaned, and the debris be removed. **Mrs. Madrid-Boyea** said a Resolution has been prepared, which if adopted, would require the property owner to remove all ruins, dilapidated structures, rubbish, wreckage, debris, and weeds from the property within 30 days of service of a copy of the Resolution.

Councilor Walterscheid asked if the inside looks similar to the outside. **Mrs. Madrid-Boyea** said there is a report from the Building Inspector where he described that the house was left in ruin.

Mayor Janway asked if there was a representative of the property. **No one appeared.**

0:17:55 **MOTION**

The motion was made by Councilor Niemeier and seconded by Councilor Waters to approve of Resolution 2023-42, a Resolution requiring the removal of the ruined, damaged or dilapidated buildings or structures, ruins, rubbish, wreckage, and debris at 410 Tampico Street Owner: Maria Acosta-Duenas.

0:18:03 **VOTE**

The vote was as follows: Yes - Carter, Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores, Chavez, Waters; No - None; Absent - None; the motion carried.

0:18:17 **9. CONSIDER APPROVAL OF ORDINANCE 2023-14, AN ORDINANCE REZONING PART OF "R-R" RURAL RESIDENTIAL DISTRICT TO**

**"R-2" RESIDENTIAL 2 DISTRICT FOR AN APPROXIMATELY 5.50 ACRE
PROPERTY LOCATED AT WEST OF 301 W CHAPMAN ROAD APPLICANT:
GARY MILLICAN**

0:18:45 **A. Public Hearing**

Mr. Patterson said this is a request for a change of zoning from a "R-R" Rural Residential District to "R-2" Residential 2 District. He said the property is approximately 5.5 acres. He said the property to the east is zoned "R-2" Residential 2 District and the property to the north, south, and west are all zoned "R-R" Rural Residential District, therefore this request would not create a spot-zone. He said the applicant brought their application before the Planning and Zoning Commission at the July 10, 2023 meeting, they considered this item and voted to recommend approval with a vote of four in favor, none against, and one absent.

Mayor Janway asked if there were any questions for Mr. Patterson.

Councilor Forrest asked if the applicant is wanting to put apartments there. **Mr. Patterson** said he believes the applicant wants to do another phase of apartments. He said the applicant is the same entity that built the apartments to the east.

Mayor Janway asked if anyone would like to speak regarding the Ordinance.

Haden Barrera, with Carlsbad Department of Development, voiced her support for the new apartment complexes.

Alex Millican said he owns and built the apartment complex to the east. He said this is the second phase and it will be 120 units.

Councilor Rodriguez said if these apartment's get built, is it possible to shroud the lights so they do not shine into neighborhoods. **Mr. Millican** said the new apartments will be turned and shaped to where the exits are on the north and south so the lights will be inside the buildings instead of on the outside.

0:22:13 **B. Approval of Ordinance**

0:22:14 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Niemeier to approve of Ordinance 2023-14, an Ordinance rezoning part of "R-R" Rural Residential District to "R-2" Residential 2 District for an approximately 5.50 acre property located at West of 301 W Chapman Road Applicant: Gary Millican.

0:22:21 **VOTE**

The vote was as follows: Yes - Carter, Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores, Chavez, Waters; No - None; Absent - None; the motion carried.

0:22:33 **10. CONSIDER APPROVAL OF ORDINANCE 2023-15, AN ORDINANCE REZONING PART OF "R-1" RESIDENTIAL 1 DISTRICT TO "R-2" RESIDENTIAL 2 DISTRICT FOR AN APPROXIMATELY 0.23 ACRE PROPERTY LOCATED AT THE NORTHWEST INTERSECTION OF N FIRST STREET AND NE FIRST STREET APPLICANT: WAYNE BALLARD**

0:23:05 **A. Public Hearing**

Mr. Patterson said this is a request to change the zone from "R-1" Residential 1 District to "R-2" Residential 2 District. He said the properties to the north, south, east, and west are zoned "R-1" Residential 1 District, therefore this request would create a spot-zone. He said the applicant brought their request before the Planning and Zoning Commission at the July 10, 2023 meeting. He said the commission considered the item and voted to recommend approval with a vote of four in favor, none against, and one absent.

Mayor Janway asked if there were any questions for Mr. Patterson.

Councilor Forrest asked why does the applicant want to change the zoning. **Mr. Patterson** said he believes the applicant wants to place a structure there that exceeds the maximum occupancy for "R-1" zoning, therefore he is requesting "R-2".

Councilor Chavez asked if "R-2" is for multiple people. **Mr. Patterson** said "R-2" is a multi-family. He said a duplex is allowed in "R-1" but nothing more than that.

Councilor Chavez asked if there is enough parking space for a fourplex. **Mr. Patterson** said he has not seen the applicant's site plan and that is something that would be worked out during the design phase. **Councilor Chavez** asked if this could be a conditional use permit. **Mr. Patterson** answered no, there is no conditional use permit path to raise the occupancy to what the applicant is proposing. He said the applicant needs to get a zone-change to do what he initially requested.

Mayor Janway asked if anyone would like to speak regarding the Ordinance.

Haden Barrera said she would like to speak in favor of this duplex. She said she believes affordable housing is something that is critically needed and this could bring some solution.

Wayne Ballard, NMT3S, said he wanted to revisit Councilor Chavez's question about the parking. He said the site plan adequately covers the parking. He said the next block over on the westside, there is the same structure built on the opposing corner with the same plan, purpose, and use. He said it utilizes a fourplex that consists of four, three bed, two bath, rental units with frontside parking. He said we do have full engineering and site plans prepared. **Mr. Ballard** said this unit is modeled after the other one that is 500 ft. away.

0:27:30 **Councilor Chavez** asked who owns the duplex that is 500 ft. away. **Mr. Ballard** said he believes it is owned by Jordan Anderson of Anderson Development.

0:28:02 **B. Approval of Ordinance**

0:28:05 **MOTION**

The motion was made by Councilor Carter and seconded by Councilor Niemeier to approve of Ordinance 2023-15, an Ordinance rezoning part of "R-1" Residential 1 District to "R-2" Residential 2 District for an approximately 0.23 acre property located at the Northwest Intersection of N First Street and NE First Street Applicant: Wayne Ballard.

0:28:10 **VOTE**

The vote was as follows: Yes - Carter, Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores, Waters; No - Chavez; Absent - None; the motion carried.

0:28:29 **11. CONSIDER APPROVAL OF ORDINANCE 2023-16, AN ORDINANCE REZONING PART OF "R-1" RESIDENTIAL 1 DISTRICT TO "R-2" RESIDENTIAL 2 DISTRICT FOR AN APPROXIMATELY 4.15 ACRE PROPERTY LOCATED AT 2404 TULIP STREET APPLICANT: CARLSBAD LIFEHOUSE, INC.**

0:28:51 **A. Public Hearing**

Mr. Patterson said this is a request to change the zoning of the subject property from "R-1" Residential 1 District to "R-2" Residential 2 District. He said the properties to the east are zoned "R-1" Residential 1 or outside the City limits. He said the properties to the west are zoned "R-1" Residential 1 District, and the properties to the north and south are zoned "R-1" Residential 1 District so this change in zoning would create a spot-zone. **Mr. Patterson** said the applicant brought their request before the Planning and Zoning Commission at the July 10, 2023 meeting. He said this item was considered and recommended for approval with a vote of four in favor of approval, none against, and one absent.

Mayor Janway asked if anyone would like to speak regarding the Ordinance.

Phil Houston, Executive Director of Lifehouse, Inc., said Lifehouse provides substance abuse and mental health services in a variety of locations and a broad continuum of care. He said their mission is to help with mental health and substance use in Eddy County and they have been successful in helping a lot of people. **Mr. Houston** said they started doing Sober Living and this is an expansion of that program. He said Sober Living provides transitional assistance for people who have completed a residential treatment program and it provides extra accountability. He said they raised the money to build one of these homes and they started planning it. He said because of the generosity of the community, they might be able to build two homes. He said re-platting a four-acre piece of property every time they want to add another home becomes problematic. **Mr. Houston** said "R-2" zoning allows them to best meet the needs of the community and the residents. He said at the moment they are not able to accept mothers with more than two children or children over the age of 10. He said he

wants the ability to have multi-family units that can accommodate more people. **Mr. Houston** said he has had zero complaints about the behavior of the residents in 5 years. He said there has been a positive reaction to this request and he appreciates the support from the community.

Councilor Forrest asked if the house that is currently there is getting torn down. **Mr. Houston** said the current house will stay there and will continue to be in use for the same purpose. He said two homes will be built immediately to the east of the current home. **Mr. Forrest** asked if it is going to be a meeting place. **Mr. Houston** said no, access to the property is limited.

Councilor Walterscheid said he appreciates what Mr. Houston is doing for the community. He asked if he is building another home with the idea of building more in the future. **Mr. Houston** said yes. He said currently they are turning people away from Sober Living because there are not enough beds.

Councilor Niemeier asked if that is where Grace House was. **Mr. Houston** said the current home that is in use used to be Grace House. **Councilor Niemeier** asked if Grace House is somewhat a multi-family facility. **Mr. Houston** said it was originally built to house 16 young men and they currently have 8 women that live in the house. He said groups of individuals in recovery in sober living homes are considered residential and protected by Fair Housing Law as residential unless there are additional commercial walk-in services provided. He said they are not necessarily required to have multi-family zoning.

Councilor Walterscheid asked with just women and children, if there has been a problem with men trying to see their children. **Mr. Houston** said no problems have occurred. He said Lifehouse tries to be careful about publicizing who is at the home at any given time. **Mr. Houston** said men are not allowed into the home unless the house manager is present and it is usually only for pick-up of their children.

George Dunagan, Chairman of Lifehouse, Inc., said the Sober Living facilities are greatly needed in the community. He said we are proposing to build two but the community needs more. He said he appreciates the consideration.

Councilor Walterscheid asked how many people does he think needs this facility. **Mr. Dunagan** said there is a tremendous need for drug and alcohol addiction recovery. **Councilor Walterscheid** asked how is it decided on who can join. **Mr. Dunagan** said there is a screening process on a merit scale and they are admitted or denied based on it.

Shera Browning, board member of Lifehouse, said the community has given a tremendous amount of support. She said we all know someone who needs a similar

program and has had these struggles. **Ms. Browning** urged the concerned neighbors to learn more about the program and how important it is to the community.

Brenda Rector said she lives right behind the proposed buildings. She said Mr. Houston presented a plan at the Planning and Zoning Commission meeting which showed up to five houses. She said Mr. Houston plans on bringing men in. She said the check-in method is texting. She said no one in the neighborhood supports this.

Connie Spinks said it was hard to find out what was going on with that property. She said no one had any answers. She said Lifehouse is a great thing and it is needed in the community but why there. She said why do they want to change the zoning if the area has never had a "R-2" zoning. She said if it fails, the "R-2" zoning will stay. She said the neighborhood is all single-family homes. She said there was no notice given to the neighborhood. She said the "R-2" zoning should not be taken lightly. She said if the owners choose to sell it will not be good for all of the single-family homes in the neighborhood. She said she supports the program of Lifehouse but does not support the zoning change and does not want to change the feel of the neighborhood.

Ms. Rector said at the Planning and Zoning meeting, Mr. Dunagan said about half of the people would be local and the other would be brought in from other cities.

0:51:38 **B. Approval of Ordinance**

Councilor Forrest said he believes there is a great need for this in the community and he hopes this can get approved now and more in the future.

0:51:45 **MOTION**

The motion was made by Councilor Forrest and seconded by Councilor Anaya-Flores to approve Ordinance 2023-16, an Ordinance rezoning part of "R-1" Residential 1 District to "R-2" Residential 2 District for an approximately 4.15 acre property located at 2404 Tulip Street Applicant: Carlsbad Lifehouse, Inc.

0:51:52 **VOTE**

The vote was as follows: Yes - Carter, Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores, Chavez Waters; No - None; Absent - None; the motion carried.

0:52:10 **12. COUNCIL COMMITTEE REPORTS**

0:52:15 **Mayor Janway asked if anyone in the audience would like to address the Council. No one appeared.**

0:52:35 **13. ADJOURN**

0:52:38 **MOTION**

The motion was made by Councilor Anaya-Flores and seconded by Councilor Waters to adjourn.

0:52:44 **VOTE**

The vote was as follows: Yes - Carter, Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores, Chavez Waters; No - None; Absent - None; the motion carried.

0:52:56 **Adjourn**

There being no further business, the meeting was adjourned at 6:52 p.m.

Dale Janway, Mayor

ATTEST:

Nadine Mireles, City Clerk

**LINKED MINUTES OF A SPECIAL MEETING OF THE CITY COUNCIL OF THE
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE JANELL WHITLOCK
MUNICIPAL COMPLEX BUILDING ON AUGUST 31, 2023 AT 4:00 P.M.**

Present:	Dale Janway	Mayor
	Lisa A. Anaya Flores	Councilor
	Edward T. Rodriguez	Councilor
	Jason O. Chavez	Councilor
	Wesley A. Carter	Councilor
	Mark C. Walterscheid	Councilor
	Jeff Forrest	Councilor
	Karla Niemeier	Councilor
	Judith E. Waters	Councilor
Absent:		
Also Present:	John Lowe	City Administrator
	K.C. Cass	Deputy City Administrator
	Ted Cordova	Deputy City Administrator
	Wendy Austin	Deputy City Administrator
	Denise Madrid-Boyea	City Attorney
	Nadine Mireles	City Clerk
	Mike Abell	Director of Utilities
	Wayne Hatfield	IT Director
	Allan Henriksen	IT Technician
	Melissa Salcido	Finance Director
	Ken Ahrens	Fire Chief
	Jeff Patterson	Planning Director
	Trysha Ortiz	Deputy Planning Director
	Shane Skinner	Police Chief
	Patrick Cass	Public Works Director
	Therese Rodriguez	Citizen
	Zach Walterscheid	Citizen
	Lisa Walterscheid	Citizen
	Daniel Banks	Citizen
	Leilani Buxton	Citizen
	Sylvia Trujillo	Citizen
	Beatrice Matta	Citizen
	Derek Apodaca	Citizen

Time Stamps and headings below correspond to recording of meeting and the recording is hereby made a part of the official record.

0:00:00 **Call Meeting to Order**

0:00:08 Invocation – Pledge of Allegiance

0:00:35 **1. APPROVAL OF AGENDA**

0:00:37 **MOTION**

The motion was made by Councilor Carter and seconded by Councilor Waters to approve the Agenda.

0:00:41 **VOTE**

The vote was as follows: Yes - Carter, Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores, Chavez, Waters; No - None; Absent - None; the motion carried.

0:00:53 **2. ROUTINE AND REGULAR BUSINESS**

A. Consider Approval of 60 day extension to the Agreement between the City of Carlsbad and Orlando Garza dba Guadalupe Pest Control, LLC for Grounds Maintenance and Grave opening and closing services at Carlsbad Cemeteries

Mayor Janway asked Mrs. Madrid-Boyea to briefly discuss Agenda item 2A, Consider Approval of 60 day extension to the Agreement between the City of Carlsbad and Orlando Garza dba Guadalupe Pest Control, LLC for Grounds Maintenance and Grave opening and closing services at Carlsbad Cemeteries.

Mrs. Madrid-Boyea said this is a request to consider extending an agreement regarding the cemetery maintenance and grave opening and closing services at the Carlsbad Cemeteries because of a protest that was filed by one of the respondents to a recent RFP. She said the City of Carlsbad is requesting an extension to be able to respond to the protest that has been filed.

Mayor Janway asked if there were any questions or comments for Mrs. Madrid-Boyea. Councilor Forrest asked if Mr. Garza's company currently has the contract and if this is an extension to that. **Mrs. Madrid-Boyea** said yes.

0:02:13 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Carter to approve Routine and Regular Business.

0:02:20 **VOTE**

The vote was as follows: Yes - Carter, Rodriguez, Forrest, Niemeier, Anaya-Flores, Chavez, Waters; No - None; Abstain - Walterscheid; Absent - None; the motion carried.

0:02:43 **3. CONSIDER APPROVAL OF RESOLUTION 2023-43, A RESOLUTION REQUIRING THE REMOVAL OF THE RUINED, DAMAGED OR DILAPIDATED BUILDINGS OR STRUCTURES, RUINS, RUBBISH, WRECKAGE AND DEBRIS AT 507 S ELM STREET OWNER: JESUS NAME TABERNACLE INC**

Mrs. Madrid-Boyea said the structure is unsecured and consists of bare wood framing with evidence of termites. She said the property has not been maintained for years and the building continues to degrade. She said a Notice of Violation was mailed to the owner on July 31, 2023. **Mrs. Madrid-Boyea** said the property has been inspected by Code Enforcement, the Building Inspector, and the Fire Chief, and they found that the property remains out of compliance with applicable codes. She said the ruined or dilapidated structure remains on the property and the property remains unsecured. She said the Fire Chief found that the property presents an extreme fire hazard for responding firefighters and emergency personnel and recommends that the buildings be demolished, the property be cleaned, and the debris be removed.

0:05:03 **MOTION**

The motion was made by Councilor Forrest and seconded by Councilor Niemeier to approve of Resolution 2023-43, a Resolution requiring the removal of the ruined, damaged or dilapidated buildings or structures, ruins, rubbish, wreckage and debris at 507 S Elm Street Owner: Jesus Name Tabernacle Inc.

0:05:11 **VOTE**

The vote was as follows: Yes - Carter, Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores, Chavez, Waters; No - None; Absent - None; the motion carried.

0:05:25 **4. CONSIDER APPROVAL OF RESOLUTION 2023-44, A RESOLUTION REQUIRING THE REMOVAL OF THE RUINS, RUBBISH, WRECKAGE, DEBRIS OR WEEDS AT 205 S MESQUITE OWNER: DYLAN JOE MAGBY**

Mrs. Madrid-Boyea said this property is located at 205 S Mesquite Street in a residential neighborhood. She said there appears to be a vacant residence on the property and a large number of overgrown weeds, junk, debris, and an inoperable vehicle, as well as weeds in the alley. She said the Eddy County Assessor's Office lists Dylan Joe Magby as owning or having an interest in the property. She said a Notice of Violation was mailed to the owner on September 12, 2022. **Mrs. Madrid-Boyea** said the property was inspected by Code Enforcement, the Building Inspector, and the Fire Chief, and they found that the property remains out of compliance. She said the Fire Chief found that the property presents an extreme fire hazard for responding firefighters and emergency personnel and recommends that the property be cleaned, and the weeds, trash, and debris be removed.

0:07:21 **MOTION**

The motion was made by Councilor Carter and seconded by Councilor Niemeier to approve of Resolution 2023-44, a Resolution requiring the removal of the ruins, rubbish, wreckage, debris or weeds at 205 S Mesquite Owner: Dylan Joe Magby.

0:07:27 **VOTE**

The vote was as follows: Yes - Carter, Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores, Chavez, Waters; No - None; Absent - None; the motion carried.

0:07:40 **5. CONSIDER APPROVAL OF RESOLUTION 2023-45, A RESOLUTION REQUIRING THE REMOVAL OF THE RUINED, DAMAGED OR DILAPIDATED BUILDINGS OR STRUCTURES, RUINS, RUBBISH, WRECKAGE, AND DEBRIS AT 209 W PECAN ST OWNER: CAROLYN L. BANKS**

Mrs. Madrid-Boyea said this property is located at 209 W Pecan Street in a residential neighborhood. She said there appears to be dilapidated structures on the property and a large amount of rubbish, debris, an inoperable vehicle, and weeds. She said the Eddy County Assessor's Office lists Carolyn Banks as owning or having an interest in the property. She said the property appears to be vacant and unsecured. She said Code Enforcement has been to the property and the primary structure was red-tagged by the Building Department for illegal electrical hook-up. She said the owner requested a zone change in March of 2023 and the Planning and Zoning Commission voted to table to the request until the property complies with applicable codes. **Mrs. Madrid-Boyea** said Code Enforcement and the Building Inspector met with the owner on March 10, 2023 to discuss actions needed to clear the property and the owner stated she hired someone to perform the clean-up, however, no work has been done. She said the electric and water utilities have been disconnected and the building continues to degrade. She said a Notice of Violation was mailed to the owner on December 3, 2021, a verbal warning was issued March 6, 2023, and an email was sent to the owner on June 16, 2023. **Mrs. Madrid-Boyea** said the property was inspected by Code Enforcement, the Building Inspector, and the Fire Chief, and they found that the property remains out of compliance with applicable codes. She said the Fire Chief found that the property presents an extreme fire hazard for responding firefighters and emergency personnel and recommends that the buildings be demolished, the property be cleaned, and the debris be removed.

Daniel Banks said the updated pictures are not accurate to what the property looks like today. **Mr. Banks** said the inside of the structure is almost completely cleaned out. He said he attended the Planning and Zoning Committee meeting in March 2023, hoping to have the property rezoned to commercial. He said he has been trying to get this property in a position to where it is not a nuisance. **Mr. Banks** said there are two lots. He said one lot has no residential structure, improvements, electricity or water. He said this property is adjacent to the property at 209 Pecan Street. He said the proposed Resolution states for both lots to be cleaned and he thinks it is unnecessary. **Mr. Banks** said he and his family are working on it as fast as they can and he would like more

time. He said the lot is almost clean and they are still working on the inside of the house. He said he cannot tear the house down because he is waiting for the report from the asbestos inspection.

Councilor Walterscheid asked how long would it take for him to clean the property. **Mr. Banks** said he is working his hardest to make sure he can complete the clean-up in thirty days. He said the weather is a factor on how fast they can complete it.

Mrs. Madrid-Boyea said the proposed Resolution is requesting for the property to be cleaned and leveled. **Mr. Banks** said he would like to build a commercial building on the property eventually.

Councilor Niemeier said if this Resolution passes, the property owners have thirty days. She asked Mr. Banks if he wants an additional thirty days. **Mr. Banks** said he would like to complete it within thirty days.

Mrs. Madrid-Boyea said the Resolution is proposing that the property be cleaned within thirty days of when the Resolution is served. She said the Resolution will not be served right away. She said if the Resolution cannot be served, it will be published in the newspaper.

Leilani Buxton said it will take two weeks to complete the asbestos inspection. She said there has been a lot of money put into the clean-up of the property. She said she believes the clean-up will take longer than a month.

Mr. Banks said he is asking for more time. He said they are waiting on the asbestos report and the structure cannot be torn down until he receives the report.

Councilor Carter asked if Council members can revisit the proposed Resolution at the September 26, 2023 Council meeting.

Mrs. Madrid-Boyea said a motion can be made to reconsider this item at a later date.

0:24:51 **MOTION**

The motion was made by Councilor Carter and seconded by Councilor Niemeier to consider approval of Resolution 2023-45, a Resolution requiring the removal of the ruined, damaged or dilapidated buildings or structures, ruins, rubbish, wreckage, and debris at 209 W Pecan St Owner: Carolyn L. Banks at the September 26, 2023 Council meeting.

0:25:08 **VOTE**

The vote was as follows: Yes - Carter, Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores, Chavez, Waters; No - None; Absent - None; the motion carried.

0:25:25 **6. CONSIDER APPROVAL OF RESOLUTION 2023-46, A RESOLUTION REQUIRING THE REMOVAL OF THE WEEDS, DEBRIS, LIVESTOCK AND A DILAPIDATED STRUCTURE AT 902 AND 904 MALAGA AVE OWNER: NANCY E. FORNI**

Mrs. Madrid-Boyea said this property is located at 902 and 904 Malaga Ave. located in a residential neighborhood. She said there appears to be a residential structure and a shed on the property. She said there are also weeds, debris, and a goat. She said the Eddy County Assessor's Office lists Nancy Forni as owning or having an interest in the property. She said the property has a structure at 902 and 904 Malaga Ave. that appears to be occupied. She said Code Enforcement has been to the property and a Notice of Violation was mailed to the owner on May 9, 2023. She said a complaint about the property was received the same day. **Mrs. Madrid-Boyea** said the property was inspected by Code Enforcement and the Fire Chief, and they found that the property remains out of compliance with applicable codes. She said the person occupying the property stated he would clean the property multiple times but large piles of trash, debris, tires, lumber, and a goat. She said the property is on a 0.5-acre and City Ordinance requires at least 0.75-acre to house one goat remain on the property. She said there is debris along the west fence line, old campers in the back, and an old shed that has ruined and dilapidated. She said the Fire Chief found that the property presents an extreme fire hazard for responding firefighters and emergency personnel.

Councilor Walterscheid said we have never dealt with livestock before so what would happen to the goat. **Mrs. Madrid-Boyea** said the goat is not allowed to be on that small of a plot of land so it needs to be removed. She said if the Resolution is adopted, animal control may be involved. **Councilor Walterscheid** asked if goats are allowed in City limits. **Mrs. Madrid-Boyea** said yes, on a 0.75-acre piece of property.

0:28:32 **MOTION**

The motion was made by Councilor Rodriguez and seconded by Councilor Waters to approve of Resolution 2023-46, a Resolution requiring the removal of the weeds, debris, livestock and a dilapidated structure at 902 and 904 Malaga Ave Owner: Nancy E. Forni.

0:28:38 **VOTE**

The vote was as follows: Yes - Carter, Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores, Chavez, Waters; No - None; Absent - None; the motion carried.

0:28:54 **7. CONSIDER APPROVAL OF RESOLUTION 2023-47, A RESOLUTION REQUIRING THE REMOVAL OF THE RUINS, RUBBISH, WRECKAGE, DEBRIS, NON-OPERABLE VEHICLES AND OCCUPIED RECREATIONAL VEHICLE AT 106 FARRIS ST OWNER: SYLVIA A. TRUJILLO**

Mrs. Madrid-Boyea said this Resolution involves property located at 106 Farris Street in a residential neighborhood. She said there appears to be an occupied structure on the property and a large amount of junk, tires, trash, debris, an occupied recreational

vehicle, as well as non-running vehicles on the property. She said the Eddy County Assessor's Office lists Sylvia Trujillo as owning or having an interest in the property. She said Code Enforcement has been to the property and a Notice of Violation was mailed to the owner on March 6, 2023, which was returned, and again on May 25, 2023 which was signed by the owner. **Mrs. Madrid-Boyea** said the property was inspected by Code Enforcement and the Fire Chief, and they found that the property remains out of compliance. She said the Fire Chief found that the property presents an extreme fire hazard for responding firefighters and emergency personnel and recommends that the property be cleaned, and the weeds, trash, inoperable vehicles, and debris be removed. **Mrs. Madrid-Boyea** said a Resolution has been prepared for Council consideration. She said on August 18, 2023, she received a phone call from an individual stating her mother is the owner of the property. She said the individual acknowledged that the property needs to be cleaned and that a family member is living there and is supposed to be cleaning it. She said the individual indicated that no one is living in the RV and it has been moved to the back of the property.

Sylvia Trujillo said the property has been in worse condition. She said when she received the first letter, she removed all of the vehicles from the property. She said the truck that is on the property has been there since 2006 and it is her late husband's vehicle. She said this truck has never been an issue in the past. **Ms. Trujillo** said she has tried to get help with moving things from the property but has had no luck. She said she has cleaned a lot of the property and it is nowhere near to what it was. She said they are working on it and she is unsure of how long it is going to take. She said she does not know where to go for help with moving the vehicles. She said she is disabled and her children live out of town so they work on it when they are able to.

Councilor Chavez asked Mrs. Madrid-Boyea if there is currently someone living on the property. **Mrs. Madrid-Boyea** said she believes the son of the owner and his wife live on the property.

Councilor Niemeier said the proposed Resolution is for the trash and the vehicles. She said the trash does not require someone hauling a vehicle off. She said if they picked up the trash and junk, it would be a significant improvement.

Mrs. Madrid-Boyea said the proposed Resolution is for the ruins, rubbish, debris and non-operable vehicles to be removed. **Councilor Niemeier** asked if the house is a part of the Resolution. **Mrs. Madrid-Boyea** said no. **Councilor Niemeier** asked what is the original date of the request to the owner to clean the property. **Mrs. Madrid-Boyea** said a letter was mailed on March 26, 2023 but it was returned and another letter was sent on May 25, 2023.

Councilor Forrest said he sympathizes with Ms. Trujillo and it seems like she is trying to get this done.

0:39:43 **MOTION**

The motion was made by Councilor Forrest and seconded by Councilor Walterscheid to consider approval of Resolution 2023-47, a Resolution requiring the removal of the ruins, rubbish, wreckage, debris, non-operable vehicles and occupied recreational vehicle at 106 Farris St Owner: Sylvia A. Trujillo at the September 26, 2023 Council meeting.

0:39:58 **VOTE**

The vote was as follows: Yes - Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores, Chavez, Waters; No - Carter; Absent - None; the motion carried.

Mayor Janway asked Mrs. Madrid-Boyea to explain to Ms. Trujillo what Council members voted on. Mrs. Madrid-Boyea said this matter will come back before City Council at the September 26, 2023 meeting for Council members to decide whether to pass the Resolution at that time. She said it is giving Ms. Trujillo an extra thirty days before it comes back to Council.

0:41:04 **8. CONSIDER APPROVAL OF RESOLUTION 2023-48, A RESOLUTION REQUIRING THE REMOVAL OF THE WEEDS AT 706 ELGIN ROAD OWNER: ARTURO AND HORTENCIA MATTA**

Mrs. Madrid-Boyea said this Resolution involves property located at 706 Elgin Road in a residential neighborhood. She said there appears to be an occupied structure on the property and some weeds. She said the Eddy County Assessor's Office lists Arturo Matta and Hortencia Matta as owning or having an interest in the property. She said Code Enforcement has been to the property and has contacted the owner's daughter, who lives on the property along with her family. She said a Notice of Violation was mailed to the property of record on March 13, 2023. She said the property has been cleaned except for excessive weeds in the back. **Mrs. Madrid-Boyea** said the property was inspected by Code Enforcement and the Fire Chief, and they found that the property remains out of compliance with applicable codes. She said the Fire Chief found that the property presents an extreme fire hazard for responding firefighters and emergency personnel and recommends that the property be cleaned and the weeds be removed.

Beatrice Matta said she is cleaning the property but it is taking time. She said she has two jobs and the owners of the property are not in good health. She said she has little to no help and she is getting it done as fast as she can.

Councilor Walterscheid told Ms. Matta the City of Carlsbad has grappler trucks. He said it does not seem like there is a lot of weeds to remove from her property. **Ms. Matta** said her husband has cleaned a lot of the property. **Councilor Walterscheid** asked if thirty days is long enough for her to complete the clean-up. **Ms. Matta** said yes.

0:46:45 **MOTION**

The motion was made by Councilor Walterscheid and seconded by Councilor Anaya-Flores to approve of Resolution 2023-48, a Resolution requiring the removal of the weeds at 706 Elgin Road Owner: Arturo and Hortencia Matta.

0:47:25 **VOTE**

The vote was as follows: Yes - Carter, Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores, Chavez, Waters; No - None; Absent - None; the motion carried.

0:47:39 **9. CONSIDER APPROVAL OF RESOLUTION 2023-49, A RESOLUTION REQUIRING THE REMOVAL OF THE WEEDS, DEAD TREES AND DEBRIS AT 1413 W MERMOD/106 S CYPRESS OWNER: DEREK APODACA**

Mrs. Madrid-Boyea said this Resolution involves property located at 1413 West Mermod/106 South Cypress in a residential neighborhood. She said there is an unsecured structure and there appears to be a detached garage and a large number of overgrown weeds on the property and in the alley, and dead trees. She said the Eddy County Assessor's Office lists Derek Apodaca as owning or having an interest in the property. She said Code Enforcement has been to the property and has not contacted the owner. She said a Notice of Violation was mailed to the owner on October 21, 2022. She said according to the Fire Chief's report, the detached garage should be secured or demolished. **Mrs. Madrid-Boyea** said the property was inspected by Code Enforcement and the Fire Chief, and they found that the property remains out of compliance with applicable codes. She said the Fire Chief found that the property presents an extreme fire hazard for responding firefighters and emergency personnel and recommends that the property be cleaned and the weeds, debris, and dead trees be removed and the garage be secured.

Derek Apodaca said he understands everything that needs to be done on the property. He said he will be able to have everything completed within thirty days except the leveling of the property. He said he would like an extension for the leveling specifically.

Councilor Anaya-Flores asked if he can get everything else taken care of. **Mr. Apodaca** said yes, he can remove the weeds and trees and secure the garage within thirty days.

Councilor Walterscheid asked if he can get it all complete within thirty days. **Mr. Apodaca** said he is unsure if he can level the property within thirty days.

Councilor Anaya-Flores asked what does he plan to do with the detached garage. **Mr. Apodaca** said he is going to secure it.

Councilor Rodriguez asked if the structural integrity of the detached garage is sufficient enough to secure it. **Mrs. Madrid-Boyea** said she does not have a Building

Inspector report that indicates there is any structural issues. She said the Fire Chief has recommended that it be secured or demolished.

0:53:09 **MOTION**

The motion was made by Councilor Walterscheid and seconded by Councilor Anaya-Flores to approve of Resolution 2023-49, a Resolution requiring the removal of the weeds, dead trees and debris at 1413 W Mermod/106 S Cypress Owner: Derek Apodaca.

0:53:21 **VOTE**

The vote was as follows: Yes - Carter, Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores, Chavez, Waters; No - None; Absent - None; the motion carried.

0:53:41 **10. CONSIDER APPROVAL OF RESOLUTION 2023-50, A RESOLUTION REQUIRING THE REMOVAL OF THE TRASH, DEBRIS AND WEEDS AT 911 N RICHARD ST AND TO SECURE THE STRUCTURE OWNER: PLEASANT CARL WATSON C/O CARLA WALES**

Mrs. Madrid-Boyea said this Resolution involves property located at 911 N Richard Street in a residential neighborhood. She said there appears to be a residential structure on the property and some trash, debris, and weeds. She said the Eddy County Assessor's Office lists Pleasant Carl Watson as owning or having an interest in the property. She said Code Enforcement has been to the property and has contacted the person who claims to be the caretaker of the property. She said this individual was informed by Code Enforcement that if the property was not occupied, it should be boarded up and secured. She said no action was taken to secure the structure. **Mrs. Madrid-Boyea** said the neighbors have been taking care of the front yard but trash and weeds remain on the rest of the property. She said a Notice of Violation was mailed to the owner on August 14, 2023. **Mrs. Madrid-Boyea** said the property was inspected by Code Enforcement and the Fire Chief, and they found that the property remains out of compliance with applicable codes. She said the Fire Chief found that the property presents an extreme fire hazard for responding firefighters and emergency personnel and recommends that the property be cleaned, the structure be demolished or secured, and the weeds be removed.

0:56:20 **MOTION**

The motion was made by Councilor Forrest and seconded by Councilor Chavez to approve of Resolution 2023-50, a Resolution requiring the removal of the trash, debris and weeds at 911 N Richard St and to secure the structure Owner: Pleasant Carl Watson c/o Carla Wales.

0:56:26 **VOTE**

The vote was as follows: Yes - Carter, Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores, Chavez, Waters; No - None; Absent - None; the motion carried.

0:56:42 **11. CONSIDER APPROVAL OF RESOLUTION 2023-51, A RESOLUTION REQUIRING THE REMOVAL OF THE TRASH, DEBRIS AND WEEDS AT 607 WELSHIRE ST AND TO SECURE THE STRUCTURE OWNER: ROGELIO BALDERRAMA**

Mrs. Madrid-Boyea said this Resolution involves property located at 607 Welshire Street in a residential neighborhood. She said there appears to be a residential structure on the property and trash, debris, and weeds. She said the Eddy County Assessor's Office lists Rogelio Balderrama as owning or having an interest in the property. She said Code Enforcement has been to the property, the structure is abandoned and unsecured and there are weeds, trash and debris throughout the property. She said a Notice of Violation was mailed to the owner on October 5, 2021 and the owner signed the receipt. She said a second Notice of Violation was mailed on April 13, 2023 with no response. **Mrs. Madrid-Boyea** said the property was inspected by Code Enforcement and the Fire Chief, and they found that the property remains out of compliance with applicable codes. She said the Fire Chief recommends that the property be cleaned, the structure be demolished or secured, and the weeds be removed.

0:58:50 **MOTION**

The motion was made by Councilor Anaya-Flores and seconded by Councilor Niemeier to approve of Resolution 2023-51, a Resolution requiring the removal of the trash, debris and weeds at 607 Welshire St and to secure the structure Owner: Rogelio Balderrama.

0:58:56 **VOTE**

The vote was as follows: Yes - Carter, Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores, Chavez, Waters; No - None; Absent - None; the motion carried.

0:59:11 **12. CONSIDER APPROVAL OF RESOLUTION 2023-52, A RESOLUTION REQUIRING THE REMOVAL OF THE TRASH, DEBRIS AND WEEDS AT 1005 N MESA OWNER: ROY WILKINSON**

Mrs. Madrid-Boyea said this Resolution involves property located at 1005 N Mesa Street in a residential neighborhood. She said there appears to be a residential structure on the property and some trash, debris, and weeds. She said the Eddy County Assessor's Office lists Roy Wilkinson as owning or having an interest in the property. She said the structure is occupied and secured and there are weeds trash and debris throughout the property. She said there are complaints of trash and debris in the alley. She said a Notice of Violation was mailed to the owner on February 28, 2023 with no response and a second Notice of Violation was mailed on July 17, 2023 which was unclaimed. **Mrs. Madrid-Boyea** said the property was inspected by Code Enforcement and the Fire Chief, and they found that the property remains out of compliance. She said the Fire Chief found that the property presents an extreme fire hazard for responding firefighters and emergency personnel and recommends that all trash and debris be removed from the property.

1:01:23 **MOTION**

The motion was made by Councilor Chavez and seconded by Councilor Walterscheid to approve of Resolution 2023-52, a Resolution requiring the removal of the trash, debris and weeds at 1005 N Mesa Owner: Roy Wilkinson.

1:01:29 **VOTE**

The vote was as follows: Yes - Carter, Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores, Chavez, Waters; No - None; Absent - None; the motion carried.

1:01:44 **13. ADJOURN**

1:01:45 **MOTION**

The motion was made by Councilor Anaya-Flores and seconded by Councilor Waters to adjourn.

1:01:51 **VOTE**

The vote was as follows: Yes - Carter, Rodriguez, Forrest, Niemeier, Walterscheid, Anaya-Flores, Chavez, Waters; No - None; Absent - None; the motion carried.

1:02:03 **Adjourn**

There being no further business, the meeting was adjourned at 5:02 p.m.

Dale Janway, Mayor

ATTEST:

Nadine Mireles, City Clerk

CITY OF CARLSBAD
PERSONNEL REPORT

September 12, 2023

APPOINTMENTS:

<u>NAME</u>	<u>DATE</u>	<u>DEPARTMENT</u>	<u>CLASSIFICATION</u>
Alexia Jones	09/13/23	Library	BPA Intern
Benjamin Morris	09/13/23	Solid Waste	ARC Driver
Eric Reynolds	09/13/23	Solid Waste	ARC Driver
Susan Soules	09/13/23	Museum	Museum Attendant

TERMINATIONS:

<u>NAME</u>	<u>DATE</u>	<u>DEPARTMENT</u>	<u>CLASSIFICATION</u>	<u>REASON</u>
Hasana Akinloye	08/27/23	Riverwalk	Recreation Attendant, on-call	Resigned
Paula Crabb-Ramirez	08/23/23	Library	Information Librarian, on-call	Resigned
Jeremyah Dominguez	08/18/23	Riverwalk	Recreation Attendant, seasonal	Resigned
Leonel Jaquez	08/28/23	Planning	Code Enforcement Officer	Resigned
Alvino Lopez	08/06/23	Garage	Welder	Resigned
Ty Molina	08/04/23	Sports Complex	Seasonal Laborer	Resigned
Marcus Najera	08/06/23	Parks	Seasonal Laborer	Resigned
Eileen Pena	09/03/23	Municipal Court	Court Clerk	Resigned
Camden Petrie	08/29/23	Fire	Firefighter Rookie/EMT-B	Resigned
Michael Wrease	08/29/23	Fire	Firefighter Rookie/EMT-B	Declined job offer

INTERNAL TRANSFERS AND PROMOTIONS:

<u>NAME</u>	<u>DATE</u>	<u>DEPARTMENT</u>	<u>CLASSIFICATION</u>
Christian Bannister	08/07/23	Finance	Account Clerk 2
Joseph Short	08/21/23	Fire	Master Mechanic

CITY OF CARLSBAD

RECOMMENDATION FOR EMPLOYMENT

Dale Janway, Mayor

John Lowe, City Administrator

TO: The Honorable Mayor Dale Janway & Members of the City Council

FROM: Angelica Barrios Testa, Director of Municipal Services



Digitally signed by Angelica Barrios-Testa
DN: cn=Angelica Barrios-Testa, o=City of
Carlsbad, ou=MS,
email=abarrios@cityofcarlsbadn.com,
c=US
Date: 2023.08.30 16:59:54 -0500

SUBJECT: Recommendation for Employment

DATE: August 30, 2023

The following applicant has met all pre-employment requirements and is hereby recommended for employment with the City of Carlsbad subject to a pre-hire medical examination:

General Information:

Name: Alexia Jones Classification/Position: BPA Student Intern

Department: Library

- | | | |
|---|---|---|
| <input type="checkbox"/> Regular | <input type="checkbox"/> Full-time | <input checked="" type="checkbox"/> Hourly \$ <u>12.84</u> per hour |
| <input type="checkbox"/> Seasonal | <input checked="" type="checkbox"/> Part-time | <input type="checkbox"/> Salary \$ _____ per annum |
| <input checked="" type="checkbox"/> Temporary | <input type="checkbox"/> On call | |

Education Level:

- | | |
|---|--|
| <input type="checkbox"/> High School Diploma | <input type="checkbox"/> GED or equivalent |
| <input type="checkbox"/> Associates Degree _____ | |
| <input type="checkbox"/> Bachelors Degree _____ | |
| <input type="checkbox"/> Masters Degree _____ | |
| <input checked="" type="checkbox"/> Other <u>Currently a Junior at the Carlsbad Early College High School</u> | |

Employment:

Present or last Employer: Beckie Thompson- Bob Forest Sports Complex

From 2023 to 2023 Classification: Food Service Worker

Duties: Make drinks and food for sports watchers.

Related Experience: Alexia is a loyal library patron who has a love for books and knows the library system.

Comments: Alexia has a love of libraries and wants to work in the publishing world after high school. This would be a good internship to help her down the road.

CITY OF CARLSBAD

RECOMMENDATION FOR EMPLOYMENT

Dale Janway, Mayor

John Lowe, City Administrator

TO: The Honorable Mayor Dale Janway & Members of the City Council

FROM: Ivan M Abell, Director of Utilities [Signature]

SUBJECT: Recommendation for Employment

DATE: August 28, 2023

The following applicant has met all pre-employment requirements and is hereby recommended for employment with the City of Carlsbad subject to a pre-hire medical examination:

General Information:

Name: Benjamin Anthony Morris Classification/Position: ARC Driver

Department: Solid Waste

- Regular Full-time Hourly \$25.76 per hour
Seasonal Part-time Salary \$ per annum
Temporary On call

Education Level:

- High School Diploma GED or equivalent
Associates Degree
Bachelors Degree
Masters Degree
Other

Employment:

Present or last Employer: Southwest Transport

From April 2010 to current Classification: Heavy Haul Driver

Duties: Haul heavy equipment.

Related Experience: Class A CDL, Doubles/Triples Hazmat, Tanker, NCCCO Certified Crane Operator

Comments:

CITY OF CARLSBAD

RECOMMENDATION FOR EMPLOYMENT

Dale Janway, Mayor

John Lowe, City Administrator

TO: The Honorable Mayor Dale Janway & Members of the City Council

FROM: Ivan M Abell, Director of Utilities

[Signature]

RIGHT TO WORK ACT
BY: CHAIRMAN JOHN GUNZ
DATE: 08/20/2013
TITLE: 118.00000000000000
PUB. NO. 118.00000000000000
PUB. FOR ESTABLISHMENT: 118.00000000000000

SUBJECT: Recommendation for Employment

DATE: August 29, 2023

The following applicant has met all pre-employment requirements and is hereby recommended for employment with the City of Carlsbad subject to a pre-hire medical examination:

General Information:

Name: Eric S. Reynolds Classification/Position: ARC Driver

Department: Solid Waste

- Regular Full-time Hourly \$25.76 per hour
Seasonal Part-time Salary \$ per annum
Temporary On call

Education Level:

- High School Diploma GED or equivalent
Associates Degree
Bachelors Degree
Masters Degree
Other

Employment:

Present or last Employer: Senergy Petroleum

From April 2023 to current Classification: Fuel Transport Driver

Duties: Load/off load fuel, oil lubricants

Related Experience:

Comments:

CITY OF CARLSBAD

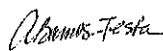
RECOMMENDATION FOR EMPLOYMENT

Dale Janway, Mayor

John Lowe, City Administrator

TO: The Honorable Mayor Dale Janway & Members of the City Council

FROM: Angie Barrios-Testa, Director of Municipal Services



Digitally signed by Angie Barrios-Testa
DN: cn=Angie Barrios-Testa, o=City of
Carlsbad, ou=MS,
email=abarrios@cityofcarlsbad.com,
c=US
Date: 2023.08.22 16:04:21 -0600

SUBJECT: Recommendation for Employment

DATE: August 21, 2023

The following applicant has met all pre-employment requirements and is hereby recommended for employment with the City of Carlsbad subject to a pre-hire medical examination:

General Information:

Name: Susan Soules Classification/Position: Museum Attendant

Department: Museum

- | | | |
|---|---|---|
| <input checked="" type="checkbox"/> Regular | <input type="checkbox"/> Full-time | <input checked="" type="checkbox"/> Hourly \$ <u>21.08</u> per hour |
| <input type="checkbox"/> Seasonal | <input checked="" type="checkbox"/> Part-time | <input type="checkbox"/> Salary \$ _____ per annum |
| <input type="checkbox"/> Temporary | <input type="checkbox"/> On call | |

Education Level:

- | | |
|---|--|
| <input checked="" type="checkbox"/> High School Diploma | <input type="checkbox"/> GED or equivalent |
| <input type="checkbox"/> Associates Degree _____ | |
| <input type="checkbox"/> Bachelors Degree _____ | |
| <input type="checkbox"/> Masters Degree _____ | |
| <input type="checkbox"/> Other _____ | |

Employment:

Present or last Employer: Carlsbad Caverns Trading Company

From 04/2021 to Present Classification: Cafe lead

Duties: Safe cooking, preparing, and handling of food products. running the cash register. Helped out in the gift shop and underground lunchroom as needed.

Related Experience: Susan has a lot of customer service experience. In addition to her previous jobs, she volunteers for the Carlsbad Caverns for various outreach programs. This outreach experience will benefit Susan in interacting with museum patrons and programming.

Comments: Susan has the relevant customer service experience, skills, and personality to be a productive museum attendant. Susan will be a beneficial addition to the Carlsbad Museum team.

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM
PURCHASING RECOMMENDATION

Council Meeting Date: 9/12/2023

Department: Facility Maintenance	BY: Matt Fletcher, CPO	Date: 9/06/2023
SUBJECT: Services Description: Request to Solicit Bids for a 16 foot drop deck trailer		

MSU bid 9/10/23

SYNOPSIS:	Qty <u>1</u>	Total Est. Cost	<u>\$ 27,600.00</u>	Total Actual Cost	_____
	Budgeted Yes	Est. City Share	<u>\$ 27,600.00</u>	Actual City Share	_____
	Account # <u>100905</u>		<u>\$ 27,600.00</u>		
	Account # _____		_____		
	Account # _____		_____		
	Account # _____		_____		
		TOTAL	<u>\$ 27,600.00</u>		

BACKGROUND, JUSTIFICATION AND IMPACT: (Safety and Welfare/Financial/Personnel/Infrastructure/etc.)

The City of Carlsbad desires to purchase an air-tow drop deck trailer that will be used to haul various heavy equipment and mobile staging used at City events throughout the year.

Initial cost estimates indicate that the trailer will be in excess of the City's bidding threshold of \$20,000. Therefore the City is required to conduct a formal sealed bid.

The City requests authorization to conduct a sealed bid for the drop deck trailer.

Requested action to be taken by Council: Advertise Invitation for Bid	Council Action Taken: Select one	Date:
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Reviewed by City Administrator: /s/John Lowe 09/07/2023

POST BID/RFP RECOMMENDATION	Council Meeting Date:
Requested action to be taken by Council: Other:	Council Action Taken: Select one
Date:	
ADDITIONAL INFORMATION:	
Reviewed by City Administrator:	

ATTACHMENT(S): Specifications Bid/RFP Summary Other: _____

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM
PURCHASING RECOMMENDATION

Council Meeting Date: 9/12/2023

Department: Riverwalk Rec Center	BY: Matt Fletcher, CPO	Date: 9/6/2023
-------------------------------------	---------------------------	-------------------

*M. Salcido
9/12/23*

SUBJECT: Equipment and Services
Description:

Reject and Re-Bid HVAC Replacement for the Riverwalk Recreation Center

SYNOPSIS:	Qty <u>1</u>	Total Est. Cost	<u>\$ 645,731.28</u>	Total Actual Cost	<u>\$ 1,853,469.00</u>
Budgeted Yes		Est. City Share	<u>\$ 645,731.28</u>	Actual City Share	<u>\$ 1,853,469.00</u>
Account #	<u>100752</u>		<u>\$ 645,731.28</u>		
Account #	<u>100936</u>		<u>\$ 750,000.00</u>		
Account #	<u> </u>		<u> </u>		
Account #	<u> </u>		<u> </u>		
		TOTAL	<u>\$ 1,395,731.28</u>		

BACKGROUND, JUSTIFICATION AND IMPACT: (Safety and Welfare/Financial/Personnel/Infrastructure/etc.)

The City of Carlsbad conducted a sealed bid to upgrade the HVAC system at the Riverwalk Recreation Center in order to replace the existing swamp coolers.

The project will include removal and replacement of HVAC systems of select areas of the ground floor, electrical service upgrade, a new fire alarm system and architectural work on the second floor.

The bid also included three bid alternates to: 1) remove existing HVAC units and install new units and all associated work on the second floor, 2) remove and install new units in the Power House and 3) remove and install new units in the mezzanine and second floor areas.

Only one bid was received from Greer Construction. Given that the bid is over budget, the City recommends rejecting the bid received and re-bidding the project at a later date with a revised scope of work.

Requested action to be taken by Council: Select one	Council Action Taken: Select one	Date:
---	--	--------------

Reviewed by City Administrator:

POST BID/RFP RECOMMENDATION **Council Meeting Date:**

Requested action to be taken by Council: Reject and Rebid Bid Number 2023-08	Council Action Taken: Select one	Date:
---	--	--------------

ADDITIONAL INFORMATION:

Reviewed by City Administrator: /s/John Lowe 09/07/2023

ATTACHMENT(S): Specifications Bid/RFP Summary Other: _____

August 28, 2023

K.C. Cass
City of Carlsbad
101 N. Halagueno
Carlsbad, NM 88220

RE: Replacement of the HVAC Systems at the Riverwalk Rec Center

(City Bid no. 2023-08)

There were two bidders who turned in a Form of Proposal on this project, however one of the bids was deemed non-responsive thus making Greer Construction, Inc. the sole qualified bidder. The scope of work as per the working documents is as follows:

Base Bid – Ground Floor: Remove and replace HVAC systems of select areas of the Ground Floor; electrical service upgrade; new fire alarm system for the entire building; and architectural work on the second floor.

Add Alternate #1 - Second Floor: Remove existing HVAC units and install new HVAC units and all associated work in the second floor Gymnasium area.

Add Alternate #2 – Power House: Remove existing HVAC units and install new HVAC units and all associated work in the Power House.

Add Alternate #3 – Mezzanine/Second floors: Remove existing HVAC units and install new HVAC units and all associated work in select Mezzanine & Second floor areas.

Unit Prices for Window Replacement: Remove and replace select translucent insulated windows.

Greer's *base bid* was \$1,853,469.00. *Alternate #1* bid was \$581,699.00; *Alternate #2* bid was \$316,531.00; and *Alternate #3* bid was \$257,583.00. As for unit prices, small windows were listed at \$735.00 per unit and large windows were listed at \$1,236 per unit. All bids included sales tax. Given the base bid exceeds the budget, we recommend that the proposal(s) be *rejected* such that the drawings could be revised and re-bid at a later date. If you have any questions, please call.

Thank you,



Larry Mitchell
Mitchell & Cruse Architecture, LLC

Enclosure:

Bid Tabulation
Contractor's Proposal

c.c.: Angie Barrios-Testa
Matthew Fletcher

**City of Carlsbad
Personnel Department**

**Action Report
Month of August 2023**

City of Carlsbad
 Personnel Department Action Report
 Month of August 2023

EMPLOYEE REPORT	Beginning of Month	New Hires	Terminations	Transfers In	Transfers Out	End of Month
Full-Time Employees	425	0	5	1	0	421
Part-Time/Temp Employees	75	3	17	0	1	60
Total Employees	500	3	22	1	1	481
Administrative	20	0	0	0	0	20
Judicial	8	0	0	0	0	8
Finance	16	2	0	0	0	18
Police	103	0	0	0	0	103
Fire	61	0	3	1	0	59
Community Development	119	1	16	0	0	104
Planning & Regulation	13	0	1	0	0	12
Utilities	74	0	0	0	0	74
Transportation & Facilities	86	0	2	0	1	83
TOTAL	500	3	22	1	1	481

WEEKLY INDEMNITY	Beginning of Month	New Claims	Released To Work	Terminated	End of Month
Employees on WI	3	2	0	0	5

UNEMPLOYMENT CLAIMS	Claims Received	Claims Returned	Claims Denied	Claims Approved	Claims Pending	Claims Appealed
Current Month	0	0	0	0	0	0

DRUG TESTS	Number Given
Pre-employment	10
Probationary	0
Post Accident	14
Random	0
Periodic	0
Probable Cause	0

PHYSICAL EXAMINATIONS	Number Given
Pre-employment	11
Return to Work Evaluation	0
Functional Capacity Evaluation	0

TESTING	Number Given
None	

VACANCIES BID	Department
Custodian	Facility Maintenance
Master Mechanic	PFA Garage

VACANCIES ADVERTISED	Applications Received
Animal Control Officer	Pending
Custodian	Pending
Electrical Inspector	2
Electrician	Pending
Firefighter/EMT	Pending
Heavy Equipment Operator	Pending
Information Specialist	Pending
Master Mechanic	Pending
Museum Attendant	Pending
Patrolman	Pending
Seasonal Recreation Attendant	Pending
Transit Driver, on-call	Pending
Vactor Operator	16



CITY OF CARLSBAD

FY 2022 - 2023

DEPARTMENT OF UTILITIES

JULY 2023

Ivan M. Abell, Director of Utilities

ENVIRONMENTAL SERVICES REPORT

JULY 2023

Environmental Services:	Current Month	Previous Month	Calendar Year to Date
State and Federal Environmental Violations by City	0	0	0
Environmental Assessments (CDBG, P&Z, Drilling)	0	0	0
Environmental Compliance Inspections	0	0	0
Criminal Complaints Filed	0	0	0
Environmental Projects or Programs	0	0	1
Grease Interceptors Inspections	0	0	0

Laboratory:	Current Month	Previous Month	Calendar Year to Date
Municipal Water Sampling/Analysis:			
Wellfield Chemical Characteristic Analysis	48	38	307
Partial Wellfield Chemical Characteristics	38	28	237
Monitoring Wells Chemical Analysis	3	5	20
Total Coliform Analysis	40	40	280
Fecal Coliform Analysis	0	0	0
Chlorine Residual Tests (DE)	21	22	150
Special Chemicals (BTEX, Ammonia, Nitrite)	0	0	0

Municipal Wastewater Sampling/Analysis (Reads):	Current Month	Previous Month	Calendar Year to Date
Chemical Oxygen Demand Tests	0	0	0
Biochemical Oxygen Demand	12	12	90
Total Suspended Solids Tests	12	12	90
Volatile Alkalinity Tests	0	0	0
E-Coli on Effluent	12	12	90
Metals/TCLP/PCB/M2 Sampling on Sludge	0	0	0
Fecal Coliform Analysis on Sludge (Compost)	2	0	2
Effluent Chemical Characteristic Analysis	1	1	7

DMR Bench Sheet:	Current Month	Previous Month	Calendar Year to Date
Influent BOD Avg. (Lbs.)	6,700	7,175	46,781
Effluent BOD Avg. (Lbs.)	13.74	26	863
BOD Removal (%)	99.79	100	686
Influent TSS Avg. (Lbs.)	7,933	10,169	52,424
Effluent TSS Avg. (Lbs.)	16.64	26	593
TSS Removal (%)	99.79	100	690

ENVIRONMENTAL SERVICES REPORT

JULY 2023

Private Well Analysis:	Current Month	Previous Month	Calendar Year to Date
Total Coliform Analysis	46	40	287
Total Coliform Analysis (Construction)	0	0	4
Number of Positives for Confirmation	3	1	5
Chemical Characteristics Analysis	0	0	2
Environment Department Mediated Tests	0	0	0
Lake Carlsbad E-Coli Analysis Performed	24	30	65
Lake Carlsbad Beach Closures Due to Bacterial Count	0	0	0

Golf Course (Reclaimed) Water Analysis (NMED Groundwater Discharge Permit):	Current Month	Previous Month	Calendar Year to Date
Nitrate	4	5	30
Total Kjeldahl Nitrogen	0	0	0
Total Dissolved Solids	1	1	7
E-Coli Analysis	12	12	87
Chemical Characteristics	0	0	0
Other NMED-Required Testing (Chlorides, etc.)	1	1	7

Remarks:



Digitally signed by Richard Aguilar
 DN: cn=Richard Aguilar, o=City of Carlsbad,
 ou=Env Services Lab,
 email=raguilar@cityofcarlsbadnm.com, c=US
 Date: 2023.08.07 09:34:39 -06'00'

Richard Aguilar,
Environmental Srvs. Superintendent

Solid Waste Department Summary

July 2023

	<u>This Month</u>	<u>Previous Month</u>	<u>Last Year</u>	<u>Calendar Year to Date</u>
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Garbage Collection (ARC)

Number of ARC Trucks in Operation	17 Of 22	16 Of 22	18 of 18	
Tons Collected and Delivered to Landfill	2,130.92	2,208.23	2595.31	14,915.34
Number of Trips to Landfill	295	309	335	2084

Residential and Commercial Services

Number of Residential Services	10,095	10315	10095	10095
Number of Commercial Services	989	992	989	989
Number of New Residential Services	11	11	11	220
Number of New Commercial Services	4	3	4	44

Container Maintenance

Number of 3 CuYard Containers Repaired	42	35	172	201
Number of 3 CuYard Containers Replaced	10	19	22	63
Number of 1.5 CuYard Containers Repaired	0	0	2	2
Number of 1.5 CuYard Containers Replaced	0	0	1	2
Number of 96 gallon Containers Repaired	115	102	32	599
Number of 96 gallon Containers Replaced	103	119	104	258
Number of 96 gallon Lids Replaced	23	33	87	243
Number of 96 gallon Wheels Replaced	92	69	76	356
Number of 1.5 CuYard Lids Repaired	0	3	2	4
Number of 3 CuYard Lids Repaired	12	5	90	32
Number of New 96 Gallon Roll-outs	103	127	119	246

Trash/Yard Waste Residential Collection (Grappler)

Number of Trucks in Operation	4 Of 7	3 of 7	4 of 5	
Tons of Trash Delivered to Landfill	165.46	132.54	250.65	1,272.43
Number of Trips to Landfill	55	50	60	422
Green Waste Collected and Delivered to WWTP (TONS)	0.00	0	0	0.00
Number of trips to WWTP	0	0	0	0

Solid Waste Department Summary

July 2023

This Month Previous Month Last Year Calendar
Year to Date

Sandpoint Landfill Operation

Waste Received from Carlsbad (Tons)	4,441.63	4,241.56	4,977.61	32,082.64
Waste Received from Artesia (Tons)	1,955.53	1,993.28	2,366.87	15,738.06
Waste Received from Eddy County (Tons)	3,028.38	3,227.40	3,899.27	23,173.49
Waste Received from Others (Tons)	137.47	192.11	460.31	974.65
Tipping Fees received at Gate	\$3,576.11	\$4,342.10	6,444.55	\$44,026.76
Tipping fees Billed	\$95,769.54	\$104,332.45	89,605.96	\$779,813.06
Solid Waste Facility Permit Violations	0	0	0.00	0


Convenience Station

Tons of Trash Collected and Delivered to Landfill	401.20	442.62	1,348.02	3,460.97
CuYards of Glass	0.00	0.00	0.00	0.00
Tons of Metal	30.14	19.93	30.14	126.99
Green Waste Collected and Delivered to WWTP (TONS)	0.00	0.00	0.00	0.00
Number of trips to WWTP	0	0	0.00	0

Roll Off Rentals

Fees Billed	\$29,283.00	\$30,072.00	27,584.16	\$229,333.83
Tons of Refuse Collected and Delivered to Landfill	191.13	191.13	221.83	1,651.53
No. of 40 CuYard Containers Rented	0	0.00	0.00	0.00
No. of 30 CuYard Containers Rented	47	53.00	47.00	369.00
No. of 25 CuYard Containers Rented	0	0.00	0.00	0.00
No. of 15 CuYard Containers Rented	0	0.00	0.00	1.00

REMARKS:


 Albert Moisa, Solid Waste Superintendent
 8-8-2023

 Date

Carlsbad Municipal Water System Report

Jul-23

Acre Ft.

Production Figures:

This Month **Previous Month** **Year to Date**

Pumped from Sheep's Draw (Ac. Ft.)	1232.41	1,079.94	5181.53
Water Imported from Double Eagle (Ac. Ft.)	50.26	33.32	503.85
Water delivered to Livestock (Ac. Ft.)	0.77	0.45	2.82
Water Sold to Apartments (Ac. Ft.)	16.41	14.19	86.64
Water Sold to Commercial Accounts (Ac. Ft.)	223.72	181.99	1012.19
Water Sold to Government Accounts (Ac. Ft.)	87.98	68.76	295.41
Water Sold to Industrial Accounts (Ac.Ft.)	0.17	0.21	0.74
Water Sold to Residential Accounts (Ac.Ft.)	896.31	645.62	3297.30
Record Only Accounts (Ac.Ft.)	2.23	2.47	8.80
Water Sold to Semi-Commercial Accounts (Ac.Ft.)	25.40	21.08	105.57
Safe Drinking Water Act Violations	0	0	0

Wells:

Number in Operation (Sheep's Draw) **	8/9	9/9	
KWH Consumed	972,240	879,040	4,178,040
Capitan Aquifer Level (Ft. from Surface @ #6)	393.50	393.50	
Number of New Water Services Installed	10	20	79

Meters:

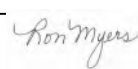
Total in Service	12,706	12,676	
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Fire Hydrants:

In Service	879	879	
Out of Service	1	1	
Repaired	0	0	13

Remarks:

City Line Locates - 175
DE Line Locates - 50
** Well 9 is down



Digitally signed by Ron Myers
 DN: cn=Ron Myers, o=City of Carlsbad, ou=Water Department, email=rm@cityofcarlsbad.com, c=US
 Reason: I have reviewed this document
 Location:
 Date: 2023.08.07 06:41:08-0600
 Foxit PDF Editor Version: 12.0.1

Ron Myers, Superintendent

CARLSBAD WATER SYSTEM WELL OPERATION Jul-23

WELL	POWER CONSUMPTION X 400			WATER PRODUCTION X 1000				ENGINE HOUR CLOCK			WATER LEVELS			
	CURRENT MONTH	LAST MONTH	KWH CONSUMED	CURRENT MONTH	LAST MONTH	GALLONS PUMPED	ACRE FEET	CURRENT MONTH	LAST MONTH	HOURS RUN	GPM	STATIC	PUMPED per Hour Meter (gal)	gal/kwh
1	6133	5996	54,800	52,325	28,525	23,800,000	73.04	543.1	305.3	237.8	1,750		24,969,000	525
2	2358	2316	16,800	31,210	24,951	6,259,000	19.21	12430.1	12335.9	94.2	1,200		6,782,400	420
3	6293	6061	92,800	557,827	523,247	34,580,000	106.12	38942.8	38571.6	371.2	1,600		35,635,200	375
4	22840	22629	84,400	768,518	736,794	31,724,000	97.36	53611.3	53299.5	311.8	1,750		32,739,000	257
5	20995	20536	183,600	1,371,039	1,291,918	79,121,000	242.81	63916.1	63277.5	638.6	1,200		45,979,200	348
6	39087	37968	179,040	1,085,838	1,010,001	75,837,000	232.74		0	450.2	2,800		75,633,600	421
7	36841	36332	203,600	627,714	540,052	87,662,000	269.03	5962.2	5209.3	752.9	1,950		88,089,300	424
8	35146	34760	154,400	548,180	485,581	62,599,000	192.11	14710.1	13960.7	749.4	1,350		60,701,400	389
9	12878	12871	2,800	613,952	613,952	0	0.00		0		1,600		0	324
10														
TOTAL KWH CONSUMED			972,240	TOTAL PUMPED		401,582,000	1,232.41	TOTAL HOURS RUN		3,606.1	OIL		TOTAL CHLORINE USED	
											73.5		2,252	
Reservoir No. 4 Meter			Total Gallons Pumped Comparison				Total Rainfall			Notes				
Inlet This Month X 1000		4,608,903		THIS MONTH		401,582,000	1,232.41	0.3			Wells #4 and #5 on State Trust Land			
				LAST YEAR, SAME MONTH		303,830,000	932.42							
Inlet Last Month X 1000		4,204,234		DIFFERENCE		97,752,000	299.99							
Total Inlet		404,669,000		* corrected										

**MUNICIPAL WATER SYSTEM
WATER RIGHTS PUMPED (C-76)
ACRE FEET**

(9867 Acre Ft. Available Per Year)

YEAR	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL
2002	297.16	268.70	440.91	704.96	958.06	1,066.88	1,341.56	1,074.79	774.52	485.05	280.99	155.99	7849.57
2003	270.84	203.99	505.94	1,064.03	1,206.94	1,122.78	1,343.98	1,076.39	775.41	685.53	305.27	409.57	8970.67
2004	385.42	439.36	489.06	680.19	948.71	1,063.84	1,068.05	798.52	772.40	451.14	364.15	414.64	7875.48
2005	332.30	318.24	425.71	655.91	878.61	1,123.12	1,338.81	773.36	830.12	609.54	478.07	445.90	8209.69
2006	395.24	416.50	606.61	799.07	1,145.49	1,165.26	1,141.96	699.68	536.40	574.84	453.79	372.30	8307.14
2007	386.96	350.66	480.44	665.57	629.51	1,062.65	841.31	964.52	740.42	672.37	485.02	446.90	7726.33
2008	452.24	668.55	705.92	934.92	1,060.06	1,454.74	1,040.96	900.29	768.43	684.45	505.09	456.16	9631.81
2009	458.70	519.36	694.55	871.85	1,095.02	1,202.19	951.06	980.82	809.14	666.16	529.67	420.61	9199.13
2010	422.56	352.26	539.69	327.39	1,150.19	1,219.15	848.31	1,057.28	738.68	677.68	503.09	461.84	8298.12
2011	474.73	536.44	800.88	973.90	1,238.89	1,355.98	1,423.54	1,226.62	886.11	776.71	540.43	454.95	10689.18
2012	466.85	431.44	701.69	810.10	828.11	1,185.27	901.47	1,013.28	806.85	652.17	480.34	461.15	8738.72
2013	423.91	412.36	633.53	822.91	947.12	1,047.09	800.86	925.05	727.29	611.46	451.84	377.93	8,181.35
2014	388.31	383.82	557.69	701.51	872.84	1,031.98	1,122.07	893.82	552.90	541.69	414.16	391.00	7,851.79
2015	428.54	369.38	490.96	711.13	732.60	903.17	919.01	994.43	789.98	522.56	432.59	418.96	7,713.31
2016	408.24	364.58	449.03	573.56	672.93	921.77	1,157.49	791.59	541.42	587.72	443.39	442.94	7,354.66
2017	394.41	415.24	615.73	768.14	921.14	883.20	1,007.00	726.66	715.10	536.59	482.95	484.39	7,950.55
2018	484.78	402.92	640.20	750.65	991.56	1,023.15	954.69	853.04	684.90	530.89	386.73	404.76	8,108.27
2019	392.03	408.30	501.88	712.74	920.31	919.36	931.82	860.57	880.60	570.04	425.02	400.18	7,922.85
2020	424.96	402.62	508.41	896.76	983.81	1,161.49	1,242.85	1,055.78	1,045.26	625.06	411.27	463.48	9,221.75
2021	368.52	418.64	712.43	726.13	809.60	837.98	793.40	764.24	715.36	652.05	455.84	403.35	7,657.54
2022	336.78	376.58	515.94	882.91	973.98	975.97	1,147.87	848.51	773.62	493.31	404.67	435.85	8,165.99
2023	330.74	313.20	484.97	823.91	916.36	1,079.94	1,232.41						5,181.53

Sheep Draw Water Pumped - Acre Feet 9867 Acre Feet Available Per Year

Difference

	January	February	March	April	May	June	July	August	September	October	November	December	Total	
													9867	
1999	259.97	275.11	485.12	694.64	798.54	839.80	903.86	1,102.11	751.40	534.43	395.59	253.70	7,294.27	2,572.73
Total		535.08	1,020.20	1,714.84	2,513.38	3,353.18	4,257.04	5,359.15	6,110.55	6,644.98	7,040.57	7,294.27		
2000	303.85	377.05	592.71	710.82	1,063.12	1,168.66	1,072.41	1,134.64	886.90	487.13	260.33	278.46	8,336.08	1,530.92
Total		680.90	1,273.61	1,984.43	3,047.55	4,216.21	5,288.62	6,423.26	7,310.16	7,797.29	8,057.62	8,336.08		
2001	379.10	340.60	389.50	714.80	1,129.68	1,083.53	1,341.71	1,074.96	612.54	662.35	356.80	276.27	8,361.84	1,505.16
Total		719.70	1,109.20	1,824.00	2,953.68	4,037.21	5,378.92	6,453.88	7,066.42	7,728.77	8,085.57	8,361.84		
2002	297.16	268.70	440.91	704.96	958.06	1,066.88	1,341.56	1,074.79	774.52	485.05	280.99	155.99	7,849.57	2,017.43
Total		565.86	1,006.77	1,711.73	2,669.79	3,736.67	5,078.23	6,153.02	6,927.54	7,412.59	7,693.58	7,849.57		
2003	270.84	203.99	505.94	1,064.03	1,206.94	1,122.78	1,343.98	1,076.39	775.41	685.53	305.27	409.57	8,970.67	896.33
Total		474.83	980.77	2,044.80	3,251.74	4,374.52	5,718.50	6,794.89	7,570.30	8,255.83	8,561.10	8,970.67		
2004	385.42	439.36	489.06	680.19	948.71	1,063.84	1,068.05	798.52	772.40	451.14	364.15	414.64	7,875.48	1,991.52
Total		824.78	1,313.84	1,994.03	2,942.74	4,006.58	5,074.63	5,873.15	6,645.55	7,096.69	7,460.84	7,875.48		
2005	332.30	318.24	425.71	655.91	878.61	1,123.12	1,338.81	773.36	830.12	609.54	478.07	445.90	8,209.69	1,657.31
Total		650.54	1,076.25	1,732.16	2,610.77	3,733.89	5,072.70	5,846.06	6,676.18	7,285.72	7,763.79	8,209.69		
2006	395.24	416.50	606.61	799.07	1,145.49	1,165.26	1,141.96	699.68	536.40	574.84	453.79	372.30	8,307.14	1,559.86
Total		811.74	1,418.35	2,217.42	3,362.91	4,528.17	5,670.13	6,369.81	6,906.21	7,481.05	7,934.84	8,307.14		
2007	386.96	350.66	480.44	665.57	629.51	1,062.65	841.31	964.52	740.42	672.37	485.02	446.90	7,726.33	2,140.67
Total		737.62	1,218.06	1,883.63	2,513.14	3,575.79	4,417.10	5,381.62	6,122.04	6,794.41	7,279.43	7,726.33		
2008	452.24	668.55	705.91	934.92	1,060.06	1,454.74	1,040.96	900.29	768.43	684.45	505.09	456.16	9,631.80	235.20
Total		1,120.79	1,826.70	2,761.62	3,821.68	5,276.42	6,317.38	7,217.67	7,986.10	8,670.55	9,175.64	9,631.80		
2009	458.70	519.36	694.55	871.85	1,095.02	1,202.19	951.06	980.82	809.14	666.16	529.67	420.61	9,199.13	667.87
Total		978.06	1,672.61	2,544.46	3,639.48	4,841.67	5,792.73	6,773.55	7,582.69	8,248.85	8,778.52	9,199.13		

Sheep Draw Water Pumped - Acre Feet 9867 Acre Feet Available Per Year

Difference

	January	February	March	April	May	June	July	August	September	October	November	December	Total	
														9,867.00
2011	474.73	536.44	800.88	973.90	1,238.89	1,355.98	1,423.54	1,226.62	886.11	776.71	540.43	454.95	10,689.18	-822.18
Total		1,011.17	1,812.05	2,785.95	4,024.84	5,380.82	6,804.36	8,030.98	8,917.09	9,693.80	10,234.23	10,689.18		
2012	466.85	431.44	701.69	810.10	828.11	1,185.27	901.47	1,013.28	806.85	652.17	480.34	461.15	8,738.72	1,128.28
Total		898.29	1,599.98	2,410.08	3,238.19	4,423.46	5,324.93	6,338.21	7,145.06	7,797.23	8,277.57	8,738.72		
2013	423.91	412.36	633.53	822.91	947.12	1,047.09	800.86	925.05	727.29	611.46	451.84	377.93	8,181.35	1,685.65
Total		836.27	1,469.80	2,292.71	3,239.83	4,286.92	5,087.78	6,012.83	6,740.12	7,351.58	7,803.42	8,181.35		
2014	388.31	383.82	557.69	701.51	872.84	1,031.98	1,122.07	893.82	552.90	541.69	414.16	391.00	7,851.79	2,015.21
Total		772.13	1,329.82	2,031.33	2,904.17	3,936.15	5,058.22	5,952.04	6,504.94	7,046.63	7,460.79	7,851.79		
2015	482.54	369.38	490.96	711.13	732.60	903.17	919.01	994.43	789.98	522.56	432.59	418.96	7,767.31	2,099.69
Total		851.92	1,342.88	2,054.01	2,786.61	3,689.78	4,608.79	5,603.22	6,393.20	6,915.76	7,348.35	7,767.31		
2016	408.24	364.58	449.03	573.56	672.93	921.77	1,157.49	791.59	541.42	587.72	443.39	442.94	7,354.66	2,512.34
Total		772.82	1,221.85	1,795.41	2,468.34	3,390.11	4,547.60	5,339.19	5,880.61	6,468.33	6,911.72	7,354.66		
2017	394.41	415.24	615.73	768.14	921.14	883.20	1,007.00	726.66	715.10	536.59	482.95	484.39	7,950.55	1,916.45
Total		809.65	1,425.38	2,193.52	3,114.66	3,997.86	5,004.86	5,731.52	6,446.62	6,983.21	7,466.16	7,950.55		
2018	484.78	402.92	640.20	750.65	991.56	1,023.15	954.69	853.04	684.90	530.89	386.73	404.76	8,108.27	1,758.73
Total		887.70	1,527.90	2,278.55	3,270.11	4,293.26	5,247.95	6,100.99	6,785.89	7,316.78	7,703.51	8,108.27		
2019	392.03	408.30	501.88	712.74	920.31	919.37	931.82	860.57	880.60	570.04	425.02	400.18	7,922.86	1,944.14
Total		800.33	1,302.21	2,014.95	2,935.26	3,854.63	4,786.45	5,647.02	6,527.62	7,097.66	7,522.68	7,922.86		
2020	438.73	387.20	523.69	928.40	1,015.17	1,177.81	1,120.57	1,062.19	1,066.47	539.88	430.40	463.48	9,153.99	713.01
Total		825.93	1,349.62	2,278.02	3,293.19	4,471.00	5,591.57	6,653.76	7,720.23	8,260.11	8,690.51	9,153.99		
2021	368.01	418.64	712.43	726.13	809.60	837.98	793.40	764.24	715.36	652.05	455.84	403.35	7,657.03	2,209.97
Total		786.65	1,499.08	2,225.21	3,034.81	3,872.79	4,666.19	5,430.43	6,145.79	6,797.84	7,253.68	7,657.03		
2022	336.78	376.58	515.94	882.91	973.98	975.97	1,147.87	848.51	773.62	493.31	404.67	435.85	8,165.99	1,701.01
Total		713.36	1,229.30	2,112.21	3,086.19	4,062.16	5,210.03	6,058.54	6,832.16	7,325.47	7,730.14	8,165.99		
2023	330.74	313.20	484.97	823.91	916.36	1,079.94	1,232.41						5,181.53	4,685.47
Total		643.94	1,128.91	1,952.82	2,869.18	3,949.12	5,181.53	5,181.53	5,181.53	5,181.53	5,181.53	5,181.53		

**MUNICIPAL WATER SYSTEM
WATER SOLD
ACRE FEET**

YEAR	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL
2002	361.07	373.67	374.24	527.03	956.91	1164.77	996.81	977.93	1153.18	607.92	431.21	301.17	8225.93
2003	391.07	304.91	404.05	598.44	999.69	1030.55	1061.59	1169.02	1046.52	731.67	559.33	342.90	8639.75
2004	418.82	310.23	337.47	479.72	685.58	983.31	984.35	814.65	763.90	475.02	413.97	302.17	6969.19
2005	368.27	275.02	299.95	503.81	693.61	840.97	1296.63	886.95	754.89	658.48	468.42	377.74	7424.74
2006	414.11	677.07	450.26	678.99	725.58	1280.61	1083.09	705.47	564.79	572.49	430.08	334.08	7916.62
2007	354.13	318.22	380.07	437.50	653.63	756.31	899.69	774.47	896.99	541.76	530.36	344.60	6887.72
2008	326.32	375.13	413.71	627.22	842.55	1025.43	943.54	855.66	605.32	559.79	494.03	0.00	7068.68
2009	439.03	352.25	614.56	2321.13	1268.55	1211.80	1099.85	927.66	1030.30	765.46	976.92	564.86	11572.39
2010	567.77	471.98	547.89	757.41	1272.59	1066.67	1081.09	913.03	1105.63	1031.30	950.35	786.38	10552.09
2011	444.27	760.40	774.56	1233.94	1338.54	1352.52	1717.55	1405.40	1347.32	924.66	874.25	677.51	12850.91
2012	565.38	642.97	581.75	926.04	848.01	1000.31	1440.24	1151.94	1237.78	866.01	865.02	670.56	10796.01
2013	616.99	671.05	645.27	975.32	1,049.04	1,249.35	944.16	951.65	1,058.15	785.76	592.98	469.93	10009.65
2014	475.55	470.88	507.96	653.04	920.21	1,041.43	1,157.15	978.54	953.20	558.14	550.55	417.07	8683.72
2015	554.03	282.77	520.21	624.18	758.14	800.23	985.58	863.21	1,068.91	639.91	478.42	448.68	8024.27
2016	456.11	302.09	482.13	615.67	708.66	828.42	1,071.60	820.33	623.25	460.13	368.12	305.64	7042.15
2017	389.78	306.60	440.10	639.30	654.47	838.50	1,049.46	698.97	675.47	504.34	369.98	684.50	7251.47
2018	422.34	332.74	345.80	670.09	971.05	975.33	966.38	858.30	871.28	451.67	438.60	355.77	7659.35
2019	393.08	359.27	350.49	565.35	639.70	890.80	994.24	830.84	887.72	711.06	476.89	347.64	7447.08
2020	336.09	374.53	311.89	657.80	838.33	1,080.68	1,158.21	1,069.16	1,120.70	917.05	479.84	350.70	8694.98
2021	414.83	317.62	365.17	767.91	768.47	825.78	709.15	954.68	597.34	740.70	354.75	355.25	7171.65
2022	367.25	360.67	349.75	693.40	752.88	1,174.27	944.39	940.34	746.92	652.02	422.08	417.17	7821.14
2023	415.22	425.35	388.23	673.31	718.62	934.58	1,252.39						4807.70

* No info available due to transition of new billing system.

MUNICIPAL WATER SYSTEM METERS IN SERVICE

YEAR	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
2002	10,385	10,398	10,360	10,396	10,485	10,486	10,492	10,479	10,512	10,468	10,448	10,534
2003	10,453	10,420	10,550	10,505	10,549	10,682	10,604	10,670	10,688	10,631	10,586	10,606
2004	10,608	10,541	10,617	10,624	10,627	10,678	10,700	10,730	10,671	10,672	10,684	10,597
2005	10,581	10,552	10,635	10,618	10,645	10,733	10,757	10,747	10,725	10,695	10,692	10,669
2006	10,676	10,669	10,663	10,704	10,687	10,759	10,720	10,746	10,739	10,711	10,670	10,645
2007	10,633	10,661	10,679	10,717	10,726	10,814	10,801	10,786	10,740	10,735	10,761	10,753
2008	10,804	10,784	10,809	10,826	10,836	10,880	10,861	10,875	10,820	10,758	10,713	
2009	10,747	10,881	11,126	11,179	11,156	11,232	11,160	11,184	11,158	11,169	11,182	11,107
2010	11,132	11,105	11,201	11,157	11,208	11,221	11,216	11,225	11,201	11,205	11,184	11,165
2011	11,271	11,292	11,256	11,270	11,281	11,349	11,331	11,333	11,327	11,300	11,267	11,224
2012	11,249	11,229	11,277	11,305	11,333	11,353	11,368	11,370	11,319	11,332	11,344	11,321
2013	11,290	11,361	11,415	11,405	11,412	11,450	11,488	11,527	11,507	11,478	11,482	11,442
2014	11,501	11,709	11,803	11,807	11,848	11,893	11,919	11,988	12,001	12,022	11,892	11,993
2015	11,865	11,871	11,916	12,014	11,957	12,153	12,062	12,087	12,020	11,968	11,825	11,978
2016	11,854	12,116	12,166	12,125	12,143	12,224	12,170	12,219	12,162	12,076	11,979	11,948
2017	12,053	12,014	12,173	12,213	12,173	12,223	12,205	12,376	12,213	12,300	12,204	12,288
2018	12,315	12,307	12,329	12,384	12,452	12,531	12,472	12,479	12,467	12,408	12,577	12,352
2019	12,440	12,386	12,556	12,508	12,653	12,656	12,698	12,827	12,644	12,804	12,708	12,653
2020	12,769	12,731	12,859	12,827	12,844	12,926	12,912	13,057	12,996	13,265	12,812	12,799
2021	12,830	12,920	12,945	13,205	13,026	13,162	*	*	*	*	*	*
2022	*	*	*	*	*	*	*	*	*	*	*	12,980
2023	12,572	12,604	12,610	12,646	12,627	12,676	12,706					

* No info available due to transition of new billing system.

**AIRPORT WELLS
WATER RIGHTS PUMPED
ACRE FEET**

(61.24 Acre Ft. Available Per Year)

YEAR	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL
2012	0.59	0.62	1.08	0.83	1.83	3.64	2.31	3.67	2.27	2.01	1.67	1.87	22.41
2013	0.89	2.32	2.26	1.18	1.28	1.73	1.9	3.69	2.01	2.62	1.99	1.06	22.93
2014	1.86	0.73	1.04	1.55	0.66	0.20	3.17	0.96	0.37	1.89	0.80	0.61	13.84
2015	0.03	0.07	0.03	1.02	1.59	2.47	2.57	2.96	2.13	1.35	2.46	1.57	18.25
2016	1.14	2.21	3.25	3.48	2.43	1.45	0.064	0.031	0.002	0.016	0.00	0.058	14.13
2017	0.07	0	0.16	0.31	0	0.51	0.55	0.022	0.00	0	0.18	0.14	1.94
2018	0.00	0.07	0.06	0.082	0.303	0.00	0.002	0.002	0.002	0.002	0.001	0.002	0.53
2019	0.00	0.023	0.36	0.56	1.17	2.72	2.13	2.67	2.60	2.60	1.33	1.99	18.15
2020	0.48	1.04	0.49	1.47	0.61	1.37	0	0.99	1.55	2.03	0.46	0.35	10.84
2021	0.77	0.34	0.45	0.71	0.94	2.01	1	1.56	0.92	0.83	1.21	0.61	11.35
2022	0.89	0.62	0.95	0.27	0.21	0.33	0.9	0.08	0.12	0.01	0.03	0	4.41
2023	0.00	0.00	0.00	0.40	0.52	3.75	3.61						8.28

**AIRPORT WELLS
WATER SOLD
ACRE FEET**

2011	1.18	1.09	3.76	3.87	3.32	3.91	3.32	1.69	3.5	3.25	3.99	0.81	33.69
2012	2.36	2.65	3.77	3.84	1.27	3.02	2.66	4.22	2.62	2.3	2.65	1.28	32.64
2013	1.32	1.11	0.88	0.49	0.64	1.67	1.78	2.70	1.22	0.97	1.20	0.95	14.93
2014	1.15	0.05	1.51	0.82	0.07	0	0.44	0.27	0.01	0.02	0.01	0.01	4.36
2015	0.01	0	0	0	0	1.04	1.78	3.12	1.12	1.60	2.07	1.25	11.99
2016	1.4	2.14	2.86	3.35	2.18	1.22	0.04	0.03	0	0.02	0	0	13.235
2017	0	0	0.15	0	0	0.48	0.53	0.00	0	0.00	0.00	0	1.16
2018	0	0	0	0	0	0	0	0.00	0	0.00	0.00	0	0
2019	0	0	0.33	0.052	0	0.031	0.031	0.00	0.37	0.29	0.51	0.08	1.694
2020	0.04	6.27	0.38	1.21	0.58	1.17	0.31	0.00	1.5	1.75	0.40	0.29	13.9
2021	0.84	0.17	0.42	0.73	0.92	1.9	1.36	1.26	1.17	0.64	0.95	0.79	11.15
2022	*	*	*	*	*	*	*	*	*	*	*	*	0
2023	0	0	0	0	0.73	0.55	1.35						2.63

Note: Water Sold Report is always one month behind.

*no info available

WATER CUTOFFS

YEAR	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL
2012		227	231	299	198	270	216	274	219	504	293	408	3139
2013	260	309	321	438	267	362	267	315	236	254	362	291	3682
2014	343	360	433	239	353	185	363	399	288	373	484	307	4127
2015	397	254	252	355	256	273	299	303	266	307		535	3497
2016	414	440	298	297	360	239	345	163	177	212	240	172	3357
2017	268	210	265	279	158	231	170	195	166	228	221	177	2568
2018	241	301	120	139	235	153	227	152	206	216	368	199	2557
2019	257	270	334	143	238	147	222	251	235	256	341	217	2911
2020	172	172	235	0	0	0	0	0	0	643	0	0	1222
2021	0	0	0	428	341	255	0	0	0	0	0	0	1024
2022	0	0	797	324	394	345	457	285	276	0	0	0	2878
2023	506	275	291	318	305	277	319						2291

**SHOOTING RANGE WELL
WATER RIGHTS PUMPED
ACRE FEET**

(3 Acre Ft. Available Per Year)

YEAR	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL
2013	0.05	0.03	0.12	0.16	0.18	0.28	0.21	0.32	0.16	0.20	0.08	0.05	1.84
2014	0.07	0.10	0.16	0.10	0.13	0.29	0.34	0.31	0.17	0.18	0.11	0.10	2.06
2015	0.08	0.07	0.12	0.12	0.11	0.12	0.12	0.26	0.21	0.12	0.08	0.09	1.50
2016	0.07	0.08	0.10	0.07	0.10	0.22	0.16	0.09	0.04	0.04	0.037	0.031	1.04
2017	0.009	0.01	0.03	0.02	0.04	0.10	0.04	0.055	0.046	0.05	0.03	0.034	0.47
2018	0.04	0.02	0.04	0.02	0.02	0.03	0.02	0.03	0.025	0.025	0.034	0.058	0.37
2019	0.061	0.05	0.06	0.05	0.03	0.03	0.01	0.02	0.02	0.02	0.086	0.080	0.51
2020	0.003	0.00	0	0	0.00	0.00	0.05	0.06	0.06	0.043	0.043	0.000	0.26
2021	0	0	0	0	0.00	0.03	0.02	0.02	0.09	0.03	0.02	0.04	0.25
2022	0.01	0.01	0.02	0.02	0.02	0.01	0.2	0.01	0.02	0.02	0.02	0.02	0.38
2023	0.01	0.02	0.02	0.02	0.06	0.02	0.02						0.17

**SUNSET GARDEN WELL
WATER RIGHTS PUMPED
ACRE FEET**

(28.2 Acre Ft. Available Per Year)

2012											10.75	0	10.75
2013	0.00	0.00	0.00	1.51	4.53	4.47	2.98	5.09	1.73	0.51	0.00	0.00	20.82
2014	0.00	0.00	0.00	0.00	0.00	0.00	6.81	2.58	0.53	0.00	0.00	0.00	9.92
2015	0.00	0.00	0.07	2.68	2.84	1.93	1.13	2.72	4.71	1.47	2.17	0.26	19.98
2016	0.13	1.89	3.37	4.30	4.49	4.11	4.66	0.82	0.00	0.00	0.00	0.00	23.77
2017	0.00	0.00	2.60	3.92	3.87	3.63	4.18	2.97	0.33	0.00	0.00	1.38	22.88
2018	0.00	0.07	0.00	1.48	3.53	3.74	1.57	3.46	2.79	1.00	0.00	0.00	17.64
2019	0.00	0.00	0.04	2.56	4.36	4.57	2.72	4.60	3.06	1.04	0.28	0.00	23.23
2020	0.13	0.55	1.06	2.53	3.77	1.58	3.97	3.97	3.81	2.46	0.78	0.29	24.90
2021	0.0045	0.00	1.06	2.23	3.09	3.29	3.36	2.23	2.60	1.07	1.49	1.41	21.84
2022	0.03	0.00	0.31	1.88	3.20	3.74	3.45	2.60	2.30	0.64	0.47	0.70	19.32
2023	0.00	0.02	0.73	2.40	3.43	3.49	0.83						10.90

WOOD FARM WELLS

1,000,000 325850

*1,000,000 /325850 Formula do not delete

2011	0.08	0.90	11.80	9.78	22.64	22.54	18.60	19.88	37.60	8.30	2.20	0.02	154.34
2012	0.00	4.81	9.11	11.16	11.79	18.76	10.00	11.69	15.24	1.89	0.05	0.64	95.13
2013	0.35	0.61	7.29	12.51	16.04	16.64	10.62	16.57	8.61	4.90	2.34	0.27	96.75
2014	1.36	1.79	6.64	10.62	16.04	22.07	21.01	13.50	3.31	4.42	0.12	0.25	101.13
2015	0.29	1.31	4.58	13.01	37.20	2.17	11.54	20.96	8.74	1.62	0.44	0.55	102.41
2016	0.27	2.67	14.42	13.03	22.09	30.57	33.17	15.94	8.18	15.31	1.38	1.44	158.47
2017	1.62	0.93	11.50	17.68	24.58	29.33	29.59	11.05	14.91	8.18	1.56	1.43	152.36
2018	5.02	3.40	12.61	15.47	26.22	28.31	27.69	24.12	34.65	5.79	11.50	1.96	196.74
2019	4.11	2.42	0.01	14.42	49.65	0.70	25.05	21.72	26.74	13.96	7.00	7.03	172.81
2020	1.14	3.17	12.31	28.72	29.58	30.38	32.01	27.83	27.48	11.13	10.67	5.49	219.91
2021	6.43	4.67	13.65	12.36	10.29	18.34	18.00	12.59	17.68	14.25	9.66	0.00	137.92
2022	1.30	2.77	10.51	18.12	17.91	21.45	25.31	19.20	11.97	11.94	10.19	5.43	156.10
2023	10.89	6.93	13.21	15.06	19.29	27.86	35.38						128.62

Double Eagle Well Operation Jul-23

Well	Status	Water Production				Power Consumption			Motor Hours			Well Information		
		Present Read	Previous Read	Water Pumped		Present Read	Previous Read	KWH	Current	Previous	Hours Run	Avg GPM	Static Water Elevation	Pumping Elevation
				Gallons	Acre Ft.									
AMBASSADOR # 1	Neptune/ Trident											off		
AMBASSADOR # 4	Well Inoperable													
AMBASSADOR # 3	Well Inoperable					7,749	6,906	843				off		
C-11	McCrometer	42,727,531	41,299,506	1,428,025	4.38	152,790	149,099	3,691						
C-10	McCrometer	40,077,751	38,449,160	1,628,591	5.00	189,158	184,449	4,709						
C-6	Mc Crometer	47,927,678	45,376,480	2,551,198	7.83	546,419	539,633	6,786	21,614.1	21,380.7	233.4	140		
CAPROCK # 19	Mc Crometer Mag	34,281,454	34,281,454	0	0.00	32,048	31,996	52	16,557.6	16,557.5	0.1	25		
CAPROCK # 13	Mc Crometer	95,309,901	93,306,072	2,003,829	6.15	202,173	198,907	3,266	20,750.5	20,531.2	219.3	140		
C-9	McCrometer	30,960,504	29,608,990	1,351,514	4.15	137,901	134,974	2,927		0.0				
CAPROCK # 20	Sensus/ Omni	91,645,511	86,547,042	5,098,469	15.65	207,467	199,949	7,518	11,135.1	10,730.1	405	150		
CAPROCK # 10	Mc Crometer	10,467,327	10,467,327	0	0.00	114,831	114,831	0	0.0	0.0	0	90		
C-8	McCrometer	45,787,774	44,409,264	1,378,510	4.23	135,898	133,042	2,856		0.0				
C-7	McCrometer	26,162,977	25,189,597	973,380	2.99	98,730	96,454	2,276		0.0				
CAPROCK # 18	Sensus/ Omni	3,390,071	3,389,985	86	0.00	49,217	49,144	73	11,729.1	11,729.1	0	90		
CAPROCK # 6	Neptune/ Trident	143,752,897	143,351,945	400,952	1.23	80,733	77,424	3,309	28,965.2	28,770.0	195.2	105		
CAPROCK # 4	McCrometer	35,670,846	34,729,520	941,326	2.89	53,258	50,722	2,536	15,206.1	14,820.4	385.7	45		
CAPROCK # 1	Mc Crometer	37,096,887	36,134,778	962,109	2.95	143,664	141,303	2,361	18,575.9	18,113.0	462.9	30		
Frontier # 2	Mc Crometer	42,505,642	41,716,386	789,256	2.42	3,840	2,233	1,607	18,285.4	17,957.5	327.9	30		
Frontier # 1	Sensus/ Omni	42,381,288	41,679,851	701,437	2.15	15,189	13,718	1,471	26,815.9	26,622.2	193.7	50		
FRONTIER # 3	Mc Crometer	118,677,615	117,375,764	1,301,851	4.00	41,012	38,773	2,239	14,848.9	14,683.5	165.4	140		
C-2	Mc Crometer	11,017,340	7,638,660	3,378,680	10.37	22,835	16,225	6,610	923.8	659.0	264.8	160		
HUDSON # 1	Octave	18,582,153	17,000,559	1,581,594	4.85	238,410	235,577	2,833	10,994.7	10,717.6	277.1	130		
CAPROCK # 14	Mc Crometer	57,392,103	57,392,097	6	0.00	146,635	146,565	70	9,681.2	9,681.2	0	110		
CAPROCK # 15A	Mc Crometer	118,921,243	118,921,243	0	0.00	31	31	0	9,913.8	9,913.8	0	130		
CAPROCK # 21	Mc Crometer	73,305,738	71,568,356	1,737,382	5.33	189,420	185,263	4,157	13,959.8	13,623.8	336	65		
C-1	Mc Crometer	55,200,653	55,200,653	0	0.00	112,119	111,975	144	17,337.1	16,992.3	344.8	110		
CAPROCK # 2	Well Inoperable													
CAPROCK # 3	Well Inoperable													
CAPROCK # 5	Well Inoperable													
C-5	Well Inoperable													
C-4	Mc Crometer													
C-3	Mc Crometer													
CAPROCK # 17	Mc Crometer											80		
CAPROCK # 16	Mc Crometer											off		
Boosters		9,866,615	9,866,615	0	0.00	193,799	183,922	9,877	10999.9	10999.9	0			
2 MG RESERVOIR						1,172	1,145	27						
Totals				28,208,195	86.57			72,238			3811.30			

Meter Reads in Barrels
 Ambassadors #1 & #3 - Wells Inoperable
 C-3, & Caprock #16 - Wells Inoperable
 Meter Changed Out
 Meter removed.

**DOUBLE EAGLE WATER SYSTEM
WATER RIGHTS PUMPED
ACRE FEET**

7648 Acre Ft. Available Per Year

YEAR	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL
2003	122.27	104.02	106.63	131.16	131.94	108.31	137.27	122.89	129.50	122.80	83.40	125.20	1,425.39
2004	94.10	99.14	108.96	88.59	85.29	104.91	80.47	96.62	108.99	99.07	84.00	132.98	1,183.12
2005	81.06	73.83	91.00	90.00	110.71	129.71	103.80	125.81	89.55	91.54	92.55	103.75	1,183.31
2006	99.66	92.01	109.29	75.35	137.85	132.18	86.22	98.53	96.51	96.88	103.45	82.69	1,210.62
2007	73.12	78.65	99.85	73.60	97.46	93.25	114.77	141.58	113.26	111.06	98.79	109.92	1,205.31
2008	108.28	117.41	93.89	110.54	91.87	107.59	103.60	134.80	114.37	126.79	119.45	139.80	1,368.39
2009	115.53	83.87	105.70	112.09	109.80	124.02	128.01	105.62	101.64	134.59	96.48	98.93	1,316.28
2010	98.23	113.03	134.55	139.75	121.56	152.79	139.33	180.08	160.27	158.58	167.75	151.88	1,717.80
2011	171.89	131.01	144.73	160.28	185.57	170.30	157.83	137.34	139.25	135.26	137.58	117.98	1,789.02
2012	112.77	108.16	110.15	110.62	111.76	186.92	141.80	163.02	72.61	134.45	161.72	175.64	1,589.62
2013	164.38	146.44	142.20	145.50	142.80	124.28	97.54	94.88	109.18	103.89	93.63	85.58	1,450.30
2014	85.93	86.42	87.69	97.98	125.16	108.77	144.13	120.58	98.47	114.24	102.38	107.72	1,279.47
2015	89.83	63.29	89.61	87.98	64.58	50.44	70.24	51.81	37.52	33.59	30.08	30.07	699.04
2016	30.64	38.22	36.18	26.75	28.85	34.75	32.22	33.35	23.61	26.72	29.06	31.03	371.38
2017	25.7	35.61	28.01	23.74	32.89	38.88	31.35	39.17	34.97	35.18	35.9	30.94	392.34
2018	40.13	23.75	34.02	35.14	39.33	42.3	31.46	43.72	38.41	37.23	35.01	31.7	432.20
2019	38.5	31.43	38.88	47.10	47.95	27.52	54.21	65.54	52.22	48.53	47.46	38.97	538.31
2020	33.11	23.96	37.75	38.84	68.02	54.59	77.21	59.61	62.09	51.36	93.76	34.66	634.96
2021	62.14	65.22	46.43	96.87	69.61	96.94	91.63	56.41	120.17	121.64	87.7	85.52	1,000.28
2022	68.37	81.29	92.93	110.89	112.75	115	78.14	79.49	131.9	119.22	93.76	138.36	1,222.10
2023	108.02	142.18	195.09	128.58	88.51	93.44	86.57						842.39

**DOUBLE EAGLE WATER SYSTEM
WATER SOLD/PROVIDED
ACRE FEET**

YEAR	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL
2003	103.16	118.81	92.16	100.16	106.02	121.98	117.48	118.48	96.98	96.27	117.92	65.14	1,255
2004	77.06	132.54	98.28	113.37	95.77	156.29	95.71	102.28	75.52	133.76	82.88	78.70	1,242
2005	95.53	53.68	62.88	76.56	70.95	68.86	107.91	88.42	76.59	66.83	88.31	60.69	917
2006	68.06	68.09	64.04	74.07	54.60	73.13	70.56	65.77	63.28	71.94	70.15	67.72	811
2007	63.47	71.20	43.33	64.06	81.36	83.03	80.18	72.46	89.35	38.88	49.77	115.89	853
2008	73.31	54.99	170.85	58.17	113.89	87.58	112.17	93.30	54.07	113.46	87.57	0.00	1,019
2009	133.68	134.89	193.91	128.57	124.42	147.29	149.87	144.41	403.39	204.34	216.64	205.47	2,187
2010	166.20	147.23	156.74	206.90	262.81	159.74	235.21	209.27	261.26	289.04	249.98	202.71	2,547
2011	273.88	296.83	197.17	305.62	293.17	356.46	306.39	341.59	373.96	299.28	332.79	115.34	3,492
2012	70.53	108.07	365.95	127.64	147.59	169.53	110.81	151.82	168.33	94.88	158.73	145.76	1,820
2013	304.62	105.90	114.03	89.49	91.59	72.45	66.60	67.58	58.66	52.40	62.94	49.32	1,136
2014	60.02	54.78	73.24	66.94	80.62	76.05	68.73	80.55	75.86	58.67	67.36	63.32	826
2015	59.07	47.81	31.75	28.16	38.17	18.94	17.79	19.48	17.51	11.21	9.04	8.54	307
2016	11.61	8.13	9.02	7.07	5.58	4.20	7.95	6.37	7.11	4.21	3.57	3.61	78
2017	4.28	4.14	3.55	4.95	3.85	8.38	7.79	4.46	4.83	3.69	4.76	7.98	63
2018	6.59	9.34	3.65	6.59	7.74	7.76	11.90	10.94	10.64	4.89	8.53	4.29	93
2019	8.82	6.04	3.21	5.81	9.53	6.98	9.20	9.01	13.52	11.29	9.57	11.67	105
2020	8.15	8.88	6.63	7.80	8.57	11.79	12.75	11.66	9.38	8.64	8.64	11.87	115
2021	4.34	2.25	8.89	9.73	16.09	8.99	13.45	7.96	8.14	6.35	18.20	7.44	111.83
2022	4.86	4.86	7.35	8.99	11.39	11.67	13.44	12.63	11.79	7.41	8.69	5.88	108.96
2023	9.35	7.06	7.84	10.60	8.74	9.70	13.87						67.16

Note: Free Stock Included

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** Number includes Paying Livestock/Free Livestock/Gov Domestic/Comm Domestic/Industrial/WIPP

WASTEWATER TREATMENT PLANT REPORT JULY 2023

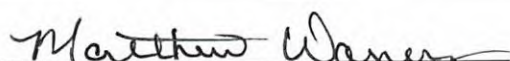
Wastewater:	Current Month	Previous Month	Calendar Year to Date
Total Effluent Discharge to Pecos River (Acre Ft.)	32.91	105.31	966.10
Treated Reuse Delivered to Mun. Golf Course (Acre Ft.)	91.38	102.72	358.79
Treated Reuse Sold to Rockhouse Ranch (Acre Ft.)	82.84	23.19	159.98
WWTP Irrigation Meter (Acre Ft.)	2.81	1.72	7.37
Total Reuse Pumped	177.03	127.63	526.14
After Hours Control Panel Alarms	7	1	10
KWH Consumed 104,762-103,725=x 160=	201,446	197,920	1,207,686
NPDES Permit Violations	0	0	10
Sodium Hydrochloride for Reuse (Gallons)	220	220	1,446

Septage Disposal Report:	Current Month	Previous Month	Calendar Year to Date
Total Number of Loads	159	141	1,140
Taxed Gallons 267402.25 x \$.10	\$26,740.23	\$23,864.85	\$420,947.42
Taxed Manifest Books / \$30.00 5x \$30.00	\$150.00	\$150.00	\$990.00
Subtotal	\$26,890.23	\$24,014.85	\$421,937.42
5% Tax	\$1,310.90	\$1,200.74	\$21,096.90
Taxed Billing	\$28,201.12	\$25,215.59	\$443,034.32
Tax Exempt Gallons 62717.50 x \$.10	\$6,271.75	\$5,807.74	\$112,843.49
Tax Exempt Manifest Books / \$30.00 1 x \$30.00	\$30.00	\$30.00	\$240.00
Taxed Exempt Billing	\$6,301.75	\$5,837.74	\$113,083.49
Total Billing	\$34,502.87	\$31,053.33	\$556,117.81

Biosolids:	Current Month	Previous Month	Calendar Year to Date
Total Compost Produced (Cu. Yds.)	570.00	460.00	2,317.00
Amount of Sludge Sent to Compost Operation (Cu. Yds.)	245215.00	273284.00	1,842,027.94

Wastewater Discharge Characteristics:	Current Month	Previous Month	Permit Limit
Average Biochemical Oxygen Demand (Lbs./Day)	13.74	25.94	293.00
Average Total Suspended Solids (Lbs./Day)	16.64	26.14	1,051.00
Average Flow (Million Gallons/Day)	0.69	1.22	NA
E.Coli (30 Day Avg.)	1.42	1.09	126.00

Remarks:


Matthew Warner, WW Superintendent

SEWER COLLECTIONS REPORT

Jul 23

Calendar
This Month Previous Month Year to Date

Collection Lines:

Total Mileage of Main Line in System			139
Line Extension (Ft.)	0	0	0
Line Replacement (Ft.)	0	12	103
Repairs on Main Lines	1	2	12
Main Line Stoppages	0	0	7
Number of Manholes and Cleanouts	0	0	0
Manholes Flushed	0	0	0
Manholes Repaired	0	1	7
Customer Service Repairs	0	1	6
Customer Complaints, All Other	4	9	46
Carlsbad Line Location Service	0	0	0
Double Eagle Line Location Service	0	0	0
Ft. Sewer Liner Cleaned/Rodded	580	3,300	18,130
Sewer Tap Inspections	0	0	0
Total No. of Customer Services	0	0	0
Total No. of New Cust. Services Installed	0	0	0

Lift Stations:

Total in Service			
Number of After-Hour Control Panel Alarms	0	0	14
Number of Repairs	0	0	0
KWH Consumed, Primary Lift Station	37600	41,280	390,080
KWH Consumed, All Other Lift Stations	8345	11,757	79,331

Wesley A. Pickett

8/2/23

**EFFLUENT DISCHARGE TO PECOS RIVER
ACRE / FEET**

YEAR	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL
2000	275.31	248.42	260.88	233.80	316.16	282.37	276.77	278.69	311.94	258.03	349.52	325.73	3,417.62
2001	272.21	204.60	217.67	191.40	142.09	236.98	244.68	224.77	225.64	195.79	254.84	265.78	2,676.45
2002	266.35	232.01	263.62	256.99	225.81	190.74	250.02	214.79	206.30	244.07	207.28	239.84	2,797.82
2003	195.98	143.44	168.79	155.94	169.64	151.16	185.64	183.40	174.65	209.24	209.88	236.34	2,184.10
2004	232.32	213.56	223.88	291.51	274.82	213.81	209.05	186.17	199.53	241.73	280.59	208.26	2,775.23
2005	184.13	164.12	178.11	168.66	206.41	168.17	167.37	181.58	157.77	173.60	147.12	169.92	2,066.96
2006	141.87	127.02	172.99	140.40	140.92	169.70	174.86	188.76	197.39	185.97	178.88	182.23	2,000.99
2007	175.29	153.32	169.55	166.88	207.94	153.26	271.96	303.14	316.00	351.48	364.76	305.84	2,939.42
2008	259.44	239.22	252.53	246.40	228.69	180.08	206.35	210.09	240.35	261.89	258.89	171.21	2,755.14
2009	358.99	231.11	189.22	175.11	196.47	196.37	167.43	158.99	147.30	182.56	165.29	186.18	2,355.02
2010	179.80	164.40	171.85	172.47	136.28	138.37	220.04	174.07	196.08	190.49	192.02	181.35	2,117.22
2011	177.75	161.00	153.44	128.22	131.87	132.52	140.71	144.86	149.98	149.77	158.14	176.47	1,804.73
2012	177.26	133.35	158.96	132.17	197.54	139.17	163.09	149.43	143.97	124.39	140.86	183.20	1,843.39
2013	174.54	155.21	161.36	131.65	121.07	133.60	175.46	164.14	177.28	206.07	240.30	209.81	2,050.49
2014	210.63	150.47	156.04	153.06	160.67	157.52	218.21	280.09	284.34	255.76	244.57	224.53	2,495.89
2015	251.82	212.71	212.94	169.98	208.69	201.13	216.44	237.77	198.80	221.07	202.61	233.28	2,567.24
2016	250.84	215.81	203.86	199.36	220.94	213.33	202.97	238.61	251.05	230.03	217.11	202.17	2,646.08
2017	226.02	195.23	190.92	172.18	121.62	114.39	132.83	166.44	166.80	172.02	164.66	171.59	1,994.70
2018	180.72	134.33	132.78	116.31	115.83	119.59	129.91	152.77	160.73	184.72	166.96	175.48	1,770.13
2019	187.77	147.18	151.39	141.14	122.93	147.25	156.34	163.47	171.70	196.57	190.31	181.66	1,957.71
2020	171.87	152.55	144.74	108.70	129.17	128.14	127.36	133.91	137.49	147.44	150.85	168.11	1,700.33
2021	176.88	166.70	155.81	141.66	147.77	138.68	213.38	233.23	213.59	229.06	205.63	201.46	2,223.85
2022	215.85	180.58	165.29	88.93	133.36	132.40	154.29	155.42	159.82	200.87	194.49	193.65	1,974.95
2023	195.33	175.90	127.53	162.53	166.59	105.31	32.91						966.10

**EFFLUENT REUSE
ACRE / FEET**

YEAR	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL
2000	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
2001	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
2002	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
2003	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
2004	18.94	15.45	17.52	25.36	40.46	43.55	50.58	38.81	31.31	20.14	7.82	8.08	318.02
2005	6.96	5.99	14.35	35.49	31.91	43.54	45.14	30.45	37.52	25.95	25.12	20.74	323.16
2006	22.68	22.17	23.21	37.40	49.95	99.47	207.81	72.92	23.20	34.28	20.50	17.75	631.34
2007	13.63	13.91	24.14	31.79	27.52	49.34	36.59	38.53	32.68	25.42	12.77	13.64	319.96
2008	15.06	20.54	21.83	41.29	46.49	48.50	35.56	40.95	22.85	38.63	26.92	7.18	365.80
2009	16.77	20.71	26.54	40.51	39.84	41.08	44.08	51.38	49.33	43.70	27.62	11.71	413.27
2010	16.58	8.89	23.08	31.79	62.07	61.63	15.10	49.33	28.02	29.55	21.36	18.51	365.91
2011	14.69	8.13	38.05	54.54	56.44	52.72	55.45	50.42	49.73	44.67	23.78	7.38	456.00
2012	5.82	10.40	24.91	46.25	37.18	50.67	42.51	59.86	50.03	26.67	15.56	8.15	378.01
2013	8.68	7.48	21.68	38.81	58.76	53.68	37.15	36.50	21.42	29.52	12.20	14.36	340.24
2014	19.88	23.44	34.05	32.20	47.27	54.26	67.18	45.85	21.00	32.05	19.69	28.04	424.91
2015	7.33	13.31	21.93	47.89	49.49	75.50	63.51	46.70	44.23	16.48	17.41	12.08	415.86
2016	7.43	17.65	41.85	42.00	37.41	34.82	53.26	35.94	29.90	29.75	21.56	18.97	370.54
2017	10.85	15.78	32.93	38.92	58.76	70.39	69.88	42.35	41.26	32.46	17.40	10.48	441.46
2018	25.29	45.73	62.15	81.04	88.81	83.84	93.81	74.15	55.54	42.74	34.22	15.62	702.94
2019	18.09	35.37	50.54	63.17	87.76	78.14	89.60	85.06	68.66	48.29	26.89	27.94	679.51
2020	28.16	29.07	40.67	66.70	70.90	67.84	77.07	74.77	58.73	42.58	23.60	10.88	590.97
2021	7.76	6.75	44.46	41.16	47.64	63.50	37.20	40.37	10.15	33.27	30.33	13.21	375.80
2022	6.81	14.04	38.29	48.19	67.72	82.38	70.77	77.47	75.39	27.51	15.31	14.71	538.59
2023	12.63	10.61	83.36	56.85	58.04	127.63	177.03						526.15

ORDINANCE NO. 2023-____

AN ORDINANCE REZONING PART OF "R-1" RESIDENTIAL 1 DISTRICT TO "R-R" RURAL RESIDENTIAL DISTRICT FOR AN APPROXIMATELY 1.766 ACRE PROPERTY, LOCATED EAST OF HAMILTON STREET, LEGALLY DESCRIBED AS TRACT A, MARTIN FARMS SUBDIVISION INC AND BAR W FARMS LAND DIVISION SUBDIVISION; PURSUANT TO SECTION 3-21-1 ET. SEQ. NMSA 1978 AND SECTIONS 56-150(B) AND 56-140(I), CARLSBAD CODE OF ORDINANCES.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CARLSBAD, EDDY COUNTY, NEW MEXICO, that:

The official zoning map of the City is hereby amended to rezone part of "R-1" Residential 1 District to "R-R" Rural Residential District, for an approximately 1.766 acre property, located East of Hamilton Street, legally described as:

TRACT A, MARTIN FARMS SUBDIVISION INC AND BAR W FARMS LAND DIVISION
INTRODUCED, PASSED, ADOPTED AND APPROVED this 24th day of October, 2023.

DALE JANWAY, MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. 2023-____

AN ORDINANCE REZONING PART OF "R-1" RESIDENTIAL 1 DISTRICT TO "C-1" COMMERCIAL 1 DISTRICT FOR AN APPROXIMATELY 0.24 ACRE PROPERTY, LOCATED AT 400 KIRCHER ST., LEGALLY DESCRIBED AS LOT 51A, NEW SAN JOSE FIRST ADDITION REPLAT SUBDIVISION; PURSUANT TO SECTION 3-21-1 ET. SEQ. NMSA 1978 AND SECTIONS 56-150(B) AND 56-140(I), CARLSBAD CODE OF ORDINANCES.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CARLSBAD, EDDY COUNTY, NEW MEXICO, that:

The official zoning map of the City is hereby amended to rezone part of "R-1" Residential 1 District to "C-1" Commercial 1 District, for an approximately 0.24 acre property, located at 400 Kircher St., legally described as:

LOT 51A, NEW SAN JOSE FIRST ADDITION REPLAT SUBDIVISION

INTRODUCED, PASSED, ADOPTED AND APPROVED this 24th day of October, 2023.

DALE JANWAY, MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. 2023-____

AN ORDINANCE REZONING PART OF "C-2" COMMERCIAL 2 DISTRICT TO "R-2" RESIDENTIAL 2 DISTRICT FOR AN APPROXIMATELY 0.16 ACRE PROPERTY, LOCATED AT 513 S. ALAMEDA ST., LEGALLY DESCRIBED AS LOT 13, BLOCK 54, STEVENS SUBDIVISION; PURSUANT TO SECTION 3-21-1 ET. SEQ. NMSA 1978 AND SECTIONS 56-150(B) AND 56-140(I), CARLSBAD CODE OF ORDINANCES.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CARLSBAD, EDDY COUNTY, NEW MEXICO, that:

The official zoning map of the City is hereby amended to rezone part of "C-2" Commercial 2 District to "R-2" Residential 2 District, for an approximately 0.16 acre property, located at 513 S. Alameda St., legally described as:

LOT 13, BLOCK 54, STEVENS SUBDIVISION

INTRODUCED, PASSED, ADOPTED AND APPROVED this 24th day of October, 2023.

DALE JANWAY, MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. 2023-_____

AN ORDINANCE REZONING PART OF "R-1" RESIDENTIAL 1 DISTRICT TO "C-2" COMMERCIAL 2 DISTRICT FOR AN APPROXIMATELY 0.94 ACRE PROPERTY, LOCATED AT 2908 SAN JOSE BLVD., LEGALLY DESCRIBED AS LOTS 19 & 20, BLOCK 6, SOUTHRIDGE SUBDIVISION; PURSUANT TO SECTION 3-21-1 ET. SEQ. NMSA 1978 AND SECTIONS 56-150(B) AND 56-140(I), CARLSBAD CODE OF ORDINANCES.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CARLSBAD, EDDY COUNTY, NEW MEXICO, that:

The official zoning map of the City is hereby amended to rezone part of "R-1" Residential 1 District to "C-2" Commercial 2 District, for an approximately 0.94 acre property, located at 2908 San Jose Blvd., legally described as:

LOT 19 & 20, BLOCK 6, SOUTHRIDGE SUBDIVISION

INTRODUCED, PASSED, ADOPTED AND APPROVED this 24th day of October, 2023.

DALE JANWAY, MAYOR

ATTEST:

CITY CLERK



NMRLD

NEW MEXICO
REGULATION &
LICENSING DEPARTMENT

STATE OF NEW MEXICO
MICHELLE LUJAN GRISHAM, GOVERNOR
Linda M. Trujillo, Superintendent
Phillip A. Sanchez, Interim Director

August 23, 2023

Certified Mail No.: 7022 1670 0002 1180 6607

City of Carlsbad

Nadine Mireles, CMC
City Clerk
101 North Halagueno
Carlsbad, New Mexico 88220

Lic. No. /Appl. No.: License No. 4026
Name of Applicant: BW Gas & Convenience Retail, LLC
Doing Business As: Allsup's Convenience Store #102190
Proposed Location: 1010 S. Canal Street, Carlsbad, New Mexico 88220

The Director of the Alcoholic Beverage Control Division (ABC) has reviewed the referenced Application and granted **Preliminary Approval**. It is being forwarded to you for Local Option District approval or disapproval of the Liquor License Application.

Notice of the Public Hearing required by the Liquor Control Act shall be given by the governing body by publishing a notice of the date, time, and place of the hearing **twice during the 30 days prior to the hearing** in a newspaper of general circulation within the territorial limits of the governing body. **The first notice must be published at least thirty (30) days before the hearing. Both publications must occur before a hearing can be conducted.** The notice shall include:

- (A) Name and address of the Applicant/Licensee;
- (B) The action proposed to be taken;
- (C) The location of the licensed premises.

In addition, if the Local Option District has a website, **the Notice shall also be published on the website.**

While the law states that "within forty-five (45) days after receipt of a Notice from the Alcoholic Beverage Control, the governing body shall hold a Public Hearing in the question of whether the department should approve the proposed issuance or transfer", we recognize the potential for conflict between the requirement for publication of 30 day notice and the 45 day hearing requirement.

With that in mind, when a local governing body receives a liquor license application from ABC, that governing body has a couple of options:

- 1) Hold a hearing on the license application within the statutory time frame of forty-five (45) days, as required by the Liquor Control Act, and comply with all other statutory and regulatory procedures and notify ABC of your decision within thirty (30) days of the hearing;
- 2) Request from ABC an extension of time, past the forty-five (45) days, designating how much additional time will be needed to conduct the hearing in compliance with all statutory and



regulatory procedures. After the extension is granted and the hearing is held, notify ABC of your decision within thirty (30) days of the hearing;

ABC has no preference in the option you choose.

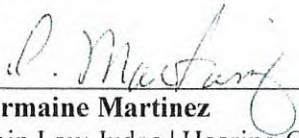
The governing body is required to send notice by certified mail to the Applicant of the date, time, and place of the Public Hearing. The governing body may designate a Hearing Officer to conduct the hearing. **A record shall be made** of the hearing.

THE APPLICANT IS SEEKING A TRANSFER OF OWNERSHIP AND CHANGE OF LOCATION OF RETAILER LIQUOR LICENSE NO. 4026 WITH OFF-PREMISES CONSUMPTION ONLY.

Within thirty (30) days after the Public Hearing, the governing body shall notify ABC of their decision to approve or disapprove the issuance or transfer of the license by signing the enclosed original Page 1 of the Application. The original Page 1 of the Application must be returned together with the notices of publication. **If the Governing Body fails to either approve or disapprove the issuance or transfer of the license within thirty days after the Public Hearing, the Director may issue the license.**

If the Governing Body disapproves the issuance or transfer of the license, it shall notify ABC within thirty (30) days setting forth the reasons for the disapproval. A copy of the Minutes of the Public Hearing shall be submitted to ABC with the Notice of Disapproval (*Page 1 of the Application, noting disapproval*).

Respectfully,



Charmaine Martinez

Admin Law Judge | Hearing Officer
NM Regulation & Licensing Department
Alcoholic Beverage Control Division
Phone: (505) 476-4804 Fax: (505) 476-4595
Email: Charmaine.Martinez2@rld.nm.gov

Enclosures:

1. Original Page 1 of the Application (*must be signed and returned w/notices of publication*)
2. Copy of Page 2 of the Application
3. Copy of the Zoning Statement
4. Copy of the Floor Plan



\$50
RCA
6-11-23



NMRLD
NEW MEXICO
REGULATION &
LICENSING DEPARTMENT



STATE OF NEW MEXICO
MICHELLE LUJAN GRISHAM, GOVERNOR
Linda M. Trujillo, Superintendent
Andrew Vallejos, Director

Transfer of Dispenser Type Liquor Application | \$200.00 Application Fee, non-refundable

ABC USE ONLY: Application Fee \$ 300 Received on: 6-11-23 Receipt No. _____
License Fee \$ _____ Received on: _____ Receipt No. _____
Application Number: _____ Local Option District: _____

License Number 4026 License Type Retailer

Record Owner of Existing License: Rio de Pecos Enterprises, LLC

Current D/B/A Name: _____

Current Premises Address: 13150 Central Ave SE, Albuquerque, New Mexico

Current LOD: Albuquerque Is License moving out of Local Option District? Yes No

Check appropriate boxes:

Application is for: Transfer of Ownership Transfer of Ownership and Location Transfer of Location Only

Applicant is Individual Limited Liability Company Corporation Partnership (General/Limited)

NAME OF APPLICANT: BW Gas & Convenience Retail, LLC

D/B/A Name to be used: Allsup's Convenience Store #102190 Business Phone No: (682) 428-2400

Mailing Address: 2301 Eagle Parkway, Suite 100 Fort Worth TX 76177

Email (required) notices@yesway.com

Physical location where license is to be used: 1010 S. Canal St., Carlsbad, NM 88220

County: Eddy County (Include street number / highway number / state road, city, state, and zip code)

Are alcoholic beverages currently being dispensed at the proposed location Yes No If Yes, License # / Type: _____

Contact Person: Kyla Stoker **Phone #:** (505) 980-5614 **Email:** kyla@newmexicoliquorlicense.com

I, (print name) Thomas Brown, as (title) Sp. Managing Director being first duly sworn upon oath deposes and says: that he/she is the applicant or is authorized by the applicant to make this application; that he/she has read the same; knows the contents therein contained are true. Applicant(s) agree(s) that if any statements or representations herein are found to be false, the Director may refuse to issue or renew the license or may cause the license to be revoked at any time.

You must sign and date this form before a Notary Public.

Signature of Applicant: [Signature] Date: 5/31/2023

Notary Public Use Only: (State of Massachusetts, County of Essex)

SUBSCRIBED AND SWORN TO before me this 31st day of May, 2023

By: Thomas Brown Notary Public: Nicole L. Reeves

Date my Commission Expires: 8/11/23

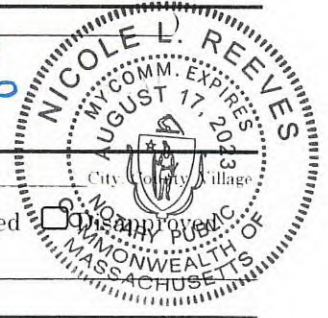
Local Option District Use Only: Local Governing Body of _____

Public Hearing held on _____ 20____ Please check one: Approved Disapproved

Signature of City/County Official: _____ Title: _____

Alcoholic Beverage Control Division Use Only: Approved Disapproved

Signed by Director: _____ Date: _____



Premises Location, Ownership, and Description | NMSA §60-6B-10 | Page 2

1. The land and building which is proposed to be the licensed premises is: (check one)

Owned by Applicant, copy of deed/document attached

Leased by Applicant, copy of lease/document attached

Other (provide details): _____

2. If the land and building are not owned by Applicant, indicate the following:

A. Owner(s): MDC Coast 18, LLC

B. Date and Term of Lease: November 11, 2019; 20 year initial term

3. Premises location is Zoned (example C-1, see Zoning Statement): "C-2" Commercial 2 District

Zoning Statement attached, Yes No Must be obtained from the Local Government, listing the proposed location by address, Type of Zone, state whether alcoholic beverages are allowed at proposed location, and if applicable, whether packaged sales, patio service and/or manufacturing is allowable. If there is no zoning in the proposed location, attach Statement from the local government, indicating there is no zoning.

4. Distance* from nearest Church: (Property line of church to closest point of licensed premises—shortest distance)

Name of Church: Omega Christian Fellowship Miles/feet: 960.00 feet

Address/location of Church: 802 S. Main St., Carlsbad, NM 88220

5. Distance* from nearest School: (Property line of school to closest point of licensed premises—shortest distance)

Name of School: Craft Elementary School Miles/feet: 1,500 feet

Address/location of School: 406 W Lea St, Carlsbad, NM 88220

6. Attach Detailed Floor Plan, must include the Total Square Footage of premises; List nearest cross street; Show which direction is North; Show each level (floor) where alcoholic beverages will be sold or consumed, exterior walls, doors, and interior walls; Patio Area with type of barrier used; Highlight Bonded Areas. The floor plan should be no larger than 8½ x 11 inches and must be labeled with designated areas highlighted, which will reflect the proposed Licensed Premises.

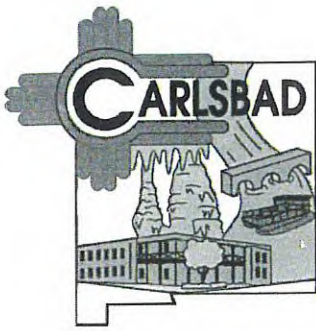
7. Type of Operation: Hotel Lounge Package Grocery Racetrack

Restaurant Craft Distiller Small Brewer Winery Wholesaler

Other (specify): _____

*NOTE: If the distance is beyond 300 feet, but less than 400 feet, and the Applicant does not admit that the location is within 300 feet and requests a waiver from the LOD, a Registered Engineer or Licensed Surveyor must complete a Survey Certificate showing the exact distance.





DALE JANWAY
Mayor

Post Office Box 1569
Carlsbad, NM 88221-1569
(575) 887-1191
1-800-658-2713
www.cityofcarlsbadnm.com

JOHN LOWE
City Administrator

5/3/2023,

ZONING DETERMINATION

Property Address: 1010 S. Canal St. Carlsbad, NM 88220

Legal Description: Subd: SAN JOSE EAST ADDITION Lot: 9 Block: D; Subd: SAN JOSE EAST ADDITION Lot: 8 Block: D (LESS EASEMENT); Subd: SAN JOSE EAST ADDITION Lot: 16 Block: D PORTION OF LT 16; Subd: SAN JOSE EAST ADDITION Lot: 17 Block: D PORTION OF LT 17; Subd: SAN JOSE EAST ADDITION Lot: 10 Block: D PORTION OF LT 10; Subd: SAN JOSE EAST ADDITION Lot: 15 Block: D PORTION OF LT 15 (LESS EASEMENT AND PART OF HWY 285)

Business Name: BW Gas & Convenience Retail, LLC.

Property Owner: MDC Coast 18, LLC.

Business Address: 11995 El Camino Real, San Diego, CA 92127

Zoning District: "C-2" Commercial 2 District

The Allsup's property at 1010 S. Canal St., Carlsbad, NM, is currently zoned "C-2" Commercial 2 District. Chapter 56, Sec. 56-40(e) of the Carlsbad Zoning Ordinance states the following regarding 'C-2' Commercial 2 District:

(e) Commercial 2 (C-2) District.

The Commercial 2 District is intended to accommodate community and regional-scale retail and commercial uses. Such uses are regulated in order to be compatible with surrounding uses and existing infrastructure.

For properties zoned "C-2" Commercial 2 District, the stocking and sale of liquor is an allowed use at these locations. To access the Carlsbad Code of Ordinances, please follow this link, www.cityofcarlsbadnm.com, to the City's website and click on the *City Clerk* tab.

For further assistance, please contact my office at (575) 885-1185, or by email at jepatterson@cityofcarlsbadnm.com.

COUNCILORS

Ward 1
LISA A. ANAYA-FLORES
EDWARD T. RODRIGUEZ

Ward 2
J.J. CHAVEZ
JEFF FORREST

Ward 3
KARLA NIEMEIER
JUDITH WATERS

Ward 4
WESLEY CARTER
MARK WALTERSHEID

Thank you,



Jeff Patterson
Director of Planning & Regulation

COUNCILORS

Ward 1
LISA A. ANAYA-FLORES
EDWARD T. RODRIGUEZ

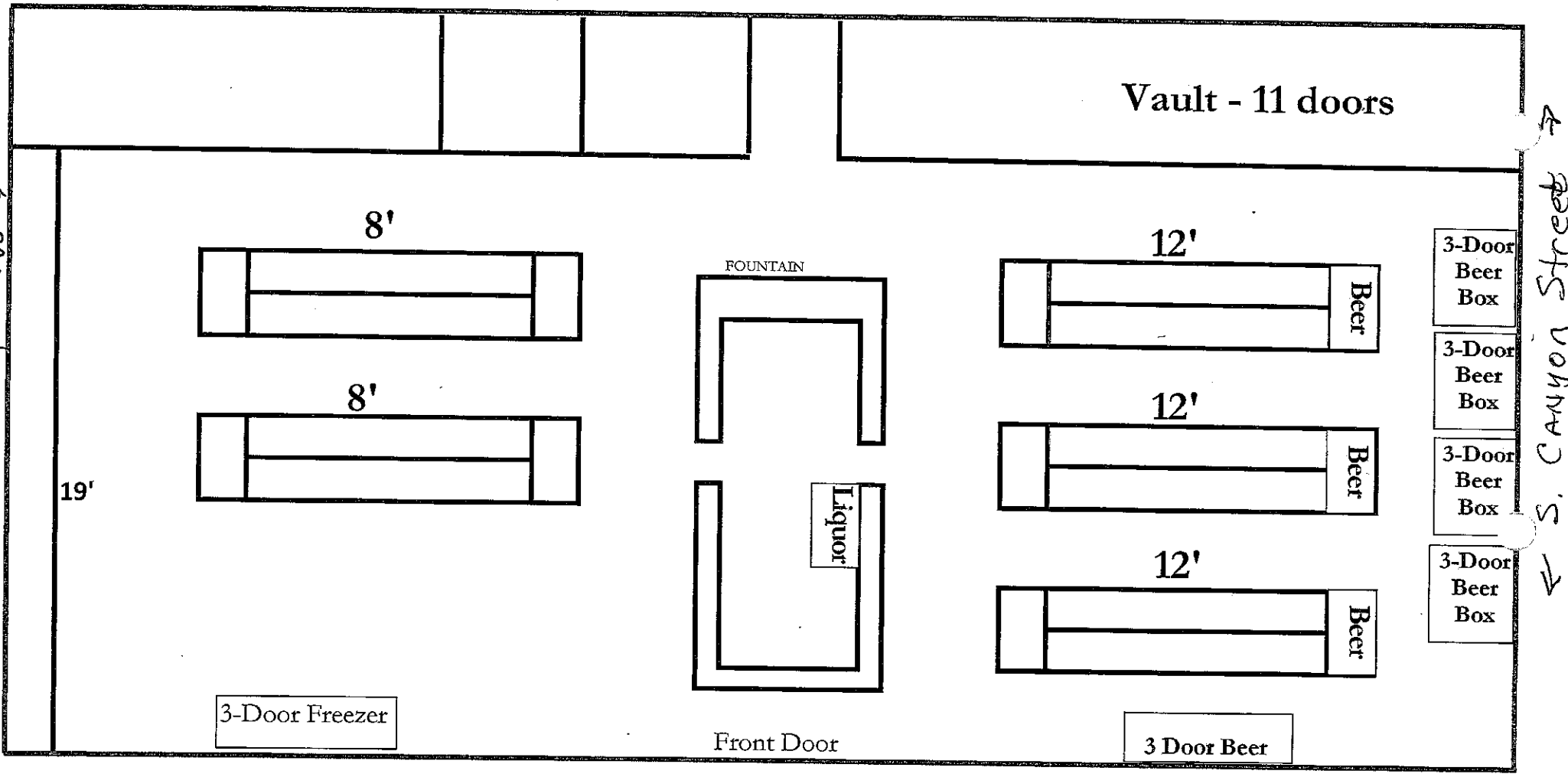
Ward 2
J.J. CHAVEZ
JEFF FORREST

Ward 3
KARLA NIEMEIER
JUDITH WATERS

Ward 4
WESLEY CARTER
MARK WALTERSHEID



Allsup's Convenience Store No. 102190
1010 S. Canal, Carlsbad, NM 88220
Liquor License No. 4026
2,400 sq. ft.



HIGHWAY 285 →
← V →

← S. Canyon Street →

← N

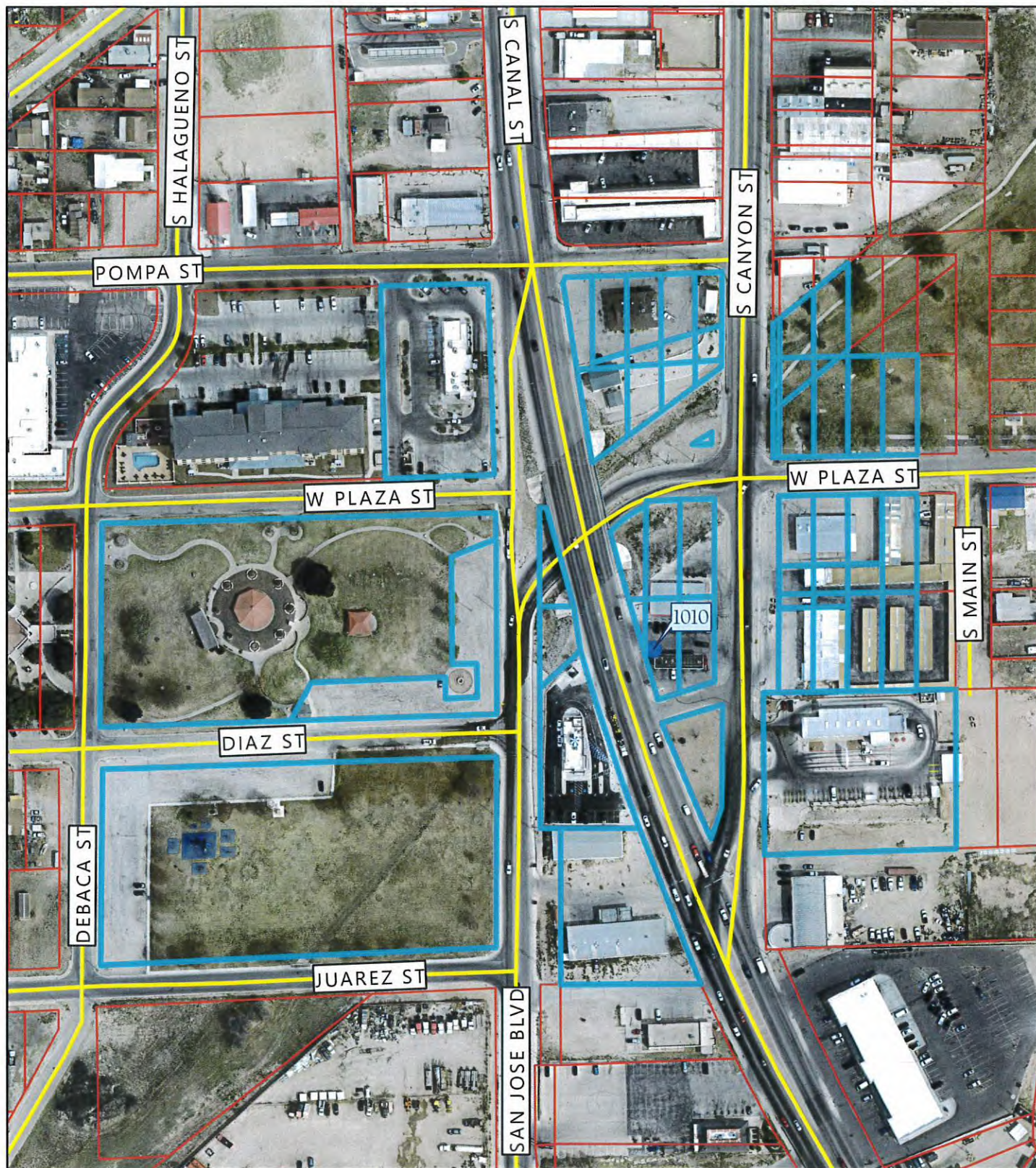
Scale: 1:2,400

300 Foot Radius

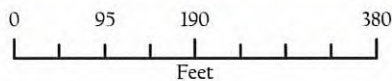
Map # 2838_ed01

1 inch = 200 Feet

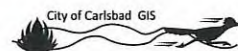
Date: 7/17/2023



- CarlsbadAddress
- Roads
- Parcel



IMPORTANT: Maps, products and data are NOT surveyor quality and are only to be used as a reference.



**MINUTES OF A PUBLIC HEARING IN THE MUNICIPAL BUILDING
ON AUGUST 23, 2023 AT 9:00 A.M.**

IN THE MATTER OF: A transfer of ownership and change of location of retailer Liquor License No 4026 with off-premises consumption only

Proposed Owner & Location:

BW Gas & Convenience Retail, LLC
dba: Allsup's Convenience Store #102190
1010 S Canal Street
Carlsbad, NM 88220

Present:

John Lowe, Hearing Officer
Olga Ramirez, Assistant to City Administrator
Kyla Stoker, Representative for BW Gas (via telephone)

With approval for the New Mexico Regulation and Licensing Department, the hearing was postponed until 1:30 pm. Mr. Lowe convened the hearing at 1:30 p.m. to consider a transfer of ownership and change of location of Retailer Liquor License No 4026 with off-premises consumption only. The proposed location is at 1010 S Canal , Carlsbad, NM.

The matter was received by the City of Carlsbad on July 17, 2023. The hearing was conducted in accordance with Section 60-6B-4 NMSA of the Liquor Control Act.

For the record, public notice was properly made on July 23, 2023 and July 30, 2023, in accordance with the applicable statutes. Persons representing the applicant were present. The proposed locations are within an area where the sale of liquor is allowed by the laws of New Mexico.

Mr. Lowe asked for comments from those present at the hearing. Ms. Stoker stated this location had a liquor license previously but was transferred to the new location. They are seeking a liquor license for this property again.

There was no opposition to the requested application for a transfer of ownership and change of location of retailer Liquor License No 4026 with off-premises consumption only.

Mr. Lowe explained that the application would be considered by the Carlsbad City Council at their next regular scheduled meeting on Tuesday, September 12, 2023 at 6:00 pm. There being no further comments, the hearing was adjourned at 1:32 pm.

John Lowe
Hearing Officer

Carlsbad Current Argus.

PART OF THE USA TODAY NETWORK

Affidavit of Publication

Ad # 0005775083

This is not an invoice

CITY OF CARLSBAD
POBOX 1569


CARLSBAD, NM 88221

I, a legal clerk of the **Carlsbad Current Argus**, a newspaper published daily at the City of Carlsbad, in said county of Eddy, state of New Mexico and of general paid circulation in said county; that the same is a duly qualified newspaper under the laws of the State wherein legal notices and advertisements may be published; that the printed notice attached hereto was published in the regular and entire edition of said newspaper and not in supplement thereof in editions dated as follows:

07/23/2023, 07/30/2023


Legal Clerk

Subscribed and sworn before me this July 30, 2023:


State of WI, County of Brown
NOTARY PUBLIC
1-7-25
My commission expires

NOTICE OF HEARING REGARDING APPLICATION FOR A TRANSFER OF OWNERSHIP AND CHANGE OF LOCATION OF RETAILER LIQUOR LICENSE NO 4026 WITH ON-PREMISE CONSUMPTION ONLY

Notice is hereby given that a public hearing will be held by the City of Carlsbad, New Mexico in the Planning Room of the Municipal Building, 101 North Halagueno Street, Carlsbad, NM at 9:00 a.m. on August 23, 2023.

The purpose of the hearing will be to accept public comment on whether the City Council should approve or disapprove an application for a transfer of ownership and change of location of Retailer Liquor License No 4026 with on-premise consumption.

Applicant: BW Gas & Convenience Retail LLC
D/B/A: Allsup's Convenience Store #102190
Address: 1010 S Canal Street
Carlsbad, NM 88220

Only questions relating to the Liquor License will be considered.

Written comments regarding this matter maybe directed to the office of the City Administrator, City of Carlsbad, 101 N. Halagueno Street, PO Box 1569, Carlsbad, New Mexico, 88220, or by email to oeramirez@cityofcarlsbadnm.com and will be accepted until 5:00 p.m. on August 22, 2023.

/s/John N Lowe
City Administrator
#5775083, Current Argus,
July 23, 30, 2023

KATHLEEN ALLEN
Notary Public
State of Wisconsin

Ad # 0005775083

PO #: Allsups Publication
of Affidavits 1

This is not an invoice

Legal Notices

**NOTICE OF HEARING
REGARDING APPLICATION
FOR A TRANSFER OF
OWNERSHIP AND CHANGE
OF LOCATION OF RETAILER
LIQUOR LICENSE NO 4026
WITH ON-PREMISE
CONSUMPTION ONLY**

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The purpose of the hearing will be to accept public comment on whether the City Council should approve or disapprove an application for a transfer of ownership and change of location of Retailer Liquor License No 4026 with on-premise consumption.

Applicant: BW Gas & Convenience Retail LLC
D/B/A: Allsup's Convenience Store #102190
Address: 1010 S Canal Street
Carlsbad, NM 88220

Only questions relating to the Liquor License will be considered.

Written comments regarding this matter may be directed to the office of the City Administrator, City of Carlsbad, 101 N. Halagueno Street, PO Box 1569, Carlsbad, New Mexico, 88220, or by email to oeramirez@cityofcarlsbadnm.com and will be accepted until 5:00 p.m. on August 22, 2023.

/s/John N Lowe
City Administrator
#5775083, Current Argus,
July 23, 30, 2023

 Legal Notices

**NOTICE OF HEARING
REGARDING APPLICATION
FOR A TRANSFER OF
OWNERSHIP AND CHANGE
OF LOCATION OF RETAILER
LIQUOR LICENSE NO 4026
WITH ON-PREMISE
CONSUMPTION ONLY**

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The purpose of the hearing will be to accept public comment on whether the City Council should approve or disapprove an application for a transfer of ownership and change of location of Retailer Liquor License No 4026 with on-premise consumption.

Applicant: BW Gas & Convenience Retail LLC
D/B/A: Allsup's Convenience Store #102190
Address: 1010 S Canal Street
Carlsbad, NM 88220

Only questions relating to the Liquor License will be considered.

Written comments regard-

ing this matter maybe directed to the office of the City Administrator, City of Carlsbad, 101 N. Halagueno Street, PO Box 1569, Carlsbad, New Mexico, 88220, or by email to oeramirez@cityofcarlsbadnm.com and will be accepted until 5:00 p.m. on August 22, 2023.

/s/John N Lowe
City Administrator
#5775083, Current Argus,
July 23, 30, 2023

INDEMNITY AGREEMENT

This Indemnity Agreement ("Agreement") is made and entered into as of August ____, 2023 ("Effective Date") by and between **Holtec international** ("Holtec"), and **the City of Carlsbad, New Mexico** ("Carlsbad").

The parties agree as follows:

1. Background

- i. Holtec is a corporation organized in the State of Delaware, with an office at 1 Holtec Blvd., Camden, NJ 08104.
- ii. Carlsbad is a city in Eddy County, New Mexico and is a member of the Eddy-Lea Energy Alliance, LLC ("ELEA").
- iii. Holtec and ELEA agreed to work together to establish the HI-STORE Consolidated Interim Storage Facility ("CISF") on land provided by ELEA.
- iv. CISF is intended to bring a safe, secure, temporary and retrievable private facility to store used nuclear fuel and high-level waste to the United States.
- v. On or about May 9, 2023, the U.S. Nuclear Regulatory Commission ("NRC") issued the final license to build and operate the CISF.
- vi. The New Mexico Legislature recently passed Senate Bill 53, 56th Legislature, 1st Session, 2023 ("SB 53"), which prohibits the storage of spent fuel in New Mexico, and was made effective as of June 15, 2023.
- vii. SB53 as written and adopted is subject to federal pre-emption challenge under federal law.
- viii. Holtec is considering filing a lawsuit challenging SB-53 as being federally pre-empted (the "Lawsuit").
- ix. Carlsbad is considering joining the Lawsuit as a co-Plaintiff.
- x. Should Carlsbad become a co-Plaintiff in the Lawsuit, Holtec will indemnify Carlsbad from any third-party lawsuit arising from the federal pre-emption of SB53.

2. Indemnification. HOLTEC hereby agrees to indemnify, defend and hold harmless Carlsbad from and against any and all liabilities, claims, damages, judgments, demands, suits, obligations, costs and expenses, including, but not limited to, reasonable attorneys' fees (collectively, "Losses"), arising out of or relating to the lawsuit, any cross claims or any third-party lawsuits against Carlsbad related to Carlsbad's participation in the Lawsuit.

As a condition precedent to any indemnification obligations hereunder, Carlsbad shall give written notice to Holtec of any claim that may be subject to indemnification, promptly after learning of such claim. If such claim falls within the scope of the indemnification obligations of

this Agreement, then Holtec shall exclusively control the defense of such claim. Carlsbad shall cooperate with Holtec in such defense. Carlsbad may, at its option and expense, be represented by counsel of its choice in any action or proceeding with respect to such claim. Holtec shall not be liable for any litigation costs or expenses incurred by Carlsbad without Holtec's written consent, such consent not to be unreasonably withheld.

3. Notices. All notices, requests, consents, claims, demands and other communications hereunder will be in writing and will be deemed to have been given (a) when delivered by hand, or (b) on the date sent by e-mail. The addresses of the recipients are as follows:

For Holtec International:
William F. Gill IV, Esq., Vice-President and General Counsel
1 Holtec Blvd
Camden, NJ 08104
W.Gill@holtec.com

For City of Carlsbad
Dale Janway, Mayor
101 N. Halagueno
Carlsbad, NM 88220
Mayor.office@cityofcarlsbadnm.com

4. Miscellaneous.

- 4.1 The headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.
- 4.2 This Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes any other agreements or understandings between the parties with respect to such subject matter.
- 4.3 No amendment or waiver of this Agreement or any provision hereof shall be effective unless in writing signed by the party to be so bound.
- 4.4 This Agreement shall be governed by and construed in accordance with the laws of New Mexico without regard to principles of conflicts of laws.
- 4.5 This Agreement may be executed in two or more counterparts, all of which taken together shall constitute one and the same instrument.
- 4.6 This Agreement may be executed in two or more counterparts, each of which shall be considered an original instrument, but all of which shall be considered one and the same agreement. Signatures to this Agreement transmitted by electronic mail (e.g. .pdf) or other electronic means intended to preserve the original appearance of a document, will have the same effect as physical delivery of the paper document bearing the original signature.

[Signature Page Follows]

The parties hereto have caused this Agreement to be executed by their authorized representatives as of the Effective Date.

HOLTEC INTERNATIONAL

By: WFG
Name: William F. Gill IV
Title: VP and General Counsel

CITY OF CARLSBAD

By: _____
Name:
Title:

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM

Council Meeting Date: 9/12/2023

DEPARTMENT: Municipal Services	BY: Angie Barrios-Testa, Director <i>AB</i>	DATE: 8/25/2023 <i>8/25/2023</i>
---------------------------------------	---	--

SUBJECT: Accept and Approve the Energy Efficiency and Conservation Strategy for the City of Carlsbad

BACKGROUND, ANALYSIS AND IMPACT: (Safety and Welfare/Financial/Personnel/Infrastructure/etc.)

Staff requests the City Council approve and accept the City of Carlsbad Energy Efficiency and Conservation Strategy. The City is working on submitting a voucher/grant proposal to the U.S. Department of Energy's Energy Efficiency & Conservation Block Grant (EECBG) Program. The City Council approved staff to submit a grant application to the U.S. DOE during its April 25, 2023, Regular City Council Meeting.

As presented previously, the goal of EECBG is to implement high-impact, self-sustaining clean energy projects that center the needs of low-income and disadvantaged communities. The Department of Energy EECBG program has set aside formula grant monies to local governments including \$76,110 for the City of Carlsbad. City staff will be submitting an application to fund lighting upgrades for one softball field at the Bob Forrest Youth Sports Complex (field 1).

Enclosed is the City of Carlsbad - Energy Efficiency and Conservation Strategy final draft which if approved will satisfy this requirement to qualify for the EECBG voucher grant program.

DEPARTMENT RECOMMENDATION: If is the will of the City Council accept and approve the City of Carlsbad Energy Efficiency and Conservation Strategy

BOARD/COMMISSION/COMMITTEE ACTION:

- | | | | |
|--|--|---|--------------------------------------|
| <input type="checkbox"/> P & Z | <input type="checkbox"/> Lodgers Tax Board | <input type="checkbox"/> Riverwalk Rec Center Board | <input type="checkbox"/> APPROVED |
| <input type="checkbox"/> Museum Board | <input type="checkbox"/> San Jose Board | <input type="checkbox"/> Water Board | <input type="checkbox"/> DISAPPROVED |
| <input type="checkbox"/> Library Board | <input type="checkbox"/> N. Mesa Board | <input type="checkbox"/> Beautification Committee | |

Reviewed by: City Administrator: /s/John Lowe	Date: 09/07/2023
---	-------------------------

City of Carlsbad, New Mexico Energy Efficiency and Conservation Strategy



Prepared for the City of Carlsbad, New Mexico
by
Souder, Miller and Associates



August 25, 2023

U.S. DOE Energy Efficiency and Conservation Block Grant Program Grantee	City of Carlsbad, New Mexico
Date	August 25, 2023
UEI Number	LKCDUTRJHFY6
City of Carlsbad Contact	Angie Barrios-Testa, Director of Municipal Services & Capital Programs Office (575) 887-1191 Ext 7957 Cell (575) 652-1317 abtesta@cityofcarlsbadnm.com

Acknowledgements

Souder, Miller and Associates (SMA) wished to acknowledge the people who contributed to the preparation of this report. The City of Carlsbad's Director of Municipal Services & Capital Programs, Angie Barrios-Testa, directed SMA's work and provided valuable input regarding the City's goals and strategies. Additional City staff provided valuable goals and strategy input, including: Melissa Salcido, Director of Finance; Mike Abell, Utilities Department Director; Jeff Patterson, Planning and Zoning Department Director; Patrick Cass, Director of Public Works; Ken Ahrens, Fire Chief; Theodor Cordova, Deputy City Administrator; and John Lowe, City Administrator.

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1.0 Purpose and Background

1.1 Purpose

The City of Carlsbad's (City) Energy Efficiency and Conservation Strategy (EECS) serves to define the City's energy efficiency and conservation goals for City operations and facilities. The EECS also identifies strategies intended to achieve those goals. The City is eligible to receive \$76,000.00 funding through the U.S. Department of Energy's (DOE) Energy Efficiency & Conservation Block Grant (EECBG) Program, but the agency has not yet formally awarded the funding to the City. The EECS will help to inform the spending of grant money and help prioritize other planned projects and potential funding uses. The EECS does not include energy efficiency and conservation goals or strategies for the broader community of Carlsbad, NM.

1.2 EECS Program

The EECBG Program serves to support local government initiatives to reduce fossil fuel emissions, reduce total energy use, and improve energy efficiency. To meet the statutory requirements, EECBG Program grantees are required to prepare an EECS. The DOE has provided an EECS template for local governments that have not yet received an award from the EECBG Program, including the elements outlined in Part A below:

Part A

- Description of goals for increased energy efficiency and conservation across all City facilities and operations, including goals related to greenhouse gas emission reduction, energy use reduction, electric vehicles adoption, job creation, and job quality improvements.
- Description of strategies related to the above goals.
- Statement regarding the intended use of an EECBG Program blueprint (methodology) used for project planning (i.e., Energy Efficiency: Building Audits and Retrofits).
- Statement regarding coordination and information sharing with state agencies.
- Statement regarding coordination with adjacent local governments that may be EECBG Program grantees.

1.3 EECS Preparation

The City contracted with Souder, Miller and Associates (SMA) to prepare the EECS. Beginning in May 2023, SMA coordinated with City staff to schedule and conduct interviews, research City operations and facilities, and gather relevant City plans, policies, and utility billing information.

1.4 City of Carlsbad

The City of Carlsbad is in southern New Mexico (Figure 1). The current population is approximately 31,525.

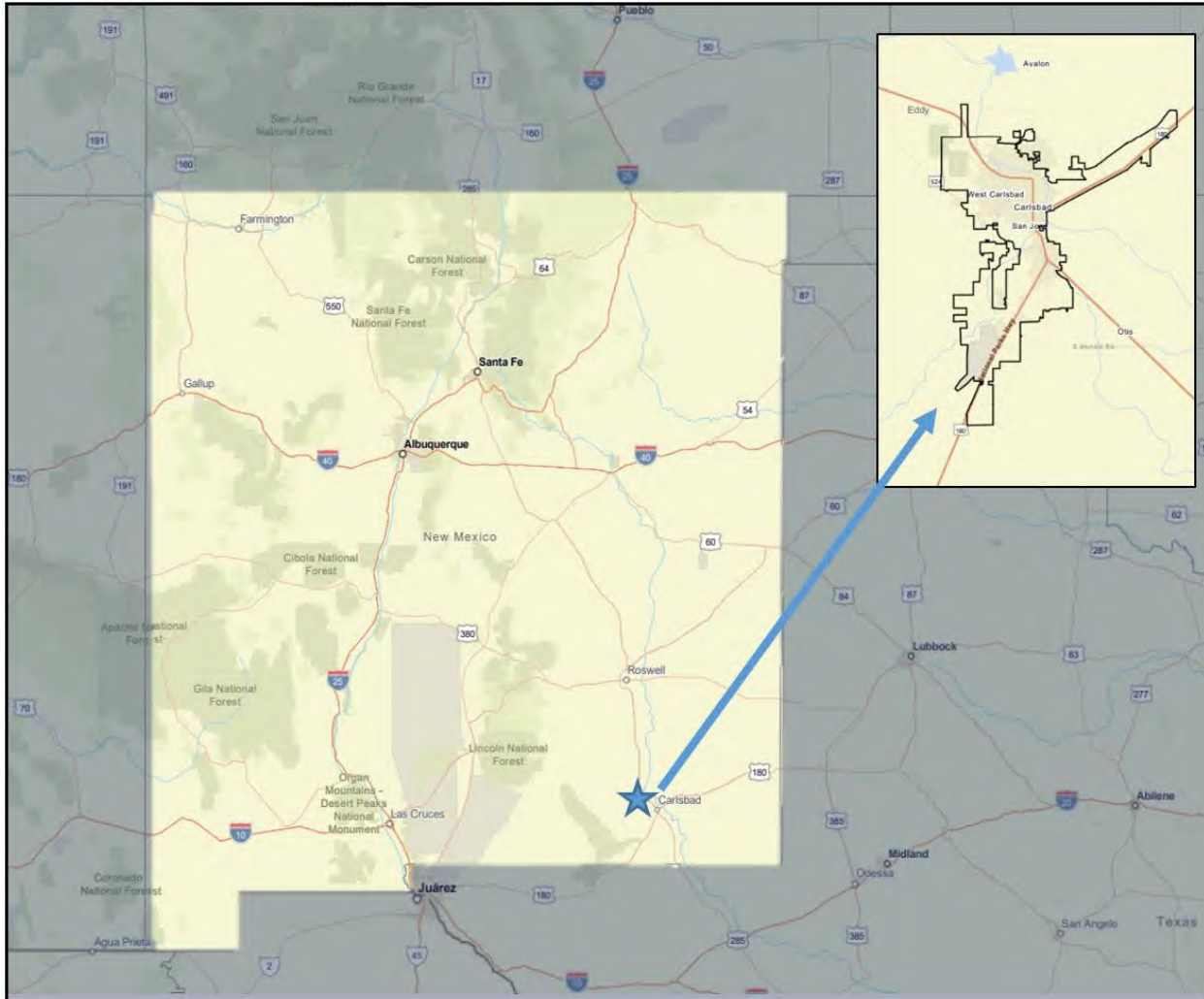


Figure 1. Vicinity Map, City Boundary (inset)

As illustrated in Figure 2 below, the City’s population has generally increased over the last 11 years. According to U.S. Census Bureau, from 2011-2021 the City’s population increased by 21.6%¹.

¹ U.S. Census Bureau, 2023.

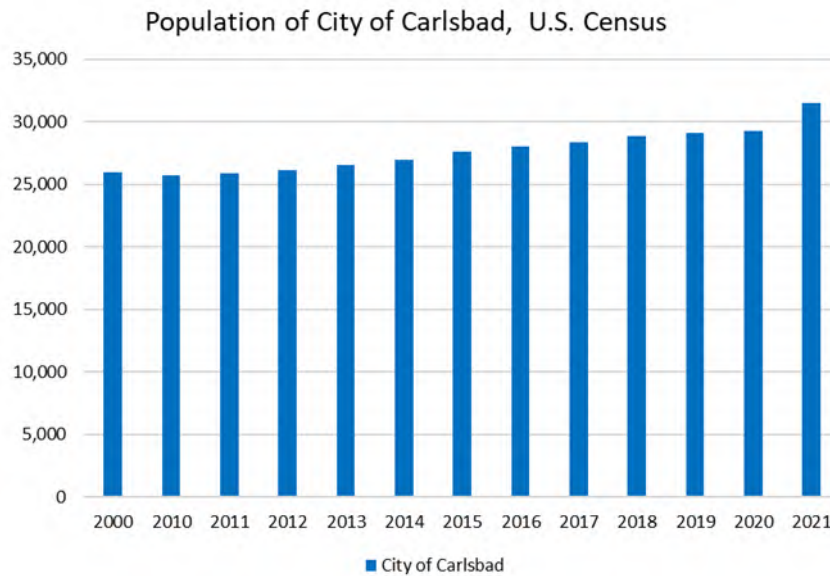


Figure 2. City of Carlsbad Population 200, and 2011-2021

According to the 2020 City of Carlsbad Comprehensive Plan, however, the census data may not reflect recent population trends resulting from regional increases in the oil and gas industry. To account for uncertainty in population trends, the Comprehensive Plan assumed three different population growth scenarios within the City of Carlsbad and Carlsbad Greater Area from 2017-2040, including a low growth estimate based on census data, a medium growth estimate, and a high growth estimate based on the Carlsbad Department of Development’s 2017 population estimates (56,216 in 2017 and 71,543 in 2025)².

1.4.1 City of Carlsbad Facilities

The City of Carlsbad operates multiple municipal facilities. Most of the City’s administrative departments are housed at the Carlsbad City Hall building, located at 101 North Halagueno Street, Carlsbad, NM 88220. Table 1 below summarizes major municipal facilities, including those managed by the various City departments.

² Consensus Planning. 2020. City of Carlsbad Comprehensive Plan. January 28th, 2020.

Table 1. Major Municipal Facilities by Department

Major Municipal Facilities	
Carlsbad City Hall <ul style="list-style-type: none"> • Community Development Department • Personnel Department • Finance Department • Municipal Services Department 	101 N. Halagueno St., Carlsbad, NM 88220
Janell Whitlock Municipal Complex <ul style="list-style-type: none"> • Municipal Court • The Planning, Engineering and Regulation Department 	114 S. Halagueno St., Carlsbad, NM 88220
Municipal Services Department	
Carlsbad Museum	418 W. Fox St., Carlsbad, NM 88220
Riverwalk Recreation Complex	400 Riverwalk Dr., Carlsbad, NM 88220
Alejandro Ruiz Senior Center	120 Kircher St., Carlsbad, NM 88220
North Mesa Senior Recreation Center	1112 N. Mesa St., Carlsbad, NM 88220
Carlsbad Public Library	101 S. Halagueno St., Carlsbad, NM 88220
Pecos River Village Conference Center	711 Muscatel Ave., Carlsbad, NM 88220
Utilities Department	
City of Carlsbad Wastewater Treatment Facility & Compost Facility	45 Blackfoot Rd., Carlsbad, NM 88220
Carlsbad Sewage Collections System	Various locations (incl. sewer lines & lift stations)
Environmental Services Laboratory	45 Tell Tale Ln., Carlsbad, NM 88220
Carlsbad Municipal Water System	Various locations (incl. production wells & pumps, transmission & distribution lines, valves)
Double Eagle Water System	Loco Hills Area
City of Carlsbad's Convenience Drop-Off Center	301 E Plaza St., Carlsbad, NM 88220
Public Works Department	
Public Works Office <ul style="list-style-type: none"> • Maintenance Departments • Construction Department • Electrical Department • Garage Department • Parks Department • Street Department 	1702 W. Fox St., Carlsbad, NM 88220

Major Municipal Facilities	
Carlsbad Fire Department	
City of Carlsbad Fire Department Administration	401 S. Halagueno St., Carlsbad, NM 88220
Carlsbad Fire Station 1	409 S. Halagueno St., Carlsbad, NM 88220
Carlsbad Fire Station 2	2416 W. Church St., Carlsbad, NM 88220
Carlsbad Fire Station 3	1028 N. Halagueno St., Carlsbad, NM 88220
Carlsbad Fire Station 6	1300 Terminal Dr., Carlsbad, NM 88220
Carlsbad Fire Station 7	304 W. Wood Ave., Carlsbad, NM 88220
Carlsbad Police Department	
Carlsbad Police Department	602 W. Mermod St., Carlsbad, NM 88220
Community Development Department	
The Lake Carlsbad Golf Course	901 Muscatel Ave., Carlsbad, NM 88220
Cavern City Air Terminal	1505 Terminal Dr., Carlsbad, NM 88220
Carlsbad Water Park	708 Park Dr., Carlsbad, NM 88220
Walter Gerrells Performing Arts & Exhibition Center	4012 National Parks Hwy., Carlsbad, NM 88220
Bob Forrest Youth Sports Complex	3213 W. Lea St., Carlsbad, NM 88220
The Cavern Theater Performing Arts Centre	210 N. Canyon St., Carlsbad, NM 88220
Avalon Ranch (The Jeff and Evy Diamond Building)	106 N. Mesquite St., Carlsbad, NM 88220
National Cave and Karst Research Institute	400-1 Cascades Ave., Carlsbad, NM 88220
Teri Able Community Kitchen	402 S. Alameda St., Carlsbad, NM 88220
Carlsbad Literacy Center	511 N. 12th St., Carlsbad, NM 88220
Carlsbad Cemeteries	
Carlsbad Cemetery	1506 Boyd Dr., Carlsbad, NM 88220
Sunset Gardens Cemetery	1408 E. Wood Ave., Carlsbad, NM 88220
Carlsbad Municipal Transit System	
Carlsbad Municipal Transit	510 N. Main St., Carlsbad, NM 88220

1.4.2 Baseline Energy Usage Information

The City does not comprehensively monitor energy usage at its facilities, buildings, nor among fleet vehicles. The City does, however, budget electric and natural gas utility expenses for each department (Table 2 below). The City's annual budgeting process can be used as a starting point for compiling a list of utility account numbers and then obtaining energy usage data for an energy monitoring database maintained by the City.

Table 2. City's Annual Utility Expense Budget 2024-2021

City Department	Utility	City's Annual Utility Expense Budget			
		2024	2023	2022	2021
Finance-Admin	Electric	\$ 31,980.00	\$ 30,000.00	\$ 35,800.00	\$ 35,800.00
Finance-Admin	Gas	\$ 3,630.00	\$ 2,000.00	\$ -	\$ -
PD - Admin	Electric	\$ 48,430.00	\$ 39,000.00	\$ 56,000.00	\$ 56,000.00
PD - Admin	Gas	\$ 4,500.00	\$ 2,000.00	\$ -	\$ -
Fire - Admin	Electric	\$ 39,370.00	\$ 63,000.00	\$ 30,000.00	\$ 30,000.00
Fire - Admin	Gas	\$ 25,720.00	\$ 15,000.00	\$ 8,700.00	\$ 8,700.00
Community Development	Electric	\$ 8,880.00	\$ 7,000.00	\$ 3,500.00	\$ 3,500.00
Community Development	Gas	\$ 7,560.00	\$ 500.00	\$ -	\$ -
Library	Electric	\$ 38,130.00	\$ 41,000.00	\$ 49,900.00	\$ 49,900.00
Library	Gas	\$ 7,000.00	\$ 8,000.00	\$ -	\$ -
Museum	Gas	\$ 4,500.00	\$ -	\$ -	\$ -
Performing Arts Center	Electric	\$ 40,190.00	\$ 51,000.00	\$ 40,000.00	\$ 40,000.00
Performing Arts Center	Gas	\$ 13,080.00	\$ 8,000.00	\$ -	\$ -
Airport	Electric	\$ 29,200.00	\$ 10,000.00	\$ 31,200.00	\$ 31,200.00
Airport	Gas	\$ 4,070.00	\$ 2,000.00	\$ -	\$ -
Riverwalk Recreation	Electric	\$ 25,640.00	\$ 26,000.00	\$ 54,000.00	\$ 54,000.00
Riverwalk Recreation	Gas	\$ 21,570.00	\$ 10,000.00	\$ -	\$ -
Golf	Electric	\$ 45,640.00	\$ 55,000.00	\$ 45,000.00	\$ 45,000.00
Golf	Gas	\$ 4,860.00	\$ 3,000.00	\$ -	\$ -
Water Park	Electric	\$ 26,380.00	\$ 20,700.00	\$ 35,700.00	\$ 35,700.00
Water Park	Gas	\$ 1,030.00	\$ 2,000.00	\$ -	\$ -
Sr. Rec - San Jose	Electric	\$ 12,600.00	\$ 9,400.00	\$ 16,900.00	\$ 16,900.00
Sr. Rec - San Jose	Gas	\$ 2,320.00	\$ 3,500.00	\$ -	\$ -
Sr. Rec - N. Mesa	Electric	\$ 15,700.00	\$ 17,000.00	\$ 15,000.00	\$ 15,000.00
Sr. Rec - N. Mesa	Gas	\$ 5,620.00	\$ 3,000.00	\$ -	\$ -
Sr. Rec-Alejandro Ruiz	Electric	\$ 15,160.00	\$ 19,400.00	\$ 5,600.00	\$ 5,600.00
Sr. Rec-Alejandro Ruiz	Gas	\$ 6,830.00	\$ 3,500.00	\$ -	\$ -
Streets	Electric	\$ 6,850.00	\$ -	\$ 5,000.00	\$ 5,000.00
Streets	Gas	\$ 21,010.00	\$ 10,000.00	\$ -	\$ -
Parks	Electric	\$ 79,240.00	\$ 86,000.00	\$ 456,000.00	\$ 456,000.00
Garage	Electric	\$ 22,990.00	\$ 18,300.00	\$ 27,300.00	\$ 27,300.00
Garage	Gas	\$ 4,300.00	\$ 2,000.00	\$ -	\$ -
Planning & Regulation	Electric	\$ 13,090.00	\$ 9,700.00	\$ 18,700.00	\$ 18,700.00
Planning & Regulation	Gas	\$ 4,810.00	\$ 2,000.00	\$ -	\$ -
Cemetery	Electric	\$ 5,090.00	\$ 3,500.00	\$ 108,500.00	\$ 108,500.00
Sports Complex	Electric	\$ 128,200.00	\$ 140,000.00	\$ 125,000.00	\$ 125,000.00
Municipal Transit	Electric	\$ 4,860.00	\$ 5,000.00	\$ 6,400.00	\$ 6,400.00
Municipal Transit	Gas	\$ 3,390.00	\$ 1,400.00	\$ -	\$ -
Water	Electric	\$ 584,450.00	\$ 550,000.00	\$ 481,100.00	\$ 481,100.00
Water	Gas	\$ 5,220.00	\$ 5,000.00	\$ -	\$ -
Waste Water	Electric	\$ 135,870.00	\$ 110,000.00	\$ 113,300.00	\$ 113,300.00
Double Eagle	Electric	\$ 146,380.00	\$ 100,000.00	\$ 71,500.00	\$ 71,500.00
Double Eagle	Gas	\$ 1,040.00	\$ 1,000.00	\$ -	\$ -
Collection System	Electric	\$ 72,090.00	\$ 65,000.00	\$ 58,000.00	\$ 58,000.00
Solid Waste Disposal	Electric	\$ 1,050.00	\$ 1,000.00	\$ 400.00	\$ 400.00
Golf Pro Shop	Electric	\$ 13,000.00	\$ -	\$ -	\$ -
Golf Pro Shop	Gas	\$ 3,500.00	\$ -	\$ -	\$ -

1.4.3 Related Plans and Policy

The City's 2020 Comprehensive Plan contemplates the nexus between local economic development and the region's energy industry (emphasis added):

- Economic Development Strategy 2.1
Collaborate and partner with Carlsbad Municipal School District and Southeast New Mexico College to maintain, expand, and promote workforce training programs related to existing and future business clusters in the region, including oil and gas extraction, aviation, healthcare, value added agriculture, **wind energy**, tourism and hospitality, etc.
- Economic Development Strategy 3.2
Recruit industries that are complementary to existing business clusters, including oil and gas, potash mining, value-added agriculture, aviation, and **renewable energy, including wind, solar, or biomass.**

The Comprehensive Plan's economic development strategies recognize that the energy utility and renewable energy industries are active in the region, employ members of the community, and have the potential to drive local economic development. For the purposes of this EECS, some of the identified energy efficiency and conservation strategies may be implemented by local businesses that support energy utilities or are engaged in renewable energy project development. The City does not anticipate updating the Comprehensive Plan within the next two years, nor does the City plan to use EECBG Program funds to update the Plan. When the Comprehensive Plan is updated, the City will determine the appropriate elements from this EECS to include in the revised Plan.

Based on information provided by City staff interviewed during preparation of this EECS, the City does not have any existing plans or policies related to energy efficiency.

In 2011, the City adopted a water conservation, emergency response and drought management policy³. The policy encourages use of water conservation measures, establishes a program to disseminate information related to water conservation, states that the City shall enforce state building codes related to water conservation, and prohibits water waste. The policy also establishes procedures for instituting water rationing in the event of water supply limitations.

³ City Code Chapter 52 – Utilities, Article V – Water Conservation, Emergency Response and Drought Management Ordinance

2.0 Energy Efficiency and Conservation Goals and Strategies

2.1 Input from City Staff

Between June 26th and July 3rd, 2023, SMA conducted separate interviews of principal City staff responsible for managing the City's facilities and operations, including City department heads and the City Administrator and his deputy. The interviews were intended to solicit input from City staff regarding their priority goals for energy efficiency and conservation as well as their strategy ideas to achieve these goals. Table 3 below summarizes the priority goals and strategies identified by principal City staff, organized by category.

Table 3. Energy Efficiency and Conservation Priority Goals & Strategies Identified by City Staff

CATEGORY/Priority Goals	Strategies
<p>ENERGY EFFICIENCY Energy efficiency improvements to reduce City facilities operating costs.</p>	<ul style="list-style-type: none"> • Lighting retrofits • Building/facility energy controls • City-wide energy use monitoring program • Procurement policy mandating consideration of energy efficiency for purchasing decisions • Electric motors and pump upgrades with Variable Frequency Drives (VFDs) • Energy efficiency building code • Indoor & outdoor lighting retrofits • Window replacement • HVAC upgrades • Replacing gas-powered tools with electric-powered equivalents
<p>WATER CONSERVATION Water conservation improvements to protect water supply.</p>	<ul style="list-style-type: none"> • Water conservation incentives • Enforcement of zoning code for outdoor irrigation • Increased use of treated effluent for irrigation (extend to west side of river) • Xeriscape at City buildings • Procurement policy mandating consideration of water conservation for purchasing decisions
<p>RENEWABLE ENERGY Solar for City buildings/renewable energy generation to offset electric usage and reduce City facility operating cost.</p>	<ul style="list-style-type: none"> • Solar for City buildings • Solar carports
<p>TRANSPORATION Improve transportation efficiency to reduce City fleet operating costs.</p>	<ul style="list-style-type: none"> • EV fleet vehicles & charging infrastructure

2.2 Energy Efficiency and Conservation Goals

There was consensus among City staff interviewed for this EECS that the City should prioritize energy efficiency improvements to reduce operating costs. The City, therefore, has identified the following realistically achievable energy efficiency goals and target dates:

1. At municipal facilities, replace 10% of obsolete/inefficient indoor and outdoor lighting fixtures with energy efficient lighting fixtures by 2025.
2. At municipal facilities, replace 100% of obsolete/inefficient indoor and outdoor lighting fixtures with energy efficient lighting fixtures by 2030.
3. Develop an internal team to oversee the implementation of municipal energy efficiency projects by 2025.

As part of future planning efforts, the City will evaluate possible expansion of its Energy Efficiency and Conservation goals.

2.3 Strategies to Achieve Energy Efficiency and Conservation Goals

2.3.1 Strategies to Improve Energy Efficiency to Reduce Operating Costs

A detailed understanding of how much energy the City uses in its operations and at its facilities/buildings is needed to identify inefficiencies and improvement opportunities. An industry standard for an Energy Baseline Assessment (ISO 50001 - Energy Management Systems⁴) defines energy baseline as “quantitative reference(s) providing a basis for comparison of energy performance”. The principles of an Energy Baseline Assessment are:

- An energy baseline reflects a specified time period.
- An energy baseline can be normalized using variables which affect energy use and/or consumption (e.g., square footage of buildings, degree days [outdoor temperature], etc.).
- The energy baseline is also used for calculation of energy savings, as a reference before and after implementation of energy performance improvement actions.

As determined by an Energy Baseline Assessment, the City’s energy baseline will be the total amount of electricity and other fuels used in the year ending before efficiency improvements are implemented. By normalizing the City’s energy usage (e.g., on a kWh/sq. ft. basis for buildings), the City can compare its performance with other similar organizations as a benchmark. The energy baseline will be used as a reference tool that allows the City to compare energy performance before and after a change is made to a building or facility.

⁴ International Organization for Standards (ISO) 50001 – Energy Management Systems, 2023.

In preparation for the Baseline Energy Assessment, the City should compile a database summarizing at least two years of monthly energy usage data for its facilities, buildings, and vehicles, including electricity (\$ and kWh), natural gas (\$ and BTU), and transportation fuel (\$ and gal.).

Compiling and analyzing current monthly electric usage information can help the City determine whether a facility or building is billed under the correct utility rate. Where available, the City should compile higher resolution electric usage data from electric utility smart meters to analyze daily load profiles. Analyzing daily load profiles can help the City determine whether there are opportunities to: 1) reduce peak loads and thereby reduce demand charges, or 2) load shift to the evening when energy costs are lower.

Once a Baseline Energy Assessment is complete, the City will plan to conduct an Energy Audit to make recommendations for implementation of energy efficiency measures, such as:

- Facilities
 - Equipment Upgrades (e.g., installation of variable frequency drives [VFDs] at motors, pumps, and blowers within water and wastewater systems)
 - Indoor and Outdoor Lighting Retrofits
- Buildings
 - Installing Energy Controls (e.g., programmable thermostats, motion sensor light switches)
 - Building Envelope Upgrades (e.g., new windows, doors, and insulation)
 - Heating & Cooling Upgrades (e.g., HVAC upgrades)
 - Indoor and Outdoor Lighting Retrofits

In addition to implementing energy conservation measures, the City should also establish administrative policies and procedures that can also result in operational energy efficiency improvements, such as:

- Procurement requirements to consider the life-cycle cost of replacing older equipment and lighting fixtures/bulbs at the end of its service life with high efficiency alternatives.
- New building design standards requiring the use of high efficiency materials, equipment, and fixtures.

2.3.2 Strategies to Improve Water Conservation

While water conservation efforts are normally focused on reducing per capita water use among municipal water customers, there are numerous examples of conservation initiatives among New Mexico municipalities that have significantly reduced water use as part of municipal operations. Much like energy efficiency, the City would benefit from a comprehensive understanding of how much water is used at its facilities and buildings. Some of this data may already be available in annual water rights compliance reports submitted to the New Mexico Office of the State Engineer. By comparing the City's water use to other municipalities', the City can determine whether water use at a given facility/building is higher than a benchmark facility/building and thereby identify opportunities to improve water conservation. With these opportunities identified, the City can plan implementation of water conservation measures, such as:

- Parks and Landscaping
 - Increased utilization of treated effluent for outdoor irrigation.
 - Programming irrigation controllers to water in evening/morning when evaporation rates are lower.
 - Compliance enforcement of the City's water conservation policy.
- Buildings
 - Installation of high efficiency water fixtures in buildings.

2.3.3 Strategies for Renewable Energy Generation to Offset Electric Usage

At a basic level, renewable energy systems (e.g., solar photovoltaic [PV] systems) that directly offset electric usage at a given facility/building are known as "net metered" systems. A net metered solar PV system is interconnected on the customer side of an electric meter so that generated energy is recorded by the meter, offsets energy that would otherwise come from the grid, and when generation exceeds consumption, the electric meter records the excess generated energy that is fed into the electric grid. For a properly sized net metered solar PV system, the objective is to reduce the electric bill as much as possible by matching the facility's/building's energy consumption with solar PV system generation output on a monthly and annual basis. Net metered solar PV systems are typically owned, operated, and financed by the electric utility customer.

In 2021, the State of New Mexico adopted the Community Solar Act and established a Community Solar Program, under which numerous Community Solar systems are now being developed. Under the new state program, an electric utility customer such as the City can subscribe to a community solar system to virtually offset electric usage at City facilities/buildings.

As summarized in Table 2 above, much of the City's annual electric expense budget is used to operate the City's water and wastewater systems. Fortunately, there are readily available federal funding programs to defray the capital investment cost of developing net metered solar PV systems at water and wastewater systems, including the U.S. EPA's Drinking Water State Revolving Fund (DWSRF) and the Clean Water State Revolving Fund (CWSRF). These programs have been successfully used by many communities in New Mexico to develop net metered solar PV systems to significantly reduce electric utility costs at drinking water and wastewater treatments plants.

Given the capital investment cost of developing solar PV systems, it is recommended that the City subscribe to community solar projects to reduce electric utility costs at most of its facilities and buildings. To reduce electric utility costs at the City's water and wastewater systems, it is recommended that the City assess the feasibility of developing net solar PV systems at water and wastewater facilities and, contingent on confirming feasibility, apply for DWSRF and CWSRF program funding to implement those projects.

2.3.4 Strategies for Reducing Transportation Costs

The City can employ several strategies to reduce transportation costs to operate fleet and public transportation vehicles, including route planning, load consolidation, reducing fleet size, driver monitoring, replacing older vehicles with higher efficiency alternatives, and encouraging alternate forms of transportation.

Route Planning

For routine travel of fleet and public transportation vehicles, instead of driving the shortest route, City managers should determine the best route based on the least amount of time to get from point to point. To calculate the best route, include historic and real-time traffic, road restrictions, as well as other hazards. This will allow drivers to spend less time idling while ensuring that schedules are met. To support optimal route planning and ensure City employees drive fleet and vehicles productively, the City should monitor drivers using GPS technology. The City can use recorded GPS data to optimize routes and limit personal stops, limit vehicle idling and frequent braking, and ensure compliance with traffic laws.

Load Consolidation

To the extent possible, City managers should optimize the productivity of fleet vehicles by consolidating loads to reduce the number of trips. Reducing the number of trips will result in lower fuel and vehicle maintenance costs.

Reduce Fleet Size

Reducing the fleet size becomes possible after successfully reducing the number of trips. By distributing required trips to available vehicles, the City will lower fuel and vehicle maintenance costs.

Replacing Older Vehicles with Higher Efficiency Alternatives

The City should institute procurement policies that require consideration of life-cycle costs when replacing older vehicles with new higher efficiency alternatives. Depending on the technology available at the time, the City can determine if there is a cost-benefit to replace older fleet vehicles with hybrid or plug-in electric vehicles (EVs). The City will need to include in their analysis the cost of installing and maintaining EV charging infrastructure.

Encouraging Alternate Forms of Transportation

The City should increase opportunities for safe, comfortable walking and bicycling throughout the community. By increasing these opportunities, City personnel will be more inclined to walk or bike to meetings rather than use City fleet vehicles.

3.0 Intended Use of EECBG Blueprint

The City plans you use a Blueprint as outlined in section 4.5 of the EECBG Program Formula Grant Application Instructions document. Specifically, the City plans to follow Blueprint 2A Energy Efficiency: Energy Audits, Building Upgrades, Part A Building Upgrades including Energy Efficiency. By planning to implement energy efficiency measures in the form of lighting retrofits, the City will meet the Blueprint requirement by completing one of the three energy improvements identified in the Blueprint (i.e., energy efficiency, electrification, and/or grid-interactivity).

This Blueprint will help the City reach its goal for municipal facilities of replacing 100% of obsolete/inefficient indoor and outdoor lighting fixtures with energy efficient lighting fixtures by 2030. Following Blueprint 2A, the City will complete a Baseline Energy Assessment and Energy Audit focused on lighting of municipal facilities to identify obsolete/inefficient indoor and outdoor lighting fixtures and determine the potential energy savings from lighting retrofits. The City will plan to hold a final meeting with the energy auditor and key facility staff to review the analysis, results, and recommend energy efficiency (lighting retrofit) measures.

4.0 Coordination with Relevant State Agencies

As part of planning and implementation of energy efficiency and conservation measures, the City intends to coordinate and share information with state agencies. The City plans to coordinate with state agencies including the New Mexico Environment Department, Construction Program Bureau and the Energy Minerals and Natural Resources Department, Energy Controls and Management Division about relevant resources and possible project implementation funding. Specifically, the City plans to schedule and hold meetings with state agency representatives to learn about relevant training and technical resources provided by the state and to discuss any available state funding programs that can be used to implement energy efficiency and conservation measures. If any funding programs are available, the City will learn about the funding eligibility criteria, application process, and timelines. The City will then use this information to make determinations about which funding programs to pursue in order to meet its goals.

5.0 Coordination with Local Governments

The City supports neighboring communities' efforts to plan and implement energy efficiency and conservation measures. The City is willing to share information about its own efforts, to the extent that this information is helpful to other communities.

The City has researched EEBGC funding slated for neighboring communities and had preliminary conversations with community representatives to learn how they plan to use the funding. Otero County, the City of Alamogordo, and the City of Roswell are the adjacent local governments that are eligible to receive grants under the EECBG Program. Otero County is currently in the process of deciding how EEBGC funds will be utilized. The City of Roswell's EEBGC funding application is for EV fast charging stations at four locations, including a local college, the airport, and two locations intended to be used by tourists. The City of Roswell's application was for \$3 million; there was no information as to how the formula grant would be used. The City of Alamogordo plans to pursue the voucher option but is still in the process of deciding how funds will be used.

Based on these preliminary conversations with representatives of neighboring communities, the City has not identified any areas for teaming in the near term. As part of future planning efforts and application for future funding, the City will evaluate the possibility of teaming with neighboring communities.

6.0 Recommendations

To achieve the energy efficiency and conservation goals identified Section 2.2, SMA recommends that the City follow Blueprint 2A for implementation of lighting retrofits at municipal facilities. As available funding allows in the future, SMA recommends that the City implement other strategies identified in Section 2.3.

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM

Council Meeting Date: 9/12/2023

DEPARTMENT: Municipal Services	BY: Angie Barrios-Testa, Director <i>Angie Barrios-Testa</i> 8/24/2023	DATE: 8/24/2023
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SUBJECT: Accept the RAISE Grant Award from the U.S. Department of Transportation for the Preliminary Plan of the Dark Canyon Bridge and Bikeway Project

BACKGROUND, ANALYSIS AND IMPACT: (Safety and Welfare/Financial/Personnel/Infrastructure/etc.)

The City of Carlsbad submitted an FY2022 Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Grant Program Application in April of 2022. The City submitted its competitive application for the Dark Canyon Bridge and Bikeway planning project in the amount of \$1,375,010 which includes \$1,100,008 in grant funding and a 20% match of \$275,002. The City was notified in September 2022 of the award by the U.S. Department of Transportation. During the initial implementation meeting, the City was notified that there would be an extensive grant agreement development process. During the last several months, the City has been developing the grant agreement with the New Mexico Department of Transportation (NMDOT) and the Federal Highway Administration (FHWA), the federal agency that administers the RAISE program.

During the grant agreement development process, the City of Carlsbad requested NMDOT as the pass-through agency to assist in managing its FY2022 RAISE award. NMDOT has concurred and will be a party to the grant agreement.

With the acceptance of the enclosed grant agreement, the City agrees to comply with all of the terms and conditions. The City of Carlsbad will spend all funds in advance, and NMDOT/FHWA will reimburse the City for all eligible expenditures. In anticipation of this award, the City has budgeted the funds under Project No. 100853 and is ready to begin the project as soon as the grant agreement is fully executed by all parties.

DEPARTMENT RECOMMENDATION: If it is the will of the City Council to accept the enclosed grant agreement and to delegate the Mayor to sign the grant agreement and associated documents.

BOARD/COMMISSION/COMMITTEE ACTION:

- | | | | |
|--|--|---|--------------------------------------|
| <input type="checkbox"/> P & Z | <input type="checkbox"/> Lodgers Tax Board | <input type="checkbox"/> Riverwalk Rec Center Board | <input type="checkbox"/> APPROVED |
| <input type="checkbox"/> Museum Board | <input type="checkbox"/> San Jose Board | <input type="checkbox"/> Water Board | <input type="checkbox"/> DISAPPROVED |
| <input type="checkbox"/> Library Board | <input type="checkbox"/> N. Mesa Board | <input type="checkbox"/> Beautification Committee | |

Reviewed by: City Administrator: /s/John Lowe	Date: 09/07/2023
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U.S. Department of Transportation

1200 New Jersey Avenue SE
Washington, DC 20590

Project Name: Dark Canyon Bridge Planning

Applicant: City of Carlsbad

RAISE Grant Funding: \$1,100,008

Estimated Total Project Costs: \$1,375,010

Project Description: The planning project will support planning and design costs for a proposed new bridge at Boyd Drive and Radio Boulevard just south of the city center, crossing the Carlsbad Irrigation Canal and the Dark Canyon regional drainage.

Congratulations! The project above was selected to receive an FY 2022 RAISE grant.

The USDOT Operating Administration overseeing your project will contact you in September regarding next steps to complete the relevant requirements before executing a grant agreement.

This letter DOES NOT authorize the applicant to incur costs to carry out the project. The execution of the grant agreement will obligate RAISE grant funding, making it available to reimburse eligible expenses for the awarded project. Unless authorized by USDOT in writing, any costs incurred prior to that obligation of funds for a project (i.e., “pre-award costs”) are ineligible for reimbursement and may be ineligible to count towards non-Federal match requirements. This letter DOES NOT authorize pre-award costs to be eligible. The Department expects all RAISE funding be obligated by September 30, 2026 and expended by September 30, 2031.

If you have any questions about this award, please contact the RAISE Grants Team at raisegrants@dot.gov

Sincerely,

A handwritten signature in black ink that reads "John Augustine".

John Augustine

Director, Office of Infrastructure Finance and Innovation
Office of the Secretary

RAISE AWARD AMOUNT: \$1,100,008

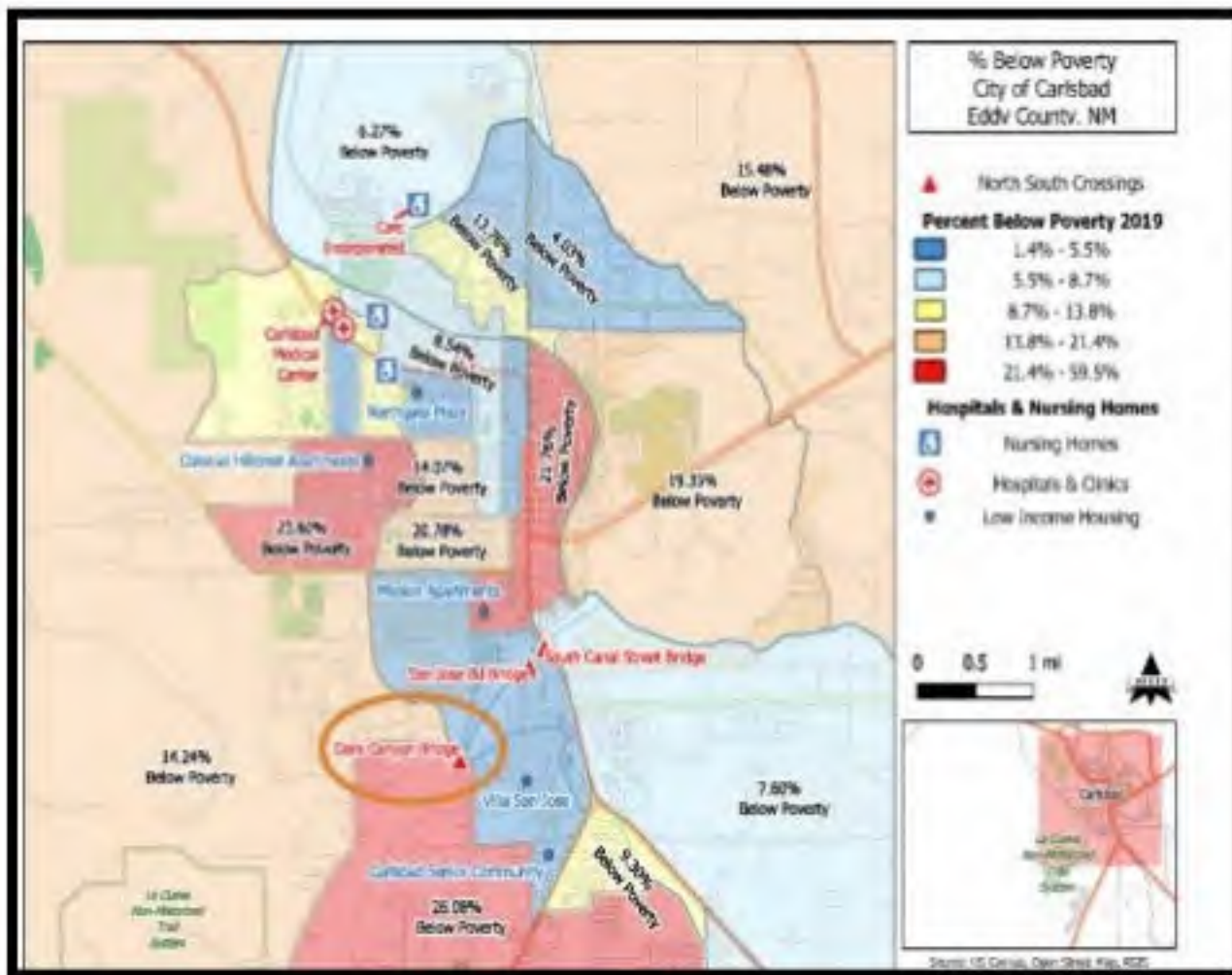
APPLICANT: CITY OF CARLSBAD

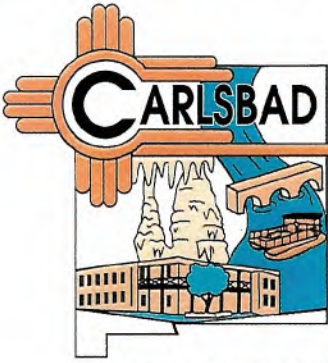
STATE: NEW MEXICO

RURAL

Project Description: The planning project will support planning and design costs for a proposed new bridge at Boyd Drive and Radio Boulevard just south of the city center, crossing the Carlsbad Irrigation Canal and the Dark Canyon regional drainage.

Project Benefits: By conducting comprehensive planning for this new bridge, including planning for long-term maintenance, the project will create more choices for non-motorized transportation, and use sustainable construction techniques that will significantly limit flooding across the region and improve the condition of the corridor.





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(575) 887-1191
1-800-658-2713
www.cityofcarlsbadnm.com

DALE JANWAY
MAYOR

JOHN N. LOWE
CITY ADMINISTRATOR

December 7, 2022

NM Department of Transportation
Attn: Trent Doolittle, NMDOT Deputy Secretary
1120 Cerrillos Road
Santa Fe, NM 87504

RE: 2022 RAISE Grant - Request NMDOT as Pass-Through Agency for the City of Carlsbad

Dear Mr. Doolittle:


The City of Carlsbad respectfully requests NMDOT as the pass-through agency to help manage its FY2022 RAISE Grant Award for the Dark Canyon Bridge Planning Project. We understand direct recipients are welcome to partner with their respective State DOT office to help with managing a federal program such as RAISE. If accepted, the City of Carlsbad is prepared to follow all Tribal/Local Public Agency Handbook, and NMDOT STIP requirements, as well as in accordance with RAISE program requirements.


The City of Carlsbad is looking forward to beginning this critical planning project as soon as possible. If NMDOT agrees to become the pass-through state agency for this award please sign the concurrence below. The points of contact for the City of Carlsbad will be the following:

KC Cass, Deputy City Administrator at (575) 887-1191 or email: kccass@cityofcarlsbadnm.com
Angie Barrios-Testa at (575) 887-1191 Ext. 7957 or email: abtesta@cityofcarlsbadnm.com

We appreciate your time and consideration and we look forward to working with you and NMDOT staff on this project.

Sincerely,


Mayor Dale W. Janway
City of Carlsbad

NMDOT Concurrence Signature: 
Trent Doolittle, Deputy Secretary

Date 12/8/2022

COUNCILORS

Ward 1
EDDIE T. RODRIGUEZ
LISA A. ANAYA FLORES

Ward 2
JEFF FORREST
J J CHAVEZ

Ward 3
KARLA NIEMEIER
JUDI WATERS

Ward 4
MARK WALTERSCHEID
WESLEY A. CARTER

U.S. DEPARTMENT OF TRANSPORTATION
GRANT AGREEMENT UNDER THE
FISCAL YEAR 2022 RAISE GRANT PROGRAM

This agreement is between the United States Department of Transportation (the “USDOT”) and the New Mexico Department of Transportation (the “NMDOT”/the “Recipient”).

This agreement reflects the selection of the Recipient to receive a RAISE Grant for the Dark Canyon Bridge Planning Project.

If schedule A to this agreement identifies a Designated Subrecipient, that Designated Subrecipient is also a party to this agreement, and the parties want the Designated Subrecipient to carry out the project with the Recipient’s assistance and oversight.

The parties therefore agree to the following:

ARTICLE 1
GENERAL TERMS AND CONDITIONS.

1.1 General Terms and Conditions.

- (a) In this agreement, “**General Terms and Conditions**” means the content of the document titled “General Terms and Conditions Under the Fiscal Year 2022 Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Grant Program: FHWA Projects,” dated October 18, 2022, which is available at <https://www.transportation.gov/policy-initiatives/raise/raise-grant-agreements>. The General Terms and Conditions reference the information contained in the schedules to this agreement. The General Terms and Conditions are part of this agreement.
- (b) The Recipient states that it has knowledge of the General Terms and Conditions.
- (c) The Recipient acknowledges that the General Terms and Conditions impose obligations on the Recipient and that the Recipient’s non-compliance with the General Terms and Conditions may result in remedial action, terminating of the RAISE Grant, disallowing costs incurred for the Project, requiring the Recipient to refund to the USDOT the RAISE Grant, and reporting the non-compliance in the Federal-government-wide integrity and performance system.

ARTICLE 2
SPECIAL TERMS AND CONDITIONS.

There are no special terms for this award.

**SCHEDULE A
ADMINISTRATIVE INFORMATION**

1. Application.

Application Title: Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Rural Planning Grant to support the Dark Canyon Bridge Planning Project

Application Date: April 14, 2022

2. Recipient's Unique Entity Identifier.

See section 23.3 of the General Terms and Conditions.

3. Recipient Contact(s).

Denise Peralta, P.E.
Director of Capital Program and Investments Division
1120 Cerrillos Road
Santa Fe, NM 87505
505-795-0246
denise.peralta@dot.nm.gov

4. Recipient Key Personnel.

None.

5. USDOT Project Contact(s).

Anthony Dominguez
Grant Manager – T/LPA Coordinator
FWHA, New Mexico Division
4001 Office Court Dr., Suite 801, Santa Fe, NM 87507
505-820-2033
Anthony.dominguez@dot.gov

6. Payment System.

USDOT Payment System: FMIS

7. Office for Subaward and Contract Authorization.

USDOT Office for Subaward and Contract Authorization: FHWA Division

8. Federal Award Identification Number.

See section 23.2 of the General Terms and Conditions.

9. Designated Subrecipient.

Designated Subrecipient: City of Carlsbad

Designated Subrecipient Project Contacts:

Angie Barrios-Testa
Director of Municipal Services & Capital Programs
City of Carlsbad
101 N, Halagueno, Carlsbad, NM 88221-1718
(575) 887-1191
abtesta@cityofcarlsbadnm.com

John Lowe
City Administrator
City of Carlsbad
101 N, Halagueno, Carlsbad, NM 88221-1718
(575) 887-1191
jnlowe@cityofcarlsbadnm.com

SCHEDULE B PROJECT ACTIVITIES

1. General Project Description.

The planning project will support planning and design costs for a proposed new bridge at Boyd Drive and Radio Boulevard just south of the city center, crossing the Carlsbad Irrigation Canal and the Dark Canyon regional drainage.

2. Statement of Work.

Project Kickoff/Implementation

Community Engagement

Planning, Design, Assessment Processes

- **Update and complete engineering and feasibility study**
- **Preliminary Design**
 - **Phase A** – initial evaluation of alternatives;
 - **Phase B** – detailed evaluation of alternatives;
 - **Phase C** – environmental documentation;
 - **Phase D** – preliminary design.
- **NEPA studies and document completed**
- **Impact and Cost/Benefit Studies**
- **Traffic and crash study completed**
- **Required Preliminary Design completed**

**SCHEDULE C
AWARD DATES AND PROJECT SCHEDULE**

1. Award Dates.

Budget Period End Date: 6/30/2027

Period of Performance End Date: See section 4.5 of the General Terms and Conditions

2. Estimated Project Schedule.

Milestone	Schedule Date
Planned Project Completion Date:	6/30/2026

3. Special Milestone Deadlines.

N/A

**SCHEDULE D
AWARD AND PROJECT FINANCIAL INFORMATION**

1. Award Amount.

RAISE Grant Amount: \$1,100,008

2. Federal Obligation Information.

Federal Obligation Type: Single

3. Approved Project Budget.

<u>Eligible Project Costs</u>	
	<u>Total Project</u>
RAISE Funds:	\$1,100,008
Other Federal Funds:	\$0
Non-Federal Funds:	\$275,002
Total:	\$1,375,010

4. Cost Classification Table

Reserved.

5. Approved Pre-award Costs

None. The USDOT has not approved under this award any costs incurred under an advanced construction authorization (23 U.S.C. 115), any costs incurred prior to authorization (23 C.F.R. 1.9(b)), or any pre-award costs under 2 C.F.R. 200.458.

SCHEDULE E
CHANGES FROM APPLICATION

Scope: No changes.

Schedule: The project completion date has been extended by a few months to June 2026 to account for project development activities.

Budget: No changes.

**SCHEDULE F
RAISE PROGRAM DESIGNATIONS**

1. Urban or Rural Designation.

Urban-Rural Designation: Rural

2. Capital or Planning Designation.

Capital-Planning Designation: Planning

3. Historically Disadvantaged Community or Area of Persistent Poverty Designation.

HDC or APP Designation: No

4. Funding Act.

Funding Act: FY2022

SCHEDULE G
RAISE PERFORMANCE MEASUREMENT INFORMATION

Reserved.

**SCHEDULE H
CLIMATE CHANGE AND ENVIRONMENTAL JUSTICE IMPACTS**

1. Consideration of Climate Change and Environmental Justice Impacts.

The Recipient states that rows marked with “X” in the following table are accurate:

X	The Project directly supports a Local/Regional/State Climate Action Plan that results in lower greenhouse gas emissions. <i>(Identify the plan in the supporting narrative below.)</i>
	The Project directly supports a Local/Regional/State Equitable Development Plan that results in lower greenhouse gas emissions. <i>(Identify the plan in the supporting narrative below.)</i>
	The Project directly supports a Local/Regional/State Energy Baseline Study that results in lower greenhouse gas emissions. <i>(Identify the plan in the supporting narrative below.)</i>
	The Recipient or a project partner used environmental justice tools, such as the EJSCREEN, to minimize adverse impacts of the Project on environmental justice communities. <i>(Identify the tool(s) in the supporting narrative below.)</i>
	The Project supports a modal shift in freight or passenger movement to reduce emissions or reduce induced travel demand. <i>(Describe that shift in the supporting narrative below.)</i>
	The Project utilizes demand management strategies to reduce congestion, induced travel demand, and greenhouse gas emissions. <i>(Describe those strategies in the supporting narrative below.)</i>
	The Project incorporates electrification infrastructure, zero-emission vehicle infrastructure, or both. <i>(Describe the incorporated infrastructure in the supporting narrative below.)</i>
	The Project supports the installation of electric vehicle charging stations. <i>(Describe that support in the supporting narrative below.)</i>
	The Project promotes energy efficiency. <i>(Describe how in the supporting narrative below.)</i>
	The Project serves the renewable energy supply chain. <i>(Describe how in the supporting narrative below.)</i>
X	The Project improves disaster preparedness and resiliency <i>(Describe how in the supporting narrative below.)</i>

	The Project avoids adverse environmental impacts to air or water quality, wetlands, and endangered species, such as through reduction in Clean Air Act criteria pollutants and greenhouse gases, improved stormwater management, or improved habitat connectivity. <i>(Describe how in the supporting narrative below.)</i>
	The Project repairs existing dilapidated or idle infrastructure that is currently causing environmental harm. <i>(Describe that infrastructure in the supporting narrative below.)</i>
	The Project supports or incorporates the construction of energy- and location-efficient buildings. <i>(Describe how in the supporting narrative below.)</i>
	The Project includes recycling of materials, use of materials known to reduce or reverse carbon emissions, or both. <i>(Describe the materials in the supporting narrative below.)</i>
	The Recipient has taken other actions to consider climate change and environmental justice impacts of the Project. <i>(Describe those actions in the supporting narrative below.)</i>
	The Recipient has not yet taken actions to consider climate change and environmental justice impacts of the Project but, before beginning construction of the Project, will take relevant actions described in schedule B. <i>(Identify the relevant actions from schedule B in the supporting narrative below.)</i>
	The Recipient has not taken actions to consider climate change and environmental justice impacts of the Project and will not take those actions under this award.

2. Supporting Narrative.

It is an explicit purpose of the project to improve the resilience of at-risk infrastructure under the potential threat of increasingly severe flooding events related to climate change. By conducting comprehensive planning for this new bridge, including planning for long-term maintenance, the project will create more choices for nonmotorized transportation, and use sustainable construction techniques that will significantly limit flooding across the region and improve the condition of the corridor.

The Dark Canyon bridge addresses a documented safety hazard by creating a safe, reliable, and environmentally resilient crossing for residents and emergency vehicles over the Carlsbad Irrigation District main canal and the Dark Canyon regional drainage during annual flood events. The completed bridge is expected to reduce traffic congestion, increase traffic safety, and promote resiliency and disaster preparedness in the face of extreme flooding events.

To increase the sustainability of the project itself, the City plans to hire green energy and technology consultants as part of the planning phase for the bridge in accordance with New Mexico's 2020 Climate Strategy. The City will explore environmentally sustainable elements in the construction of the bridge itself, such as eco-friendly building materials and construction practices and environmentally conscious, sustainable design that is consistent with the Federal Flood Risk Management Standard.

**SCHEDULE I
RACIAL EQUITY AND BARRIERS TO OPPORTUNITY**

1. Efforts to Improve Racial Equity and Reduce Barriers to Opportunity.

The Recipient states that rows marked with “X” in the following table are accurate:

	A racial equity impact analysis has been completed for the Project. <i>(Identify a report on that analysis or, if no report was produced, describe the analysis and its results in the supporting narrative below.)</i>
	The Recipient or a project partner has adopted an equity and inclusion program/plan or has otherwise instituted equity-focused policies related to project procurement, material sourcing, construction, inspection, hiring, or other activities designed to ensure racial equity in the overall delivery and implementation of the Project. <i>(Identify the relevant programs, plans, or policies in the supporting narrative below.)</i>
X	The Project includes physical-barrier-mitigating land bridges, caps, lids, linear parks, and multimodal mobility investments that either redress past barriers to opportunity or that proactively create new connections and opportunities for underserved communities that are underserved by transportation. <i>(Identify the relevant investments in the supporting narrative below.)</i>
	The Project includes new or improved walking, biking, and rolling access for individuals with disabilities, especially access that reverses the disproportional impacts of crashes on people of color and mitigates neighborhood bifurcation. <i>(Identify the new or improved access in the supporting narrative below.)</i>
	The Project includes new or improved freight access to underserved communities to increase access to goods and job opportunities for those underserved communities. <i>(Identify the new or improved access in the supporting narrative below.)</i>
	The Recipient has taken other actions related to the Project to improve racial equity and reduce barriers to opportunity. <i>(Describe those actions in the supporting narrative below.)</i>
	The Recipient has not yet taken actions related to the Project to improve racial equity and reduce barriers to opportunity but, before beginning construction of the Project, will take relevant actions described in schedule B. <i>(Identify the relevant actions from schedule B in the supporting narrative below.)</i>
	The Recipient has not taken actions related to the Project to improve racial equity and reduce barriers to opportunity and will not take those actions under this award.

2. Supporting Narrative.

The planned Dark Canyon Bridge is an infrastructure consideration that is increasingly important as Carlsbad continues to grow. The population surge of 23% (from 26,138 to 32,238) over the last decade has overwhelmed services and infrastructure. This access is an economic as well as a racial equity issue. The Dark Canyon Bridge Planning Project alleviates traffic congestion, increases travel time reliability, and improves access to local employment and affordable housing. The project will provide access to areas of persistent poverty in the city and county, including those surrounding Census Tracts 1, 4.02, and 5 on the northern side of the canal (which do qualify as areas of persistent poverty). Many low-income residents living in these tracts commute to employment on the southern side of the city where major employers, industrial parks, and other businesses are located.

**SCHEDULE J
LABOR AND WORK**

1. Efforts to Support Good-Paying Jobs and Strong Labor Standards

The Recipient states that rows marked with “X” in the following table are accurate:

	The Recipient or a project partner has adopted the use of project labor agreements in the overall delivery and implementation of the Project. <i>(Identify the relevant agreements and describe the scope of activities they cover in the supporting narrative below.)</i>
X	The Recipient or a project partner has adopted the use of local and economic hiring preferences in the overall delivery and implementation of the Project, subject to all applicable State and local laws, policies, and procedures. <i>(Describe the relevant provisions in the supporting narrative below.)</i>
	The Recipient or a project partner has adopted the use of registered apprenticeships in the overall delivery and implementation of the Project. <i>(Describe the use of registered apprenticeship in the supporting narrative below.)</i>
	The Recipient or a project partner will provide training and placement programs for underrepresented workers in the overall delivery and implementation of the Project. <i>(Describe the training programs in the supporting narrative below.)</i>
	The Recipient or a project partner will support free and fair choice to join a union in the overall delivery and implementation of the Project by investing in workforce development services offered by labor-management training partnerships or setting expectations for contractors to develop labor-management training programs. <i>(Describe the workforce development services offered by labor-management training partnerships in the supporting narrative below.)</i>
	The Recipient or a project partner will provide supportive services and cash assistance to address systemic barriers to employment to be able to participate and thrive in training and employment, including childcare, emergency cash assistance for items such as tools, work clothing, application fees and other costs of apprenticeship or required pre-employment training, transportation and travel to training and work sites, and services aimed at helping to retain underrepresented groups like mentoring, support groups, and peer networking. <i>(Describe the supportive services and/or cash assistance provided to trainees and employees in the supporting narrative below.)</i>

x	<p>The Recipient or a project partner has documented agreements or ordinances in place to hire from certain workforce programs that serve underrepresented groups. <i>(Identify the relevant agreements and describe the scope of activities they cover in the supporting narrative below.)</i></p>
	<p>The Recipient or a project partner participates in a State/Regional/Local comprehensive plan to promote equal opportunity, including removing barriers to hire and preventing harassment on work sites, and that plan demonstrates action to create an inclusive environment with a commitment to equal opportunity, including:</p> <ul style="list-style-type: none"> a. affirmative efforts to remove barriers to equal employment opportunity above and beyond complying with Federal law; b. proactive partnerships with the U.S. Department of Labor’s Office of Federal Contract Compliance Programs to promote compliance with EO 11246 Equal Employment Opportunity requirements; c. no discriminatory use of criminal background screens and affirmative steps to recruit and include those with former justice involvement, in accordance with the Fair Chance Act and equal opportunity requirements; d. efforts to prevent harassment based on race, color, religion, sex, sexual orientation, gender identity, and national origin; e. training on anti-harassment and third-party reporting procedures covering employees and contractors; and f. maintaining robust anti-retaliation measures covering employees and contractors. <p><i>(Describe the equal opportunity plan in the supporting narrative below.)</i></p>
	<p>The Recipient has taken other actions related to the Project to create good-paying jobs with the free and fair choice to join a union and incorporate strong labor standards. <i>(Describe those actions in the supporting narrative below.)</i></p>
	<p>The Recipient has not yet taken actions related to the Project to create good-paying jobs with the free and fair choice to join a union and incorporate strong labor standards but, before beginning construction of the Project, will take relevant actions described in schedule B. <i>(Identify the relevant actions from schedule B in the supporting narrative below.)</i></p>
	<p>The Recipient has not taken actions related to the Project to improving good-paying jobs and strong labor standards and will not take those actions under this award.</p>

2. Supporting Narrative.

The City is committed to local and diverse hiring. Our Planning Process and revised Preliminary Engineering Report will incorporate the highest labor standards from union contractors and beneficiaries, to ensure that the economic benefits of the project are shared throughout all the diverse communities of our region. The City’s Procurement

Policy includes Local Preference and recognizes the value derived from local businesses. In accordance with this policy, the City procures goods and services locally whenever possible as permissible by the New Mexico State Procurement Code and federal procurement guidelines, and this applies to all contractors engaged for this project.

In addition, wages must be set at or above the scaled wage rates as determined by the State of New Mexico, which are typically higher than the Federal scale, and our procurement policies have strict timelines for the payment of work performed under the contract.

RECIPIENT SIGNATURE PAGE

The Recipient, intending to be legally bound, is signing this agreement on the date stated opposite that party's signature.

New Mexico Department of Transportation

_____	By: _____
Date	Signature of Recipient's Authorized Representative
	Ricky Serna

	Name
	NMDOT Cabinet Secretary

	Title

DESIGNATED SUBRECIPIENT SIGNATURE PAGE

The Designated Subrecipient, intending to be legally bound, is signing this agreement on the date stated opposite that party's signature.

City of Carlsbad New Mexico

_____	By: _____
Date	Signature of Designated Subrecipient's Authorized Representative
	Dale W. Janway

	Name
	Mayor

	Title

USDOT SIGNATURE PAGE

The USDOT, intending to be legally bound, is signing this agreement on the date stated opposite that party's signature.

UNITED STATES DEPARTMENT OF
TRANSPORTATION

_____ By: _____
Date Signature of USDOT's Authorized Representative

Cindy Vigue

Name

FHWA New Mexico Division Administrator

Title

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM

Council Meeting Date: 9/12/2023

DEPARTMENT: Municipal Services	BY: Angie Barrios-Testa, Director <i>AB</i> 8/28/2023	DATE: 8/28/2023
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SUBJECT: Accept Appropriation No. 23-ZH5050-3 from the Department of Finance and Administration in the Amount of \$500,000 to Match a Federal Infrastructure Project

BACKGROUND, ANALYSIS AND IMPACT: (Safety and Welfare/Financial/Personnel/Infrastructure/etc.)

On June 9, 2023, the New Mexico Department of Finance and Administration (DFA) released a grant opportunity available to match federal infrastructure project grants. The \$10 million was made available under 2023 Legislative House Bill 2. The City of Carlsbad submitted an application in the amount of \$500,000 to be used towards the Economic Development Administration – American Rescue Plan (EDA ARP) project awarded in April of 2022 in the amount of \$2,000,000 with a match requirement of \$500,000. The EDA ARP project is to complete the Double Eagle Waterline Replacement project. The City of Carlsbad has now received an award for the full \$500,000 in funding with a reversion date of June 30, 2024.

The City of Carlsbad will be required to budget and incur the expenditures upfront and submit reimbursement request(s) to DFA as the funds are spent. The project is budgeted under Project No. 100804. Staff seeks the City Council's consideration for acceptance and approval of the enclosed grant agreement, and to designate the Mayor to sign the grant agreement and any related documents.

DEPARTMENT RECOMMENDATION: City Council consideration to accept and approve the Grant Agreement from the New Mexico Department of Finance and Administration.

BOARD/COMMISSION/COMMITTEE ACTION:

- | | | | |
|--|--|---|--------------------------------------|
| <input type="checkbox"/> P & Z | <input type="checkbox"/> Lodgers Tax Board | <input type="checkbox"/> Riverwalk Rec Center Board | <input type="checkbox"/> APPROVED |
| <input type="checkbox"/> Museum Board | <input type="checkbox"/> San Jose Board | <input type="checkbox"/> Water Board | <input type="checkbox"/> DISAPPROVED |
| <input type="checkbox"/> Library Board | <input type="checkbox"/> N. Mesa Board | <input type="checkbox"/> Beautification Committee | |

Reviewed by: City Administrator: /s/John Lowe	Date: 09/07/2023
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407 Galisteo St,
Santa Fe, NM 87501
(505) 827- 4985

Michelle Lujan Grisham, Governor
Wayne Propst, Cabinet Secretary

Local Government Division
Wesley Billingsley, Division Director

August 18, 2023

Dale Janway, Mayor
City of Carlsbad
101 N, Halagueno
Carlsbad, NM 88221

RE: 2023 Federal Matching Fund Award

Dear Mayor Janway:

It is my pleasure to inform you that the City of Carlsbad's application for the **2023 Federal Matching Fund** for state and local match assistance for federal grants is approved in the amount of \$500,000.00.

The DFA, Local Government Division staff will issue grant agreements this week. Please be aware that the City cannot expend or incur costs against this grant until a grant agreement with the Department of Finance and Administration (DFA), Local Government Division (LGD) has been fully executed. Any expenses incurred prior to having a fully executed grant agreement will be the sole responsibility of the City.

If you have any questions please contact Maureen Ayers, CDB Project Manager on the CDB team at maureen.ayers@dfa.nm.gov; 505-470-0977.

Respectfully,

DocuSigned by:

D891C24BB85B4E9...

8/24/2023

Wesley Billingsley, Director
Local Government Division

xc: Carmen Morin, Community Development Bureau (CDB) Chief
Maureen Ayers, CDB Project Manager

APPROPRIATION RECIPIENT:

City of Carlsbad

<u>APPROPRIATION NUMBER:</u>	<u>APPROPRIATION AMOUNT:</u>	<u>REVERSION DATE:</u>
23-ZH5050-3	\$500,000.00	June 30, 2024

APPROPRIATION LANGUAGE

Five Hundred Thousand Dollars and Zero Cents (\$500,000.00) for state and local match assistance for federal grants. Funds unexpended by June 30th, 2024, will be reverted to the State of New Mexico’s general fund.

APPROPRIATION REIMBURSEMENT

The appropriation funds will be disbursed through a reimbursement process. The Appropriation Recipient will submit to the Reimbursing Agency the Exhibit A: Request for Payment form along with supporting document(s) that evidence the expenses to be reimbursed. The Reimbursing Agency will review these documents to ensure all expenses to be reimbursed reflect the intent and purpose of the appropriation language. All expenditures for which the Appropriation Recipient requests reimbursement must occur prior to the reversion date. The latest date the Appropriation Recipient may submit a Request for Payment is July 12th, 2024. With the submission of the final Exhibit A: Request for Payment, the Appropriation Recipient must include a completed Exhibit B: Final Report form in order to receive the final reimbursement.

CERTIFICATION

I hereby certify that **City of Carlsbad**

1. Will only use the appropriation funds to carry out and/or perform activities described in appropriation language.
2. Will comply with State Procurement Code 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.
3. Ensures that the appropriation funds only benefit entities in accordance with applicable law, including, but not limited to Article IX, Section 14 of the Constitution of the State of New Mexico, “Anti-Donation Clause.”
4. Will follow the procedure described in “Appropriation Reimbursement” for reimbursement of appropriated funds.

Appropriation Recipient Representative

Date

Appropriation Recipient CFO

Date

APPROVAL

In accordance with the authority conferred on the Department of Finance & Administration by the statute appropriating these funds, I hereby approve this certification for appropriation 23-ZH5050-3 in the amount of \$500,000.00.

Director, Local Government Division

Date

**STATE OF NEW MEXICO
HB2 Matching Grant Appropriation
Final Report Form
Exhibit B**

Appropriation Recipient: _____

Appropriation Number: _____

Use of Appropriation Funds: List grants matched and amounts	Amount
Total Amount of Appropriation Funds Expended	

Narrative <i>Describe the outcomes, results, benefit, and or uses of the appropriation funds</i>

**CITY OF CARLSBAD
AGENDA BRIEFING MEMORANDUM**

COUNCIL MEETING DATE: 9/12/2023

DEPARTMENT: Transit	BY: Joshua Moore, Transit Manager <i>JM 8-31-23</i>	DATE: 8/29/23
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SUBJECT:
Section 5311/5339(b) Grant Application FY25

SYNOPSIS, HISTORY and IMPACT (SAFETY AND WELFARE/FINANCIAL/PERSONNEL/INFRASTRUCTURE/ETC.):

Carlsbad Municipal Transit System is applying for funding through the U.S.C. Section 5311 Program. This will be a continuation of the funding that the City received from the New Mexico Department of Transportation. This grant provides public transportation to the community of Carlsbad and surrounding areas.

Below is a summary of the estimated total cost of the Carlsbad Municipal Transit System for FY24. The Federal grant portion being requested is \$1,931,637.00. The City portion of the estimated total cost (local match) is \$578,410.90

Capital requests include:

2 replacement buses (Arboc low-floor), mobile credit card / payment processing software to integrate with our current tech hardware, and miscellaneous bus shelter equipment to include solar lighting kits and real time bus finder tablets/screens

Budget Category	Net Project Cost	Total FTA Portion of Net Project Cost (max. allowed)	Total Minimum Required Local Match	Additional Local Funds
Capital Less 15.00% Local Match	\$407,074.00	\$346,012.90	\$61,061.10	\$0.00
Administration Less 20.00% Local Match	\$253,425.00	\$202,740.00	\$50,685.00	\$0.00
Capital Less 20.00% Local Match	\$563,074.00	\$450,459.20	\$112,614.80	\$0.00
Operating Less 50.00% Local Match	\$708,100.00	\$354,050.00	\$354,050.00	\$0.00
Total	\$1,931,673.00	\$1,353,262.10	\$578,410.90	\$0.00

The Grant Application will be submitted through their electronic Grant Management and Performance System (eGMPS). The above information summarizes the data that will be entered into the eGMPS.

DEPARTMENT RECOMMENDATION:
The recommendation is for the City Council to approve the application for the FY25, 5311 Federal Transportation Grant totaling \$1,931,637.00 by signing Lobbying Certification & Letter of Resolution.

BOARD/COMMISSION/COMMITTEE ACTION:

<input type="checkbox"/> P&Z	<input type="checkbox"/> Lodgers Tax Board	<input type="checkbox"/> Cemetery Board	<input type="checkbox"/> APPROVED
<input type="checkbox"/> Museum Board	<input type="checkbox"/> San Jose Board	<input type="checkbox"/> Water Board	<input type="checkbox"/> DISSAPPROVED
<input type="checkbox"/> Library Board	<input type="checkbox"/> N. Mesa Board	<input type="checkbox"/> _____ Committee	

Reviewed by
City Administrator /s/John Lowe Date: 09/07/2023

ATTACHMENTS: Section 5311 FY 2025 application excerpts, Letter of Resolution authorizing the filing of the FY25, 5311 grant application to the New Mexico Department of Transportation to provide funding assistance for the Carlsbad Municipal Transit System.

RESOLUTION NO. 2023- 54

**RESOLUTION AUTHORIZING FILING OF AN
APPLICATION TO THE NEW MEXICO DEPARTMENT
OF TRANSPORTATION FOR FUNDING ASSISTANCE FOR FY 2024-2025**

WHEREAS, the State of New Mexico received federal funding through the New Mexico Department of Transportation from the Federal Transit Administration (FTA) under U.S.C. Section 5339(b) FY 2023 and/or Section 5311 FY 2024 Programs; and

WHEREAS, the New Mexico Department of Transportation is authorized to administer this program and provide funding assistance for local transportation programs; and

WHEREAS, the City of Carlsbad is interested in maintaining present transportation services and providing additional services needed by residents of the City; and

WHEREAS, the City of Carlsbad supports this program; and proposes to provide local matching funds in the amount of \$578,410.90; and

BE IT THEREFORE RESOLVED BY THE GOVERNING BODY OF THE CITY OF CARLSBAD, New Mexico, that the filing of an application to the New Mexico Department of Transportation for funding assistance for the continuation of local supplemental public transportation program for Fiscal Year 2024-2025, is authorized. The Mayor is hereby authorized to act as the representative of the City of Carlsbad in execution of this program.

INTRODUCED, PASSED, ADOPTED AND APPROVED this 12th day of September 2023.

Dale Janway, Mayor

ATTEST:

City Clerk

Application

Application: Section 5311/5339 Program (Rural/Non-Urbanized Public Transportation) FY 2025 Application

Application Deadline: 9/8/2023 11:00:00 PM

Organization: City of Carlsbad

Year: 2025 **Status:** Not Submitted

Application Form(s)

Before you can submit this application, you must upload all required documents.

		<u>Documents</u>	
	Download	2025 Application Guide	
		Articles of Incorporation	Re-Upload
		501(C)3 Certification (Required for Non-Profits)	Attach
		SAM.gov Unique Entity Identifier Verification	Re-Upload
	Download	Signed and Dated Lobbying Certification	Re-Upload
		Complete Audit Report (FY22)	Re-Upload
		Transit Related Audit Finding Documentation (If Applicable)	Attach
		Negotiated Indirect Cost Rate (Tribes upload current approval letter)	Attach
		Flood Hazard Flood Insurance Policy (If applicable)	Re-Upload
		Procurement Policy (New Applicants and Updated Policies)	Attach
		Historical and Application Year Budget Information	Re-Upload
		Map of Service Area (must be current)	Re-Upload
		Demographic Information	Re-Upload
		Civil Rights Complaints/Review Activities Documentation (If applicable)	Attach
		Program Coordination	Attach
		Letter(s) of Resolution of Financial Commitment of Local Match (Must Include Dollar Amount)	Attach

<u>Documents</u>			
		Letter(s) of Program Support from Municipality, Board, or Council	Re-Upload
		Program Justification	Attach
		Operations Profile	Re-Upload
Requires Upload 	Optional 	Upload Complete 	

Project(s)

Attach

Description	Line Item	Year	Description	Stimulus	Net Project Cost
Remove	111204	2025	Buy Replacement < 30 Ft Bus (80/20)		\$203,537.00
Remove	111204	2025	Buy Replacement < 30 Ft Bus (80/20)		\$203,537.00
Remove	114210	2025	Acquisition - Fare Collection (Mobile)		\$35,000.00
Remove	117900	2025	Project Administration - Project Administration		\$253,425.00
Remove	300901	2025	Operating Assistance up to 50% Federal Share- Rural		\$708,100.00
Remove	113220	2025	Acquisition - Miscellaneous Bus Station Equip.		\$121,000.00

Budget Request Summary

Budget Category	Net Project Cost	Total FTA Portion of Net Project Cost (max. allowed)	Total Minimum Required Local Match	Additional Local Funds
Capital Less 15.00% Local Match	\$407,074.00	\$346,012.90	\$61,061.10	\$0.00
Administration Less 20.00% Local Match	\$253,425.00	\$202,740.00	\$50,685.00	\$0.00
Capital Less 20.00% Local Match	\$563,074.00	\$450,459.20	\$112,614.80	\$0.00
Operating Less 50.00% Local Match	\$708,100.00	\$354,050.00	\$354,050.00	\$0.00
Total	\$1,931,673.00	\$1,353,262.10	\$578,410.90	\$0.00

Budget Summary

Expense			
Supplies			
1-11-05	Office Supplies		\$2,500.00
1-11-10	Furniture under \$1,000		\$0.00
1-11-12	Equipment under \$1,000		\$0.00
1-11-20	Janitorial Supplies		\$1,500.00
1-11-95	Other		\$0.00
2-08-05	Shop Supplies		\$5,000.00
2-08-10	Furniture & Equipment under \$500		\$500.00

2-08-15	Printing	\$400.00
2-08-95	Other	\$0.00

Vehicle Costs

2-11-05	Fuel	\$80,000.00
2-11-10	License & Fees	\$0.00
2-11-15	Oil & Lubricants	\$0.00
2-11-20	Replacement Parts	\$0.00
2-11-25	Tires	\$0.00
2-11-30	Vehicle Maintenance	\$75,000.00
2-11-35	Vehicle Painting	\$0.00
2-11-40	Vehicle Interior Maintenance	\$0.00
2-11-45	Freight	\$0.00
2-11-50	Vehicle Repair	\$0.00
2-11-60	Vehicle Insurance	\$0.00
2-11-95	Other	\$0.00

Insurance

1-07-05	Buildings and Contents	\$4,500.00
1-07-10	General & Employee Liability Insurance	\$0.00
1-07-15	Surety and Fidelity Bonds	\$0.00
1-07-20	Claims Deductible	\$0.00
1-07-25	Vehicle Insurance	\$3,200.00
1-07-95	Other	\$0.00

Communications

1-03-05	Fax Machine	\$0.00
1-03-10	Internet Subscriber Services	\$0.00
1-03-15	Postage	\$0.00
1-03-20	Telephone	\$6,000.00
1-03-25	Cell Phone	\$0.00
1-03-30	Radio	\$0.00
1-03-35	Repeater Fees	\$0.00
1-03-95	Other	\$0.00
2-03-05	Cell Phone	\$0.00
2-03-10	Telephone	\$6,000.00
2-03-15	Radio Repeater	\$0.00
2-03-20	Mobile Radio	\$0.00
2-03-25	Radio	\$0.00
2-03-95	Other	\$0.00

Occupancy Costs

1-08-05	Office Rent	\$0.00
1-08-10	Utilities	\$5,000.00

1-08-20	Building Maintenance	\$0.00
1-08-95	Other	\$0.00
2-06-05	Building Maintenance	\$5,000.00
2-06-10	Operational Rent	\$0.00
2-06-15	Utilities	\$5,000.00
2-06-20	Building Insurance	\$0.00
2-06-25	Building and Grounds	\$0.00
2-06-30	Pest Control	\$0.00
2-06-35	Landscaping services	\$0.00
2-06-95	Other	\$0.00

Contractual Services

1-04-05	Audit	\$0.00
1-04-10	Advertising	\$5,500.00
1-04-15	Equipment Rental/Lease	\$0.00
1-04-20	Contractual Services - Other	\$15,000.00
1-04-25	Contractual Services - Janitorial	\$0.00
1-04-26	Temporary Employment Services	\$0.00
1-04-27	Accounting	\$0.00
1-04-28	Consulting Services	\$0.00
1-04-30	Indirect Costs	\$0.00
1-04-95	Other	\$0.00
2-04-05	Maintenance - Machinery	\$0.00
2-04-06	Maintenance - Equipment	\$0.00
2-04-10	Equipment Rental/Lease	\$0.00
2-04-15	Contractual Services - Other	\$30,000.00
2-04-20	Transit Services	\$0.00
2-04-25	Software Lease	\$0.00
2-04-30	Indirect Cost Rate	\$0.00
2-04-95	Other	\$0.00

Training

1-12-05	Training	\$500.00
1-12-95	Other	\$0.00
2-09-05	Training	\$1,500.00
2-09-95	Other	\$0.00

Capital Expenses

3-01-00	Capital Cost	\$563,074.00
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Fringe Benefits

1-02-05	FICA	\$15,000.00
1-02-10	PERA Retirement	\$35,000.00
1-02-15	Health Insurance	\$25,000.00

1-02-20	Unemployment Insurance	\$0.00
1-02-25	Workmen's Compensation	\$0.00
1-02-30	Other Fringe Benefits	\$0.00
1-02-95	Other	\$0.00
2-02-05	FICA	\$30,000.00
2-02-10	PERA Retirement	\$65,000.00
2-02-15	Health Insurance	\$25,000.00
2-02-20	Unemployment Insurance	\$0.00
2-02-25	Worker's Compensation	\$0.00
2-02-95	Other	\$0.00

Personnel Costs

1-09-10	Physicals	\$400.00
1-09-12	Drug Screens	\$0.00
1-09-15	Vaccinations	\$0.00
1-09-95	Other	\$0.00
2-07-03	Uniform Laundry Services	\$0.00
2-07-05	Uniform Purchase	\$0.00
2-07-06	Background Checks	\$0.00
2-07-10	Vaccinations	\$0.00
2-07-12	Drug Screens	\$0.00
2-07-15	Physicals	\$1,200.00
2-07-95	Other	\$0.00

Dues and Subscriptions

1-05-05	NMTA	\$425.00
1-05-10	SWTA	\$0.00
1-05-15	Transit Publications	\$0.00
1-05-20	CTAA	\$0.00
1-05-21	Business Registration Fees	\$0.00
1-05-95	Other	\$0.00

Printing/Copying Costs

1-10-05	Printing	\$400.00
1-10-10	Copying	\$0.00
1-10-95	Other	\$0.00

Travel

1-13-05	Mileage	\$500.00
1-13-10	Public Transport Fares	\$0.00
1-13-15	Per Diem	\$2,000.00
1-13-20	Registration Fees	\$1,000.00
1-13-25	Lodging and Meals	\$0.00
1-13-30	Other	\$0.00

2-10-05	Mileage	\$1,000.00
2-10-10	Public Transport Fares	\$0.00
2-10-15	Per Diem	\$2,000.00
2-10-20	Registration Fees	\$500.00
2-10-25	Lodging & Meals	\$0.00
2-10-30	Other	\$0.00

Equipment

1-06-10	Equipment Repair	\$0.00
1-06-15	Computer Purchase	\$0.00
1-06-20	Software Purchase	\$0.00
1-06-25	Software Lease	\$0.00
1-06-95	Other	\$0.00
2-05-10	Assigned Vehicle Use	\$0.00
2-05-25	Equipment Repair	\$0.00
2-05-95	Other	\$0.00

Salaries and Wages

1-01-05	Director	\$0.00
1-01-10	Managers	\$55,000.00
1-01-12	Financial Manager	\$0.00
1-01-15	Clerical Support Staff	\$75,000.00
1-01-20	Accounting Staff	\$0.00
1-01-25	Administrative Assistant	\$0.00
1-01-30	Village Administrator	\$0.00
1-01-35	CFO	\$0.00
1-01-40	Salary Adjustments	\$0.00
1-01-45	Chief Executive Officer	\$0.00
1-01-50	Transportation Coordinator	\$0.00
1-01-55	Public Works Director	\$0.00
1-01-60	Janitor	\$0.00
1-01-65	Temporary	\$0.00
1-01-95	Other	\$0.00
2-01-05	Supervisor	\$0.00
2-01-10	Drivers	\$335,000.00
2-01-15	Mechanics	\$80,000.00
2-01-20	Dispatcher	\$0.00
2-01-25	Janitor	\$0.00
2-01-30	Salary Adjustment	\$0.00
2-01-35	Overtime	\$0.00
2-01-40	Mechanic Supervisor	\$0.00
2-01-45	Auto Parts Clerk	\$0.00
2-01-50	Maintainer	\$0.00
2-01-55	Accountant	\$0.00
2-01-60	Laborer	\$0.00

2-01-95	Other	\$0.00
Revenue (Non-Calculated)		
Advertising		
	Advertising	\$0.00
Contracting		
	Contracting	\$0.00
Revenue		
Passenger Fares		
2-11-55	Passenger Fares	\$40,000.00
Total Expenses		\$1,564,599.00
Total Revenue		\$40,000.00
Net Project Cost		\$1,524,599.00

Additional Documents

Document Name:

Select Document No file chosen

[Upload](#)

No documents attached.

Comments

Comments	Update By
No records to display.	
Insert	

History Log

Status	Comments	Last Modified By
Uploaded: Flood Hazard Flood Insurance Policy (If applicable)		Josh Moore on 8/30/2023 12:21:45 PM
Uploaded: Signed and Dated Lobbying		Josh Moore on 8/28/2023

Status	Comments	Last Modified By
Certification		12:23:15 PM
Uploaded: Historical and Application Year Budget Information		Josh Moore on 8/27/2023 12:51:45 PM
Uploaded: Complete Audit Report (FY22)		Josh Moore on 8/27/2023 12:49:00 PM
Uploaded: Letter(s) of Program Support from Municipality, Board, or Council		Josh Moore on 8/27/2023 12:41:28 PM
Uploaded: Operations Profile		Katie Robb on 8/22/2023 12:18:43 PM
Uploaded: Demographic Information		Katie Robb on 8/22/2023 12:14:29 PM
Uploaded: Map of Service Area (must be current)		Katie Robb on 8/22/2023 12:14:10 PM
Uploaded: SAM.gov Unique Entity Identifier Verification		Katie Robb on 8/22/2023 12:11:29 PM
Uploaded: Articles of Incorporation		Katie Robb on 8/22/2023 11:41:57 AM

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM

COUNCIL MEETING DATE: 9/12/23

DEPARTMENT: Water	BY: Ivan M. Abell Director of Utilities	DATE: August 23rd 2023												
SUBJECT: Resolution authorizing the acceptance of Capital Appropriation Funds for Project Automated Meter Reading System Purchase and Equipment														
SYNOPSIS, HISTORY and IMPACT (SAFETY AND WELFARE/FINANCIAL/PERSONNEL/INFRASTRUCTURE/ETC): The State of New Mexico Legislature Appropriated \$500,000.00 for Capital Project SAP 23-H2418-GF in the Laws of 2023 Chapter 199, Section 19, Subsection 42 ; to purchase equip and install an automated water meter reading system in Carlsbad in Eddy County, New Mexico. This is a 100% Capital Grant requiring no matching funds. Staff seeks Council's consideration of the proposed resolution accepting the grant agreement, authorizing the City's official representatives, and designating the Mayor or his designee as the City official having authority to sign the grant agreement.														
DEPARTMENT RECOMMENDATION: If it is the pleasure of the City Council, it is recommended that this proposed resolution be approved.														
BOARD/COMMISSION/COMMITTEE ACTION: <table><tr><td><input type="checkbox"/> P&Z</td><td><input type="checkbox"/> Lodgers Tax Board</td><td><input type="checkbox"/> Cemetery Board</td><td><input type="checkbox"/> APPROVED</td></tr><tr><td><input type="checkbox"/> Museum</td><td><input type="checkbox"/> San Jose Board</td><td><input type="checkbox"/> Water Board</td><td><input type="checkbox"/> DISAPPROVED</td></tr><tr><td><input type="checkbox"/> Library Board</td><td><input type="checkbox"/> N. Mesa Board</td><td><input type="checkbox"/> _____ Committee</td><td></td></tr></table>			<input type="checkbox"/> P&Z	<input type="checkbox"/> Lodgers Tax Board	<input type="checkbox"/> Cemetery Board	<input type="checkbox"/> APPROVED	<input type="checkbox"/> Museum	<input type="checkbox"/> San Jose Board	<input type="checkbox"/> Water Board	<input type="checkbox"/> DISAPPROVED	<input type="checkbox"/> Library Board	<input type="checkbox"/> N. Mesa Board	<input type="checkbox"/> _____ Committee	
<input type="checkbox"/> P&Z	<input type="checkbox"/> Lodgers Tax Board	<input type="checkbox"/> Cemetery Board	<input type="checkbox"/> APPROVED											
<input type="checkbox"/> Museum	<input type="checkbox"/> San Jose Board	<input type="checkbox"/> Water Board	<input type="checkbox"/> DISAPPROVED											
<input type="checkbox"/> Library Board	<input type="checkbox"/> N. Mesa Board	<input type="checkbox"/> _____ Committee												
Reviewed by City Administrator: <u>/s/John Lowe</u> Date: <u>09/07/2023</u>														

attachments: **Resolution and NMED grant Agreement SAP23-H2418-GF**

**STATE OF NEW MEXICO
DEPARTMENT OF ENVIRONMENT
FUND 93100 CAPITAL APPROPRIATION PROJECT
CARLSBAD AUTOMATED METER READING SYS PRCHS & EQUIP
SAP 23-H2418-GF**

THIS AGREEMENT between the New Mexico Environment Department hereinafter called the “Department” or NMED, and City of Carlsbad, hereinafter called the “Grantee” becomes effective on the date signed by the NMED.

RECITALS

WHEREAS, in the Laws of 2023, Chapter 199, Section 19, Subsection 42, 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; and

WHEREAS, NMED is empowered pursuant to Section 74-1-6 B, NMSA 1978 to contract in its own name.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

SAP 23-H2418-GF \$500,000.00 APPROPRIATION REVERSION DATE: June 30, 2025

Laws of 2023, Chapter 199, Section 19, Subsection 42, Five Hundred Thousand Dollars, (\$500,000.00), for:

to purchase, equip and install an automated water meter reading system in Carlsbad in Eddy county;

The Grantee’s total reimbursements shall not exceed Five Hundred Thousand Dollars, \$500,000.00 (the “Appropriation Amount”) minus the allocation for Art in Public Places (“AIPP amount”)¹, if applicable, No Dollars, \$0.00, which equals Five Hundred Thousand Dollars, \$500,000.00 (the “Adjusted Appropriation Amount”).

¹ The AIPP amount is “an amount of money equal to one percent or two hundred thousand dollars (\$200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars (\$100,000).” Section 13-4A-4 NMSA 1978.

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(A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the “Project”; the information contained in Article I(A) is referred to collectively throughout the remainder of this Agreement as the “Project Description.” The Special Conditions Attachment may set forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If the Special Conditions Attachment imposes more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of the Attachment shall prevail, in the event of irreconcilable conflict. The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

ARTICLE II. LIMITATION ON DEPARTMENT’S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department’s Obligation to Reimburse² Grantee (hereinafter referred to as “Notice of Obligation”). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee’s expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee’s Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee’s expenditures were made pursuant to the State Procurement Code 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, hereinafter referred to as “Third Party Obligations”; and
- (iv) The Grantee’s submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement; and
- (v) In the event that 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:
 - a. must be approved by the applicable oversight entity (if any) in accordance with law; or
 - b. if no oversight entity is required to approve the transaction, the Department must approve the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(v)(a) and II(A)(v)(b) herein, the Department may, in its sole and absolute discretion and unless inconsistent with State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures

² “Reimburse” as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

(vi) The Grantee's submission of documentation of all Third-Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:

- a. The 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.**
- b. Grantee acknowledges and agrees that if it chooses to enter into a Third-Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such obligations.
- c. The Department may, in its sole and absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that 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 attached to this Agreement as Exhibit 2.
- d. The date the Department signs the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the 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. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.

B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

C. Project funds shall not be used for purposes other than those specified in the Project Description.

D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES

Whenever written notices, including written decisions, are to be given or received, related to this Agreement, the following provisions shall apply.

For all matters related to this Agreement, the Grantee designates their official representative(s) or successor, in their Signatory Resolution, as required in Article X. B. (v). The official representative will be the contact and signatory for all disbursements and Notices of Obligation.

If applicable, the Grantee designates an Alternative Fiscal Agent in the Signatory Resolution as required in Article X. B. (v), and in the Alternative

The Department designates the persons listed below, or their successors, as the Points of Contact for matters related to this Agreement.

NMED Program Administrator

Name: Bertha Aragon
Email: bertha.aragon@env.nm.gov
Telephone: 505-670-3615

NMED Project Manager

Name: Brandon Kalinowski
Email: brandon.kalinowski@env.nm.gov
Telephone: 505-670-3571

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by email or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party’s actual receipt or five 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 email.

ARTICLE IV. REVERSION DATE, TERM, DEADLINE TO EXPEND FUNDS

A. As referenced in Article I(A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the “Reversion Date.” Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on June 30, 2025 the Reversion Date unless Terminated Before Reversion Date (“Early Termination”) pursuant to Article V herein.

B. The Project’s funds must be expended on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are expended and an expenditure has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are *not* expended and an expenditure has *not* occurred as of the date they are encumbered by the Grantee pursuant to a contract or purchase order with a third party.

ARTICLE V. EARLY TERMINATION

A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement

Early Termination includes:

- (i) Termination due to completion of the Project before the Reversion Date; or
- (ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or
- (iii) Termination for violation of the terms of this Agreement; or
- (iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, and conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(A).

B. Early Termination Before Reversion Date Due to Non-appropriation

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term “non-appropriate” or “non-appropriation” includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to in Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, and such termination shall be effective as of the effective date of the law making the non-appropriation. The Department’s decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(B).

C. Limitation on Department’s Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination

In the event of Early Termination of this Agreement by either party, the Department’s sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

A. The Department may choose, in its sole and absolute discretion, to provide written notice to the Grantee to suspend entering into new and further obligations. Upon the receipt of such written notice by the Grantee:

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties; and
- (ii) The Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and
- (iii) The 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 Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension

In the event that the Department chooses, in its sole and absolute discretion to direct the 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. Such corrective action plan must be approved by the Department and be signed by the Grantee. 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)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

ARTICLE VII. AMENDMENT

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

ARTICLE VIII. REPORTS

A. Database Reporting

The Grantee shall report quarterly Project activity by entering such Project information as the Department and the Department of Finance and Administration may require, such information entered directly into a database maintained by the Department of Finance and Administration (Budget & Formulation Management System). Additionally, the Grantee shall certify on the Request for Payment form (Exhibit 1) that updates have been maintained and are current in the database. The Grantee hereby acknowledges that failure to perform and/or certify updates into the database will delay or potentially jeopardize the reimbursement of funds. The Department shall give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report.

Quarterly reports shall be due on the last day of the month that is 30 days prior to the end of the quarter following 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.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 1. Payment requests are subject to the following procedures:

- (i) The Grantee must submit a Request for Payment; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee showing that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee for services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the 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) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, 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 such shorter period of time as the Department may prescribe in writing. The Grantee is required to certify to the Department proof of payment to the third party contractor or vendor within ten (10) business days from the date of receiving reimbursement from the Department.

B. The Grantee must obligate 5% of the Adjusted Appropriation Amount within six months of acceptance of the grant agreement and must have expended no less than 85% of the Adjusted Appropriation Amount six months prior to the reversion date.

C. **Deadlines**

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

- (i) Immediately as they are received by the Grantee but at a minimum thirty (30) days from when the expenditure was incurred or liability of the Grantee was approved as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor; or
- (ii) Twenty (20) days from date of Early Termination; or
- (iii) **Twenty (20) days from the Reversion Date.**

D. The Grantee's failure to abide by the requirements set forth in Article II and Article IX herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third Party Obligations and the Deadlines set forth in Article IX herein. The Department's ability 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 due to Grantee's violation of this Agreement.

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

A. The following general conditions and restrictions are applicable to the Project:

- (i) 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 (or local procurement ordinance, where applicable).
- (ii) 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. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages

and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 (B) NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.

- (iii) The Project may only benefit 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, the “Anti-Donation Clause.”
- (iv) The Grantee shall not for a period of 10 years from the date of this agreement convert any property acquired, built, renovated, repaired, designed or developed with the Project’s funds to uses other than those specified in the Project Description without the Department's and the Board of Finance’s express, advance, written approval, which may include a requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.
- (v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. 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 employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.

B. The Grantee hereby represents and warrants the following:

- (i) The Grantee has the legal authority to receive and expend the Project’s funds.
- (ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.
- (iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which the Grantee is subject.
- (iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.
- (v) The 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 the Agreement and to sign Requests for Payment.
- (vi) The Grantee shall abide by New Mexico laws regarding conflicts of interest, governmental conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with

respect to this Grant, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed or goods to be received, pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.

- (vii) 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 this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS

A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.

B. For a period of six (6) years following the Project's completion, the 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 total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department, the Department of Finance and Administration, 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 of Finance and Administration finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

ARTICLE XIII. 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.

ARTICLE XIV. SCOPE OF AGREEMENT

This Agreement constitutes the entire and exclusive agreement between the Grantee and Department concerning the subject matter hereof. The Agreement supersedes any and all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

The Grantee acknowledges, warrants, and agrees that Grantee shall 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:

“The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the Carlsbad may immediately terminate this Agreement by giving Contractor written notice of such termination. The Carlsbad’s decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the Carlsbad or the New Mexico Environment Department or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the Carlsbad or the Department”

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges, warrants, and agrees that Grantee shall 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:

“This contract is funded in whole or in part by funds made available under a New Mexico Environment Department Grant Agreement. Should the NMED early terminate the grant agreement, the Carlsbad may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the Carlsbad only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date.”

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

ARTICLE XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA.

- A. Throughout the term of this Agreement, Grantee shall:
 1. submit all reports of annual audits and agreed upon procedures required by Section 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 Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
 2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);

3. timely submit all required financial reports to its budgetary oversight agency (if any); and
4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

B. In the event Grantee fails to comply with the requirements of Paragraph A of this Article XVII, the Department may take one or more of the following actions:

1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
2. 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;
3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
4. terminate this Agreement pursuant to Article V(A) of this Agreement.

ARTICLE XVIII. [OPTIONAL IF THE APPROPRIATION IS FUNDED BY SEVERANCE TAX BONDS OR GENERAL OBLIGATION BONDS] SEVERANCE TAX BOND AND GENERAL OBLIGATION BOND PROJECT CLAUSES

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, and that the associated bond proceeds are administered by the New Mexico State Board of Finance (SBOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole and absolute responsibility to determine through SBOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a 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 effective without 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 contingent upon the then current SBOF conditions being satisfied.

B. Grantee acknowledges and agrees that the SBOF may in its sole and absolute discretion remove a project's assigned bond proceeds if the project doesn't proceed sufficiently. Entities must comply with the requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by the grantee in the Bond Questionnaire and Certification documents submitted to the SBOF. Failure to comply may result in the bond proceeds reassignment to a new ready project. If this should occur this grant 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, NMAC 2.61.6, as may be amended or re-codified. The rule provides definitions and interpretations of grant language for the purpose of determining whether a particular activity is allowable under the authorizing language of the agreement.

Authorization Page
CARLSBAD AUTOMATED METER READING SYS PRCHS & EQUIP SAP 23-H2418-GF

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date of execution by the Department.

GRANTEE

Signature of Official with Authority to Bind Grantee

Entity Name

By: _____
(Type or Print Name)

Its: _____
(Type or Print Title)

Date

New Mexico Environment Department

Judith L. Kahl, P.E., Bureau Chief, NMED Construction Programs Bureau
Signed pursuant to the March 24, 2023 Secretary of Environment Delegation Order

SAMPLE

STATE OF NEW MEXICO
CAPITAL GRANT PROJECT
Request for Payment Form
Exhibit 1

I. Grantee Information

(Make sure information is complete & accurate)

A. Grantee: _____
B. Address: _____
(Complete Mailing, including Suite, if applicable)

City State Zip
C. Phone No: _____
D. Grant No: _____
E. Project Title: _____
F. Grant Expiration Date: _____

II. Payment Computation

A. Payment Request No. _____
B. Grant Amount: _____
C. AIPP Amount (If Applicable): _____
D. Funds Requested to Date: _____
E. Amount Requested this Payment: _____
F. Reversion Amount (If Applicable): _____
G. Grant Balance: _____
H. GF GOB STB (attach wire if first draw)
I. Final Request for Payment (if Applicable)

III. Fiscal Year : _____

(The State of NM Fiscal Year is July 1, 20XX through June 30, 20XX of the following year)

IV. Reporting Certification: I hereby certify to the best of my know ledge and belief, that database reporting is up to date; to include the accuracy of expenditures and grant balance, project status, project phase, achievements and milestones; and in compliance with Article VIII of the Capital Outlay Grant Agreement.

V. Compliance Certification: Under penalty of law , I hereby certify to the best of my know ledge and belief, the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti donation" clause.

Grantee Fiscal Officer
or **Fiscal Agent** (if applicable)

Grantee Representative

Printed Name

Printed Name

Date:

Date:

(State Agency Use Only)

Vendor Code: _____ Fund No.: _____ Loc No.: _____

I certify that the State Agency financial and vendor file information agree with the above submitted information.

Division Fiscal Officer

Date

Division Project Manager

Date

**NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
SAMPLE EXHIBIT 2**

Notice of Obligation to Reimburse Grantee [# 1]

DATE: [_____]

TO: Department Representative: [_____,_____]

FROM: Grantee: [_____]

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: [_____]

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: [_____]

Note: Contract amounts may exceed the total grant amount, but the invoices paid by the grant will not exceed the grant amount.

Department Rep. Approver: [_____]

Title: [_____]

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.

New Mexico Environment Department (NMED)
Capital Appropriations Certification Document
Article IX. A. (ii) and (iii)

Project CARLSBAD AUTOMATED METER READING SYS PRCHS & EQUIP SAP 23-H2418-GF
Grantee Carlsbad
Payment Request No _____

I certify that payment to all vendors on the above referenced payment request were paid no more than five (5) days after receiving reimbursement from NMED.

Official Representative, Signed Name, Printed Name, Date

**TECHNICAL REQUIREMENTS
NEW MEXICO ENVIRONMENT DEPARTMENT
CAPITAL OUTLAY**

ARTICLE 1 **REVIEW**

Upon execution of the grant agreement, the Grantee will follow the procedures listed below unless waived in writing by the New Mexico Environment Department (NMED) (payment may be withheld if any of these procedures are not followed by the Grantee).

- A. The Grantee must submit copies to NMED of all executed contracts entered into by the Grantee and related to the project, for review and, if appropriate, approval. Only approved eligible expenditures incurred **after** the effective date of the Grant Agreement shall be reimbursed or paid from these funds.
- B. If these grant funds are to be used for engineering and/or other professional services, the hiring process for engineering services and/or other professional services must be performed in compliance with the New Mexico Procurement Code [Sections 13-1-21 et seq. NMSA 1978]. If engineering fees exceed \$60,000, excluding gross receipt taxes, the Grantee is required to contact the Professional Technical Advisory Board (PTAB) for assistance in the preparation of the Request for Proposals (RFP) package. (PTAB: phone (505) 888-6161 and e-mail ptab@acecnm.org.)
- C. If these grant funds are used for engineering and/or other professional services, the Grantee must submit a copy of any executed engineering agreement and/or other professional services contract so a notice of obligation can be prepared and issued. If the Grantee's staff will be used to prepare the design, a letter certifying that must be submitted to NMED for the project record. The grantee has the option of using the NMED engineering agreement. In any case all engineering agreements must include the non-appropriation and termination clauses required by DFA in all agreements funded by capital outlay.
- D. A preliminary engineering report (PER), technical memorandum, or study by a registered New Mexico Professional Engineer may be required.
- E. If the grant funds are to be used for engineering design or for construction, the Grantee must submit all plans, specifications, bid documents, and engineer's construction cost estimate, for the project (prepared and sealed by a licensed and registered New Mexico Professional Engineer) to NMED **before** the project is advertised for construction bids, along with a letter **from the Grantee** stating that they have reviewed and accepted the plans and specifications. If required, the Grantee must also submit the plans and specifications to the appropriate regulatory agency for review and approval and provide a copy of the approval letter from the regulatory agency. Upon receipt of these documents the NMED will issue a letter confirming receipt of the required documents and informing the Grantee to proceed with advertising the project for construction bids.
- F. A site certificate must be submitted prior to project bid advertisement that certifies all necessary easements, rights-of-way, and/or property upon or through which the project is being constructed have been obtained. The Site Certificate must be signed by an attorney, engineer, surveyor, or title abstractor.

- G. If grant funds are to be used for the purchase or acquisition of real property as a part of this project and within the project period, the Grantee will submit documentation of the acquisition to NMED, including a legal description of the property, the date the property will be acquired, evidence of clear title, and an appraisal report prepared by a qualified appraiser selected through applicable procurement procedures.
- H. The Grantee will submit the proof of advertisement, recommendation of award, bid tabulation, complete bid submittal of the selected contractor, any addenda issued, and funding analysis listing all funds that will pay for construction to NMED prior to award of the construction contract, along with a letter from the Grantee stating they concur with the recommendation of award to the selected contractor and price and confirming that the Grantee has sufficient funds for construction.
- I. The Grantee will submit the notice of the award, the notice of a pre-construction conference, a copy of the executed construction contract documents (including payment and performance bonds), and the notice to proceed to NMED. NMED will prepare and issue the notice of obligation for the construction cost making the grant funds available for reimbursement of construction costs. The selected contractor will be required to post a performance and payment bond in accordance with requirements of Section 13-4-18 NMSA 1978.
- J. The Grantee will provide a full-time construction inspector during construction of the project unless NMED determines that part time inspection is adequate for the project. This must be requested and approved by NMED prior to the start of construction.
- K. All daily construction inspection reports shall be made available to the NMED upon request.
- L. Notwithstanding the inspections performed by the Grantee and its engineer, NMED will have the right to examine all installations comprising the project, including materials delivered and stored on-site for use on the project. Such examinations will not be considered an inspection for compliance with contract plans but will be a general NMED review as described in Article 2 below.
- M. If applicable, the Grantee (or the system owner) will employ qualified utility operators and will comply with all provisions of the New Mexico Utility Operators Certification Act, Section 61-33-1 et seq. NMSA 1978.
- N. NMED will reimburse the grantee its actual costs when NMED determines, in its sole discretion, that expenditures were appropriate under the terms of the Agreement and that the expenditures were properly documented.

ARTICLE 2 NMED OVERSIGHT

NMED inspection, review and oversight is only for purposes of compliance with applicable state grant requirements, procedures, statutes, and regulations. NMED approval will not be interpreted as a warranty or guarantee of any kind. Responsibility for the design of the project will lie solely with the engineer of record. All defects and their correction will be the responsibility of the Grantee and its contractors and engineers or consultants. Any questions raised by NMED during its inspections and reviews shall be resolved exclusively by the Grantee. The Grantee and its contractors and engineers or consultants will remain responsible for the completion and success of the project. No action by NMED shall relieve the

owner, engineer, or contractor of legal responsibilities for the overall integrity of the project, adequacy of the design, safety, or compliance with all applicable regulations.

ARTICLE 3 **CLOSEOUT**

- A. The project will not be considered complete until the work as defined in this agreement has been fully performed, and finally and unconditionally accepted by the Grantee and the engineer of record.
- B. If the grant funds are used for purchase of equipment, final payment will be made after receipt of the equipment and equipment title, if applicable. Appraisal reports are required for the purchase of used equipment.
- C. If the grant funds are used for construction, final payment will be made after the final inspection has been conducted by NMED and the following items, unless waived by NMED, have been provided to NMED, and have been reviewed and approved by NMED:
 - i. A certificate of substantial completion including punch list items.
 - ii. A final certified construction pay request prepared by the Grantee's project engineer and approved by the Grantee.
 - iii. A written consent of the surety, if any, to final payment.
 - iv. Complete and legally effective releases or waivers (satisfactory to the Grantee) of all liens arising out of the contract documents and the labor services performed and the materials and equipment furnished there under. In lieu thereof and as approved by the Grantee, contractor(s) may furnish receipts or releases in full; an affidavit of contractor that the releases and receipts include labor, services, materials, and equipment for which a lien could be filed and that all payrolls, material and equipment bills, and other indebtedness connected with the work for which the Grantee or its property might in any way be responsible, have been paid or otherwise satisfied.
 - v. Certification letter by the Grantee and contractor that the Labor Standards Contract Provisions have been met.
 - vi. Certification letter of project acceptance by the Grantee and the Grantee's project engineer stating that work has been satisfactorily completed and the construction contractor has fulfilled all of the obligations required under the contract documents with the Grantee, or if payment and materials performance bonds are "called", an acceptance close-out settlement to the Grantee and contractors will be submitted to NMED.
 - vii. Certification letter from the Grantee confirming receipt and acceptance of the record drawings and operation and maintenance manuals.

NEW MEXICO ENVIRONMENT DEPARTMENT
CONSTRUCTION PROGRAMS BUREAU

NMED DISBURSEMENT REQUEST
SPECIAL APPROPRIATIONS PROGRAM (SAP)

A. NAME OF ENTITY

C. DISBURSEMENT REQUEST NUMBER

B. PROJECT NUMBER

D. GRANT AMOUNT

	PREVIOUS EXPENDITURES		CURRENT EXPENDITURES		CUMULATIVE		FUNDS REMAINING	
	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS
Engineer Fees								
<i>Other Professional</i>								
Service Fees								
Inspection Fees								
Property Acquisition								
Construction Cost								
Planning Cost								
Equipment								
Other Costs (specify)								
Contingencies								
TOTAL								

Article IX.A. (iii). By checking this box you are stating that payment has NOT been paid to the vendors associated with this request. Upon receipt of payment from NMED, certification of payment will be sent within 10 days from the date of receiving reimbursement.

Article IX. A. (ii). By checking this box you are certifying that the vendors associated with this request have been paid.

Certification: Under penalty of law, I certify that all the above expenditures are true and correct and are for appropriate purposes in accordance with the terms and conditions of the pertinent Loan/Grant Agreement; that all of the above expenses are properly documented, and are actual invoices; that payment has not been received; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti-donation" clause.

	Signature of Official Representative:	Typed or Printed Name:	Phone:	Date:
	X			
	Signature of Fiscal Agent if applicable:	Typed or Printed Name:	Phone:	Date:
	X			

Resolution No. 2023-55

A RESOLUTION OF THE COUNCIL OF THE CITY OF CARLSBAD, NEW MEXICO, AUTHORIZING THE ACCEPTANCE OF CAPITAL OUTLAY GRANT AGREEMENT FROM THE STATE OF NEW MEXICO DEPARTMENT OF ENVIRONMENT FOR AUTOMATED METER READING PROJECT SAP 23-H2418-GF; AND AUTHORIZING THE OFFICIAL REPRESENTATIVES IN ALL MATTERS PERTAINING TO THE CAPITAL OUTLAY PROJECT.

WHEREAS, the Carlsbad City Council determines that there is a significant need to undertake the Purchase, Equipping and installation of an automated meter reading system in Carlsbad in Eddy County.

WHEREAS, the City of Carlsbad shall enter into a Grant Agreement with the State of New Mexico Environment Department and,

WHEREAS, the Agreement is identified as SAP 23-H2418-GF Grant Agreement.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF CARLSBAD, NEW MEXICO, that

1. The City of Carlsbad is authorized to accept from the State of New Mexico Department of Environment a Capital Outlay Grant for the purchase equipping and installation of an Automated Meter Reading System.
2. The City of Carlsbad is authorized to enter into an agreement with the New Mexico Department of Environment for Capital Outlay Grant SAP 23-H2418-GF.
3. The Mayor of the City of Carlsbad or his designee is authorized to sign the agreement.
4. Ivan M. Abell, Director of Utilities and Melissa Salcido, Director of Finance for the City of Carlsbad or their successor(s) are OFFICIAL REPRESENTATIVES who are authorized to sign reimbursement requests and act as points of contact concerning all matters related to the grant agreement.

PASSED, ADOPTED, AND APPROVED this ____ day of _____, 2023

Mayor Dale Janway

ATTEST:

City Clerk, Nadine Mireles

Name of Grantee: City of Carlsbad Project Number: SAP 23-H2418-GF

Authorized to Sign the Agreement	
Name	Dale Janway
Title	Mayor
Signature	
Address	101 N Halagueno, Carlsbad, NM 88220
Email	mayor.office@cityofcarlsbadnm.com
Phone	575-887-1191
Official Representatives authorized to sign Disbursement Requests and All Other Documents	
Name	John Lowe
Title	City Administrator
Signature	
Address	101 N Halagueno, Carlsbad, NM 88220
Email	jnlowe@cityofcarlsbadnm.com
Phone	575-887-1191
Alternate Official Representative; To sign Disbursement Requests and All Other Documents, Requirement and Act as the Project Contact	
Name	K.C. Cass
Title	Deputy City Administrator
Signature	
Address	101 N Halagueno, Carlsbad, NM 88220
Email	kccass@cityofcarlsbadnm.com
Phone	575-887-1191
Designated Agent or Employee that will update DFA Database Quarterly	
Name	Prasha Parajuli
Title	Projant Accountant
Signature	
Address	PO Box 1569, Carlsbad, NM 88220
Email	pparyal@cityofcarlsbadnm.com
Phone	575-885-1185
If required, Fiscal Agent approved to sign Disbursement Requests	
Name	
Title	
Signature	
Address	
Email	
Phone	

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM

COUNCIL MEETING DATE: 9/12/23

DEPARTMENT: Wastewater	BY: Ivan M. Abell  Director of Utilities	DATE: August 23 rd 2023												
SUBJECT: Resolution authorizing the acceptance of Capital Appropriation Funds To plan, design, construct and make improvements to a sewer system and sewer line for National Parks highway, including sewer interceptors, manholes, fittings and attachments.														
SYNOPSIS, HISTORY and IMPACT (SAFETY AND WELFARE/FINANCIAL/PERSONNEL/INFRASTRUCTURE/ETC.): <p>The State of New Mexico Legislature Appropriated \$910,000.00 for Capital Project SAP 23-H2419-GF in the Laws of 2023 Chapter 199, Section 19, Subsection 43 ; to plan, design, construct and make improvements to a sewer system and sewer line for National Parks highway, including sewer interceptors, manholes, fittings and attachments, in Carlsbad in Eddy county, New Mexico. This is a 100% Capital Grant requiring no matching funds.</p> <p>Staff seeks Council's consideration of the proposed resolution accepting the grant agreement, authorizing the City's official representatives, and designating the Mayor or his designee as the City official having authority to sign the grant agreement.</p>														
DEPARTMENT RECOMMENDATION: If it is the pleasure of the City Council, it is recommended that this proposed resolution be approved.														
BOARD/COMMISSION/COMMITTEE ACTION: <table border="0"> <tr> <td><input type="checkbox"/> P & Z</td> <td><input type="checkbox"/> Lodgers Tax Board</td> <td><input type="checkbox"/> Cemetery Board</td> <td><input type="checkbox"/> APPROVED</td> </tr> <tr> <td><input type="checkbox"/> Museum</td> <td><input type="checkbox"/> San Jose Board</td> <td><input type="checkbox"/> Water Board</td> <td><input type="checkbox"/> DISAPPROVED</td> </tr> <tr> <td><input type="checkbox"/> Library Board</td> <td><input type="checkbox"/> N. Mesa Board</td> <td><input type="checkbox"/> _____ Committee</td> <td></td> </tr> </table>			<input type="checkbox"/> P & Z	<input type="checkbox"/> Lodgers Tax Board	<input type="checkbox"/> Cemetery Board	<input type="checkbox"/> APPROVED	<input type="checkbox"/> Museum	<input type="checkbox"/> San Jose Board	<input type="checkbox"/> Water Board	<input type="checkbox"/> DISAPPROVED	<input type="checkbox"/> Library Board	<input type="checkbox"/> N. Mesa Board	<input type="checkbox"/> _____ Committee	
<input type="checkbox"/> P & Z	<input type="checkbox"/> Lodgers Tax Board	<input type="checkbox"/> Cemetery Board	<input type="checkbox"/> APPROVED											
<input type="checkbox"/> Museum	<input type="checkbox"/> San Jose Board	<input type="checkbox"/> Water Board	<input type="checkbox"/> DISAPPROVED											
<input type="checkbox"/> Library Board	<input type="checkbox"/> N. Mesa Board	<input type="checkbox"/> _____ Committee												
Reviewed by City Administrator: <u>/s/John Lowe</u> Date: <u>09/07/2023</u>														

ATTACHMENTS: Resolution and NMED grant Agreement SAP23-H2419-GF

**STATE OF NEW MEXICO
DEPARTMENT OF ENVIRONMENT
FUND 93100 CAPITAL APPROPRIATION PROJECT
CARLSBAD NATIONAL PARKS HWY SEWER SYS CONSTRUCT
SAP 23-H2419-GF**

THIS AGREEMENT between the New Mexico Environment Department hereinafter called the “Department” or NMED, and City of Carlsbad, hereinafter called the “Grantee” becomes effective on the date signed by the NMED.

RECITALS

WHEREAS, in the Laws of 2023, Chapter 199, Section 19, Subsection 43, 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; and

WHEREAS, NMED is empowered pursuant to Section 74-1-6 B, NMSA 1978 to contract in its own name.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

SAP 23-H2419-GF \$910,000.00 APPROPRIATION REVERSION DATE: June 30, 2027

Laws of 2023, Chapter 199, Section 19, Subsection 43, Nine Hundred Ten Thousand Dollars, (\$910,000.00), for:

to plan, design, construct and make improvements to a sewer system and sewer line for National Parks highway, including sewer interceptors, manholes, fittings and attachments, in Carlsbad in Eddy county;

The Grantee’s total reimbursements shall not exceed Nine Hundred Ten Thousand Dollars, \$910,000.00 (the “Appropriation Amount”) minus the allocation for Art in Public Places (“AIPP amount”)¹, if applicable, No Dollars, \$0.00, which equals Nine Hundred Ten Thousand Dollars, \$910,000.00 (the “Adjusted Appropriation Amount”).

¹ The AIPP amount is “an amount of money equal to one percent or two hundred thousand dollars (\$200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars (\$100,000).” Section 13-4A-4 NMSA 1978.

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(A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the “Project”; the information contained in Article I(A) is referred to collectively throughout the remainder of this Agreement as the “Project Description.” The Special Conditions Attachment may set forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If the Special Conditions Attachment imposes more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of the Attachment shall prevail, in the event of irreconcilable conflict. The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

ARTICLE II. LIMITATION ON DEPARTMENT’S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department’s Obligation to Reimburse² Grantee (hereinafter referred to as “Notice of Obligation”). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee’s expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee’s Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee’s expenditures were made pursuant to the State Procurement Code 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, hereinafter referred to as “Third Party Obligations”; and
- (iv) The Grantee’s submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement; and
- (v) In the event that 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:
 - a. must be approved by the applicable oversight entity (if any) in accordance with law; or
 - b. if no oversight entity is required to approve the transaction, the Department must approve the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(v)(a) and II(A)(v)(b) herein, the Department may, in its sole and absolute discretion and unless inconsistent with State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures

² “Reimburse” as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

(vi) The Grantee's submission of documentation of all Third-Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:

- a. The 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.**
- b. Grantee acknowledges and agrees that if it chooses to enter into a Third-Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such obligations.
- c. The Department may, in its sole and absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that 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 attached to this Agreement as Exhibit 2.
- d. The date the Department signs the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the 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. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.

B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

C. Project funds shall not be used for purposes other than those specified in the Project Description.

D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES

Whenever written notices, including written decisions, are to be given or received, related to this Agreement, the following provisions shall apply.

For all matters related to this Agreement, the Grantee designates their official representative(s) or successor, in their Signatory Resolution, as required in Article X. B. (v). The official representative will be the contact and signatory for all disbursements and Notices of Obligation.

If applicable, the Grantee designates an Alternative Fiscal Agent in the Signatory Resolution as required in Article X. B. (v), and in the Alternative

The Department designates the persons listed below, or their successors, as the Points of Contact for matters related to this Agreement.

NMED Program Administrator

Name: Bertha Aragon
Email: bertha.aragon@env.nm.gov
Telephone: 505-670-3615

NMED Project Manager

Name: Brandon Kalinowski
Email: brandon.kalinowski@env.nm.gov
Telephone: 505-670-3571

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by email or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party’s actual receipt or five 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 email.

ARTICLE IV. REVERSION DATE, TERM, DEADLINE TO EXPEND FUNDS

A. As referenced in Article I(A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the “Reversion Date.” Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on June 30, 2027 the Reversion Date unless Terminated Before Reversion Date (“Early Termination”) pursuant to Article V herein.

B. The Project’s funds must be expended on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are expended and an expenditure has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are *not* expended and an expenditure has *not* occurred as of the date they are encumbered by the Grantee pursuant to a contract or purchase order with a third party.

ARTICLE V. EARLY TERMINATION

A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement

Early Termination includes:

- (i) Termination due to completion of the Project before the Reversion Date; or
- (ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or
- (iii) Termination for violation of the terms of this Agreement; or
- (iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, and conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(A).

B. Early Termination Before Reversion Date Due to Non-appropriation

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term “non-appropriate” or “non-appropriation” includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to in Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, and such termination shall be effective as of the effective date of the law making the non-appropriation. The Department’s decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(B).

C. Limitation on Department’s Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination

In the event of Early Termination of this Agreement by either party, the Department’s sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

A. The Department may choose, in its sole and absolute discretion, to provide written notice to the Grantee to suspend entering into new and further obligations. Upon the receipt of such written notice by the Grantee:

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties; and
- (ii) The Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and
- (iii) The 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 Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension

In the event that the Department chooses, in its sole and absolute discretion to direct the 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. Such corrective action plan must be approved by the Department and be signed by the Grantee. 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)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

ARTICLE VII. AMENDMENT

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

ARTICLE VIII. REPORTS

A. Database Reporting

The Grantee shall report quarterly Project activity by entering such Project information as the Department and the Department of Finance and Administration may require, such information entered directly into a database maintained by the Department of Finance and Administration (Budget & Formulation Management System). Additionally, the Grantee shall certify on the Request for Payment form (Exhibit 1) that updates have been maintained and are current in the database. The Grantee hereby acknowledges that failure to perform and/or certify updates into the database will delay or potentially jeopardize the reimbursement of funds. The Department shall give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report.

Quarterly reports shall be due on the last day of the month that is 30 days prior to the end of the quarter following 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.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 1. Payment requests are subject to the following procedures:

- (i) The Grantee must submit a Request for Payment; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee showing that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee for services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the 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) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, 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 such shorter period of time as the Department may prescribe in writing. The Grantee is required to certify to the Department proof of payment to the third party contractor or vendor within ten (10) business days from the date of receiving reimbursement from the Department.

B. The Grantee must obligate 5% of the Adjusted Appropriation Amount within six months of acceptance of the grant agreement and must have expended no less than 85% of the Adjusted Appropriation Amount six months prior to the reversion date.

C. **Deadlines**

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

- (i) Immediately as they are received by the Grantee but at a minimum thirty (30) days from when the expenditure was incurred or liability of the Grantee was approved as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor; or
- (ii) Twenty (20) days from date of Early Termination; or
- (iii) **Twenty (20) days from the Reversion Date.**

D. The Grantee's failure to abide by the requirements set forth in Article II and Article IX herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third Party Obligations and the Deadlines set forth in Article IX herein. The Department's ability 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 due to Grantee's violation of this Agreement.

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

A. The following general conditions and restrictions are applicable to the Project:

- (i) 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 (or local procurement ordinance, where applicable).
- (ii) 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. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages

and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 (B) NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.

- (iii) The Project may only benefit 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, the “Anti-Donation Clause.”
- (iv) The Grantee shall not for a period of 10 years from the date of this agreement convert any property acquired, built, renovated, repaired, designed or developed with the Project’s funds to uses other than those specified in the Project Description without the Department’s and the Board of Finance’s express, advance, written approval, which may include a requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.
- (v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. 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 employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee’s failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.

B. The Grantee hereby represents and warrants the following:

- (i) The Grantee has the legal authority to receive and expend the Project’s funds.
- (ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.
- (iii) This Agreement and the Grantee’s obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee’s charter (if applicable), or any judgment or decree to which the Grantee is subject.
- (iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.
- (v) The 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 the Agreement and to sign Requests for Payment.
- (vi) The Grantee shall abide by New Mexico laws regarding conflicts of interest, governmental conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with

respect to this Grant, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed or goods to be received, pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.

- (vii) 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 this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS

A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.

B. For a period of six (6) years following the Project's completion, the 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 total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department, the Department of Finance and Administration, 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 of Finance and Administration finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

ARTICLE XIII. 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.

ARTICLE XIV. SCOPE OF AGREEMENT

This Agreement constitutes the entire and exclusive agreement between the Grantee and Department concerning the subject matter hereof. The Agreement supersedes any and all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

The Grantee acknowledges, warrants, and agrees that Grantee shall 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:

“The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the Carlsbad may immediately terminate this Agreement by giving Contractor written notice of such termination. The Carlsbad’s decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the Carlsbad or the New Mexico Environment Department or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the Carlsbad or the Department”

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges, warrants, and agrees that Grantee shall 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:

“This contract is funded in whole or in part by funds made available under a New Mexico Environment Department Grant Agreement. Should the NMED early terminate the grant agreement, the Carlsbad may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the Carlsbad only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date.”

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

ARTICLE XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA.

- A. Throughout the term of this Agreement, Grantee shall:
 1. submit all reports of annual audits and agreed upon procedures required by Section 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 Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
 2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);

3. timely submit all required financial reports to its budgetary oversight agency (if any); and
4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

B. In the event Grantee fails to comply with the requirements of Paragraph A of this Article XVII, the Department may take one or more of the following actions:

1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
2. 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;
3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
4. terminate this Agreement pursuant to Article V(A) of this Agreement.

ARTICLE XVIII. [OPTIONAL IF THE APPROPRIATION IS FUNDED BY SEVERANCE TAX BONDS OR GENERAL OBLIGATION BONDS] SEVERANCE TAX BOND AND GENERAL OBLIGATION BOND PROJECT CLAUSES

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, and that the associated bond proceeds are administered by the New Mexico State Board of Finance (SBOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole and absolute responsibility to determine through SBOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a 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 effective without 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 contingent upon the then current SBOF conditions being satisfied.

B. Grantee acknowledges and agrees that the SBOF may in its sole and absolute discretion remove a project's assigned bond proceeds if the project doesn't proceed sufficiently. Entities must comply with the requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by the grantee in the Bond Questionnaire and Certification documents submitted to the SBOF. Failure to comply may result in the bond proceeds reassignment to a new ready project. If this should occur this grant 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, NMAC 2.61.6, as may be amended or re-codified. The rule provides definitions and interpretations of grant language for the purpose of determining whether a particular activity is allowable under the authorizing language of the agreement.

Authorization Page
CARLSBAD NATIONAL PARKS HWY SEWER SYS CONSTRUCT SAP 23-H2419-GF

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date of execution by the Department.

GRANTEE

Signature of Official with Authority to Bind Grantee

Entity Name

By: _____
(Type or Print Name)

Its: _____
(Type or Print Title)

Date

New Mexico Environment Department

Judith L. Kahl, P.E., Bureau Chief, NMED Construction Programs Bureau
Signed pursuant to the March 24, 2023 Secretary of Environment Delegation Order

SAMPLE

STATE OF NEW MEXICO
CAPITAL GRANT PROJECT
Request for Payment Form
Exhibit 1

I. Grantee Information

(Make sure information is complete & accurate)

A. Grantee: _____
B. Address: _____
(Complete Mailing, including Suite, if applicable)

City State Zip
C. Phone No: _____
D. Grant No: _____
E. Project Title: _____
F. Grant Expiration Date: _____

II. Payment Computation

A. Payment Request No. _____
B. Grant Amount: _____
C. AIPP Amount (If Applicable): _____
D. Funds Requested to Date: _____
E. Amount Requested this Payment: _____
F. Reversion Amount (If Applicable): _____
G. Grant Balance: _____
H. GF GOB STB (attach wire if first draw)
I. Final Request for Payment (if Applicable)

III. Fiscal Year : _____

(The State of NM Fiscal Year is July 1, 20XX through June 30, 20XX of the following year)

IV. Reporting Certification: I hereby certify to the best of my know ledge and belief, that database reporting is up to date; to include the accuracy of expenditures and grant balance, project status, project phase, achievements and milestones; and in compliance with Article VIII of the Capital Outlay Grant Agreement.

V. Compliance Certification: Under penalty of law , I hereby certify to the best of my know ledge and belief, the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti donation" clause.

Grantee Fiscal Officer
or **Fiscal Agent** (if applicable)

Grantee Representative

Printed Name

Printed Name

Date:

Date:

(State Agency Use Only)

Vendor Code: _____ Fund No.: _____ Loc No.: _____

I certify that the State Agency financial and vendor file information agree with the above submitted information.

Division Fiscal Officer

Date

Division Project Manager

Date

**NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
SAMPLE EXHIBIT 2**

Notice of Obligation to Reimburse Grantee [# 1]

DATE: [_____]

TO: Department Representative: [_____, _____]

FROM: Grantee: [_____]

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: [_____]

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: [_____]

Note: Contract amounts may exceed the total grant amount, but the invoices paid by the grant will not exceed the grant amount.

Department Rep. Approver: [_____]

Title: [_____]

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.

New Mexico Environment Department (NMED)
Capital Appropriations Certification Document
Article IX. A. (ii) and (iii)
Project CARLSBAD NATIONAL PARKS HWY SEWER SYS CONSTRUCT SAP 23-H2419-GF
Grantee Carlsbad
Payment Request No _____

I certify that payment to all vendors on the above referenced payment request were paid no more than five (5) days after receiving reimbursement from NMED.

Official Representative, Signed Name, Printed Name, Date

**TECHNICAL REQUIREMENTS
NEW MEXICO ENVIRONMENT DEPARTMENT
CAPITAL OUTLAY**

ARTICLE 1 REVIEW

Upon execution of the grant agreement, the Grantee will follow the procedures listed below unless waived in writing by the New Mexico Environment Department (NMED) (payment may be withheld if any of these procedures are not followed by the Grantee).

- A. The Grantee must submit copies to NMED of all executed contracts entered into by the Grantee and related to the project, for review and, if appropriate, approval. Only approved eligible expenditures incurred **after** the effective date of the Grant Agreement shall be reimbursed or paid from these funds.
- B. If these grant funds are to be used for engineering and/or other professional services, the hiring process for engineering services and/or other professional services must be performed in compliance with the New Mexico Procurement Code [Sections 13-1-21 et seq. NMSA 1978]. If engineering fees exceed \$60,000, excluding gross receipt taxes, the Grantee is required to contact the Professional Technical Advisory Board (PTAB) for assistance in the preparation of the Request for Proposals (RFP) package. (PTAB: phone (505) 888-6161 and e-mail ptab@acecnm.org.)
- C. If these grant funds are used for engineering and/or other professional services, the Grantee must submit a copy of any executed engineering agreement and/or other professional services contract so a notice of obligation can be prepared and issued. If the Grantee's staff will be used to prepare the design, a letter certifying that must be submitted to NMED for the project record. The grantee has the option of using the NMED engineering agreement. In any case all engineering agreements must include the non-appropriation and termination clauses required by DFA in all agreements funded by capital outlay.
- D. A preliminary engineering report (PER), technical memorandum, or study by a registered New Mexico Professional Engineer may be required.
- E. If the grant funds are to be used for engineering design or for construction, the Grantee must submit all plans, specifications, bid documents, and engineer's construction cost estimate, for the project (prepared and sealed by a licensed and registered New Mexico Professional Engineer) to NMED **before** the project is advertised for construction bids, along with a letter **from the Grantee** stating that they have reviewed and accepted the plans and specifications. If required, the Grantee must also submit the plans and specifications to the appropriate regulatory agency for review and approval and provide a copy of the approval letter from the regulatory agency. Upon receipt of these documents the NMED will issue a letter confirming receipt of the required documents and informing the Grantee to proceed with advertising the project for construction bids.
- F. A site certificate must be submitted prior to project bid advertisement that certifies all necessary easements, rights-of-way, and/or property upon or through which the project is being constructed have been obtained. The Site Certificate must be signed by an attorney, engineer, surveyor, or title abstractor.

- G. If grant funds are to be used for the purchase or acquisition of real property as a part of this project and within the project period, the Grantee will submit documentation of the acquisition to NMED, including a legal description of the property, the date the property will be acquired, evidence of clear title, and an appraisal report prepared by a qualified appraiser selected through applicable procurement procedures.
- H. The Grantee will submit the proof of advertisement, recommendation of award, bid tabulation, complete bid submittal of the selected contractor, any addenda issued, and funding analysis listing all funds that will pay for construction to NMED prior to award of the construction contract, along with a letter from the Grantee stating they concur with the recommendation of award to the selected contractor and price and confirming that the Grantee has sufficient funds for construction.
- I. The Grantee will submit the notice of the award, the notice of a pre-construction conference, a copy of the executed construction contract documents (including payment and performance bonds), and the notice to proceed to NMED. NMED will prepare and issue the notice of obligation for the construction cost making the grant funds available for reimbursement of construction costs. The selected contractor will be required to post a performance and payment bond in accordance with requirements of Section 13-4-18 NMSA 1978.
- J. The Grantee will provide a full-time construction inspector during construction of the project unless NMED determines that part time inspection is adequate for the project. This must be requested and approved by NMED prior to the start of construction.
- K. All daily construction inspection reports shall be made available to the NMED upon request.
- L. Notwithstanding the inspections performed by the Grantee and its engineer, NMED will have the right to examine all installations comprising the project, including materials delivered and stored on-site for use on the project. Such examinations will not be considered an inspection for compliance with contract plans but will be a general NMED review as described in Article 2 below.
- M. If applicable, the Grantee (or the system owner) will employ qualified utility operators and will comply with all provisions of the New Mexico Utility Operators Certification Act, Section 61-33-1 et seq. NMSA 1978.
- N. NMED will reimburse the grantee its actual costs when NMED determines, in its sole discretion, that expenditures were appropriate under the terms of the Agreement and that the expenditures were properly documented.

ARTICLE 2 NMED OVERSIGHT

NMED inspection, review and oversight is only for purposes of compliance with applicable state grant requirements, procedures, statutes, and regulations. NMED approval will not be interpreted as a warranty or guarantee of any kind. Responsibility for the design of the project will lie solely with the engineer of record. All defects and their correction will be the responsibility of the Grantee and its contractors and engineers or consultants. Any questions raised by NMED during its inspections and reviews shall be resolved exclusively by the Grantee. The Grantee and its contractors and engineers or consultants will remain responsible for the completion and success of the project. No action by NMED shall relieve the

owner, engineer, or contractor of legal responsibilities for the overall integrity of the project, adequacy of the design, safety, or compliance with all applicable regulations.

ARTICLE 3 **CLOSEOUT**

- A. The project will not be considered complete until the work as defined in this agreement has been fully performed, and finally and unconditionally accepted by the Grantee and the engineer of record.
- B. If the grant funds are used for purchase of equipment, final payment will be made after receipt of the equipment and equipment title, if applicable. Appraisal reports are required for the purchase of used equipment.
- C. If the grant funds are used for construction, final payment will be made after the final inspection has been conducted by NMED and the following items, unless waived by NMED, have been provided to NMED, and have been reviewed and approved by NMED:
 - i. A certificate of substantial completion including punch list items.
 - ii. A final certified construction pay request prepared by the Grantee's project engineer and approved by the Grantee.
 - iii. A written consent of the surety, if any, to final payment.
 - iv. Complete and legally effective releases or waivers (satisfactory to the Grantee) of all liens arising out of the contract documents and the labor services performed and the materials and equipment furnished there under. In lieu thereof and as approved by the Grantee, contractor(s) may furnish receipts or releases in full; an affidavit of contractor that the releases and receipts include labor, services, materials, and equipment for which a lien could be filed and that all payrolls, material and equipment bills, and other indebtedness connected with the work for which the Grantee or its property might in any way be responsible, have been paid or otherwise satisfied.
 - v. Certification letter by the Grantee and contractor that the Labor Standards Contract Provisions have been met.
 - vi. Certification letter of project acceptance by the Grantee and the Grantee's project engineer stating that work has been satisfactorily completed and the construction contractor has fulfilled all of the obligations required under the contract documents with the Grantee, or if payment and materials performance bonds are "called", an acceptance close-out settlement to the Grantee and contractors will be submitted to NMED.
 - vii. Certification letter from the Grantee confirming receipt and acceptance of the record drawings and operation and maintenance manuals.

NEW MEXICO ENVIRONMENT DEPARTMENT
CONSTRUCTION PROGRAMS BUREAU

NMED DISBURSEMENT REQUEST
SPECIAL APPROPRIATIONS PROGRAM (SAP)

A. NAME OF ENTITY

C. DISBURSEMENT REQUEST NUMBER

B. PROJECT NUMBER

D. GRANT AMOUNT

	PREVIOUS EXPENDITURES		CURRENT EXPENDITURES		CUMULATIVE		FUNDS REMAINING	
	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS
Engineer Fees								
<i>Other Professional</i>								
Service Fees								
Inspection Fees								
Property Acquisition								
Construction Cost								
Planning Cost								
Equipment								
Other Costs (specify)								
Contingencies								
TOTAL								

Article IX.A. (iii). By checking this box you are stating that payment has NOT been paid to the vendors associated with this request. Upon receipt of payment from NMED, certification of payment will be sent within 10 days from the date of receiving reimbursement.

Article IX. A. (ii). By checking this box you are certifying that the vendors associated with this request have been paid.

Certification: Under penalty of law, I certify that all the above expenditures are true and correct and are for appropriate purposes in accordance with the terms and conditions of the pertinent Loan/Grant Agreement; that all of the above expenses are properly documented, and are actual invoices; that payment has not been received; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti-donation" clause.

	Signature of Official Representative:	Typed or Printed Name:	Phone:	Date:
	X			
	Signature of Fiscal Agent if applicable:	Typed or Printed Name:	Phone:	Date:
	X			

Resolution No. 2023-56

A RESOLUTION OF THE COUNCIL OF THE CITY OF CARLSBAD, NEW MEXICO, AUTHORIZING THE ACCEPTANCE OF CAPITAL OUTLAY GRANT AGREEMENT FROM THE STATE OF NEW MEXICO DEPARTMENT OF ENVIRONMENT TO PLAN, DESIGN CONSTRUCT AND MAKE IMPROVEMENTS TO A SEWER SYSTEM AND SEWER LINE FOR THE NATIONAL PARKS HIGHWAY, INCLUDING SEWER INTERCEPTORS, MANHOLE, FITTINGS AND ATTACHMENTS PROJECT SAP 23-H2419-GF; AND AUTHORIZING THE OFFICIAL REPRESENTATIVES IN ALL MATTERS PERTAINING TO THE CAPITAL OUTLAY PROJECT.

WHEREAS, the Carlsbad City Council determines that there is a significant need to plan, design, construct and make improvements to a sewer system and sewer line for National Parks highway, including sewer interceptors, manholes, fittings and attachments, in Carlsbad in Eddy County.

WHEREAS, the City of Carlsbad shall enter into a Grant Agreement with the State of New Mexico Environment Department and,

WHEREAS, the Agreement is identified as SAP 23-H2419-GF Grant Agreement.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF CARLSBAD, NEW MEXICO, that

1. The City of Carlsbad is authorized to accept from the State of New Mexico Department of Environment a Capital Outlay Grant to plan, design, construct and make improvements to a sewer system and sewer line for National Parks highway, including sewer interceptors, manholes, fittings and attachments.
2. The City of Carlsbad is authorized to enter into an agreement with the New Mexico Department of Environment for Capital Outlay Grant SAP 23-H2419-GF.
3. The Mayor of the City of Carlsbad or his designee is authorized to sign the agreement.
4. Ivan M. Abell, Director of Utilities and Melissa Salcido, Director of Finance for the City of Carlsbad or their successor(s) are OFFICIAL REPRESENTATIVES who are authorized to sign reimbursement requests and act as points of contact concerning all matters related to the grant agreement.

PASSED, ADOPTED, AND APPROVED this ____ day of _____, 2023

Mayor Dale Janway

ATTEST:

City Clerk, Nadine Mireles


Name of Grantee: City of Carlsbad Project Number: SAP 23-H2419-GF

Authorized to Sign the Agreement	
Name	Dale Janway
Title	Mayor
Signature	
Address	101 N Halagueno, Carlsbad, NM 88220
Email	mayor.office@cityofcarlsbadnm.com
Phone	575-887-1191
Official Representatives authorized to sign Disbursement Requests and All Other Documents	
Name	John Lowe
Title	City Administrator
Signature	
Address	101 N Halagueno, Carlsbad, NM 88220
Email	jnlowe@cityofcarlsbadnm.com
Phone	575-887-1191
Alternate Official Representative; To sign Disbursement Requests and All Other Documents, Requirement and Act as the Project Contact	
Name	K.C. Cass
Title	Deputy City Administrator
Signature	
Address	101 N Halagueno, Carlsbad, NM 88220
Email	kccass@cityofcarlsbadnm.com
Phone	575-887-1191
Designated Agent or Employee that will update DFA Database Quarterly	
Name	Prasha Parajuli
Title	Projant Accountant
Signature	
Address	PO Box 1569, Carlsbad, NM 88220
Email	pparyal@cityofcarlsbadnm.com
Phone	575-885-1185
If required, Fiscal Agent approved to sign Disbursement Requests	
Name	
Title	
Signature	
Address	
Email	
Phone	

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM

COUNCIL MEETING DATE: 9/12/23

DEPARTMENT: Wastewater	BY: Ivan M. Abell  Director of Utilities	DATE: August 23 rd 2023												
SUBJECT: Resolution authorizing the acceptance of Capital Appropriation Funds To plan, design, construct and equip a second sewer wet well for the primary sewer lift station														
<p>SYNOPSIS, HISTORY and IMPACT (SAFETY AND WELFARE/FINANCIAL/PERSONNEL/INFRASTRUCTURE/ETC.):</p> <p>The State of New Mexico Legislature Appropriated \$1,000,000.00 for Capital Project SAP 23-H2420-GF in the Laws of 2023 Chapter 199, Section 19, Subsection 44 ; to plan, design, construct and equip a second sewer wet well for the primary sewer lift station in Carlsbad in Eddy county, New Mexico. This is a 100% Capital Grant requiring no matching funds.</p> <p>Staff seeks Council's consideration of the proposed resolution accepting the grant agreement, authorizing the City's official representatives, and designating the Mayor or his designee as the City official having authority to sign the grant agreement.</p>														
<p>DEPARTMENT RECOMMENDATION: If it is the pleasure of the City Council, it is recommended that this proposed resolution be approved.</p>														
<p>BOARD/COMMISSION/COMMITTEE ACTION:</p> <table border="0"> <tr> <td><input type="checkbox"/> P & Z</td> <td><input type="checkbox"/> Lodgers Tax Board</td> <td><input type="checkbox"/> Cemetery Board</td> <td><input type="checkbox"/> APPROVED</td> </tr> <tr> <td><input type="checkbox"/> Museum</td> <td><input type="checkbox"/> San Jose Board</td> <td><input type="checkbox"/> Water Board</td> <td><input type="checkbox"/> DISAPPROVED</td> </tr> <tr> <td><input type="checkbox"/> Library Board</td> <td><input type="checkbox"/> N. Mesa Board</td> <td><input type="checkbox"/> _____ Committee</td> <td></td> </tr> </table>			<input type="checkbox"/> P & Z	<input type="checkbox"/> Lodgers Tax Board	<input type="checkbox"/> Cemetery Board	<input type="checkbox"/> APPROVED	<input type="checkbox"/> Museum	<input type="checkbox"/> San Jose Board	<input type="checkbox"/> Water Board	<input type="checkbox"/> DISAPPROVED	<input type="checkbox"/> Library Board	<input type="checkbox"/> N. Mesa Board	<input type="checkbox"/> _____ Committee	
<input type="checkbox"/> P & Z	<input type="checkbox"/> Lodgers Tax Board	<input type="checkbox"/> Cemetery Board	<input type="checkbox"/> APPROVED											
<input type="checkbox"/> Museum	<input type="checkbox"/> San Jose Board	<input type="checkbox"/> Water Board	<input type="checkbox"/> DISAPPROVED											
<input type="checkbox"/> Library Board	<input type="checkbox"/> N. Mesa Board	<input type="checkbox"/> _____ Committee												
<p>Reviewed by City Administrator: <u>/s/John Lowe</u> Date: <u>09/07/2023</u></p>														

ATTACHMENTS: Resolution and NMED grant Agreement SAP23-H2420-GF

**STATE OF NEW MEXICO
DEPARTMENT OF ENVIRONMENT
FUND 93100 CAPITAL APPROPRIATION PROJECT
CARLSBAD WET WELL CONSTRUCT
SAP 23-H2420-GF**

THIS AGREEMENT between the New Mexico Environment Department hereinafter called the “Department” or NMED, and City of Carlsbad, hereinafter called the “Grantee” becomes effective on the date signed by the NMED.

RECITALS

WHEREAS, in the Laws of 2023, Chapter 199, Section 19, Subsection 44, 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; and

WHEREAS, NMED is empowered pursuant to Section 74-1-6 B, NMSA 1978 to contract in its own name.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

SAP 23-H2420-GF \$1,000,000.00 APPROPRIATION REVERSION DATE: June 30, 2027

Laws of 2023, Chapter 199, Section 19, Subsection 44, One Million Dollars, (\$1,000,000.00), for:

to plan, design, construct and equip a second sewer wet well for the primary sewer lift station in Carlsbad in Eddy county;

The Grantee’s total reimbursements shall not exceed One Million Dollars, \$1,000,000.00 (the “Appropriation Amount”) minus the allocation for Art in Public Places (“AIPP amount”)¹, if applicable, No Dollars, \$0.00, which equals One Million Dollars, \$1,000,000.00 (the “Adjusted Appropriation Amount”).

¹ The AIPP amount is “an amount of money equal to one percent or two hundred thousand dollars (\$200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars (\$100,000).” Section 13-4A-4 NMSA 1978.

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(A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the “Project”; the information contained in Article I(A) is referred to collectively throughout the remainder of this Agreement as the “Project Description.” The Special Conditions Attachment may set forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If the Special Conditions Attachment imposes more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of the Attachment shall prevail, in the event of irreconcilable conflict. The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

ARTICLE II. LIMITATION ON DEPARTMENT’S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department’s Obligation to Reimburse² Grantee (hereinafter referred to as “Notice of Obligation”). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee’s expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee’s Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee’s expenditures were made pursuant to the State Procurement Code 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, hereinafter referred to as “Third Party Obligations”; and
- (iv) The Grantee’s submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement; and
- (v) In the event that 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:
 - a. must be approved by the applicable oversight entity (if any) in accordance with law; or
 - b. if no oversight entity is required to approve the transaction, the Department must approve the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(v)(a) and II(A)(v)(b) herein, the Department may, in its sole and absolute discretion and unless inconsistent with State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures

² “Reimburse” as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

(vi) The Grantee's submission of documentation of all Third-Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:

- a. The 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.**
- b. Grantee acknowledges and agrees that if it chooses to enter into a Third-Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such obligations.
- c. The Department may, in its sole and absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that 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 attached to this Agreement as Exhibit 2.
- d. The date the Department signs the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the 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. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.

B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

C. Project funds shall not be used for purposes other than those specified in the Project Description.

D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES

Whenever written notices, including written decisions, are to be given or received, related to this Agreement, the following provisions shall apply.

For all matters related to this Agreement, the Grantee designates their official representative(s) or successor, in their Signatory Resolution, as required in Article X. B. (v). The official representative will be the contact and signatory for all disbursements and Notices of Obligation.

If applicable, the Grantee designates an Alternative Fiscal Agent in the Signatory Resolution as required in Article X. B. (v), and in the Alternative

The Department designates the persons listed below, or their successors, as the Points of Contact for matters related to this Agreement.

NMED Program Administrator

Name: Bertha Aragon
Email: bertha.aragon@env.nm.gov
Telephone: 505-670-3615

NMED Project Manager

Name: Brandon Kalinowski
Email: brandon.kalinowski@env.nm.gov
Telephone: 505-670-3571

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by email or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party’s actual receipt or five 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 email.

ARTICLE IV. REVERSION DATE, TERM, DEADLINE TO EXPEND FUNDS

A. As referenced in Article I(A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the “Reversion Date.” Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on June 30, 2027 the Reversion Date unless Terminated Before Reversion Date (“Early Termination”) pursuant to Article V herein.

B. The Project’s funds must be expended on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are expended and an expenditure has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are *not* expended and an expenditure has *not* occurred as of the date they are encumbered by the Grantee pursuant to a contract or purchase order with a third party.

ARTICLE V. EARLY TERMINATION

A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement

Early Termination includes:

- (i) Termination due to completion of the Project before the Reversion Date; or
- (ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or
- (iii) Termination for violation of the terms of this Agreement; or
- (iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, and conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(A).

B. Early Termination Before Reversion Date Due to Non-appropriation

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term “non-appropriate” or “non-appropriation” includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to in Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, and such termination shall be effective as of the effective date of the law making the non-appropriation. The Department’s decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(B).

C. Limitation on Department’s Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination

In the event of Early Termination of this Agreement by either party, the Department’s sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

A. The Department may choose, in its sole and absolute discretion, to provide written notice to the Grantee to suspend entering into new and further obligations. Upon the receipt of such written notice by the Grantee:

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties; and
- (ii) The Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and
- (iii) The 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 Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension

In the event that the Department chooses, in its sole and absolute discretion to direct the 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. Such corrective action plan must be approved by the Department and be signed by the Grantee. 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)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

ARTICLE VII. AMENDMENT

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

ARTICLE VIII. REPORTS

A. Database Reporting

The Grantee shall report quarterly Project activity by entering such Project information as the Department and the Department of Finance and Administration may require, such information entered directly into a database maintained by the Department of Finance and Administration (Budget & Formulation Management System). Additionally, the Grantee shall certify on the Request for Payment form (Exhibit 1) that updates have been maintained and are current in the database. The Grantee hereby acknowledges that failure to perform and/or certify updates into the database will delay or potentially jeopardize the reimbursement of funds. The Department shall give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report.

Quarterly reports shall be due on the last day of the month that is 30 days prior to the end of the quarter following 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.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 1. Payment requests are subject to the following procedures:

- (i) The Grantee must submit a Request for Payment; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee showing that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee for services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the 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) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, 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 such shorter period of time as the Department may prescribe in writing. The Grantee is required to certify to the Department proof of payment to the third party contractor or vendor within ten (10) business days from the date of receiving reimbursement from the Department.

B. The Grantee must obligate 5% of the Adjusted Appropriation Amount within six months of acceptance of the grant agreement and must have expended no less than 85% of the Adjusted Appropriation Amount six months prior to the reversion date.

C. **Deadlines**

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

- (i) Immediately as they are received by the Grantee but at a minimum thirty (30) days from when the expenditure was incurred or liability of the Grantee was approved as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor; or
- (ii) Twenty (20) days from date of Early Termination; or
- (iii) **Twenty (20) days from the Reversion Date.**

D. The Grantee's failure to abide by the requirements set forth in Article II and Article IX herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third Party Obligations and the Deadlines set forth in Article IX herein. The Department's ability 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 due to Grantee's violation of this Agreement.

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

A. The following general conditions and restrictions are applicable to the Project:

- (i) 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 (or local procurement ordinance, where applicable).
- (ii) 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. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages

and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 (B) NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.

- (iii) The Project may only benefit 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, the “Anti-Donation Clause.”
- (iv) The Grantee shall not for a period of 10 years from the date of this agreement convert any property acquired, built, renovated, repaired, designed or developed with the Project’s funds to uses other than those specified in the Project Description without the Department’s and the Board of Finance’s express, advance, written approval, which may include a requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.
- (v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. 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 employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee’s failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.

B. The Grantee hereby represents and warrants the following:

- (i) The Grantee has the legal authority to receive and expend the Project’s funds.
- (ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.
- (iii) This Agreement and the Grantee’s obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee’s charter (if applicable), or any judgment or decree to which the Grantee is subject.
- (iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.
- (v) The 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 the Agreement and to sign Requests for Payment.
- (vi) The Grantee shall abide by New Mexico laws regarding conflicts of interest, governmental conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with

respect to this Grant, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed or goods to be received, pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.

- (vii) 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 this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS

A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.

B. For a period of six (6) years following the Project's completion, the 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 total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department, the Department of Finance and Administration, 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 of Finance and Administration finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

ARTICLE XIII. 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.

ARTICLE XIV. SCOPE OF AGREEMENT

This Agreement constitutes the entire and exclusive agreement between the Grantee and Department concerning the subject matter hereof. The Agreement supersedes any and all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

The Grantee acknowledges, warrants, and agrees that Grantee shall 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:

“The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the Carlsbad may immediately terminate this Agreement by giving Contractor written notice of such termination. The Carlsbad’s decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the Carlsbad or the New Mexico Environment Department or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the Carlsbad or the Department”

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges, warrants, and agrees that Grantee shall 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:

“This contract is funded in whole or in part by funds made available under a New Mexico Environment Department Grant Agreement. Should the NMED early terminate the grant agreement, the Carlsbad may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the Carlsbad only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date.”

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

ARTICLE XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA.

- A. Throughout the term of this Agreement, Grantee shall:
 1. submit all reports of annual audits and agreed upon procedures required by Section 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 Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
 2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);

3. timely submit all required financial reports to its budgetary oversight agency (if any); and
4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

B. In the event Grantee fails to comply with the requirements of Paragraph A of this Article XVII, the Department may take one or more of the following actions:

1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
2. 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;
3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
4. terminate this Agreement pursuant to Article V(A) of this Agreement.

ARTICLE XVIII. [OPTIONAL IF THE APPROPRIATION IS FUNDED BY SEVERANCE TAX BONDS OR GENERAL OBLIGATION BONDS] SEVERANCE TAX BOND AND GENERAL OBLIGATION BOND PROJECT CLAUSES

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, and that the associated bond proceeds are administered by the New Mexico State Board of Finance (SBOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole and absolute responsibility to determine through SBOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a 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 effective without 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 contingent upon the then current SBOF conditions being satisfied.

B. Grantee acknowledges and agrees that the SBOF may in its sole and absolute discretion remove a project's assigned bond proceeds if the project doesn't proceed sufficiently. Entities must comply with the requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by the grantee in the Bond Questionnaire and Certification documents submitted to the SBOF. Failure to comply may result in the bond proceeds reassignment to a new ready project. If this should occur this grant 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, NMAC 2.61.6, as may be amended or re-codified. The rule provides definitions and interpretations of grant language for the purpose of determining whether a particular activity is allowable under the authorizing language of the agreement.

Authorization Page
CARLSBAD WET WELL CONSTRUCT SAP 23-H2420-GF

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date of execution by the Department.

GRANTEE

Signature of Official with Authority to Bind Grantee

Entity Name

By: _____
(Type or Print Name)

Its: _____
(Type or Print Title)

Date

New Mexico Environment Department

Judith L. Kahl, P.E., Bureau Chief, NMED Construction Programs Bureau
Signed pursuant to the March 24, 2023 Secretary of Environment Delegation Order

**STATE OF NEW MEXICO
CAPITAL GRANT PROJECT
Request for Payment Form
Exhibit 1**

I. Grantee Information

(Make sure information is complete & accurate)

A. Grantee: _____

B. Address: _____
(Complete Mailing, including Suite, if applicable)

City State Zip

C. Phone No: _____

D. Grant No: _____

E. Project Title: _____

F. Grant Expiration Date: _____

II. Payment Computation

A. Payment Request No. _____

B. Grant Amount: _____

C. AIPP Amount (If Applicable): _____

D. Funds Requested to Date: _____

E. Amount Requested this Payment: _____

F. Reversion Amount (If Applicable): _____

G. Grant Balance: _____

H. GF GOB STB (attach wire if first draw)

I. Final Request for Payment (if Applicable)

III. Fiscal Year : _____

(The State of NM Fiscal Year is July 1, 20XX through June 30, 20XX of the following year)

IV. Reporting Certification: I hereby certify to the best of my know ledge and belief, that database reporting is up to date; to include the accuracy of expenditures and grant balance, project status, project phase, achievements and milestones; and in compliance with Article VIII of the Capital Outlay Grant Agreement.

V. Compliance Certification: Under penalty of law , I hereby certify to the best of my know ledge and belief, the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti donation" clause.

Grantee Fiscal Officer
or **Fiscal Agent** (if applicable)

Grantee Representative

Printed Name

Printed Name

Date:

Date:

(State Agency Use Only)

Vendor Code: _____ Fund No.: _____ Loc No.: _____

I certify that the State Agency financial and vendor file information agree with the above submitted information.

Division Fiscal Officer

Date

Division Project Manager

Date

**NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
SAMPLE EXHIBIT 2**

Notice of Obligation to Reimburse Grantee [# 1]

DATE: [_____]

TO: Department Representative: [_____, _____]

FROM: Grantee: [_____]

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: [_____]

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: [_____]

Note: Contract amounts may exceed the total grant amount, but the invoices paid by the grant will not exceed the grant amount.

Department Rep. Approver: [_____]

Title: [_____]

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.

New Mexico Environment Department (NMED)
Capital Appropriations Certification Document
Article IX. A. (ii) and (iii)
Project CARLSBAD WET WELL CONSTRUCT SAP 23-H2420-GF
Grantee Carlsbad
Payment Request No _____

I certify that payment to all vendors on the above referenced payment request were paid no more than five (5) days after receiving reimbursement from NMED.

Official Representative, Signed Name, Printed Name, Date

**TECHNICAL REQUIREMENTS
NEW MEXICO ENVIRONMENT DEPARTMENT
CAPITAL OUTLAY**

ARTICLE 1 REVIEW

Upon execution of the grant agreement, the Grantee will follow the procedures listed below unless waived in writing by the New Mexico Environment Department (NMED) (payment may be withheld if any of these procedures are not followed by the Grantee).

- A. The Grantee must submit copies to NMED of all executed contracts entered into by the Grantee and related to the project, for review and, if appropriate, approval. Only approved eligible expenditures incurred **after** the effective date of the Grant Agreement shall be reimbursed or paid from these funds.
- B. If these grant funds are to be used for engineering and/or other professional services, the hiring process for engineering services and/or other professional services must be performed in compliance with the New Mexico Procurement Code [Sections 13-1-21 et seq. NMSA 1978]. If engineering fees exceed \$60,000, excluding gross receipt taxes, the Grantee is required to contact the Professional Technical Advisory Board (PTAB) for assistance in the preparation of the Request for Proposals (RFP) package. (PTAB: phone (505) 888-6161 and e-mail ptab@acecnm.org.)
- C. If these grant funds are used for engineering and/or other professional services, the Grantee must submit a copy of any executed engineering agreement and/or other professional services contract so a notice of obligation can be prepared and issued. If the Grantee's staff will be used to prepare the design, a letter certifying that must be submitted to NMED for the project record. The grantee has the option of using the NMED engineering agreement. In any case all engineering agreements must include the non-appropriation and termination clauses required by DFA in all agreements funded by capital outlay.
- D. A preliminary engineering report (PER), technical memorandum, or study by a registered New Mexico Professional Engineer may be required.
- E. If the grant funds are to be used for engineering design or for construction, the Grantee must submit all plans, specifications, bid documents, and engineer's construction cost estimate, for the project (prepared and sealed by a licensed and registered New Mexico Professional Engineer) to NMED **before** the project is advertised for construction bids, along with a letter **from the Grantee** stating that they have reviewed and accepted the plans and specifications. If required, the Grantee must also submit the plans and specifications to the appropriate regulatory agency for review and approval and provide a copy of the approval letter from the regulatory agency. Upon receipt of these documents the NMED will issue a letter confirming receipt of the required documents and informing the Grantee to proceed with advertising the project for construction bids.
- F. A site certificate must be submitted prior to project bid advertisement that certifies all necessary easements, rights-of-way, and/or property upon or through which the project is being constructed have been obtained. The Site Certificate must be signed by an attorney, engineer, surveyor, or title abstractor.

- G. If grant funds are to be used for the purchase or acquisition of real property as a part of this project and within the project period, the Grantee will submit documentation of the acquisition to NMED, including a legal description of the property, the date the property will be acquired, evidence of clear title, and an appraisal report prepared by a qualified appraiser selected through applicable procurement procedures.
- H. The Grantee will submit the proof of advertisement, recommendation of award, bid tabulation, complete bid submittal of the selected contractor, any addenda issued, and funding analysis listing all funds that will pay for construction to NMED prior to award of the construction contract, along with a letter from the Grantee stating they concur with the recommendation of award to the selected contractor and price and confirming that the Grantee has sufficient funds for construction.
- I. The Grantee will submit the notice of the award, the notice of a pre-construction conference, a copy of the executed construction contract documents (including payment and performance bonds), and the notice to proceed to NMED. NMED will prepare and issue the notice of obligation for the construction cost making the grant funds available for reimbursement of construction costs. The selected contractor will be required to post a performance and payment bond in accordance with requirements of Section 13-4-18 NMSA 1978.
- J. The Grantee will provide a full-time construction inspector during construction of the project unless NMED determines that part time inspection is adequate for the project. This must be requested and approved by NMED prior to the start of construction.
- K. All daily construction inspection reports shall be made available to the NMED upon request.
- L. Notwithstanding the inspections performed by the Grantee and its engineer, NMED will have the right to examine all installations comprising the project, including materials delivered and stored on-site for use on the project. Such examinations will not be considered an inspection for compliance with contract plans but will be a general NMED review as described in Article 2 below.
- M. If applicable, the Grantee (or the system owner) will employ qualified utility operators and will comply with all provisions of the New Mexico Utility Operators Certification Act, Section 61-33-1 et seq. NMSA 1978.
- N. NMED will reimburse the grantee its actual costs when NMED determines, in its sole discretion, that expenditures were appropriate under the terms of the Agreement and that the expenditures were properly documented.

ARTICLE 2 NMED OVERSIGHT

NMED inspection, review and oversight is only for purposes of compliance with applicable state grant requirements, procedures, statutes, and regulations. NMED approval will not be interpreted as a warranty or guarantee of any kind. Responsibility for the design of the project will lie solely with the engineer of record. All defects and their correction will be the responsibility of the Grantee and its contractors and engineers or consultants. Any questions raised by NMED during its inspections and reviews shall be resolved exclusively by the Grantee. The Grantee and its contractors and engineers or consultants will remain responsible for the completion and success of the project. No action by NMED shall relieve the

owner, engineer, or contractor of legal responsibilities for the overall integrity of the project, adequacy of the design, safety, or compliance with all applicable regulations.

ARTICLE 3 **CLOSEOUT**

- A. The project will not be considered complete until the work as defined in this agreement has been fully performed, and finally and unconditionally accepted by the Grantee and the engineer of record.
- B. If the grant funds are used for purchase of equipment, final payment will be made after receipt of the equipment and equipment title, if applicable. Appraisal reports are required for the purchase of used equipment.
- C. If the grant funds are used for construction, final payment will be made after the final inspection has been conducted by NMED and the following items, unless waived by NMED, have been provided to NMED, and have been reviewed and approved by NMED:
 - i. A certificate of substantial completion including punch list items.
 - ii. A final certified construction pay request prepared by the Grantee's project engineer and approved by the Grantee.
 - iii. A written consent of the surety, if any, to final payment.
 - iv. Complete and legally effective releases or waivers (satisfactory to the Grantee) of all liens arising out of the contract documents and the labor services performed and the materials and equipment furnished there under. In lieu thereof and as approved by the Grantee, contractor(s) may furnish receipts or releases in full; an affidavit of contractor that the releases and receipts include labor, services, materials, and equipment for which a lien could be filed and that all payrolls, material and equipment bills, and other indebtedness connected with the work for which the Grantee or its property might in any way be responsible, have been paid or otherwise satisfied.
 - v. Certification letter by the Grantee and contractor that the Labor Standards Contract Provisions have been met.
 - vi. Certification letter of project acceptance by the Grantee and the Grantee's project engineer stating that work has been satisfactorily completed and the construction contractor has fulfilled all of the obligations required under the contract documents with the Grantee, or if payment and materials performance bonds are "called", an acceptance close-out settlement to the Grantee and contractors will be submitted to NMED.
 - vii. Certification letter from the Grantee confirming receipt and acceptance of the record drawings and operation and maintenance manuals.

NEW MEXICO ENVIRONMENT DEPARTMENT
CONSTRUCTION PROGRAMS BUREAU

NMED DISBURSEMENT REQUEST
SPECIAL APPROPRIATIONS PROGRAM (SAP)

A. NAME OF ENTITY

C. DISBURSEMENT REQUEST NUMBER

B. PROJECT NUMBER

D. GRANT AMOUNT

	PREVIOUS EXPENDITURES		CURRENT EXPENDITURES		CUMULATIVE		FUNDS REMAINING	
	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS
Engineer Fees								
<i>Other Professional</i>								
Service Fees								
Inspection Fees								
Property Acquisition								
Construction Cost								
Planning Cost								
Equipment								
Other Costs (specify)								
Contingencies								
TOTAL								

Article IX.A. (iii). By checking this box you are stating that payment has NOT been paid to the vendors associated with this request. Upon receipt of payment from NMED, certification of payment will be sent within 10 days from the date of receiving reimbursement.

Article IX. A. (ii). By checking this box you are certifying that the vendors associated with this request have been paid.

Certification: Under penalty of law, I certify that all the above expenditures are true and correct and are for appropriate purposes in accordance with the terms and conditions of the pertinent Loan/Grant Agreement; that all of the above expenses are properly documented, and are actual invoices; that payment has not been received; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti-donation" clause.

	Signature of Official Representative:	Typed or Printed Name:	Phone:	Date:
	X			
	Signature of Fiscal Agent if applicable:	Typed or Printed Name:	Phone:	Date:
	X			

Resolution No. 2023-57

A RESOLUTION OF THE COUNCIL OF THE CITY OF CARLSBAD, NEW MEXICO, AUTHORIZING THE ACCEPTANCE OF CAPITAL OUTLAY GRANT AGREEMENT FROM THE STATE OF NEW MEXICO DEPARTMENT OF ENVIRONMENT TO PLAN, DESIGN CONSTRUCT AND EQUIP A SECOND WET WELL FOR THE PRIMARY LIFT STATION PROJECT SAP 23-H2420-GF; AND AUTHORIZING THE OFFICIAL REPRESENTATIVES IN ALL MATTERS PERTAINING TO THE CAPITAL OUTLAY PROJECT.

WHEREAS, the Carlsbad City Council determines that there is a significant need to undertake the planning, design, construction and equipping a second sewer wet well for the primary sewer lift station in Carlsbad in Eddy County.

WHEREAS, the City of Carlsbad shall enter into a Grant Agreement with the State of New Mexico Environment Department and,

WHEREAS, the Agreement is identified as SAP 23-H2420-GF Grant Agreement.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF CARLSBAD, NEW MEXICO, that

1. The City of Carlsbad is authorized to accept from the State of New Mexico Department of Environment a Capital Outlay Grant for the planning, design, construction and equipping a second sewer wet well for the primary sewer lift station.
2. The City of Carlsbad is authorized to enter into an agreement with the New Mexico Department of Environment for Capital Outlay Grant SAP 23-H2420-GF.
3. The Mayor of the City of Carlsbad or his designee is authorized to sign the agreement.
4. Ivan M. Abell, Director of Utilities and Melissa Salcido, Director of Finance for the City of Carlsbad or their successor(s) are OFFICIAL REPRESENTATIVES who are authorized to sign reimbursement requests and act as points of contact concerning all matters related to the grant agreement.

PASSED, ADOPTED, AND APPROVED this ____ day of _____, 2023

Mayor Dale Janway

ATTEST:

City Clerk, Nadine Mireles

Name of Grantee: CITY OF CARLSBAD Project Number: SAP 23-H2420-GF

Authorized to Sign the Agreement	
Name	Dale Janway
Title	Mayor
Signature	
Address	101 N Halagueno, Carlsbad, NM 88220
Email	mayor.office@cityofcarlsbadnm.com
Phone	575-887-1191
Official Representatives authorized to sign Disbursement Requests and All Other Documents	
Name	John Lowe
Title	City Administrator
Signature	
Address	101 N Halagueno, Carlsbad, NM 88220
Email	jnlowe@cityofcarlsbadnm.com
Phone	575-887-1191
Alternate Official Representative; To sign Disbursement Requests and All Other Documents, Requirement and Act as the Project Contact	
Name	K.C. Cass
Title	Deputy City Administrator
Signature	
Address	101 N Halagueno, Carlsbad, NM 88220
Email	kccass@cityofcarlsbadnm.com
Phone	575-887-1191
Designated Agent or Employee that will update DFA Database Quarterly	
Name	Prasha Parajuli
Title	Projant Accountant
Signature	
Address	PO Box 1569, Carlsbad, NM 88220
Email	pparyal@cityofcarlsbadnm.com
Phone	575-885-1185
If required, Fiscal Agent approved to sign Disbursement Requests	
Name	
Title	
Signature	
Address	
Email	
Phone	

CITY OF CARLSBAD
AGENDA BRIEFING MEMORANDUM

Council Meeting Date: September 12, 2023

DEPARTMENT: Legal	BY: D. Boyea	DATE: September 5, 2023
SUBJECT: Proposed Second Correction of Lease Description & Amendment of Oil and Gas Lease		
<p>BACKGROUND, ANALYSIS AND IMPACT: (Safety and Welfare/Financial/Personnel/Infrastructure/etc.)</p> <p>SPC Resources LLC has approached the City requesting to correct the lease description and amend and ratify the existing oil and gas lease. The correction will add an additional 15.27 net mineral acres. The Mayor and the City Administrator have negotiated the attached Second Correction of Lease Description Amendment & Ratification Oil and Gas Lease.</p>		
DEPARTMENT RECOMMENDATION: Administration recommends approval.		
BOARD/COMMISSION/COMMITTEE ACTION:		
<input type="checkbox"/> P & Z <input type="checkbox"/> Museum Board <input type="checkbox"/> Library Board	<input type="checkbox"/> Lodgers Tax Board <input type="checkbox"/> San Jose Board <input type="checkbox"/> North Mesa Board	<input type="checkbox"/> Cemetery Board <input type="checkbox"/> Water Board <input type="checkbox"/> _____ Committee
		} <input type="checkbox"/> APPROVED } } <input type="checkbox"/> DISAPPROVED

<p>Reviewed by:</p> <p>City Administrator: <u>/s/John Lowe</u> Date: <u>09/07/2023</u></p>
--

ATTACHMENTS: Ordinance No. 2023-17.

ORDINANCE NO. 2023-17 _____

AN ORDINANCE AUTHORIZING THE
SECOND CORRECTION OF LEASE
DESCRIPTION, AMENDMENT &
RATIFICATION OF AN OIL AND GAS LEASE
WITH SPC RESOURCES LLC

WHEREAS, the City entered into an Oil and Gas Lease with SPC Resources LLC on October 11, 2017 which Lease contained a legal description of the subject property; and

WHEREAS, the description contained in the 2017 Lease was intended to cover a lease of all oil and gas rights owned by the City, in the following lands:

Township 21 South, Range 27 East, N.M.P.M.

Section 31: All

Section 32: W2

Township 22 South, Range 26 East, N.M.P.M.

Section 1: All

Section 2: E2

Section 11: E2NE4

Section 12: All

Township 22 South, Range 27 East, N.M.P.M.

Section 5: All

Section 6: All

Section 7: All; and

WHEREAS, since execution of the Lease it has been determined that the original description does not perfectly and adequately describe the property leased and intended by the parties to be leased and SPC Resources LLC desires to correct and amend the description; and

WHEREAS, SPC Resources LLC has provided the City with additional properties described in the attached “Second Correction of Lease Description Amendment & Ratification Oil and Gas Lease – Second Corrected Exhibit “A” to Oil and Gas Lease” that will correct and complete the properties to be leased as part of the **OIL AND GAS LEASE** Agreement; and

WHEREAS, the original Lease covered an estimated 831.86 gross acres, more or less; and

WHEREAS, there was a First Correction of Lease Description that covered an estimated 862.25 gross acres, more or less; and

WHEREAS, the Lease is now intended to cover an estimated 877.5235 gross acres, more or less; and

WHEREAS, the parties now seek for a second time to correct the lease description, amend and ratify the Lease to add an additional 15.27 gross acres; and

WHEREAS, SPC Resources LLC will pay the City adequate consideration for the additional acres added.

NOW THEREFORE, be it ordained by the Governing Body of the City of Carlsbad, County of Eddy, State of New Mexico, as follows:

1. The City and SPC Resources LLC agree to supersede and wholly replace the description contained in Exhibit “A” of the original 2017 Lease with the Second Correction of Lease Description Amendment & Ratification Oil and Gas Lease – Second Corrected Exhibit “A” to **OIL AND GAS LEASE** attached hereto:

INTRODUCED, PASSED, ADOPTED AND APPROVED this _____ day of _____, 2023.

DALE JANWAY, MAYOR

ATTEST:

CITY CLERK

**SECOND CORRECTION OF LEASE DESCRIPTION
AMENDMENT & RATIFICATION OIL AND GAS LEASE**

STATE: NEW MEXICO
COUNTY: EDDY

ORIGINAL LEASE DETAILS:

Original Lease Date: October 11, 2017
Lessor: The City of Carlsbad, New Mexico, a municipal corporation
Lessee: SPC Resources, LLC, a New Mexico limited liability company
Recording Data: Book 1114, Page 0516, Eddy County New Mexico

FIRST CORRECTION OF LEASE DESCRIPTION DETAILS:

Correction Date: March 10, 2021
Lessor: The City of Carlsbad, New Mexico, a municipal corporation
Lessee: SPC Resources, LLC, a New Mexico limited liability company
Recording Data: Book 1146, Page 0547, Eddy County New Mexico

This Correction of Lease Description, Amendment and Ratification of Oil and Gas Lease (“**Amendment**”) is entered into effective as of the date of the Original Lease being, October 11, 2017, (the “**Effective Date**”) by and between the Lessor and Lessee set forth above. The Lessor and Lessee may be referred to herein as the “Parties.”

WHEREAS, the Lessor, executed and delivered unto the Lessee an Oil and Gas Lease (the “Lease”) recorded in Book 1114, Page 0516 in the records of Eddy County, NM;

WHEREAS, the Lessor, executed and delivered unto the Lessee a Correction of Lease Description, Amendment & Ratification of Oil and Gas Lease (the “Correction”) recorded in Book 1146, Page 0547 in the records of Eddy County, NM;

WHEREAS, the description contained in the Lease and Correction was intended by Lessor and Lessee to cover all land and interest owned by Lessor as hereinafter described;

WHEREAS, since the execution of the Lease and Correction it has been determined that the descriptions do not perfectly and adequately describe the property leased and intended by Lessor and Lessee to be leased and it is the desire of Lessor and Lessee to correct and amend the description;

WHEREAS, the Lease originally covered an estimated 831.86 gross acres, whether it actually comprised more or less;

WHEREAS, the First Correction intended to cover an estimated 862.25 gross acres, whether it actually comprised more or less;

WHEREAS, this Second Correction is now intended for the Lease to cover an estimated 877.5235 gross acres, whether it actually comprises more or less;

WHEREAS, it is the desire of the Parties to correct the description, amend and ratify the Lease.

NOW, THEREFORE, for adequate consideration, the receipt and sufficiency of which is acknowledged by Lessor and Lessee, the Parties agree as follows:

The parties hereby agree to supersede and wholly replace the EXHIBIT "A" of the Lease and the FIRST CORRECTED EXHIBIT "A" of the Lease with the SECOND CORRECTED EXHIBIT "A" TO OIL AND GAS LEASE attached hereto and made a part hereof for all purposes.

The parties hereby agree that the land included within the Lease is now amended to comprise an estimated 877.5235 gross acres, whether it actually comprises more or less; provided however, the inclusion of such estimated acreage amount herein shall in no way serve to limit the lands and/or acreage covered by the Lease. All such land covered by the Lease is referred to as the "Land" or the "Leased Premises."

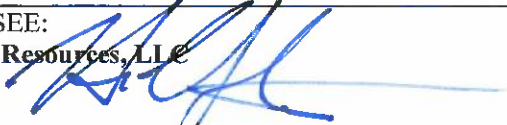
No other terms, provisions or conditions of the Lease are amended hereby.

Further, the Lessor does hereby grant, lease, let and ratify the Leased Premises unto the Lessee and the Parties agree that the Lease as described above is valid, in force, and in full effect on the terms and conditions provided in the Lease (as amended herein).

The provisions of this Second Correction of Lease Description, Amendment and Ratification of Oil and Gas Lease and the Lease shall be considered covenants running with the land and shall inure to the benefit of and be binding upon the Parties, their heirs, personal representatives, successors, and assigns.

This document may be executed in multiple counterparts, but all the counterparts, taken together, shall be deemed one document.

This Amendment is executed by the Parties as of the date of acknowledgment of their respective signatures below, but shall be deemed effective for all purposes as of the Effective Date stated above.

LESSOR: The City of Carlsbad, New Mexico, a municipal corporation	LESSEE: SPC Resources, LLC
Signature: _____	 By (Signature)
Printed Name: _____	Printed Name: <u>Hanson Yates</u>
Title: _____	Title: <u>President</u>

ACKNOWLEDGEMENTS

STATE OF _____)
) §
COUNTY OF _____)

The foregoing instrument was acknowledged before me on _____, by _____, who is the _____ of The City of Carlsbad, New Mexico, a municipal corporation, Lessor.

My commission expires: _____ Notary Public

STATE OF Texas)
) §
COUNTY OF Harris)

The foregoing instrument was acknowledged before me on August 16, 2023 by Hanson Yates, who is the president of SPC Resources, LLC, a New Mexico limited liability company, on behalf of said company, Lessee.

My commission expires: 9/14/25 _____ 



SECOND CORRECTED EXHIBIT "A" TO OIL AND GAS LEASE

ATTACHED TO AND MADE A PART OF THAT CERTAIN OIL AND GAS LEASE, DATED EFFECTIVE AS OF October 11, 2017 BY AND BETWEEN THE CITY OF CARLSBAD, NEW MEXICO AS LESSOR AND SPC RESOURCES, LLC, AS LESSEE:

DESCRIPTION OF THE LEASED PREMISES

The Leased Premises includes all mineral rights owned by Lessor (whether or not such rights are adequately described herein or omitted in their entirety from this Exhibit "A") situated within the following described area in **Eddy County, New Mexico**:

Township 21 South, Range 27 East, N.M.P.M.

Section 31: All
Section 32: W2

Township 22 South, Range 26 East, N.M.P.M.

Section 1: All
Section 2: E2
Section 11: E2NE4
Section 12: All

Township 22 South, Range 27 East, N.M.P.M.

Section 5: All
Section 6: All
Section 7: All

These lands are referred to as the "**Subject Area.**"

To provide a better understanding of Lessor's property included in the Leased Premises, but in no way to serve to limit the breadth, scope, and/or description of the Leased Premises, the Leased Premises shall include, without limitation, all mineral rights owned by Lessor in, under, and to all of (i) the following categories of lands owned by Lessor that are situated within the Subject Area: Streets, roads, highways, alleys, parks, municipal buildings, parking lots, vacant land, thoroughfares, riverbeds, easements, and rights-of-way and (ii) the following described lands, all of which are situated within the Subject Area:

[See tables on the following pages]

TOWNSHIP	RANGE	SECTION	DESCRIPTION (FINAL)
22S	26E	1	0.0264 ACRES, MORE OR LESS, BEING THE SOUTH 115 FEET OF THE EAST 10 FEET OF LOT 5 BLOCK 6 OF GIBSON'S ADDITION SUBDIVISION, LOCATED IN THE SE/4 OF SECTION 1, T22S-R26E, EDDY COUNTY, NEW MEXICO
22S	26E	1	0.2045 ACRES, MORE OR LESS, BEING LOT 19 BLOCK 2 OF MAY SUBDIVISION, LOCATED IN THE NW/4 OF SECTION 1, T22S-R26E, EDDY COUNTY, NEW MEXICO
22S	26E	1	0.273 ACRES, MORE OR LESS, BEING LOT 1, LESS THE EAST 250 FEET BLOCK 1 OF CANAL ADDITION SUBDIVISION, LOCATED IN THE NE/4 OF SECTION 1, T22S-R26E, EDDY COUNTY, NEW MEXICO
22S	26E	1	0.344 ACRES, MORE OR LESS, BEING THE EAST 30.5 FEET OF LOT 1 BLOCK 1 OF BRYAN'S SUBDIVISION, LOCATED IN THE SW/4 OF SECTION 1, T22S-R26E, EDDY COUNTY, NEW MEXICO
22S	26E	1	0.5670 ACRES, BLOCK 3,5,7,9 BLK 2, GREENE'S HIGHLAND, SITUATED IN THE SOUTHEAST QUARTER (SE/4) OF SECTION 1, TOWNSHIP 22 SOUTH, RANGE 26 EAST, EDDY COUNTY, NEW MEXICO
22S	26E	1	0.568 ACRES, MORE OR LESS, BEING LOT 10 BLOCK 1 OF MAY SUBDIVISION, LOCATED IN THE N/2 OF SECTION 1, T22S-R26E, EDDY COUNTY, NEW MEXICO
22S	26E	1	0.713 ACRES, MORE OR LESS, BEING LOTS 11 & 12 BLOCK 1 OF MAY SUBDIVISION, LOCATED IN THE NW/4 OF SECTION 1, T22S-R26E, EDDY COUNTY, NEW MEXICO
22S	26E	1	10.539 ACRES, MORE OR LESS, BEING LOT 2 BLOCK 1 OF ALTA VISTA ADDITION NO 3 SUBDIVISION, LOCATED IN THE S/2 OF SECTION 1, T22S-R26E, EDDY COUNTY, NEW MEXICO
22S	26E	1	2.2740 ACRES, MORE OR LESS, BEING ALL OF BLOCK 24 OF SPENCER'S ADDITION SUBDIVISION, LOCATED IN THE NE/4 OF SECTION 1, T22S-R26E, EDDY COUNTY, NEW MEXICO.
22S	26E	1	2.46 ACRES, MORE OR LESS, BEING LOT 3 SUNSET CHURCH LOTS 2 SUBDIVISION, LOCATED IN THE NW/4 OF SECTION 1, T22S-R26E, EDDY COUNTY, NEW MEXICO
22S	26E	1	2.66 ACRES, MORE OR LESS, BEING LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, & 10 OF BLOCK 14 OF SPENCER'S ADDITION SUBDIVISION, LOCATED IN THE NE/4 OF SECTION 1, T22S-R26E, EDDY COUNTY, NEW MEXICO
22S	26E	1	4.13 ACRES, MORE OR LESS, BEING PART OF THE NE/4 OF THE NW/4 OF SECTION 1, T22S-R26E, EDDY COUNTY, NEW MEXICO
22S	26E	1	6.794 ACRES, MORE OR LESS, BEING LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 & 11 BLOCK 2 OF CANAL ADDITION SUBDIVISION, LOCATED IN THE NE/4 OF SECTION 1, T22S-R26E, EDDY COUNTY, NEW MEXICO
22S	26E	2	0.0258 ACRES, MORE OR LESS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: THE SOUTH 15 FEET OF TRACT 13, SECTION 2, T22S, R26E, N.M.P.M., SITUATED IN THE (NE/4) OF SECTION 2, TOWNSHIP 22 SOUTH, RANGE 26 EAST, EDDY COUNTY, NEW MEXICO

TOWNSHIP	RANGE	SECTION	DESCRIPTION (FINAL)
22S	26E	2	0.1495 ACRES, MORE OR LESS, BEING A TRACT APPROXIMATELY 31 FEET BY 210 FEET, BEING PART OF BLOCK 4 OF VALLEY VIEW HEIGHTS SUBDIVISION, LOCATED IN THE SE/4 OF SECTION 2, T22S-R26E, EDDY COUNTY, NEW MEXICO
22S	26E	2	0.1722 ACRES, AS LOT 31, BLOCK 10, VALLEY VIEW HEIGHTS (AMENDED), SITUATED IN THE SOUTHEAST QUARTER (SE/4) OF SECTION 2, TOWNSHIP 22 SOUTH, RANGE 26 EAST, EDDY COUNTY, NEW MEXICO
22S	26E	2	0.1722 ACRES, AS LOT 7, BLOCK 13, VALLEY VIEW HEIGHTS (AMENDED), SITUATED IN THE SOUTHEAST QUARTER (SE/4) OF SECTION 2, TOWNSHIP 22 SOUTH, RANGE 26 EAST, EDDY COUNTY, NEW MEXICO
22S	26E	2	0.1722 ACRES, MORE OR LESS, BEING LOT 5 BLOCK 4 OF VALLEY VIEW HEIGHTS SUBDIVISION, LOCATED IN THE SE/4 OF SECTION 2, T22S-R26E, EDDY COUNTY, NEW MEXICO
22S	26E	2	0.2066 ACRES, MORE OR LESS, BEING LOT 3 BLOCK B OF COX SECOND SUBDIVISION, LOCATED IN THE SE/4 OF SECTION 2, T22S-R26E, EDDY COUNTY, NEW MEXICO
22S	26E	2	0.2497 ACRES, MORE OR LESS, BEING LOT 24 BLOCK C OF SUNSET HEIGHTS SUBDIVISION, LOCATED IN THE SE/4 OF SECTION 2, T22S-R26E, EDDY COUNTY, NEW MEXICO
22S	26E	2	0.25 ACRES, MORE OR LESS, BEING LOTS 42 A & 42 R BLOCK C OF SUNSET HEIGHTS REPLAT 2, FORMERLY LOT 42 BLOCK C OF SUNSET HEIGHTS SUBDIVISION, LOCATED IN THE SE/4 OF SECTION 2, T22S-R26E, EDDY COUNTY, NEW MEXICO
22S	26E	2	0.4935 ACRES, MORE OR LESS, BEING LOTS 8 & 9 OF NEEL HEIGHTS SUBDIVISION, LOCATED IN THE NE/4 OF SECTION 2, T22S-R26E, EDDY COUNTY, NEW MEXICO
22S	26E	2	0.7174 ACRES, MORE OR LESS, BEING LOTS 8, 9, 10, 11, & 12 BLOCK B OF VALLEY VIEW HEIGHTS SUBDIVISION, LOCATED IN THE SE/4 OF SECTION 2, T22S-R26E, EDDY COUNTY, NEW MEXICO
22S	27E	6	0.1033 ACRES, MORE OR LESS, BEING LOT 25 AND THE NORTH 5 FEET OF LOT 27 BLOCK 9 OF ORIGINAL TOWN OF EDDY SUBDIVISION, LOCATED IN THE SE/4 OF SECTION 6, T22S-R27E, EDDY COUNTY, NEW MEXICO
22S	27E	6	0.1722 ACRES, MORE OR LESS, BEING LOT 13 BLOCK 61 OF LOWE SUBDIVISION, LOCATED IN THE NW/4 OF SECTION 6, T22S-R27E, EDDY COUNTY, NEW MEXICO
22S	27E	6	0.3444 ACRES, MORE OR LESS, BEING LOTS 14, 16, 18 AND THE SOUTH 24.2 FEET OF LOT 12 BLOCK 6 OF ORIGINAL TOWN OF EDDY SUBDIVISION, LOCATED IN THE SE/4 OF SECTION 6, T22S-R27E, EDDY COUNTY, NEW MEXICO
22S	27E	6	0.3444 ACRES, MORE OR LESS, BEING LOTS 7 & 9 OF BLOCK 23 OF FIRST ADDITION TO THE CITY OF CARLSBAD SUBDIVISION, LOCATED IN THE NE/4 OF SECTION 6, T22S-R27E, EDDY COUNTY, NEW MEXICO
22S	27E	6	0.3444 ACRES, MORE OR LESS, BEING LOTS 8 & 10 BLOCK 37 OF STEVENS ADDITION SUBDIVISION, LOCATED IN THE SW/4 OF SECTION 6, T22S-R27E, EDDY COUNTY, NEW MEXICO

TOWNSHIP	RANGE	SECTION	DESCRIPTION (FINAL)
22S	27E	6	0.5165 ACRES, MORE OR LESS, BEING LOTS 7, 11 & 13 BLOCK 38 OF STEVENS ADDITION SUBDIVISION, LOCATED IN THE SW/4 OF SECTION 6, T22S-R27E, EDDY COUNTY, NEW MEXICO
22S	27E	6	0.6887 ACRES, MORE OR LESS, BEING LOTS 8, 10, 12 & 14 BLOCK 40 OF STEVENS ADDITION SUBDIVISION, LOCATED IN THE SW/4 OF SECTION 6, T22S-R27E, EDDY COUNTY, NEW MEXICO
22S	27E	6	0.8723 ACRES, MORE OR LESS, BEING LOTS 2, 4 & 6 BLOCK 26 OF FIRST ADDITION OF THE TOWN OF EDDY SUBDIVISION, LOCATED IN THE NE/4 OF SECTION 6, T22S-R27E, EDDY COUNTY, NEW MEXICO
22S	27E	6	1.0338 ACRES, MORE OR LESS, BEING LOTS 1, 3, 5, 7, 9 & 11 BLOCK 50 OF STEVENS ADDITION SUBDIVISION, LOCATED IN THE SW/4 OF SECTION 6, T22S-R27E, EDDY COUNTY, NEW MEXICO
22S	27E	6	1.2048 ACRES, MORE OR LESS, BEING LOTS 2, 4, 6, 8, 10, 12 & 14 BLOCK 50 OF STEVENS ADDITION SUBDIVISION, LOCATED IN THE SW/4 OF SECTION 6, T22S-R27E, EDDY COUNTY, NEW MEXICO
22S	27E	6	10.3022 ACRES, MORE OR LESS, BEING BLOCKS 114, 117 AND 120 OF EISENHART-EGGERT ADDITION AND A PORTION OF CHURCH STREET AND LUCKY STREET AS DEPICTED ON THAT CERTAIN MAP OF EISENHART-EGGERT ADDITION TO THE TOWN OF CARLSBAD LOCATED AT MAP CABINET 1, SLIDE 21, AND SITUATED IN THE NORTHEAST QUARTER (NE/4) OF SECTION 6 AND THE NORTHWEST QUARTER (NW/4) OF SECTION 5, T22S-R27E, EDDY COUNTY, NEW MEXICO. SAID TRACT WAS REPLATTED AS A PARK, AND DEPICTED ON THAT CERTAIN MAP OF KERR PARK ADDITION TO THE CITY OF CARLSBAD LOCATED AT MAP CABINET 1, SLIDE 41. FURTHERMORE, SAID TRACT WAS REPLATTED AS A LARGER TRACT LYING BETWEEN ROBERTS STREET AND THE PECOS RIVER, AND DEPICTED ON THAT CERTAIN AMENDED PLAT OF KERR PARK ADDITION TO THE CITY OF CARLSBAD LOCATED AT MAP CABINET 2, SLIDE 78. LESS AND EXCEPT THAT PORTION OF SAID TRACT LYING IN SECTION 5, T22S-R27E, AND LEAVING A TOTAL OF <u>2.3217</u> ACRES, MORE OR LESS, LEASED HEREIN.
22S	27E	6	2.204 ACRES, MORE OR LESS, BEING THE WEST 90 FEET OF LOTS 1, 2, 3, & 4 OF BLOCK 128 IN RIVERVIEW TERRACE AMENDED SUBDIVISION, LOCATED IN THE SE/4 OF SECTION 6, T22S-R27E, EDDY COUNTY, NEW MEXICO
22S	27E	6	2.2636 ACRES, MORE OR LESS, BEING PART OF BLOCK 91, LESS THE NORTH 100 FEET OF THE WEST 134 FEET OF STEVENS SECOND ADDITION, A SUBDIVISION LOCATED IN THE NW/4 OF THE SW/4 OF SECTION 6- T22S-R27E, EDDY COUNTY, NEW MEXICO
22S	27E	6	24.9181 ACRES, MORE OR LESS, LOCATED IN THE E/2 OF SECTION 6, T22S-R27E, EDDY COUNTY, NEW MEXICO
22S	27E	6	7.985 ACRES, MORE OR LESS, BEING ALL OF BLOCK 133 OF RIVERVIEW TERRACE ADDITION SUBDIVISION, LOCATED IN THE E/2 OF SECTION 6, T22S-R27E, EDDY COUNTY, NEW MEXICO
22S	27E	7	0.1492 ACRES, AS LOT 10, BLOCK 217, OSBORNE FOURTH, SITUATED IN THE NORTHWEST QUARTER (NW/4) OF SECTION 7, TOWNSHIP 22 SOUTH, RANGE 27 EAST, NMPM, EDDY COUNTY, NEW MEXICO

TOWNSHIP	RANGE	SECTION	DESCRIPTION (FINAL)
22S	27E	7	0.4921 ACRES, BEING LOTS 1, 2 AND 3, BLOCK A, EAST ADDITION OF SAN JOSE, SITUATED IN THE NORTHWEST QUARTER (NW/4) OF SECTION 7, TOWNSHIP 22 SOUTH, RANGE 27 EAST, EDDY COUNTY, NEW MEXICO
22S	27E	7	12.242 ACRES, MORE OR LESS, BEING TRACTS A, B AND G IN OSBORNE FOURTH SUBDIVISION AND PORTIONS OF LOMITA, ARROYO, RICO, MESQUITE AND JUAREZ STREETS AND THOSE PORTIONS OF VACATED ALLEYS AS DESCRIBED IN ORDINANCE NO. 993, DATED SEPTEMBER 12, 1989, RECORDED IN EDDY COUNTY RECORD BOOK 115, PAGE 1187 OF THE RECORDS OF EDDY COUNTY, NEW MEXICO, SITUATED IN THE NORTHWEST QUARTER (NW/4) OF SECTION 7, TOWNSHIP 22 SOUTH, RANGE 27 EAST, EDDY COUNTY, NEW MEXICO, SAID PROPERTY BEING MORE PARTICULARLY SHOWN ON THAT CERTAIN SURVEY PLAT RECORDED IN MAP CABINET 1, SLIDE 128 OF THE MAP RECORDS OF EDDY COUNTY, NEW MEXICO
22S	27E	6 & 7	0.1963 ACRES, BEING LOT 59, BLOCK 189, OSBORNE SECOND, SITUATED IN THE NORTHWEST QUARTER (NW/4) OF SECTION 7, TOWNSHIP 22 SOUTH, RANGE 27 EAST AND THE SOUTHWEST QUARTER (SW/4) OF SECTION 6, TOWNSHIP 22 SOUTH, RANGE 27 EAST, EDDY COUNTY, NEW MEXICO
22S	27E	7	0.2372 ACRES, BEING A PART OF LOTS 60 AND 62, BLOCK 189, OSBORNE SECOND, SITUATED IN THE NORTHWEST QUARTER (NW/4) OF SECTION 7, TOWNSHIP 22 SOUTH, RANGE 27 EAST, EDDY COUNTY, NEW MEXICO, AND MORE PARTICULARLY DESCRIBED IN THAT CERTAIN WARRANTY DEED, DATED JUNE 26, 1984 AND RECORDED IN DEED RECORD BOOK 260, PAGE 1 OF THE RECORDS OF EDDY COUNTY, NEW MEXICO, AND THAT CERTAIN WARRANTY DEED, DATED APRIL 11, 1984 AND RECORDED IN DEED RECORD BOOK 259, PAGE 684 OF THE RECORDS OF EDDY COUNTY, NEW MEXICO
22S	27E	6 & 7	0.1963 ACRES, BEING LOT 61, BLOCK 189, OSBORNE SECOND, SITUATED IN THE NORTHWEST QUARTER (NW/4) OF SECTION 7, TOWNSHIP 22 SOUTH, RANGE 27 EAST AND THE SOUTHWEST QUARTER (SW/4) OF SECTION 6, TOWNSHIP 22 SOUTH, RANGE 27 EAST, EDDY COUNTY, NEW MEXICO
22S	27E	7	0.007 ACRES, BEING A PORTION OF LOT 63, BLOCK 189, OSBORNE SECOND, SITUATED IN THE NORTHWEST QUARTER (NW/4) OF SECTION 7, TOWNSHIP 22 SOUTH, RANGE 27 EAST, EDDY COUNTY, NEW MEXICO, AND MORE PARTICULARLY DESCRIBED IN THAT CERTAIN WARRANTY DEED, DATED JUNE 14, 1984 AND RECORDED IN DEED RECORD BOOK 260, PAGE 90 OF THE RECORDS OF EDDY COUNTY, NEW MEXICO
22S	27E	7	0.1910 ACRES, BEING LOT 64, BLOCK 189, OSBORNE SECOND, SITUATED IN THE NORTHWEST QUARTER (NW/4) OF SECTION 7, TOWNSHIP 22 SOUTH, RANGE 27 EAST, EDDY COUNTY, NEW MEXICO
22S	27E	7	0.1860 ACRES, BEING LOT 65, BLOCK 209, OSBORNE THIRD, SITUATED IN THE NORTHWEST QUARTER (NW/4) OF SECTION 7, TOWNSHIP 22 SOUTH, RANGE 27 EAST, EDDY COUNTY, NEW MEXICO

TOWNSHIP	RANGE	SECTION	DESCRIPTION (FINAL)
22S	27E	7	0.1435 ACRES, BEING LOT 11, BLOCK 217, OSBORNE FOURTH, SITUATED IN THE NORTHWEST QUARTER (NW/4) OF SECTION 7, TOWNSHIP 22 SOUTH, RANGE 27 EAST, EDDY COUNTY, NEW MEXICO
22S	27E	7	0.1467 ACRES, BEING LOT 12, BLOCK 217, OSBORNE FOURTH, SITUATED IN THE NORTHWEST QUARTER (NW/4) OF SECTION 7, TOWNSHIP 22 SOUTH, RANGE 27 EAST, EDDY COUNTY, NEW MEXICO
22S	27E	7	0.0518 ACRES, BEING LOT 14, BLOCK G, EAST ADDITION OF SAN JOSE, SITUATED IN THE NORTHWEST QUARTER (NW/4) OF SECTION 7, TOWNSHIP 22 SOUTH, RANGE 27 EAST, EDDY COUNTY, NEW MEXICO
22S	27E	7	1.1849 ACRES, BEING LOTS 6, 7, 10, 13, 14, 15, 16, 17 AND 18, BLOCK A, EAST ADDITION OF SAN JOSE, SITUATED IN THE NORTHWEST QUARTER (NW/4) OF SECTION 7, TOWNSHIP 22 SOUTH, RANGE 27 EAST, EDDY COUNTY, NEW MEXICO
22S	27E	7	0.3272 ACRES, BEING LOTS 12 AND 14, BLOCK C, EAST ADDITION OF SAN JOSE, SITUATED IN THE NORTHWEST QUARTER (NW/4) OF SECTION 7, TOWNSHIP 22 SOUTH, RANGE 27 EAST, EDDY COUNTY, NEW MEXICO
22S	27E	7	0.1636 ACRES, BEING LOT 14, BLOCK F, EAST ADDITION OF SAN JOSE, SITUATED IN THE NORTHWEST QUARTER (NW/4) OF SECTION 7, TOWNSHIP 22 SOUTH, RANGE 27 EAST, EDDY COUNTY, NEW MEXICO
22S	26E	12	3.719 ACRES, MORE OR LESS, BEING ALL OF BLOCK 11 OF ARCADIA ADDITION SUBDIVISION, LOCATED IN THE NE/4 OF SECTION 12, T22S-R26E, EDDY COUNTY, NEW MEXICO
21S	27E	31	0.0603 ACRES, MORE OR LESS, BEING THE SOUTH 10 FEET OF LOT 13, IN BLOCK A OF RIO VISTA SUBDIVISION, LOCATED IN THE NW/4 OF SECTION 31, T21S-R27E, EDDY COUNTY, NEW MEXICO
21S	27E	31	0.21 ACRES, MORE OR LESS, BEING PART OF THE SE CORNER OF BLOCK 212 OF TRACY ADDITION SUBDIVISION, LOCATED IN THE NW/4 OF SECTION 31, T21S-R27E, EDDY COUNTY, NEW MEXICO
21S	27E	31	0.43 ACRES, MORE OR LESS, FORMERLY BEING THE EAST HALF OF LOT 2 BLOCK 115 OF NORTH CARLSBAD AND NOW BEING DESCRIBED AS LOT 7 BLOCK 237 OF PARKVIEW SUBDIVISION, LOCATED IN THE SE/4 OF SECTION 31, T21S-R27E, EDDY COUNTY, NEW MEXICO
21S	27E	31	0.6777 ACRES, MORE OR LESS, BEING LOTS 4 & 6 BLOCK 148 OF LAKESIDE COUNTRY CLUB ADDITION UNIT 1, LOCATED IN THE SW/4 OF SECTION 31, T21S-R27E, EDDY COUNTY, NEW MEXICO
21S	27E	31	1.048 ACRES, MORE OR LESS, BEING PART OF LOTS 2, 4, 6 & 7 BLOCK 20 OF LA HUERTA SUBDIVISION, LOCATED IN THE SE/4 OF SECTION 31, T21S-R27E, EDDY COUNTY, NEW MEXICO
21S	27E	31	1.16 ACRES, MORE OR LESS, BEING LOT 12, THE SOUTH 18.9 FEET OF LOT 10; AND THE NORTH 10 FEET OF THE WEST 172.3 FEET OF LOT 14 BLOCK C OF RIO VISTA SUBDIVISION, LOCATED IN THE NW/4 OF SECTION 31, T21S-R27E, EDDY COUNTY, NEW MEXICO

TOWNSHIP	RANGE	SECTION	DESCRIPTION (FINAL)
21S	27E	31	1.77 ACRES, AS LOTS 12 AND 14, BLOCK 103, NORTH CARLSBAD, SITUATED IN THE SOUTHWEST QUARTER (SW/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 27 EAST, EDDY COUNTY, NEW MEXICO
21S	27E	31	12.586 ACRES, MORE OR LESS, BEING A PART OF LOTS 1-10, 12, & 14 OF BLOCK 116; AND OF THE ALL OF BLOCK 122 OF NORTH CARLSBAD SUBDIVISION, LOCATED IN THE E/2 OF SECTION 31, T21S-R27E, EDDY COUNTY, NEW MEXICO
21S	27E	31	3.00 ACRES, MORE OR LESS, BEING LOTS 8, 10, & 12 BLOCK 121 OF NORTH CARLSBAD SUBDIVISION, LOCATED IN THE E/2 OF SECTION 31, T21S-R27E, EDDY COUNTY, NEW MEXICO
21S	27E	31	ALL OF LOTS 7, 9, 10 & 11, BLOCK 15 OF LA HUERTA, TOGETHER WITH THAT CERTAIN TRACT OF LAND OF AN AREA OF APPROXIMATELY ONE ACRE WHICH IS BOUNDED BY THE SAID LOTS 10 & 11 IN BLOCK 15 OF LA HUERTA AND LYING NORTH OF THE PECOS RIVER; LOT 8 IN BLOCK 15 OF LA HUERTA, EXCEPTING THAT PORTION OF SAID TRACT CONVEYED BY U.S. POTASH COMPANY TO THE ATSF RAILWAY COMPANY BY WARRANTY DEED DATED AUGUST 30, 1934, AND RECORDED IN BOOK 64, PAGE 68 OF THE DEED RECORDS OF THE CLERK OF EDDY COUNTY; THAT PORTION OF THE WEST 2 3/4 ACRES OF LOT 6 IN BLOCK 15 OF LA HUERTA, LYING IN THE SE CORNER THEREOF, COMPRISING 0.27 ACRES, MORE OR LESS, BEING THAT PORTION OF THE SAID WEST 2 3/4 ACRES OF LOT 6 NOT CONVEYED BY U.S. POTASH TO THE ATSF RAILWAY COMPANY BY WARRANTY DEED DATED AUGUST 30, 1934, AND RECORDED IN BOOK 64, PAGE 68 OF THE DEED RECORDS OF THE CLERK OF EDDY COUNTY; AND ALL OF BLOCK 16, LA HUERTA, EXCEPTING THE EAST 300 FEET. SAID TRACTS CONTAIN A TOTAL OF <u>30.01</u> ACRES, MOR OR, LESS AND ALL BEING SITUATED IN THE E/2 SECTION 31, T22S-R27E, EDDY COUNTY, NEW MEXICO
21S	27E	32	35.65 ACRES, MORE OR LESS, BEING LOTS 12, 14, THE S 39.6 FEET OF LOT 10 BLOCK 24 OF LA HUERTA SUBDIVISION; AND PART OF THE SE/4 OF THE SW/4, LOCATED IN THE S/2 OF SECTION 32, T21S-R27E, EDDY COUNTY, NEW MEXICO
21S	27E	32	41.89 ACRES, MORE OR LESS, BEING LOTS, 2, 4, 6, 7, 9, 11, 13 AND THE SW/2 OF LOT 5 BLOCK 20 OF LA HUERTA SUBDIVISION, LOCATED IN THE SW/4 OF SECTION 32, T21S-R27E, EDDY COUNTY, NEW MEXICO

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM

Council Meeting Date: September 12, 2023

DEPARTMENT: Legal	BY: D. Boyea <i>DB</i>	DATE: Sept. 5, 2023
SUBJECT: Proposed Amendment of Section 63 (a) and (b) of Chapter 34 of the Code of Ordinances, City of Carlsbad, New Mexico, regarding the proximity of wells, tanks or pipelines to commercial buildings.		
BACKGROUND, ANALYSIS AND IMPACT: (Safety and Welfare/Financial/Personnel/Infrastructure/etc.) Section 63(a) and (b) of Chapter 34 of the Code of Ordinances, City of Carlsbad, New Mexico, addresses the proximity of wells, tanks or pipelines to commercial buildings. Currently, the distance may be no nearer than 500 feet to any existing commercial building. The ordinance is proposed to be amended to allow a distance no nearer than 400 feet to any existing commercial building. The remaining provisions of Section 63 of Chapter 34 should remain in full force and effect, including a distance no nearer than 500 feet to an existing residence. The council may still require a greater distance than 500 feet to a residence or 400 feet to an existing commercial building, deepening on the circumstances.		
DEPARTMENT RECOMMENDATION: Administration recommends approval.		
BOARD/COMMISSION/COMMITTEE ACTION:		
<input type="checkbox"/> P & Z	<input type="checkbox"/> Lodgers Tax Board	<input type="checkbox"/> Cemetery Board
<input type="checkbox"/> Museum Board	<input type="checkbox"/> San Jose Board	<input type="checkbox"/> Water Board
<input type="checkbox"/> Library Board	<input type="checkbox"/> North Mesa Board	<input type="checkbox"/> _____ Committee
		} <input type="checkbox"/> APPROVED
		} <input type="checkbox"/> DISAPPROVED

Reviewed by:

City Administrator: /s/John Lowe Date: 09/07/2023

ATTACHMENTS: Ordinance No. 2023-18.

ORDINANCE NO. 2023-18

AN ORDINANCE AMENDING A PORTION OF SECTION 63(a) and (b) OF CHAPTER 34 OF THE CODE OF ORDINANCES, CITY OF CARLSBAD, NEW MEXICO, REGARDING THE PROXIMITY OF WELLS, TANKS OR PIPELINES TO BUILDINGS.

WHEREAS, Chapter 34 of the City of Carlsbad Code of Ordinances, Articles I, II and III were adopted in 2004 in response to an event involving a gas well; and

WHEREAS, the City of Carlsbad reviewed Section 63 of Article 34 regarding the proximity of wells, tanks or pipelines to buildings; and

WHEREAS, the City of Carlsbad wishes to amend a portion of Section 63 (a) and (b) of Chapter 34 to allow for a well, storage tank or pipeline within 400 feet of a commercial building.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CARLSBAD, COUNTY OF EDDY, STATE OF NEW MEXICO, as follows:

1. Section 63 (a) and (b) of Article 34 of the City of Carlsbad Code of Ordinances is amended to add language to allow for wells, tanks or pipelines to be within 400 feet of any existing commercial building.
2. The following language replaces Section 63 (a) and (b) of Article 34 and is hereby adopted:

ARTICLE III

Sec. 34-63. Proximity of wells, tanks or pipelines to buildings.

(a) No well shall be drilled at any location within the city, and no permit shall be issued for any well to be drilled at any location within the city nor shall any storage tank be located within the city nearer than 500 feet to any existing residence or nearer than 400 feet to any existing commercial building. Provided, however, that the council may, in considering any application for a permit, require a greater distance, depending on the circumstances and so specify in the permit.

(b) No high pressure gas injection well or a compressor used in conjunction therewith shall be located nearer than 500 feet to any existing residence or nearer than 400 feet to any existing commercial building. Provided, however, that the council may, in considering any application for a permit, require a greater distance, depending on the circumstances and so specify in the permit.

INTRODUCED, PASSED, ADOPTED, AND APPROVED this _____ day of _____,
2023.

DALE JANWAY, MAYOR

ATTEST:

City Clerk

Committee Reports

Adjourn



September 5, 2023

Mr. John Lowe
City Administrator
City of Carlsbad

Dear Mr. Lowe:

The following report is submitted to the City of Carlsbad to update the progress and status of the Carlsbad MainStreet Project for August 2023, per the Downtown Revitalization Services Contract. With this report, MainStreet is enclosing an invoice requesting the monthly allocation from the City of Carlsbad for \$7,500.00 based on the total annual services contract of \$90,000.

NEW MEXICO MAIN STREET (NMMS) REQUIRED MEETINGS (MAINSTREET EXECUTIVE DIRECTOR):

- New Mexico MainStreet Roundtable- 8/9 Topic: Get Hyped!
- 8/16 & 8/31- Meeting with Amy Barnhart, Amy Bell for Fall Conference planning

EXECUTIVE DIRECTOR BOARDS AND COMMITTEES:

- In addition to MainStreet activities, the Carlsbad MainStreet Executive Director serves on the following boards and committees related to downtown promotion and economic development and attends weekly and monthly meetings to support their priorities and activities:

Carlsbad Area Art Association, Carlsbad Community Concerts Association, Cavern Theater Task Force, Carlsbad Downtown Lions Club, Pearl of the Pecos Committee, Chamber of Commerce Tourism Council, Chamber of Commerce Non-Profit Council, Chamber of Commerce Age Friendly Council, Eddy County DWI Mayors Fine Arts and Acquisition Committee (FAAV), Mayors Beautification Committee, Anti-Drug and Gang Coalition, Rotary, Chamber of Commerce, City Council, Eddy County Commission, Walter Gerrell's Civic Center Advisory Board, and Carlsbad Department of Development

ECONOMIC DEVELOPMENT-MAINSTREET STYLE

MainStreet Business/Merchants Economic Vitality

- Speaking with a person interested in purchasing some vacant buildings in the district. They plan to rent out in smaller spaces to have multiple businesses/offices occupy the space. The property has been vacant for close to 2 years now, so we are very excited to see this progress and assist the new building owner along the way.
- Working with ConocoPhillips for the second year of bringing their "Small Biz Builder" program to Eddy County. The program is powered through Lift Fund who help small businesses owners secure capital and 0% interest loans. This program is offered to current or emerging business owners at no cost, and it is a 3-week program. On September 13th, the in-person information session will take place for those who have registered to learn more about the program and hear from some graduates of last year's program.



Downtown MainStreet Rejuvenation Project

- Met with Trent Moore, the Eddy County Facilities director to discuss possible locations for the public restrooms in the downtown area. Spoke with the City electrician in regard to the light fixtures and discussed the grant Eyenid received for the hanging plant baskets and the upgrades to our current light poles and globes. This year for the Keep Carlsbad Beautiful grant cycle through the New Mexico Tourism Department, a portion of the request was to help with funding to replace the remainder of the trashcans downtown, close to \$9,000 of this was funded, at our board meeting this month we requested to match that grant through MainStreet funds to complete the project and the board approved the match.

MainStreet

- August 2nd & 21st- Executive Board Meeting
- August 24th- Board Meeting

Pearl of the Pecos

- August 3rd - Sites Southwest Site Final Site Visit-
- August 16th & 29th- Sites Southwest follow up meetings
- August 28th- POP Steering committee meeting
- Full report of POP work can be found in July report

City of Carlsbad

- August 23- City wide tourism meeting

Eddy County

- Met with Trent about the above mentioned under the rejuvenation project, in addition to discussing the public restrooms locations we talked about getting some doggie waste bag stations for the courthouse lawn, with the weather cooling down we have seen an increase in dogs attending events and we think this will be a great addition to the courthouse lawn amenities.

Chamber of Commerce

- 8/2- Age Friendly Council Meeting
- 8/8- Tourism Council Meeting

Department of Development

- 8/3- CDOD Board Meeting

HAPPENING AT THE MAINSTREET OFFICE

Staff at the MainStreet office

- Assistant Director Eyenid Manzo has submitted her resignation from Carlsbad MainStreet. Her last day will be September 15th, she will still assist and participate with

the projects as her new schedule allows her to. Eyenid has been a wonderful addition to our team and will be missed dearly. The interview process was conducted as quickly as possible to allow for some time with Eyenid to train on the position.

- We have had a lot of correspondence with the New Mexico MainStreet staff and revitalization specialist who are leading the conference. Registration went live on July 31st and we already have 70 participants registered. The conference will be held at the Carlsbad Museum September 13th-15th
- Eyenid & Kat attended the Main Street America “Summer School” webinar series. These series were based on the most popular conference sessions presented at MainStreet Now back in March.
- Victoria has been attending monthly Market Manager forums hosted by the state, these have been good for her to learn different practices and experiences that people are having through out different parts of the state. Victoria and Carlsbad Downtown Farmers & Makers market was recognized on one of the forums for the vendor spotlight series we initiated this year to highlight our vendors.

Reporting

- All monthly and quarterly reports have been submitted to the City and County
- Q2 report submitted to New Mexico MainStreet

Speaking Opportunity

- N/A

OTHER MAINSTREET ED MEETINGS AND ACTIVITIES:

- Our August Third Thursday was held on August 17th with our Community Pep Rally theme. The high school football team, Choir, Cheerleaders, Band and Color Guard all came downtown and participated. Our regular Thursday market nights have been doing great as well. In August we brought back the first Saturday morning market, this was very well received by the community and our vendors. We will have 2 more in September on the 9th and the 30th, these Saturday mornings are in addition to our Thursday evenings. The season will end on September 30th.

PROMOTION FOR MAINSTREET and CARLSBAD

New Mexico Magazine

- Newsletter, web and print ads running

Focus Magazine

- Ad submitted for Artesia summer edition

Texas Monthly

- N/A

Carlsbad Local

- Market ads running

Current-Argus

- Small Business spotlight on the opening of Aquinos Deli



Carlsbad MainStreet Project
102 S Canyon St
Carlsbad, NM 88220
Carlsbadmainstreet@gmail.com
Office : 575-628-3768 Cell: 575-988-0145

Artesia Radio

- Summer events advertising starting July

Carlsbad Radio

- Summer events advertising starting

KCC Radio

- N/A

If you have any questions, please feel free to contact me.

Respectfully,

Kat Davis

Kat Davis
Executive Director