

CITY COUNCIL AGENDA

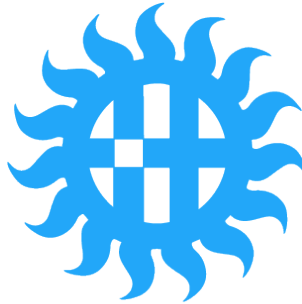
Mayor
Eric Enriquez

Monday, August 5, 2024 at 1:00 PM
Council Chambers

CITY HALL
P.O. BOX 20000
LAS CRUCES, NM 88004

Mayor Pro Tem
Johana Bencomo

Councilors
Cassie McClure
William Mattiace
Becki Graham
Becky Corran
Yvonne Flores



CITY OF LAS CRUCES

700 N. Main St.
PHONE (575) 541-2067

If you need an accommodation for a disability to enable you to fully participate in this event please contact us 72 hours before this event at 541-2115/V.

CONSENT AGENDA

Minutes and Items on the Consent Agenda Are Considered Routine Items and Will Be Voted on with One Motion Unless a Councilor Requests That a Specific Item Be Removed. There Will Be No Discussion.

Page

1. OPENING CEREMONIES

- 1.1. Pledge of Allegiance - Councilor McClure.
- 1.2. Presentation of Certificates of Appreciation/Proclamations - Councilor McClure.
- 1.3. Jobs of the Week.
- 1.4. Pets of the Week.
- 1.5. Mesilla Valley Regional Dispatch Authority (MVRDA) Update.
- 1.6. FY24 - CLC Entrance Conference presentation.

2. CONFLICT OF INTEREST INQUIRY BY MAYOR AS REQUIRED BY LCMC SECTION 2-27 (E)(2)

3. PUBLIC PARTICIPATION

4. READ CLOSED MEETING STATEMENT

- 4.1. Read July 15, 2024 Closed Meeting Statement into the record.

5. ACCEPTANCE OF AGENDA

6. CITY COUNCIL MINUTES

6.1.	Regular City Council Meeting of July 1, 2024. City Council - Jul 01 2024 - Minutes - Pdf	5 - 39
6.2.	Work Session of July 8, 2024. Work Session - Jul 08 2024 - Minutes - Pdf	40 - 53
7.	<u>RESOLUTION(S) AND/OR ORDINANCE(S) FOR CONSENT AGENDA</u>	
7.1.	<u>RESOLUTION NO. 25-012</u> : A RESOLUTION TO AUTHORIZE AN ANNUAL NOT-TO-EXCEED AMOUNT OF \$2,000,000 PER VENDOR FOR TEMPORARY EMPLOYMENT SERVICES, SUBJECT TO APPROVED BUDGET APPROPRIATIONS (PROCUREMENT NO. 23-24-047). Resolution No. 25-012 - Pdf	54 - 386
7.2.	<u>RESOLUTION NO. 25-013</u> : A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT GRANT AWARDS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY'S ADOPTED FY2025 BUDGET AND FY2025 CIP. Resolution No. 25-013 - Pdf	387 - 480
7.3.	<u>RESOLUTION NO. 25-014</u> : A RESOLUTION AUTHORIZING A VARIANCE TO SECTION 19-131 OF THE LAS CRUCES MUNICIPAL CODE, 1997, AS AMENDED, ALLOWING CONSTRUCTION WORK BETWEEN THE HOURS OF 6:00 P.M. AND 7:00 A.M. FOR CONCRETE POURING ASSOCIATED WITH THE RENOVATION OF THE EXISTING SKATEPARK AT 151 N. WALNUT. Resolution No. 25-014 - Pdf	481 - 484
7.4.	<u>COUNCIL BILL NO. 25-004; ORDINANCE NO. 3075</u> : AN ORDINANCE APPROVING A ZONE CHANGE FROM R-4 (MULTI-DWELLING HIGH DENSITY AND LIMITED RETAIL AND OFFICE) TO C-3 (COMMERCIAL HIGH INTENSITY) FOR PROPERTY LOCATED AT 3250 NORTHRISE DRIVE. SUBMITTED BY JOHN HECK, PROPERTY OWNER. Ordinance No. 3075 - Pdf	485 - 541
7.5.	<u>COUNCIL BILL NO. 25-005; ORDINANCE NO. 3076</u> : AN ORDINANCE APPROVING A ZONE CHANGE FROM C-2 (COMMERCIAL MEDIUM INTENSITY) TO C-3C (COMMERCIAL HIGH INTENSITY - CONDITIONAL) FOR PROPERTY LOCATED AT 2999 BATAAN MEMORIAL WEST. SUBMITTED BY CHRIS SVEUM - ATWELL, LLC ON BEHALF OF YESWAY, INC. Ordinance No. 3076 - Pdf	542 - 566
8.	<u>RESOLUTION(S) AND/OR ORDINANCE(S) FOR DISCUSSION</u>	
8.1.	<u>RESOLUTION NO. 25-015</u> : A RESOLUTION APPROVING A \$4M HOUSING TRUST FUND LOAN AGREEMENT AND LAND USE RESTRICTION AGREEMENTS WITH PEACHTREE CANYON APARTMENTS LLLP FOR AN AFFORDABLE HOUSING PROJECT, INCLUDING REQUESTING WAIVERS OF ALL PERMIT FEES AND IMPACT FEES FOR PARKS AND PUBLIC SAFETY FOR THE	567 - 633

PROJECT.

[Resolution No. 25-015 - Pdf](#)

- 8.2. RESOLUTION NO. 25-016: A RESOLUTION APPROVING AN EXCEPTION TO THE HOME REHABILITATION HANDBOOK FOR THE RESIDENCE LOCATED ON CALICO DR. 634 - 638
[Resolution No. 25-016 - Pdf](#)
- 8.3. COUNCIL BILL NO. 24-022; ORDINANCE NO. 3064: AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AND SUBSIDY AGREEMENT ("LOAN AGREEMENT") BY AND BETWEEN THE CITY OF LAS CRUCES, NEW MEXICO ("GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY ("FINANCE AUTHORITY"), IN THE TOTAL AMOUNT OF FIFTEEN MILLION THREE HUNDRED THOUSAND DOLLARS (\$15,300,000), EVIDENCING A SPECIAL LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A MAXIMUM REPAYABLE PRINCIPAL AMOUNT OF NO MORE THAN TWELVE MILLION TWO HUNDRED EIGHTY THOUSAND NINE HUNDRED FORTY-NINE DOLLARS (\$12,280,949), TOGETHER WITH INTEREST, AND ADMINISTRATIVE FEES THEREON, AND TO ACCEPT A LOAN SUBSIDY OF NO MORE THAN THREE MILLION NINETEEN THOUSAND FIFTY-ONE DOLLARS (\$3,019,051), FOR THE PURPOSE OF FINANCING THE COSTS OF A NEW WELL, ASSOCIATED IMPROVEMENTS OF THE WELL INCLUDING CONNECTING TO THE JOINT UTILITY SYSTEM OF THE GOVERNMENTAL UNIT, AND REHABILITATION OF WATER STORAGE TANKS; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL, ADMINISTRATIVE FEES AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE NET REVENUES OF THE JOINT UTILITY SYSTEM OF THE GOVERNMENTAL UNIT; SETTING AN INTEREST RATE FOR THE LOAN; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT. 639 - 707
[Ordinance No. 3064 - Pdf](#)
- 8.4. COUNCIL BILL NO. 25-006; ORDINANCE NO. 3077: AN ORDINANCE REPEALING AND REPLACING CHAPTER 19, SECTION 19-6. - POSSESSION, DELIVERY, MANUFACTURE, OR DELIVERY OF DRUG PARAPHERNALIA OF THE LAS CRUCES MUNICIPAL CODE (LCMC), 1997 AS AMENDED. 708 - 712
[Ordinance No. 3077 - Pdf](#)
- 8.5. COUNCIL BILL NO. 25-007; ORDINANCE NO. 3078: AN ORDINANCE AMENDING CHAPTER 21, SECTION 21-62. - PROHIBITED SOLICITATIONS AND 21-63. - STANDING OR LOITERING ON OR NEAR STREET OR HIGHWAY, OF THE LAS CRUCES MUNICIPAL CODE (LCMC) 1997 AS AMENDED. 713 - 720

[Ordinance No. 3078 - Pdf](#)

- 8.6. COUNCIL BILL NO. 25-008; ORDINANCE NO. 3079: AN ORDINANCE 721 - 729
ADDING CHAPTER 18, ARTICLE III - SHOPPING CART
CONTAINMENT AND RETRIEVAL, TO THE LAS CRUCES
MUNICIPAL CODE (LCMC), 1997 AS AMENDED.

[Ordinance No. 3079 - Pdf](#)

9. BOARD APPOINTMENTS

10. NOTICE OF PROPOSED ORDINANCE(S)

- 1) There will be no public discussion.
2) A Councilor may ask staff for clarification on the proposed ordinance(s).

- 10.1. COUNCIL BILL NO. 25-009; ORDINANCE NO. 3080: AN ORDINANCE 730 - 862
APPROVING A ZONE CHANGE FROM R-1A (SINGLE-FAMILY
MEDIUM DENSITY) TO R-2C (MULTI-DWELLING LOW DENSITY)
FOR PROPERTY LOCATED AT 2795 N. ROADRUNNER PARKWAY.
SUBMITTED BY TAFIQ HINDASH, AJ CONSTRUCTION, LLC ON
BEHALF OF MOHAMED ASWAD, M.D., PROPERTY OWNER.

[Ordinance No. 3080 - Pdf](#)

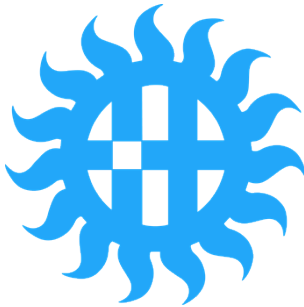
- 10.2. COUNCIL BILL NO. 25-010; ORDINANCE NO. 3081: AN ORDINANCE 863 - 960
APPROVING A ZONE CHANGE FROM A-2 (RURAL AGRICULTURAL,
1981 ZONING CODE) TO C-3 (COMMERCIAL HIGH INTENSITY). THE
SUBJECT PROPERTIES ENCOMPASSING 1.89 ± ACRES IS
LOCATED AT 3098 E UNIVERSITY AVENUE. THE ZONE CHANGE
REQUEST SEEKS TO BRING A PORTION OF THE PROPOSED
TRACT OF LAND INTO COMPLIANCE WITH THE 2001 ZONING
CODE, AS AMENDED.

[Ordinance No. 3081 - Pdf](#)

11. CITY COUNCIL MEMBER BOARD REPORTS AND COMMENT

12. CITY MANAGER REPORT

13. ADJOURNMENT



MINUTES

City Council

Monday, July 1, 2024 @ 1:00 PM

City Council Chambers, City Hall

PRESENT: Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

ABSENT:

1. OPENING CEREMONIES

1.1 PLEDGE OF ALLEGIANCE - COUNCILOR FLORES.

1.2 PRESENTATION OF CERTIFICATES OF APPRECIATION/PROCLAMATIONS - COUNCILOR FLORES.

Mayor Enriquez recognized Guzman Martial Arts National Champions.

1.3 JOBS OF THE WEEK.

Sarah Raney, New Mexico Workforce Connection presented Jobs of the Week.

1.4 PETS OF THE WEEK.

Amy Defelix, Animal Services Center of the Mesilla Valley presented Pets of the Week.

2. CONFLICT OF INTEREST INQUIRY BY MAYOR AS REQUIRED BY LCMC SECTION 2-27 (E)(2)

2.1

None.

3. PUBLIC PARTICIPATION

3.1

Rico Gonzales, Member of the Public said I am with El Paso Electric and here to my right is Huey Miles. He is our Supervisor for Distribution in Las Cruces and as you all know we had some pretty significant weather happenings this weekend. I just wanted to give a quick update to you and the staff. Real quickly I will go over four different pieces, the weather that we dealt with, the substations that were out, the areas affected, currently where we are at, mas o menos, the guys are out there right now, so and then a quick thank you from myself to staff. So weather, on Saturday, starting around 2 o'clock we had a huge storm come through that had micro cells and out drafting of winds in three different waves and then on Sunday we had one storm come through around 2 p.m. and then another one around dusk, 6 p.m. on Sunday as well. So, five if you will storms total coming through our area that had really strong winds in each and every one of them and really effected our system. I am going to go over the substations now and talk about the different substations and where they affected the city. Las Cruces Sub 1 and 2 both had an effect around 2 p.m. and that was the first call that we received. Inside of Substation 2 there was a canopy that got into a line and took that out. The line workers were able to clear that out and at Substation 1 it took out one of our transmission lines and it knocked out quite a few feeders. So, the areas affected were from the Convention Center to MVRDA, the County buildings, your wastewater plant, our yard on Compress, and so those areas were out for about two to three hours and then came back on but and downtown as well. The big issue for us I think right now is those winds snapped poles all over. So even if they weren't affecting substations there is still work out there to be done moving forward. We also had a cell that went over in the Desert Wind Way area which I don't think all of that is in the city that it was in but it snapped a whole bunch of poles, at least 10 poles that I know of but were all single phase lines that didn't affect the substation but that area was really devastated and Huey was out there and he said that there was building materials all over. Building materials and lines and so that has taken a while to get that area back on and it even pulled connections from homes. Also, we lost Salopek Transmission line, but you guys didn't feel that we got that covered before customers felt it. On Sunday we had a cell come through and it effected Jornada 23, Animal Services aera, Highland Elementary, that line is actually the line that took out the substation. That line is still down, and I will explain why here in a minute and a lot of businesses and homes around US 27 and then around 6 p.m. dusk, we had another storm come through somewhere near the Organ Mountain High School area and that then took out Arroyo 20 which is east of the Walmart. So, the substations were back in around 10 o'clock. We still have poles all over. An example is at Burn Lake. That pump there is still out and currently like I said we have a lot of poles that are still out which has some customers out. Highland is out because we had an entire line that had to be rebuilt. And why didn't we finish that last night? When Jornada 23 went out, the area around the Animal Services building, the substation went in, that was good, we were fixing poles and all of a sudden, the substation was out by the Walmart on Lohman goes out. So, we moved our crews to go fix that. That's the most customers. When we look at priority areas, our priorities are critical load, safe and health of the community, then we go to what can affect the most customers to get them back into lights and that is where we make that call to move over and then once all the substations are in then if there are individual poles to fix which there were. Those are the three different priority areas moving forward. We have crews in Ruidoso as well helping with that issue up there. God bless all those people and our neighbors there. I

Agenda Item #6.1.

wanted Huey to come with me today because Huey represents, he is our supervisor. These guys were out there, Huey was at least from our management team was out 24 hours at one point, went home for about 4 hours, back on and is back here today doing his job. Our crews IBW 960 members, proud of the work they have done as well. A big shout out to Ikani, his team, Steven Lopez and his team communicating back and forth all weekend long to make sure that you guys know what is going on if you had any questions. Thank you Ikani very much for helping out with all that.

Mayor Enriquez said thank you for the update and we appreciate all the work El Paso Electric that you were doing during this storm.

Donna Stryker, Member of the Public said I want to thank the City Manager for coming to our meeting. You did a great job. I didn't know as much about GRT as I do now. I probably know more now than I would ever thought I would want to know about GRT. I also want to say thank you to Cassie McClure and to Becki Graham. I really appreciate your presence and thank you. City Clerk, I would like to address this to you. You do an amazing job. If you have not read the minutes, it's amazing. You do a great job and I just wanted to say thank you.

Juan Garcia, Member of the Public said a recent council session saw a councilor label inland Border Patrol Checkpoints as "the scrouge of the community" and "constitution free zones". I am not really clear as to what that means but suggesting the very presence of Border Patrol agents inflicts great trauma. While concerns about evasive questioning are valid and must be addressed, we cannot paint Border Patrol agents in such a broad derogatory brush. These men and women are not faceless enforcers of the law. They are the frontline heroes, friends, and neighbors who risk their lives daily to save others and protect our community. Let us not forget the horrific human smuggling operation uncovered by Border Patrol in Las Cruces on 24 June where 32 migrants were packed into inhumane conditions, or the dozens of suffocating migrants found in box trailers. This happened on February 21, 2023. These agents are the ones who bring traffickers to justice and give voice to the voiceless. Our outrage and scrutiny should be directed at the true sources of the problem. The Governor's reckless decision to open the flood gates to marijuana despite its federally illegality has created the problem for marijuana businesses. Such policies not the brave men and women at Border Patrol are the root cause of the trauma and risk received. It is time to redirect your scorn and offer the praise and gratitude our CBP agents deserve. We must see through the thinly veiled disdain of some of the dais have for Border Patrol and ICE while they advocate for their dismissal. Do we truly believe those who show such contempt for the men in green, 50% approximately of them are Hispanic and generally care for the men in blue, LCPD? Their future upcoming votes in August will be telling. Let us stand united in supporting not just the men in green but the safety and security of our entire community. Let us address the real problems rather than attacking those who put their lives on the line for ours.

Vic Villalobos, Member of the Public said I want to thank some of the city councilors and city management for coming to our Businesses for a Safer Las Cruces. You guys have also I know been monitoring our Facebook page and it is being noticed. We know that when things are being posted about things in the community where you

Agenda Item #6.1.

know we are seeing some bad stuff and maybe some of these homeless camps set up that they have abandoned and there is the shopping carts you all are seeing that and helping us take action and we really appreciate that. It really goes a long way to do that. Thank you, guys, for doing that it is definitely being noticed. Our search and rescue team was recently up in Ruidoso doing operations up there and the Fire Department TR Team was up there with our swift water group and I know we have water coming in everyday and we are seeing it now still going on in Ruidoso and there were a lot of Fire Departments up there but I have to tell you that it really felt good when those guys would come by and check on us to make sure we were okay. Having that hometown TRT team really made a difference to us up there so again appreciate the Fire Department being up there and doing what they are doing up there in Ruidoso and on that note I also noticed that we have got some stuff coming up with some of the parks and things and some improvements we are doing and one of those I saw was La Llorona and I would encourage that as you are looking at what you are doing at La Llorona a lot of people use that as a way to recreate in the water. You saw recently Mr. Barraza died in the river and you know it is about one a year now that we are doing. Our team helped with the extraction of Mr. Barraza in the water. I would encourage you to put up some real signage about not swimming and how dangerous it is. Mr. Mayor, you know being a fire guy, water always wins. That is what they tell me when we are training with the Fire Department, water always wins, and you know Mr. Barraza was in there with his grandchildren and things went bad real fast. The other thing I don't know if you all are aware of this those kids when they went into the water, it was actually a homeless man that jumped in and saved those kids. They got off their little raft and they were being separated and it was a homeless man that jumped in. It is always different perspectives as you go through things but really think about things are you are doing that park in particular. I think that needs to be addressed as a water issue down there. It is a little dangerous.

Jim Hurst, Member of the Public said I am reading by the letter of George Washington to the Hebrew congregation of Newport, Rhode Island. George Washington wrote these words in August 1790, anticipating the ratification of the First Amendment in December of that year. This letter stands as commentary by Washington on the First Amendment and the principle of separation of church and state. "The citizens of the United States of America have a right to applaud themselves for having given to mankind examples of an enlarged and liberal policy. A policy worthy of imitation. All possess alike liberty of conscience and immunities for citizenship. It is now no more a toleration that is spoken of as if by the indulgence of one class of people that another enjoyed the exercise to their inherited natural rights. For happily the government of the United States which gives to bigotry no sanction to persecution no assistance requires only that those who live under its protection should demean themselves as good citizens and giving it on all occasions their affectual support." Washington's 18th century language boils down to this, all citizens have an equal right to religious freedom, including Jews. All citizens deserve protection from religious bigotry, even Jews. Rafeal Cruz, a hero of our local Republican Party says that the First Amendment was written only to protect Christian sects from one another and not to protect other religions in the same way that it protects Christians. It seems that many conservatives of Las Cruces share this opinion. This view is based on either ignorance or indifference to Washington's opinion of the separation of church and state. Consider the words for happily the government of the United States which gives

Agenda Item #6.1.

to bigotry no sanction to persecution no assistance. I assert that these words apply not only to Jews living in the United States of America in our infancy but also to the LGBTQ community in our fair city. It is distressing to me that many in Las Cruces do not consider homophobia as equivalent to religious bigotry. Many of our elected officials appear to be in league with them.

Jorge Aguirre, Member of the Public said I am a long-time resident of this community, and I am here to advocate in favor of high density housing and mixed use neighborhood development even though I live in a single family home in a nice neighborhood. We are not a nuclear family society. We built a huge country for nuclear families that we don't have and that is okay, but we need housing that meets the needs of the families and citizens we do have. If we are serious about reducing the harmful effects of poverty and inequality which is causing all these break ins and all these homeless people who none of us likes we need to dismantle the zoning laws that were based on racist and segregation sentiments that effect all of us in a negative way. Investment will happen if we legalize high density housing, but many are concerned with an increasing car traffic. Fair, that is fair. They oppose contractors being hired to build and remodel and expand existing housing. They don't dislike the thousands of businesses, jobs and opportunities that new construction will generate. All of the increased sales from furniture, core appliances, insurance, financing nor the increased tax revenue that the city would generate based on existing infrastructure without having to build new public infrastructure. Most don't hate the people who would move to a small apartment. They don't hate their neighbors, they do hate cars. Even the people who love cars hate spending time in their cars. High density doesn't have to mean more traffic though. We do need to build different than what we have so far. We have to get rid of this mentality that everybody needs a car for every single trip of their life. Traffic can be reduced by removing from our city codes the assumption that everyone owns a car and will make a trip in a car. There are some people who want that, and they can keep that because we are not going to get rid of the existing infrastructure, but we also need alternatives for everyone else. We need alternative transportation options like protected bike lanes and safe sidewalks as a standard not as a fancy thing we do downtown, but we also need high density housing and mixed use for it to practical and cost effective city wide. In summary legalize high density housing please and remove the hurdles and we can unleash our investors, our architects, our developers, our construction workers, and everyone else that works hard to keep this community thriving.

Mary Aames, Member of the Public said I wonder if any of you councilors recognize the name Anne Dunkley? No, it's been two years since a loose neighbor's dog ripped off an arm and a foot. You don't even remember her name, and in two years nobody has made even the tiniest baby step to actually put strict guidelines in on loose roaming pets and enforce them. Anybody know how many dogs have attacked in the community since? It doesn't matter because Anne doesn't matter because it would be great if somebody actually cared, and I am not seeing it happening with you people. You haven't done that, you haven't listened to us. The other thing I want to address is the lack of transparent communication. The latest City Manager hire out of six councilors only one publicly stated she wanted transparent communication. The rest of you deafening silence. The manager before that was also hired under pretty opaque circumstances and he left under opaque circumstances. Anybody ever

Agenda Item #6.1.

answer reasonably those questions? What I have learned from attending meetings here and in Planning and Zoning, you don't care to listen to your constituents. You don't care of the negative impact what you do or neglect to do has a negative impact on our lives. Every meeting I have attended I see people give testimony and then leave, faces filled with disgust and frustration and then anger. You don't get to see that. I do so you don't get to see my face but believe me it's there.

Yoli Diaz, Member of the Public said first it was very disappointing to watch and listen to Four C Suite of Memorial Medical, CO John Harris, COO Mary Armijo, CFO Laura Thomas and CNO David Schmidt recently. To not comment or show any concern for the patients who did not access care at Memorial Medical Center. Barbara who has been here a couple of times is very angry. Nancy, who is not a public speaker is quoted as saying, "I don't know who is making these decisions but they are not looking out for our best interest". I spent four months begging them, again I spent four months begging them, meaning MMC but they didn't seem to care. Veronica is quoted as saying, "I felt so desperate and I told the receptionist, really if I don't have insurance you're, MMC going to let me die? I am going to die"? She, the MMC receptionist said yes, we are going to let you die and you are going to die. I still remember that in 2020, and you have to remember that Veronica was a cancer survivor, it happened before. Veronica telling me this story and I becoming very angry and that was at the time that I was advocating for her to just have some diagnostic testing because they were really doing these aggressive methods of trying to collect and I talking to MMC. I still remember both Nancy and Barbara in 2022 going through their experience with Memorial Medical Center and again I becoming very angry. What is important to know is that these denials and delays didn't happen to just 12 or 13 residents, the residents who spoke up are the ones who gave me permission to give their names to Gretchen Morgenson. The residents that Gretchen Morgenson wrote about are the residents that agreed to Gretchen to report their story and their name to our nation. There are more residents that this happened to include the disabled indigent woman that I chose not to expose since she was in the middle of treatment with the additional challenges that I expected she would have. I know a woman who described her suffering with cancer to me and not being able to access treatment at Memorial Medical Center in 2015. She finally got to UNM Cancer Center. I know a woman in 2017 who had cancer and needed tests, diagnostic tests that were scheduled at MMC, but records were updated at MMC, and she would not be getting them because she was uninsured. I have this in black and white, an MMC document. There are more residents that I know about and what about the general public, referrals by other doctors. How many more residents did this happen to and what about the records that should be kept that the lease and statute are requiring?

Britanny Nickerson, Member of the Public said I would like to express my approval for the overhaul of the city's zoning laws which will allow for more infill construction within the city and increase our housing density without resorting to massive apartment complexes as well as restoring older neighborhoods that need this revamp. This allows a lot more access for individuals in our community. It is a good fit for our city as well to access better transportation as was voiced previously. A lot of our community members rely heavily on public transport, bicycles, walking in order to get to work, to appointments, to childcare, and schooling and so this would increase access for those folks as well. It would generally make our community more of an equitable place to

Agenda Item #6.1.

live.

Sarah Smith, Member of the Public said I am concerned about your plan to increase the gross receipts taxes in Las Cruces. Although the tax increase would be relatively small this is a really bad time for city council to be raising taxes. Inflation is devastating many families right now and for a council this is so concerned about the poor this seems unjustified. Raising the gross receipts tax would also discourage businesses to moving to Las Cruces. Our gross receipts tax is already quite a bit higher than Albuquerque's and your proposed increase would make the taxes higher here in Las Cruces than in Sunland Park, Santa Fe, Ruidoso, Los Lunas, and other cities. I understand that part of the tax increase will be voted on by council and the other part will be voted on by the public in November. If you decide to move forward with this, will you please ensure that the funds are specifically earmarked for public safety. By state statute you can specify what the increased taxes will be used for, 88% of your survey participants identified public safety as the number one priority. If you are going to be taking money from families of Las Cruces those funds need to be directed to improving safety. From talking with the Interim County Manager. I know that the state has other potential funding options right now due to a large surplus budget from oil and gas production, so I am struggling to understand why you are planning to take more money from Las Cruces' families right now given the high inflation and high prices for even basic necessities. Please rethink this instead of giving Las Cruces one of the highest tax rates in the state and taking money from families who are already struggling to make ends meet.

Steve Colletti, Member of the Public said fourteen-year resident of Las Cruces. Today I must point out an extreme irony. For months, honest hard working citizens, businessmen and business owners have been coming before you to plead for you to do your jobs and give them some relief from rampant crime except for a few slight gestures of light these pleas have at best fallen on deaf ears but we have been accused of being elitist trying to outlaw homelessness and to quote the Mayor Pro Tem, "I have little sympathy". Now we know she was speaking specifically at Walmart, but we have all felt that lack of sympathy but then at your last meeting you had a string of criminals, yes criminals because cannabis is fully illegal. It does not matter what the people in Santa Fe have to say about it. Drug pushers pedaling poison in our community, destroying lives and decimating our already anemic workforce. To them you have sympathy. I believe this speaks volumes to the lack of character of this council and your extremely misplaced priorities.

Tony Chavez, Member of the Public said I want to say thank you for what you do even though I might not always agree with you. I want to bring up a little bit about terrorism and discuss a little bit about that. I want to say let's not forget 9/11 and this horrific terrorist attacks on American soil of Al Qaeda, a terrorist organization. We have lost many service members fighting in the global war of terrorism because of this attack and let's not forget the innocent civilians that have also lost their lives on this day. Today let's not forget service members serving abroad and in harms way, let's keep these brave men and women in our prayers and pray that they return home safely to their families. I am hopeful that next year we will have a Memorial Day Service at Veteran's Park honoring those who have paid the ultimate sacrifice in defending our great nation. As the second largest city in New Mexico, I am surprised as well as

Agenda Item #6.1.

other Veterans that I have spoken to in the community that we do not have such a service so I am hopeful that you will support one next year and the following years. I brought this issue up at the May Veteran's Advisory Board. If you have not attended a Memorial Day Service, I would highly encourage you to attend one. It is very sobering and a very eye opening experience especially when the deceased service member is returned from a country they were serving for burial. Additionally, thank you Councilwoman McClure, and Councilwoman Flores for your father's service to our nation. There were comments at a city council meeting regarding the Border Patrol and how some of you feel about them. Welcome to a border state. The Border Patrol as well as ICE have a explicit mission such as watching out for sex minor human trafficking and alien smuggling, checking for illegal drugs and undocumented immigrants entering the US. Not to mention terrorists, criminals, and gangs that try to enter and hopefully you will not have to live through or endure another 9/11. Did you know the US spends \$66 billion year on undocumented immigrants? You might not like ICE and the Border Patrol but you should respect them and I fully support these agencies as they have a very important mission in keeping our country and citizens safe. This is our law enforcement, first responders, and I have their six. Just try getting into a military instillation where you must roll down your windows, show your military ID card so it can be scanned and hopefully you are not pulled over for a surprise inspection where you must exit the vehicle, open all doors, as well as the trunk and glove box. Also, your registration and insurance are checked and verified. If you do not have a military ID, you will need to be vetted before you can enter. All of this occurred because of 9/11. Now discussing the GRT, I understand New Mexico has a \$50 billion surplus, yet the city is advocating for a possible increase to the GRT. What is the city doing in addressing getting its capital outlay projects funded by our state representatives? I am sure you all have a meeting with them and at some point, during the budget cycle to address the city's priorities and I hope that you will press them to advocate at the state level for the required funding.

Susan Caballo, Member of the Public said I am the Executive Director of Downtown Las Cruces Partnership. I have a very short message today. It is please help us get out our community survey. We have done this for the last five years. I sent it all to you. I did not blind copy you, Chris had to save me on that one. What we want to do is make sure that our entire community sees the survey and can reply to it. Historically we have had most of our respondents be somehow connected to downtown and senior citizens. We want both of those demographics to please respond but we also need kind of a broader range of Las Cruces to give their input. We are aiming to get 100 responses. We did not include a gift card giveaway this year because I have been spammed so heavily in the past when we had done that. Last year in one day we had 970 responses from bots. By the way very complementary of downtown. They love our historic fortress and the beautiful boy. It is really important that the people of Las Cruces participate in this and that way we get to include your feedback in our upcoming work plans. I also want to give a shoutout to Chris Faivre and Mandy Guss. They are going to be talking about this tomorrow in the press release and getting it out to our community as well.

Eddie Thomas, Member of the Public said first of all I want to begin by giving kudos to the El Paso Electric Company for restoring our power after Saturday's high wind event. My power was knocked out and by 10 o'clock that same evening the El Paso

Agenda Item #6.1.

Electric people were able to restore it. Second thing I want to say is that the Border Patrol are our first line of defense. Unlike a council member's comments, I beg to differ with. I have never been traumatized by any member of the Border Patrol. The next thing I want to talk about is the parking lot part of the rezoning law that the resolution you all are trying to put in place. I am glad that most of it has been retracted regarding the establishment of putting businesses and mixing it up in residential zones. We like our single-family neighborhoods to stay that way. What you do on the outskirts of town well that is another issue, but I wish you would leave the inside of Las Cruces alone the way it is. A lot of people like the neighborhoods just the way they are right now and for you all to come up with a rezoning issue that scrambles it all up and homogenizes it is just counter to what we moved to Las Cruces for. I thought that the parking lot portion of it, it looks like you all want to become the parking lot police. The portion of that rezoning ordinance would be counter intuitive to promoting business. Businesses are not going to be restricted to just a few parking spots for them. It just doesn't make any sense okay to restrict a business based on their square footage to X amount of parking spots. I thought we were trying to encourage business to come here, and it just seems totally counterintuitive. The last thing I want to say before I get off is I am not sure what portion the city gets with regard to the abortion clinic that is coming up here at the Sonoma Ranch and Lohman, but I personally am against it. I think the city should not be profiting from the blood spill of innocent children.

Nathan Silva, Member of the Public said I am a first generation American and I am happy to say I am living the American dream. I am the co-founder of Mylars. We are a cannabis manufacturer proudly based here in Las Cruces, New Mexico. At Mylars we are graduates of NMSU, proud members of the community and we have absolutely no desire to move our business elsewhere to avoid the impact of these federal policies. I would like to commend the city council as well as the state of New Mexico for allowing generations past, present and future to allow our expertise and passion in this industry to help us improve our economy and overall condition of the state. My father is a retired Border Patrol Agent, so I understand the agencies intentions very well. While I share no disdain for the agency I do have scorn for the outdated policies that have led to this disconnect between state and federal officials. May the people come together to make reasonable policy changes that maintain the safety of our country while not impeding on our state's economy. I recently met with the Attorney General of New Mexico, and we do have the support of state officials as well in updating these policies and ensuring that we can do something in tandem with Border Patrol to work together and ensure the economy operates efficiently. This is a billion-dollar industry, the cannabis industry. There is no reason why past generations should share disdain for our industry. We are young, we are proud to be able to come out of the shadows and do what we do proudly and share our expertise in a professional manner. You have shown overwhelming support, and it means the world to us, may we continue to work together to improve the conditions.

Corina Miramontes, Member of the Public said I am a dispensary owner in the old historic district on Mesquite Street. I live in my business. I am really happy to be able to bring plant medicine to the people of the neighborhood. I just want to say thank you very much and I was in shock to hear. I grew up here in Las Cruces but I went away for about 25 years and to hear some of the testimonies. Your story Yvonne, last

Agenda Item #6.1.

meeting about being terrorized at the Border Patrol for being brown is something that was really shocking to me. I graduated from Las Cruces High School. I went to Hermosa Heights. I have been pulled over there, brand new car scratched. I have been terrorized I feel like as well. I do have complete respect for what they do and for the safety of our state and our country so that is not an issue for me but I just kind of wanted everyone to put a face to who is in the cannabis industry and that is me.

Chad Lozano, Member of the Public said I am here to speak in support of the cannabis industry. You guys have been nothing but supportive of us. I live in the state of New Mexico, not a federally controlled state of New Mexico so my state government decided that cannabis should be legal in the state. It is unfortunate that my federal government hasn't caught up with those laws because almost 25 states have gone this adult use route. So, it is unfortunate that New Mexico seems to be the only one dealing with this issue right now and then with the Border Patrol, but I do understand national security. I do understand what they are doing however we are not doing anything wrong, and we are not the problem here. We are literally trying to do something for the state. We have made a billion dollars so far and counting in under two years and we have a population of 2.2 million people. That is very impressive. Not many places can really tout something like that being this small. So, for me it is really alarming to hear so many people think that our local and our state government don't matter. I am all about keeping bigger government out of it and keeping smaller government a part of it. Smaller government does affect you more directly than bigger government. Unfortunately, sometimes what they do will affect certain individuals like ourselves here in the cannabis industry. I just want to say that I support you guys and I hope you guys continue to support us but I also do understand national security and everything and what their job is but it is unfortunate that we have to come down this route and still have these issues in 2024 when we are going to a route where cannabis is going from Schedule 1 to Schedule 3 and we are probably going to be seeing federal decriminalization some point down the future too. So instead of us trying to fight it lets embrace it a little bit because the real issue that we have in our community is alcohol and all we have done is open access to alcohol more. I can't go to anything above a high school sport without alcohol being pushed on me. I tried to go to the Sun Bowl, alcohol was pushed on me the whole time. I don't drink and so it's unfortunate and it's alarming to see how alcohol has impacted our community, and we just keep opening the access and then we start pointing the blame to cannabis and I don't think that is fair because cannabis has never been the issue. The only issue about cannabis was its legality.

Joshua Villegas, Member of the Public said I just want to say thank you to the councilmen and women. I would like to say Ms. Becki Graham I am one of the faces of your area. I hear nothing but great support. One of the points that I hear is business, protecting it from personal to other businesses and yeah we get it. No one wants to ostracize or belittle any of the jobs it's taking, it's tough but at the same time giving these license was a promise to change and benefit from and so this is a double edged sword that we are trying to figure out and just like most people said if we can find some type of way to coincide or work with it. We are doing legit business. I don't see how the paperwork that we bring to the Border Checks that they find anything more extra than that. I can see the crime but what it is doing is preventing people like me from actually succeeding in New Mexico from the poorest state to less education,

Agenda Item #6.1.

this is something that I excel in so with that being said I don't want the chance being taken away and so everyone here I get it. I am here to say that things can change for the better and I really do appreciate the support from everyone. Border Patrol agents, like I said it is a tough job and I have respect but once you get lost in the situation then what is there left? So, with me saying that again I appreciate you guys hearing us out and giving us an actual voice. I would like to tell most people that spoke today that we don't hate or do anything towards situations that are known we want to try to understand it and work with it and I think that is the difference in the growth that we want to try and present and not be known as a mafia organization on a legal business from the state.

Monty Rutledge, Member of the Public said in 2001 I joined the US Navy as a corpsman, that is a medic for you non-Navy type. I deployed in 2006, in support of OIF/OEF. Sustained combat injuries, physically and mentally. I returned home from that, and I joined the US Border Patrol. I wanted to continue to serve my country, but I didn't want to do it with medicine. I went into law enforcement, I enjoyed my time there in the Border Patrol. I am very proud of Border Patrol and all the men and women that I have worked with. In 2015, I saved the lives of six individuals. They weren't from this country, but I saved their lives and in 2021 I had to retire from the Border Patrol because I could no longer live with the mental and physical impairments that I had and the Border Patrol wasn't going to help me. Cannabis helped me. I had to leave the Border Patrol to seek cannabis and cannabis saved my life. I am here today because of cannabis and all of you or the majority of you have helped bring cannabis to this city and into the state. So, I thank you for saving my life. Thank you for keeping me here and I ask that you continue to move forward with the efforts that you are putting forward to solidify the industry. To help us and give us relief where we need it and to continue to support us.

4. READ CLOSED MEETING STATEMENT

4.1 READ JUNE 24, 2024 CLOSED MEETING STATEMENT INTO THE RECORD.

The Las Cruces City Council met in Closed Session and only discussed those limited items as stated in the posted notice to discuss pending or threatened litigation regarding City of Las Cruces ADV, Smelser, Case No. PELRB-10423, which is closed pursuant to NMSA 1978, Section 10-15-1H(7).

5. ACCEPTANCE OF AGENDA

Councilor Becky Corran moved, seconded by Councilor Yvonne Flores, to accept the agenda as presented with the removal of item 7.1 and 7.2 for discussion.

RESULT:	Carried
MOVER:	Councilor Becky Corran
SECONDER:	Councilor Yvonne Flores
AYES:	Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

6. CITY COUNCIL MINUTES

6.1 REGULAR CITY COUNCIL MEETING OF JUNE 3, 2024.

6.2 WORK SESSION OF JUNE 10, 2024.

7. RESOLUTION(S) AND/OR ORDINANCE(S) FOR CONSENT AGENDA

7.1 **RESOLUTION NO. 25-001: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT TWO (2) GRANT AWARDS FROM THE NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT).**

Crystal Silva, Associate Grant Development and Compliance Specialist gave the overhead presentation.

Councilor Mattiace asked when you apply for these grants how frequently does the New Mexico Department of Transportation actually help with grants on an annual basis?

Crystal Silva said I would not say an average exactly. These two grant awards are the MAP Award and the LGRF Award, so we are able to apply for those annually and at that point so far we have gotten them and have been awarded the last two times that we have applied since I have been here. I am not too sure and can't speak to prior to that but with most of the NMDOT grants that we apply for we are usually very successful on getting those awarded.

Councilor Becki Graham moved, seconded by Councilor Becky Corran, to Approve Resolution No. 25-001.

RESULT:	Carried
MOVER:	Councilor Becki Graham
SECONDER:	Councilor Becky Corran
AYES:	Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

7.2 **RESOLUTION NO. 25-002: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT GRANT AWARDS FOR VARIOUS CITY DEPARTMENTS AND AN AMENDMENT TO THE CITY'S ADOPTED FY2024 BUDGET AND THE FY2024 CAPITAL IMPROVEMENTS PROGRAM (CIP).**

Charlie Fierro, Budget Analyst gave the overhead presentation.

Gaby Prats, Grant Manager continued the presentation.

Councilor Flores asked originally it did have to be matched?

Gaby Prats said yes.

Councilor Flores asked the amount that you anticipated is not the amount that we would have to pay?

Agenda Item #6.1.

Gaby Prats said yes.

Councilor Flores asked what is the difference?

Gaby Prats said it is a little less than \$800,000 different. There is other funding from the state that is matching this particular project. The actual total project cost is \$1.85 million and the grant gives us the \$500,000 plus we have a \$350,000 grant from the Paso Del Norte Health Foundation that is matching this and a state appropriation of \$290,000 so the department will have to come up with about \$660,000.

Councilor Flores asked where would that money come from?

Gaby Prats said the balance is proposed from the Park Improvement Fund.

Steven Bingham, Parks & Recreation Director said the trail on this will require us to come up with a little more than the \$500,000 and it would come from PIF.

Councilor Flores asked where do you get that \$500,000 since budgets have already been set? I am not saying that money can't be moved but what fund, what project or how would you allocate that money?

Steven Bingham said we are requesting that it will come from park impact fees.

Councilor Flores asked is the money there now?

Steven Bingham said yes there is.

Councilor Flores asked you request from impact fees and then we have another hearing to approve that or is it internal?

Charlie Fierro, Budget Analyst said anytime we are amending the bottom line of a fund throughout the year then it would need to be brought to council. So, in this case if they have to budget TIDD funds or if they have to come to a budget to fund balance we would need a resolution for that to increase the budget.

Councilor Flores asked that is what we are doing today?

Charlie Fierro said correct.

Charlie Fierro continued the presentation.

Cynthia Campo, CIP Analyst continued the presentation.

Councilor Mattiace asked if you to pages 1 to 11, and it is under the City of Las Cruces Capital Improvement Program FY 2024 to 2029 and you have some explanations on the funding sources and I notice that on several funding sources I understand grants, I understand taxes, I understand TIDD, bonds, loans, but many of

them you just have the word other? Can you maybe explain other?

Cynthia Campo said the other is in reference to fees. So, we have different types of fees and of the CIP document it actually does have a section where we say what each one of those funding sources are for.

Councilor Mattiace said I just saw that in very tiny print. I see other includes fees, state entitlements, leases, development contributions, and donations and while you are answering some clarification. Can you explain the grand total of \$204,000,694 and what that represents and then I noticed in FY 25 you have \$245,127,000, just a brief description of all those totals?

Cynthia Campo said the \$204 million I believe, it is in the green column is the funded portion. Anything that is funded in FY 24 is in that column and then the CIP is a six year plan so the 25, 26, 27, 28, 29 are all unfunded years and anytime that we have funding for any of these projects we can move them over to the current fiscal year and that will be part of that total.

Councilor Becky Corran moved, seconded by Councilor Johana Bencomo, to amend Resolution No. 25-002 to add a that statement that states that city council grant a waiver of the 1 to 1 cash match ratio required per the grants administration program policy for this grant.

RESULT:	Carried
MOVER:	Councilor Becky Corran
SECONDER:	Councilor Johana Bencomo
AYES:	Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

Councilor Johana Bencomo moved, seconded by Councilor Becki Graham, to Approve Resolution No. 25-002 as amended.

RESULT:	Carried
MOVER:	Councilor Johana Bencomo
SECONDER:	Councilor Becki Graham
AYES:	Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

8. RESOLUTION(S) AND/OR ORDINANCE(S) FOR DISCUSSION

8.1 RESOLUTION NO. 25-003: A RESOLUTION REVERSING A DENIAL DECISION OF THE PLANNING AND ZONING COMMISSION REGARDING AN INFILL DEVELOPMENT PROPOSAL SEEKING APPROVAL OF A FIFTEEN (15) UNIT APARTMENT COMPLEX AND ASSOCIATED DEVELOPMENT STANDARD WAIVERS ON PROPERTY ZONED R-1A (SINGLE-FAMILY MEDIUM DENSITY).

Christine Rivera, City Clerk asked Adam, do you swear and affirm that the testimony that you are about to give is the truth and nothing but the truth under penalty of law?

Adam Ochoa, Senior Urban Planner said I do.

Christine Rivera said thank you.

Adam Ochoa said Adam Ochoa, Community Development Department for the record. Before you I have an appeal to a proposed infill development proposal for a property located at 725 McClure Road. Subject property is currently zoned R-1A single family medium density. It is vacant, undeveloped property. It was part of what was called the October Sky Subdivision which was approved in 2021 which created two lots which essentially the subject property itself which was roughly about 1.12 acres in size additionally .08 acres were designated for right-of-way improvements, future right-of-way improvements. City also purchased 2 1/2, roughly about 2 ½ acres for drainage improvements in the area. It is located within what Community Development staff refer to as the infill development boundary. So basically, this partial qualifies for the infill process. Again, current conditions, the neighborhood is primarily single-family R-1A zoning. There are a couple or a few properties within that area that are still zoned R-1A but are non-conforming, that because they have a duplex on the property or a quadplex and also a mobile home park that is zoned R-1A that is inappropriately zoned as well. Subject property is within what is called the suburban neighborhood place type. It is characterized with low to moderate densities of residential and intermixed with commercial. Land uses include as called out by Elevate Las Cruces single family uses, multi family, retail, office, institutional and public uses as well. McClure road is currently designated as a major collector roadway. That basically means that it collects and distributes traffic from local roadways to adjacent arterial roadways which are larger. McClure Road reflects the following traffic counts. This is their annual average or weekly trips or AAWDT's. For the most recent counts by our Mesilla Valley Metropolitan Planning Organization, they provided us these traffic counts just to give an idea of what the traffic is around on McClure. So, in 2019, between Valley and Carlyle there was roughly about 3,700 traffic counts. That increased in 2024 to about 6,800 traffic counts. Between Carlyle and Highland that actually dropped from 4,500 to 3,700. From Highland to Alameda that also dropped within 3,800 to 3,400 from that five to six-year time span.

Staff we also took a look at this, we worked with some of the engineers to look at what is called the level of service for McClure Road. Level of service is kind of a measuring device to help to describe operational conditions of a roadway or segment of a roadway. That takes into account speed and travel, traffic movements, interruptions, comfort and convenience while traveling the roadway. Staff estimates that the level of service for McClure roughly is about C or C-. So, we are barely passing for McClure. Looking here, just quick table kind of explaining what each one means. A/B kind of shows wide open roads, large bicycle areas, large areas for pedestrians walking. C/D is a little more constrained. Constrained by bicycles, smaller sidewalks, maybe even no sidewalks and E and F, it's just basically a completely difficult roadway to travel when they get that type of a grade.

Shown here is the zoning map of the property. Again, as you can see it is just a sea of nothing but R-1A in this area. There is one R-2 up here to the north. Again, subject property is shown, single family all around there. A lot of more rural uses. There is that city property. That will be used for drainage in the future. Essentially what the applicant is proposing is a 15-unit apartment complex with two points of ingress and

Agenda Item #6.1.

egress directly off of McClure. They are proposing three 5 units apartment buildings two stories tall with each unit being about 884 square feet in size. They are proposing 29 auto parking stalls and 8 bicycle parking stalls which more than meets the minimum requirements of our codes. They are also proposing a dog park, open space and landscaping in the front of the property. Just to kind of to provide a screen or a buffer between not only the apartments from the street but also the apartments from the street and the neighbors to the north to kind of give a little relief there.

The deviations that were proposed with this infill proposal is one, the rear yard setback in the R-1A zoning district there is a minimal rear yard setback requirement. They are proposing a 7-foot setback.

This is typical, 7-foot setback is typical for all of our multifamily zoning in the city of Las Cruces. Another deviation is the density itself. The requirements are maximum permitted by the R-1A is 8 dwelling units per acre, they are proposing 13.4 dwelling units per acre. On top of that also is also the actual number of dwelling units. Again, R-1A is for single family only so you only are allowed one house on this property. They are proposing 15 max with the entire development. If you turn here this is a rough draft of what they would look like. Here are those three buildings all the way to the back, landscaping around the entire perimeter, with the dog park, landscaping along the front to provide that buffer to the street. This is kind of a rough floor plan of what that property will look like, the two-story buildings, the elevations of the two-story buildings. So, when staff took their analysis, we took this into the analysis stage. We saw that the proposal was not substantially out of character with the surrounding area. Staff again worked with engineering. They did a quick little estimate peak hour trips for us and they estimated about roughly about 25 trips are generated. A trip generation count will actually be required when they submit for permitting for the development. it will likely not trigger a full traffic impact analysis because we feel it won't hit the bar of it being a minimum of more than or equal to 100 peak hour trips per day. Reviews by all staff did see no significant health, safety, and welfare issue associated with the proposal. Considerable support for the infill development proposal via Elevate Las Cruces does exist and was part of the staff report for Planning and Zoning Commission. The proposed density on top of that under Elevate Las Cruces, it calls out a density for single family, for this is the suburban place type, four to twelve dwelling units per acre for single family and fifteen to thirty dwelling units for multifamily. This proposal is doing 13.4 dwelling units per acre. Definitely below what Elevate Las Cruces is guiding us to. Public notice was sent out for the proposal. Early notification and when the case came in for review with staff to go before the Planning and Zoning Commission. Staff received numerous emails and a few phone calls in opposition to this case. The opposition cited traffic concerns, road design deficiencies, proposed high density development, increased crime, neighborhood incompatibility, McClure Road speeding that is occurring out there and just a potential area development. Staff did receive two additional phone calls against. We also received about six phone calls supporting the proposed infill development proposal. This is what staff recommended to the Planning and Zoning Commission when it went before them. We did recommend a conditional approval based on findings. Conditions that the applicant shall work with the city in the installation of pro rata share of roadway improvements adjacent to the property and that the property shall comply with all of the development standards for the R-1A zoning district essentially. Findings were one, that the development of the vacant property to productive use is consistent

Agenda Item #6.1.

with the infill development plan itself and the overlay. Property is eligible for the infill processes. Proposal is supported by various goals, policies and actions of Elevate Las Cruces. Support speaks to, the place type speaks to densities promoting growth in older areas of the city. Promotion of functional infill development, encouraging a variety of housing types, promoting diversity and residential building types, lot sizes, architecture, and so on and so forth like that. As well as the proposed number of units have very little impact on McClure traffic patterns. McClure Road is classified as a major arterial roadway where these types of developments are encouraged. Excuse me. Previous proposals deemed excessive and problematic for the area was a proposal for infill for twenty units previously. At that time P&Z had denied the appeal to city council, the decision of denial was also upheld as well. Reduction of five units from the original proposal for this site is intended to address many concerns generated from the original request with the number of units and the amount of traffic. We feel that this will take care of that and of course the proposed IDP meets the intent of Elevate Las Cruces and meets the intent and purpose of Section 38-2 of the 2001 Zoning Code as well as is compliant with the criteria for decisions of the conditions out of the Municipal of the Las Cruces Codes Section 2-238, 382 there we go. Dyslexia, sorry about that. On February 27th, 2024, Planning and Zoning Commission did review this. Much discussion took place between the Planning and Zoning Commission and the applicant, and a large amount of public input did occur as well, after a lengthy discussion the vote went before the Planning and Zoning Commission and they voted 3 to 3 with one commissioner vacancy, essentially the motion failed. In other words, it was denied.

So, your options today, I don't want to confuse anybody so I will read these exact so we are all on the same page. Is one to vote yes, this will reverse the denial decision of the Planning and Zoning Commission and will improve the infill development proposal with 15 dwelling units. Two to vote no, this will uphold the denial decision made by the Planning and Zoning Commission. The applicant will either have to abide by the R-1A regulations or submit an alternant proposal. Three to amend, this will allow city council to modify the resolution by voting yes and adding conditions to the proposal or four to table and postpone and direct staff and the applicant accordingly.

That is the conclusion of my presentation and I stand for questions.

Mayor Enriquez said thank you Adam. Before we get to council I am going to go ahead and there are a couple of appellants that want to speak so I will call them up, first they need to be sworn in by the Clerk. It's James Vacarro and Lucinda Rivas. You need to be sworn in and Ill go ahead ana give you each three minutes.

Christine Rivera said okay, do you both swear or affirm that the testimony that you are about to give is the truth and nothing but the truth under penalty of law?

Lucinda Rivas, Appellant said I do.

Christine Rivera said thank you.

James Vacarro, Appellant said I do.

Lucinda Rivas said I wasn't going to speak but I am going to now. So, I am sorry that I don't have anything in front of me, but my name is Lucinda and I have come before you before. I really believe in this project as I had mentioned before the owner's mom lives on Golden Drive. She walks all the time and the reason the family bought this home for her was because she was one of the ones that doesn't drive. So, she was using the busing right down by the Benavidez Center. She also utilizes the Benavidez Center. Many of her friends at the Benavidez Center would like our complex. I think even before one of the person's representing the Benavidez Center spoke up on our behalf and said that they would like and they had many people interested that they want to live close to town. They don't drive anymore, or they don't drive at all and this is what we want to give back to the community. I am a Mayfield graduate, my grandmother was also on Golden Drive for twenty some years. We love this community. I know the opposers are afraid of change but the crime that comes with it, that doesn't exist. We are up here, we are not going to be low-income housing. We are going for the low/medium which is what the community is and that is kind of what I just wanted to say.

James Vacarro said good afternoon, everybody. Not to go into too much detail but first and foremost I just want to thank Community Development staff for that presentation. It was really well put together and frankly supportive. Moving on though I guess more importantly what I want to discuss is actually the trip count. So, all the opposition for this project is specific to the road infrastructure itself. It is not to this building. It's not to anything that we are bringing with this building, it's the road. The trip count that the City Manager, the Traffic Manager rather estimated was 25 per day based off that in the data earlier. That is less than a percentage of the commuted traffic on that road. When I did my own calculations based of the bureau statistic of a ten per household that is 150 per day. That is 15 units, ten per day. That is worst case scenario and that is assuming they were going the length of McClure which they are not because we are in the center of it. That is less than 4%. So, when we are talking about 1% to 4% of the traffic is going to be caused by us if we build this building that is pretty minuet. That is actually is almost not even noticeable. I encourage somebody to notice that. In addition to that in the past conversations with P&Z and might even had been at a previous City Council meetings, don't really recall, the city actually informed us that they reached out to the neighbors and wanted to develop that infrastructure and in doing so they need to purchase the land from the owners on that street and a lot of them denied selling that land to improve the roadway. So, we are a little confused now. Do they want to build on to the property in infrastructure to become more safe whether that would be widening the road, building a sidewalk. I am not quite sure what we can do to satisfy the area, but I can make sure that what we do with this building in our lot is the best that we can offer and obviously work with IDP and everything else and the standards so that is really all I wanted to say. I really don't have anything further than that I think actually the traffic which I think is the biggest opposition. It's very minor. It's almost not even noticeable. Thank you.

Mayor Enriquez said okay, thank you. Any questions by council? Councilor Flores.

Councilor Flores said thank you Mayor and thank you for being here today. So how

Agenda Item #6.1.

many units are there going to be?

Lucinda Rivas said there is going to be 15. Three buildings and 15 townhomes.

Councilor Flores asked okay and what, Mr. Ochoa you said that a TIA wasn't necessary because of the number? And that is one thing, that it is, I mean.

Adam Ochoa said Mayor, Councilor Flores our staff just did our, utilized our current codes to do a quick count as to what that would be. They estimate that it is about 25. So, because of that. In order to.

Councilor Flores asked increment, 25?

Adam Ochoa said a total of 25 per day. Per day for the entire development. That being said they still will have to do some type of traffic generation count for us to make sure that our numbers align with theirs. The only time an actual traffic impact analysis is required is when it is either 100 or more traffic count per day. So, staff feels that more than likely a full traffic impact analysis will not be required, ma'am.

Councilor Flores asked okay, but there is going to be a?

Adam Ochoa said a trip generation count.

Councilor Flores said and then so what happens if it is higher than what you anticipated on what you presented today?

Adam Ochoa said Mr. Mayor, Councilor Flores we will then have to do a full long term traffic impact analysis.

Councilor Flores said okay, so construction will not begin until all of that is resolved?

Adam Ochoa said correct.

Councilor Flores said great, thank you. And so, the part that you know, nevermind. I won't voice it. You indicated that it is going to be affordable housing or not affordable housing? I wasn't too sure what you meant by your statement.

Lucinda Rivas said it is not affordable housing, meaning low income. It will be generated to where the neighborhood sits at. Like a middle income.

Councilor Flores said okay, but so you are saying that you also mentioned that the Benavidez Center is down the road and that some people who go there are interested in maybe being tenants in that building?

Lucinda Rivas said that is what I was told.

Councilor Flores asked okay, and I don't know about anybody else but most retirees,

Agenda Item #6.1.

well how much do you think they are going to be rented for?

Lucinda Rivas said approximately \$900 a month.

Councilor Flores said yeah okay, so those seniors should probably be told that they probably can't afford that. I mean social security doesn't pay out that much for a lot of seniors, but I guess my concern is that and free enterprise, you know, God bless America for that. On the other hand, I was hoping that the housing would be more affordable and also with all due respect, no I won't say it. Thank you, thank you Mayor.

Mayor Enriquez said thank you anyone else? Mayor Pro Tem.

Councilor Bencomo said thanks, thank you for your presentation. For you as well Mr. Ochoa. I just want to appreciate the new information and the map on here as well. Did I count 26 parking lots, or will you have 30 spots? Sorry.

Adam Ochoa said I believe the number is 29 auto parking stalls in total.

Councilor Bencomo said okay, thank you and then I do just have a couple of things I want to say about the road ahead of the vote but I just quick thought as well I think it is just important that I correct some myths that sometimes just have negative connotations with affordable housing. I know this is not what it is and all housing impacts, housing crisis, all housing is good housing for the housing shortage that we are experiencing regardless of whether yours will be affordable housing or not but affordable housing or housing that is for low-income families it is just a wide myth that it brings crime. That is just not true. That is just a harmful narrative to perpetuate, that I think we should just not continue to do that.

Lucinda Rivas said I also just speaking about traffic, we have another complex unit and I would say 90% of our tenants are single people. There is not even though there are two bedrooms there is only one person there. There is a fireman, there is a teacher, they have different hours. They don't leave all necessarily from 8 to 5. So, I just want to make that in there that there is probably not all going to be two cars per unit.

Councilor Bencomo said correct, thank you. Just additionally, this isn't for you specifically this is just as a whole for staff and the community here that lives in this area. The traffic issues that exist on McClure and Hoagland are long standing. They have been there for a really long time. They need to be seriously addressed and I have been talking about these things for a really long time. I don't believe that adding 15 additional units here will have a severe impact on that. I think the impact is already there. In advance for this conversation, I spoke with Senator Carrie Hamblen whose neighborhood this is as well and Representative Nathan Small regarding a partnership for potential state funding that could come to relieve some of the issues we are seeing on both of these streets which are very similar. Mayfield High School is right there and so I don't want to be dismissive of the serious traffic concerns that exist here in this neighborhood, right they are very real. You showed these numbers

Agenda Item #6.1.

and I don't believe you are being dismissive of that, but I just want to reiterate that those concerns are very very real. These roads get backed up significantly at high peak times especially when school is in session and those things are very real. I just don't believe that 15 units is going to necessarily make this ginormous impact so I will tell you all that this morning I got commitment from both Senator Hamblen and Senator Small to pursue state funding for traffic calming efforts on both of these streets, on both Hoagland and McClure because they are vitally important. I have talked to staff already about applying to possible places like oh gosh the name of the program escapes me but, Nathan, Representative Small sort of mentioned this earlier to me and I have forwarded this to staff, and I will be advocating for us to apply to the Municipal Arterial Program so that again we can get actual relief for these streets. These issues have just been long standing and we should address them whatever that might look like. So, I just wanted to note that because putting up barriers for additional housing is not going to solve our traffic problem on McClure and Hoagland. Bringing in funding and measures that are actually going to impact traffic that is what is going to help us. You have my commitment that I will continue to advocate for that and for both of these streets. I just wanted to say that before the vote.

Lucinda Rivas said may I also, I just also want to mention that we have given up we will be putting in a sidewalk and we also have given up an easement for a walking path that is planned in the future and of course we still will for the flood that is a big problem because as I mentioned his mother lives in the neighborhood and we do want to better it. I don't know if, I know everybody is concerned but are they willing to give up their little piece to put in a good sidewalk for everybody.

Mayor Enriquez said okay, thank you. Is there any other questions by council? At this time I am going to go ahead and open it up to public comment. If you all want to have a seat. I will go ahead and give you three minutes. Go ahead.

Pra Sanna Pai, Member of the Public said my name is Pra Sanna Pai.

Mayor Enriquez asked can you speak a little louder and directly into the microphone? Thank you.

Pra Sanna Pai said I am a bit soft spoken person but again I want to, thank you Mayor and council persons and also Chiefs. I am a resident of Las Cruces for 23 years. I have participated in the health care industry here as well as development. Mr. Ochoa if you could bring the map, thank you. So, the green portion which is seen there, that is my home, that is not rural. That is my home and that is where I have been living. The entire green area so I have been here for 23 years. My kids were born and brought up here. Now there is nothing wrong with having more housing. There is nothing wrong with building more housing because we do need that however after four rejections there has to be some compromise between what the community wants and not disregard them and what the housing crisis wants, the solution of housing crisis wants. So, it is not like we don't want something built there but have some reasonable density. Give him an increased density, of single-family homes, fine but 15 there is just a bit too much. Now what is going to happen as you can see is a narrow road which goes between that and my property in the future since it's an entrance this

Agenda Item #6.1.

has to be built you are going to negate 10 acres of property which can have housing. So, for 15 you are going to sacrifice almost 300 units. Also, there is traffic coming from the new units that are built on Three Crosses which there is no exit to Mayfield High. They have to go through Hoagland or McClure so it's going to increase. Finally, the drawing which has been shown, the dog park is right next to my gate. It is not on McClure and as Mr. Story, I am sorry Chief Story knows I have asked several times to rescue me from dog attacks and coming right at my gate. If you bring the drawing it is not on McClure it is right next to my gate. McClure is on the top, the dog park is on this side which is the gate. So, I think the drawing that you are shown is flipped in this case and so anyway the point is that we want something done here. Let's have a compromise to what the housing crisis needs and what the community needs because it is the fourth attempt and at some point you have to listen to the community too. Thank you.

Mayor Enriquez said okay, thank you. Go ahead and come on up.

James Vaccaro said sorry, I will be real quick. I don't want to interrupt on everybody else's opportunity to speak. I just want to clarify one thing.

Mayor Enriquez said go ahead and state your name for the record.

James Vaccaro said James Vaccaro for the record, representing Mesilla Valley Properties. The gentleman prior to this indicated that we would be building essentially on top of the road. The road is still going to exist to his property line and furthermore to talk about the dog park we can put it wherever the city actually indicates us to place it but nonetheless we want that as an amenity for the residents housing area and then lastly it is a gated community. There is fencing six foot high all around the entire thing, so the dogs are contained not only in a dog park but in the entire property. So, I don't feel like there is a threat to the neighbor. Thank you.

Mayor Enriquez said okay, thank you. Anyone else want to?

Gary Visage, Member of the Public said Mayor, councilmen, City Manager first of all I want to thank you guys for cleaning up Lakeside Drive and 17th Street when I sent you the emails to requesting it done, the city mess we had down there. Ms. Bencomo took most of my wind out of me with her announcement about the road.

Mayor Enriquez asked sir, can we get your name for the record.

Gary Visage said I am sorry, I am Gary Visage. I have lived in that Highland area for a little over 30 years now. I see it declining every year. I have several code violations in my area. I have spoke to you before about it and we need to do something about that but that is a different subject. With this subject here because that has always been an eye sore on McClure there and there is no bike passage, there is no pedestrian right-of-ways through there, from Benavidez on to Valley the new projects it is but from Benavidez which is Second Street all the way through to the other way it isn't. So there is no sidewalks, there is no bike paths, there is no turn lanes, in fact there is no division lines to determine the center of the road and when it rains it floods all the way

Agenda Item #6.1.

across that road. Several times during the winter I had to actually stop so pedestrians could walk out around the water, the kids going to school just to get by the traffic without us drowning them with our cars. One other thing that the point I want to make is the \$900 a month for apartments. Ms. Flores made a statement that senior citizens don't make that much on social security, well I'm 81 years old and we don't all live necessarily just on social security so let's make that a point too. In other words, we need to do something about the street before we add anything more there. I am not opposed to what is going on with the apartments there. I think it is a good idea. it is a good place for it. It is a good fill besides of course it is close to the railroad tracks and you are not going to get a lot of other construction in that area but let's please work on the road. Let's get the road done first and then let's put something in there viable. Thank you.

Mayor Enriquez said thank you.

David Wheeler, Member of the Public said hello, David Wheeler and Mayor and council. I just couldn't help when I got up to come up here I was thinking of trying to make it from the apartments to the Benavidez Center across that railroad track, it's interesting to think about. Anyways, Pra Sanna was right this was the fourth time. It has always been voted down. There is a reason for that. We don't have nothing against change. We like change. We are not against, we are not pro-drug. I don't know why I said that but us the whole concept. Things are just fine. No, they are not, we understand that and traffic is bad and the only way to do it is to not make it a little worse so that we can build this property here. I think if we had two or three nice single-family homes in that area built by the same people to try to make their money off of it. Let them do that. I have no problem with that. I don't have problems with any of that. It is the fact that it is too many cars right there by the track. Incidentally I live right next door to them. I am right there in front of Pra Sanna Pai and we see it all the time where cars will be late, kids are going to school or whatever and they try to get, they see the railroad tracks and they just fly down that street to try and get across the track before the train comes and it happens like every day, every single day, twice a day, there are two trains but you know I just. He is right enough times of trying to talk ourselves into doing this. Why don't we do something that can change that we can agree with that won't endanger people because having cars going in and out right next to the tracks, it's right next to the tracks and its two of them. They aren't even 60 feet from the track or something like that. There is so much traffic. People trying to go in and out of there on a rush hour. Whether you live there and work at night or not. The cars go up and down on rush hour its crazy. In the morning it is also crazy. So yes, let's do something else. Build something else. Put something in there that, we are not against housing. I am not against affordable housing. I know there should be. It is just too much. It's too much. We are not going to make it any better by building a bunch of houses, a bunch of apartments that are going to make the traffic just a little bit worse and make people endanger trying to go across that road. There are no sidewalks or anything. You can build them, but you know what I am saying. So please let's just do something different, like three houses and we'll be done.

Victor Hernandez, Member of the Public said good afternoon, my name is Victor Hernandez. I have been living on Mingly Road which is just off of McClure Road, my house the backyard faces the Benavidez Center. I have been there for about 20

Agenda Item #6.1.

years. I have heard all this talk about improving going forward. I am all for it, going forward. The biggest think on McClure is one word, safety. McClure is not a safety road. Again, you have heard it already. No sidewalks, at dawn, at dusk people are walking. Sometimes you don't even see them. You have to go around them. If you visit somebody on a house off of McClure and park on the street there is no way, you have to wait for oncoming traffic to pass before you can go forward. That is how small and narrow that road is. There is no flood control. There is not enough lighting, its dark. I think that you all should consider at first improving McClure Road before having any kind of more development there. There is enough traffic and I use that road every day, so I know, and I have seen it. I see it firsthand, and it has gotten worse in the 20 years that I have been there. Thank you very much.

Don Lapinga, Member of the Public said good afternoon, Mayor and council, thank you for having me again. It is my fourth time up here on this issue. I feel kind of at home up here now. I am a Block Captain on McClure. I live at 320 McClure across from what we affectionately call McClure Ruins, that is 315, 317, and 319 McClure which is three lots.

Mayor Enriquez asked could you give us your name sir?

Don Lapinga said yes, I know, Don Lapinga. Sorry about that. I was going to talk about traffic but that has been kind of talked about already and we can do all the traffic studies we want. We live there and we have trucks coming from the new development, from the school district, from Tashiro, we have trucks from the metal fabricating company down on second. So, we have trucks there, we have school buses, we have semi-trucks coming through. It is not a feeder street it is a throughfare right now because of all the development out west. I ride my bike to the river, half of that is new home development. Hundreds of houses out there. Where is this traffic going? It is going to McClure and to Hoagland to get to North Main because they want to stay off Picacho. My main issue here is this is opening the flood gates for some other properties on McClure specifically across from me. That gentleman has been trying to sell that for seven years. I just talked to a developer who was working for a potential buyer of that property who indicates that he probably wants to put multifamily housing there so it would be another multifamily housing on McClure. There is another property two houses down that has been vacant and unoccupied for about since I have been there for eight years and so we are opening a flood gate here for this small community neighborhood. Friday, I walked around the whole neighborhood and gave out these to get people to come to our meeting and I gave some on Carlyle. All the way up there is two cul-de-sacs there. As I was walking all these homes are individuals who put their heart and soul into there properties and as I was walking back to McClure, and I had a vision of the apartments there. They do not fit in with the character, the nature of historical value of that neighborhood and we are all for affordable housing, we are all for the expanding effort, but this is not a place to be building apartments. Thank you very much.

Jorge Aguirre, Member of the Public said good afternoon council my name is Jorge Aguirre, and I am here to speak in favor of this project. This project only includes 15 houses and what I have heard from the concerns of the neighbors is the worst that

Agenda Item #6.1.

can happen is that they increase two minutes their commute home. Right, oh my God, somebody that owns a car with car conditioner is going to have to spend two more minutes on their vehicle, what a tragedy. We have a 5,000-house deficit in the city. We have a population of homeless people that is growing. We have poverty spread throughout the city. We have an immigrant crisis at our doorstep. We have a lot of problems in our community caused by poverty and inequality and lack of housing, but we are very concerned about the traffic time. Oh my God, if it takes me a little bit more to get to my house. Absolutely, I don't like to be in my car either. We all hate our cars, but it is not by development. It is not by doing everything else first. We need housing first before sidewalks, before everything else. We need to have densified city so we can build public transportation and sidewalks that people prefer to use over vehicles, and I understand the concern because all we know is car centered development. Our largest city is El Paso. The nicest place you can go to is a strip mall because everything is built single family homes and strip malls. It looks ugly everywhere. So now in order to build, in order to alleviate traffic like we all want, what we really need is infrastructure that is citizen centered for pedestrians, for bicycles, and lastly what I want to say is retail businesses do better with pedestrian centered infrastructure. It isn't cars that buy things. It isn't cars that incentivizes the economy that build our professionals, it is people. It is people that walk by that see a shop and then enter just to see. Maybe they find something, that is the nature of business. It isn't driving by and seeing a business. You never stop, that is not true. So anyway. I just want to speak in support of this development. Of course it isn't perfect. There is things I would improve but it is the housing that we need so we have 4,995 more to approve. Thank you.

Rosie Carrillo, Member of the Public said my name is Rosie Carrillo. I am going to read off of my notes because I spent most of the night thinking and pondering over this, so I am not going to sway from it. Most of it may be repeated but I will just read to you from my notes. I am not opposing development or improvement or homes. Definitely needed. It is our hope that our voices reference issues of extreme concerns are considered and not just heard as we have been here before with considerable concerns of on-going safety issues. Dangerous situations are only increasing. It is disbelief that we have to continue repeating the same process of imploring that our concerns be heard. The comprehension of what is presented with concerns is imperative as we hold our children accountable to understand that what is no is no. We hold a great respect to large corporations when they respect the community's decision. As Walmart endeavored situating a proposal on Valley some years back the community declined and that is why this large entity respected and situated where traffic was much more feasible. It is hard to understand why the developers seem oblivious to the concerns of the McClure community and the surrounding community disregarding unsafe issues pointed out to them. In a remark the developer wasn't the only one to do something nice for these people. We would think that they would advocate our concerns of safety. That be so ponder these questions, why would something nice be situated where it would be impacting more dangerous issues? Why are lives not considered in the viewpoint? Why propose a high-density endeavor to expose us and families to an impacted unsafe area? Plans on paper, proposals on paper can look good but may lack a sense of reality and a cause of domino effect of issues or dangers are current and need to be addressed. Mr. Kaiser of the Planning Commission, had stated that he believed that the development might be a catalyst to

Agenda Item #6.1.

street improvement. Again, another contradictory view of the present matter at hand. The reason for my view is that several subdivisions surrounding McClure from over 40 years to present have been built and to years much later and present our street remains neglected and only unsafe situations have increased. We have never opposed improvements. There has never been any measure attempt presentation to us who live there. My husband had been a resident and born and raised 74 years. Since marriage I have lived there for 47 years. It is a generational property and will continue to be passed on to our children. This area has been in the Johnson and Carrillo family for over 100 years. Negative rumors and opinions will not change people's minds unless you improve the integrity to consider the problems and concerns pointed out by the citizens who employ you to regard of safety first as a priority increased traffic from many various areas that utilize McClure and I thank you.

Mayor Enriquez said thank you.

Karen Pruitt, Member of the Public said my name is Karen Pruitt.

Tom Pruitt, Member of the Public said and I am Tom Pruitt.

Karen Pruitt said We live on Carlye. We bought out house in 1981 and we have seen a lot of changes in the area. To me mostly good except for the traffic. Hoagland and McClure as you have heard has been the same since we have been there. There are basically no sidewalks on McClure. There is no bike path and no room to put one or the sidewalk. There is a ditch there that comes out to the street so to get around the ditch you have to walk into the street. When our daughter was born and she was going to go to Alameda Elementary that is the path that she would have had to take. There is no way that I would have ever let her walk that street. I was in a position where I took her and that is what I did. We weren't on the bus, we weren't that far out. She could not ride a bus. She had a, and the same daughter was t-boned coming out of our street on Carlye turning left on McClure by a hit and run. She was not hurt. There is limited visibility to be at that corner. Cars come barreling down on both sides and I was told that two minutes wasn't a big deal but if you are having a heart attack, or your house is on fire, or if an ambulance is trying to get there, or a fire truck, it's a big deal. One time I had to go and I was from Alameda which has no turn lane to Raymond which is quite a ways down the traffic was backed up that entire way. It took me a lot longer than two minutes. This is something I am sure is a problem but, in Las Cruces, as far as I can tell. There is quite a bit of land. You are trying to develop Picacho and El Paseo, those have four lane roads. Put your apartment there. Develop that. Don't put it in a neighborhood that has been there as a residential neighborhood for this whole time and ruin our properties and increase a problem that, let's deal with the problem first before we increase even worse before we increase even one car on it to help it.

Tom Pruitt said I appreciate Councilor Bencomo for enlightening us that there are going to be some investigations I guess into improvements out there but like my wife said it has been 43 years there and no changes from the railroad tracks all the way to Alameda, just none. The last thing that I would like to comment on was on the previous presentation there was a comment about not being substantially out of

Agenda Item #6.1.

character for the area, but it is out of character. Thank you.

Pia English, Member of the Public said good afternoon. My name is Pia English and I have lived on McClure Road for half my life. That is 30 years and I do want to say that there has been a lot of change since I have been there. Unfortunately for the worse and I hate to keep saying the S word but its safety and because we are variable use sidewalks, some houses have sidewalks, some don't. I wouldn't walk a dog on that street. I wouldn't walk myself on that street. I wouldn't walk the street when I bought the house. I was a lot braver then and I just want to say that this is the fourth time that this will come before any of you, all of you and the only change is that one building has been deleted from the plan. As far as the traffic goes and the traffic study was last done in 2019 and I realize the city can't do a 3 year check on traffic but the traffic has increased and those that voted in favor of this proposal I was at several hours of yesterday evening, last night and I think to make a decision you need to base your decision on evidence not feelings and more than once in the document staff members said they feel that they voted based on feelings that we would not be negatively impacted traffic wise but you need to base that on evidence and not feelings. Everyone has feelings but what can you prove and the last thing I want to say is that I would not want to live a stone's throw from the railroad road crossing and in a flood zone. Those are things that need to be taken into consideration and there are also as of this morning there are 200 vacant lots that can be purchased and developed by the city to make affordable housing a reality for those who need it. Thank you so much.

Linda Mattox, Member of the Public said Mayor and council my name is Linda Mattox, M-a-t-t-o-x. I live on Golden Drive. It is a dead-end street that comes out to Carlyle and my only way of exiting to go and do what I need to do is to either go down Hoagland or go down McClure and I have been choosing McClure more often because Hoagland is usually even more highly trafficked. I have seen the area west of the railroad tracks developed over many years. That used to be fields. I have seen an increase in traffic all during the day. I do not feel safe to walk on McClure, ride my bike on McClure. I only drive on McClure because I have to and the part of McClure in my eyes that is most dangerous is between the railroad tracks and the ditch because it gets narrowed down to exactly two cars and there is no edge of anything and I am concerned about emergency access if we need help, a fire, whatever. I am concerned about the two power poles at the residence 606 are on each side of the road property lines for people, the road is right up against their property line. There is no grace, there is no space and that also visibility changes throughout the day as the sun rises and falls. Yes, we do need more housing in our city and the proposed design of the two story complexes don't suit our character of our neighborhood so maybe 5 or 6 single story duplexes and I believe that safety needs to be addressed first so if there is some kind of a relationship that can be between the city and the developer to get these roads safe either with a light. Yes, we have gone through many things throughout the years. I have lived there trying to slow down the traffic so it can become safer so there has been attempts and it has been managed north of the railroad tracks but this area has not been dealt with in a joint effort between the developer and the city to fix the safety issues first and then go into the development issues because we need both and at the previous meeting they said the apartments were going to rent for \$1,200 to 1,400 so this is the first that I have heard of \$900. So, I don't think that it really provides access for everybody. Thank you.

Mayor Enriquez said okay, thank you. Council, any other questions or comments? Okay I think we all aware that the shortage of, okay you can come up I will give you two minutes because we need to wrap up.

Kyler Rivas, Member of the Public said hello my name is Kyler Rivas and I am in favor of this proposal. Right now, we have a obviously a housing crisis and we just don't need affordable housing we need all types of housing and right here is a solution in my opinion because even though we also need affordable housing we also need every other type of housing and right here we have 15 units, close to the city center. Where people obviously there is a safety concern with the road and the condition of the road, the lighting of the road, and the lack of bike lanes but this proposal can also come at the same time. They could be together. Two things can be true at once. You know, that is all I had to say.

Mayor Enriquez said okay. Thank you, that is pretty much what I was going to say was that it is obvious that we have a shortage of housing, and it is a safety issue. McClure has been like that for years. I think there has already been a compromise from going from twenty units to fifteen units so we do have to work hand in hand in safety, but we will see how we vote on this. So, Christine.

Christine Rivera asked Adam can you pull up the vote yes, vote no? You guys got it?

Adam Ochoa asked point of order, would you like me to clarify those yes's and no's?

Mayor Enriquez said yes go ahead and say it again.

Adam Ochoa said okay. I know I would that's for sure. So, your options tonight/today council are one to vote yes. This will reverse the denial decision made by the Planning & Zoning Commission and will approve the infill development proposal with the 15 units as proposed. Two to vote no. This will uphold the denial decision made by the P&Z and the applicant will have to abide by the R-1A regulations as written and submit an alternate request for consideration. Three to vote to amend, this will allow city council to modify the resolution by voting yes and adding conditions as deemed appropriate or four table to postpone and direct staff and the applicant accordingly. Thank you.

Councilor Becki Graham moved, seconded by Councilor Becky Corran, to Approve Resolution No. 25-003.

RESULT:	Carried
MOVER:	Councilor Becki Graham
SECONDER:	Councilor Becky Corran
AYES:	Mayor Eric Enriquez, Councilor Cassie McClure, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores
NAYS:	Councilor William Mattiace

8.2 COUNCIL BILL NO. 24-028; ORDINANCE NO. 3070: AN ORDINANCE AMENDING ORDINANCE 2698, FOR THE DEDICATION OF A MUNICIPAL HOLD HARMLESS GROSS RECEIPTS TAX.

Leeann DeMouche, Finance Director gave the overhead presentation.

Councilor Becki Graham moved, seconded by Councilor Becky Corran, to Approve Ordinance No. 3070.

RESULT:	Carried
MOVER:	Councilor Becki Graham
SECONDER:	Councilor Becky Corran
AYES:	Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

8.3 COUNCIL BILL NO. 24-029; ORDINANCE NO. 3071: AN ORDINANCE APPROVING A ZONE CHANGE FROM C-2 (COMMERCIAL MEDIUM INTENSITY) TO C-3 (COMMERCIAL HIGH INTENSITY) FOR A PROPERTY ENCOMPASSING 2.567 + ACRES AND LOCATED AT 2605 BATAAN MEMORIAL WEST. SUBMITTED BY KARY BULSTERBAUM, REPRESENTATIVE. (24ZO0500035).

Adam Ochoa, Senior Urban Planner said the applicant has actually requested staff to postpone the zone change to our next city council meeting which is on the 15th I believe. They ran into a problem with the zone change and they are trying to hammer it out before they come before you. So, there might be a slight change as to what they are proposing at the next meeting on the 15th.

Councilor Becky Corran moved, seconded by Councilor Becki Graham, to table Ordinance No. 3071 to July 15th.

RESULT:	Carried
MOVER:	Councilor Becky Corran
SECONDER:	Councilor Becki Graham
AYES:	Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

9. BOARD APPOINTMENTS

9.1

None.

10. NOTICE OF PROPOSED ORDINANCE(S)

- 1) There will be no public discussion.
- 2) A Councilor may ask staff for clarification on the proposed ordinance(s).

10.1 COUNCIL BILL NO. 25-001; ORDINANCE NO. 3072: AN ORDINANCE ADOPTING A MUNICIPAL GROSS RECEIPTS TAX.

Councilor Flores asked I would like clarification on 10.1?

Mayor Enriquez said that is the GRT. It is the first read.

Councilor Flores said I would like to know procedurally maybe it would be Christine who could shed some light or edify me for edification. It is a question of getting gross receipt tax issue on the agenda at a future time?

Christine Rivera, City Clerk said we need to bring this forward with the GRT ballot question and that is why it is on a first read for July 1st. It will be brought forward along with a resolution on July 15th, you will be hearing them together.

Councilor Flores said my understanding when we discussed this at a previous meeting was that it was a decision that the public would make, yes and so now it looks like we are going to be making that decision.

Christine Rivera said this ordinance is actually for the public vote. We have to approve this ordinance so that if the ballot question is approved, we can send the ordinance to the state. So, this ordinance that is coming before you is not for your portion, it is for the ballot question portion. Just something we have to preemptively do.

Councilor Flores asked for the state?

Christine Rivera said correct.

Council agreed to bring it forward.

10.2 COUNCIL BILL NO. 25-002; ORDINANCE NO. 3073: AN ORDINANCE APPROVING A ZONE CHANGE FROM C-2 (COMMERCIAL MEDIUM INTENSITY) TO C-3 (COMMERCIAL HIGH INTENSITY). THE SUBJECT PROPERTIES ENCOMPASSING 1.4 ± ACRES IS LOCATED AT 3200 W PICACHO AVENUE. THE ZONE CHANGE IS TO ALLOW FOR THE FUTURE REDEVELOPMENT OF A COMMERCIAL BUSINESS ON THE SUBJECT PROPERTY AND BRING THE LOTS INTO COMPLIANCE WITH THE 2001 ZONING CODE, AS AMENDED.

Council agreed to bring it forward.

10.3 COUNCIL BILL NO. 25-003; ORDINANCE NO. 3074: AN ORDINANCE APPROVING A ZONE CHANGE FROM R-1A (SINGLE-FAMILY MEDIUM DENSITY) TO C-3C (COMMERCIAL HIGH INTENSITY-CONDITIONAL) FOR APPROXIMATELY 5.00 ACRES AND TO OS-R (OPEN SPACE-RECREATION) FOR THE REMAINING APPROXIMATELY 43.75 ACRES OF A PROPERTY LOCATED AT 2040, 2045, 2060, AND 2065 E. MADRID AVENUE. SUBMITTED BY SOUDER MILLER AND ASSOCIATES, REPRESENTATIVE. (23ZO0500027).

Council agreed to bring it forward.

11. CITY COUNCIL MEMBER BOARD REPORTS AND COMMENT

11.1 COUNCILOR MCCLURE

Last week I went to the Fire Department graduation, and I just wanted to give a kudos to how much hope I walked away from going to that. That there are people willing to give their entire careers to a city that may change, may look different in the future and that is kind of a discussion we are grappling with. This idea of what our city will look like. It will look different. It looked different when I was 20 years ago when I came here for the first time. So, I think that balance is going to be hard to achieve if people can't

Agenda Item #6.1.

have a vision for what they could look like and I think it is hopeful to see still people willing to give their entire careers to that idea.

I am interested to about the cannabis companies, partially because it is interesting to me because it feels like a stifling innovation here in Southern New Mexico and I think that is a consideration if we want to actually have that discussion about what that might look like for us to have that because it sounds like Albuquerque can sell their product here and it is harder for us. So I wouldn't want to stifle our economic opportunities and lastly I wanted to give a shout out to MVRDA who was keeping us informed, the dispatch center with all of the storms, letting us know how they were doing that and it is always interesting to me when we think about first responders, of course we think about Fire Department and Police but also our dispatchers and our utilities who are out there in the storms making sure that we still have power and wastewater flowing. Not super interesting but very valued if it's not there.

11.2 COUNCILOR MATTIACE

I just want to mention Mayor that I would like to thank the staff. I had a town hall meeting, a District 2 meeting at Las Cruces High. There were six presenters, Chris was one of them. It was really good information, we had almost 80 people that attended that Las Cruces High District meeting. I want to thank Barbara Bencomo and our Deputy Chief, in fact all six representatives, Scott, Catrina, everyone stayed after to even 7:30 and fielded questions from almost 80 people. So, I just want to put that on record. We have a really super staff, and they really are concerned about what the citizens need in our city.

11.3 COUNCILOR GRAHAM

None.

11.4 COUNCILOR CORRAN

I want to echo Councilor McClure's hopefulness of the LCFD's graduation. It was great to see the new class and hear their tales and welcome them to the city's staff. So, thank you for the invitation and for those who signed up to join your impressive ranks.

I also want to thank staff who helped me put on the Check the Chip events that were really successful. We talked to a lot of folks, the staff, Catrina in particular, the animal control officers, and the ASCMV staff who worked together to talk to a lot of the folks who had no idea about what their animal's chips said or had adopted from the ASCMV and really just wanted to show off their animals after having adopted them. A couple of things came to light in those conversations. One of them was that a lot of people don't know what their microchips say and I urge you all to follow up with your vet and find out what your microchip number is and then when you call the chip company that owns your chip they might tell you that you have to pay money but just so that you know your microchip last forever and they have to keep your information up to date and the Animal Services Center keeps a separate database so they can also help you if your animals are picked up by ACOs and so don't pay the chip companies any money. You don't have to do that but please do check to make sure that your microchips are up to date because of the folks that we saw, I don't know we probably scanned 25 to 30 people and I think about two thirds of those folks have

incorrect information within their files for their animals and their chips so it was a really good and powerful lesson for me and I really appreciate the staff that helped do that. On another note, with ASCMV we have received a bunch of applicants for the community positions. We are in the process of evaluating those and anticipate having those folks for appointment on July 15th at the next board meeting so we will be appointing the city representatives to the Animal Services Board then.

11.5 COUNCILOR FLORES

I have a question for my colleague, Mr. Mattiace. After all these years, you were Mayor, you were Councilor before being a councilor today, right? Were the questions any different, the issues that were brought up at your community meeting different than the ones that you were dealing with what was it, twenty years ago?

Councilor Mattiace said similar questions. Basically, roadway improvements, of course I think the Mayor will agree that the crime questions are very prevalent today. It is happening in different neighborhoods that was much higher. Everything else was very similar. The city has grown, and I think we have had a lot of comments on the growth, but I think everybody has been pleased with the quality of life achievements that we have done in the last 75 years but I think everything is pretty much the same.

11.6 COUNCILOR BENCOMO

My heart was full to see the amount of support that our community here in Las Cruces is offering to our neighbors in Ruidoso and Mescalero Tribes. I think at one point I saw that some folks in Ruidoso were saying stop sending stuff. If you can provide monetary donations, we are literally running out of space to keep all of these things and so that is just really beautiful. That is the Las Cruces I know in 2019, is really similar when we started receiving asylum seekers, I mean there was volunteers. There were things donated. That is the Las Cruces that I know, that we have each other's back in a moment of crisis and just desperately seeking that as our own Las Cruces experience their own moment of crisis and they are finding themselves unsheltered and unhoused desperately seeking that same feeling here and I think that leads me to touch base on the Grants Pass decision that the Supreme Court made a couple of days ago where they said that municipal governments can criminalize sleeping outside and I think this is a cruel decision and I think this is an inhumane decision made by an ultra-right wing extremist supreme court and I really, really hope with all of my being that no one on this dais is hoping to follow suit as not be reflective of the values of this community and I am just truly I would say shocked but I am not. The Supreme Court claims to be prolife until that life finds themselves unhoused and then it stops. So, I do not believe those are our values and I certainly hope that we can continue to fight for policies and programs that work to actually truly address our homeless issues here so I will certainly continue to do that and continue to fight for that.

One of the things we are doing actually very much tomorrow that I am very much looking forward to is Chief Story, LCPD, Paul Ford with the Fire Department, the MIH Program and other community partners like Community of Hope and FYI, invite any of you to join us. It is going to be at 2 p.m. in the middle of the day but we are going to

Agenda Item #6.1.

do street outreach down Picacho and just walk the street and do outreach for folks on the street for businesses, whoever, MIH and community advocates with LCPD did this about a year ago I think downtown and it was very successful and so we are going to try it again on West Picacho and that would be tomorrow at 2 p.m. and we are meeting at Tractor Supply right there on the corner of Valley and Picacho. I think this is going to the people is really important to understand how we address some of the issues that we are facing. So that is tomorrow, and we will be excited to report back in two weeks on how that went. I also wanted to ask for what it would take to do a codes project, City Manager? I put it in an email already and I wanted to include it in my comments. There is a neighborhood in District 4 in the Branding Iron Circle area. It is a mobile home park and I have been in contact with some residents who are having some issues with their neighbors and Codes have tried to address it, MIH is working to address it and all of these resources but you know when I canvassed there in the fall I also noticed a similar thing and even since then I thought and was wondering what we could do in terms of a Codes project, whether it is a letter first. I know that I could gather members of that community to canvass, to volunteer and do some of that outreach how you dispose of big items like your old mattresses or old chairs, having your numbers on a, hardly anybody has any of their home numbers that are visible, and I know that is a huge public safety concern. So just some of those kinds of codes projects I would love to do. I know that capacity and funding could be an issue but would love to know what it takes to do that. Just lastly, I would love to know how many projects we submitted to MAP the Municipal Arterial Program in the last couple of years. I would love to know how we have utilized that MAP and if there is room to submit some proposals for potentially like McClure. I talked to David about what that would take but I think there is a couple of requests for traffic calming that are out in the ether, and I am just wondering if this could be utilized, and I am curious of how we have utilized it in the past.

11.7 MAYOR ENRIQUEZ

Again, a huge thank you to El Paso Electric during the storm and the bad weather we had the last couple of days getting the boots on the ground and helping us restore our power. No different as our hearts go out to those in Ruidoso and as Mayor Pro Tem said you know we had our fire crews going out there but we had a lot of members in this community just giving and continuing to give and it goes in line with our theme is here in the City of Las Cruces and that is Adelante con Cariño and it really speaks volumes about our community and our city and speaking of Adelante, moving forward.

This past week I was able to be the keynote speaker for CBA, Central Business Association in El Paso and trying to bring economic development to our Southern New Mexico with the partnerships of El Paso and Juarez. So that was one thing that took place, and it was great to start building the bridges for economic development in our area, our borderplex region and then also tomorrow, I think Mayor Pro Tem you said Chief Story will be here, but he won't. The Police Department will represent, Chief Story and I will be in Albuquerque tomorrow as the Governor has invited us. She was going to have the Public Safety Roundhouse to discuss some of the issues that are going to take place at the special session coming up. So again, moving forward with ideas of mental behavioral and how to address crime. So, it will be at that public safety roundhouse meeting in Albuquerque from 1 to 4.

Agenda Item #6.1.

Fourth of July is coming upon us, and I was going to request of the City Manager that maybe the lights could display some patriotic colors for our City Hall and just wishing everybody a happy and safe 4th of July. Please attend all of the festivities that are planned, the entertainment, the food, the music, and the firework display.

12. CITY MANAGER REPORT

12.1 IKANI TAUMOEPEAU

Again, echoing everyone's kudos for EPE this past weekend. Additionally, I want to give kudos to our staff who were dealing with the impacts, non-power related but getting our facilities back up. Clearing the streets and roadways. Thank you, Police and Public Safety as always, Public Works, Traffic, Parks and Rec staff, Joint Utilities, Facilities, and every other department that falls in between and outside. Thank you so much for all the staff working this weekend. Kudos as well to the Communication. Rico gave me kudos but really I get all the communication from my City Manager Office team so I appreciate Sonya, I appreciate JC, I appreciate Barbara and I appreciate David Sedillo for filling in as well for Sonya who have been keeping me apprised with their teams and everything that they can find out and so thank you to the CMO team as well for keeping me apprised with everything which then allows me to pass it on to City Council.

The HAWK Pedestrian Signal has been installed and operational at Picacho Avenue and Fourth Street. For those who don't know the HAWK stands for High Intensity Activated Cross Walk, is a pedestrian activated beacon to increase pedestrian safety at mid-block cross walks, minor street intersections, and in school zones.

And as everyone is aware we have festivities coming for July 3rd and July 4th. On Wednesday, July 3rd as it was announced last week City of Las Cruces 4th of July celebration will kick off with Electric 5k and Fun Run, followed by the Annual Electric Light Parade. Parade route begins at Apodaca and ends at Meerscheidt. Road closures will begin on Wednesday the 3rd at 5:30 p.m. so don't be caught in that. Running event begins at 7:30 with the parade starting at 9 p.m. On the 4th the city's annual 4th of July celebration concert and fireworks display will be at NMSU. We have Black Jacket Symphony to make their Las Cruces debut, performing iconic albums of Saturday Night Fever.

After School Program lottery registration begins today and Friday, July 12th. If interested call 575-541-2550 for program locations and additional information. Also Keep Las Cruces Beautiful Dumpster Day is on Saturday, July 20th from 8 a.m. to 12 noon.

Just responding to Mayor Pro Tem Bencomo, you had mentioned a Codes project. We can definitely stay in touch. Just some ideas coming to mind, if there is a spokesperson for the group or you are in touch with somebody have them reach out to myself and we can get the appropriate people in the room and we can start with a meeting and see what the needs are and definitely have codes and whoever else and if you would like to be in that meeting to. That is just what comes to mind quickly. We can stay in touch if there is anything else you would like to do, let me know. And lastly, I know that you are working with David Sedillo on the projects for the arterial programs and so if there is anything else we can keep you

Agenda Item #6.1.

apprised on that and how it is being utilized. Also on July 4th, Mayor we will work with Facilities, work with David Sedillo and Facility staff to get that with the appropriate lights and if you like we can keep it on for the whole month or are you thinking just the day? Okay we will keep it up for the whole month if you would like

13. ADJOURNMENT

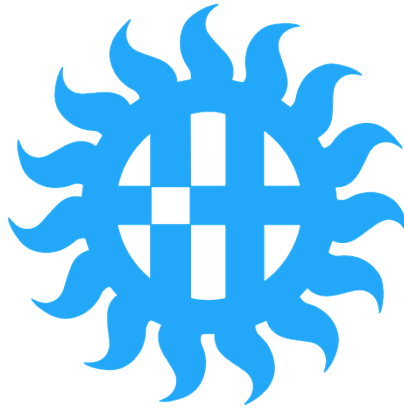
13.1

Councilor Becky Corran moved, seconded by Councilor Yvonne Flores, to adjourn at 3:59 p.m.

RESULT:	Carried
MOVER:	Councilor Becky Corran
SECONDER:	Councilor Yvonne Flores
AYES:	Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

Mayor

City Clerk



MINUTES
Work Session
Monday, July 8, 2024 @ 1:00 PM
City Council Chambers, City Hall

PRESENT: Councilor Johana Bencomo, Councilor Yvonne Flores, Councilor Becki Graham, Councilor Becky Corran, Mayor Eric Enriquez, Councilor Cassie McClure, and Councilor William Mattiace

ABSENT:

1. PETS OF THE WEEK

1.1

Amy Defelix, Animal Services Center of the Mesilla Valley presented Pets of the Week.

2. AGENDA ITEM

2.1 ANNUAL UPDATES FROM ECONOMIC DEVELOPMENT PARTNERS: FILM LAS CRUCES AND THE FARMERS AND CRAFTS MARKET OF LAS CRUCES

Chris Faivre, Deputy Director Economic Development introduced the topic.

Adrew Jara, Film Las Cruces gave the overhead presentation.

Councilor Flores said I am very glad to hear that you are reaching out to the local businesses to serve whatever needs you have and maybe Chris has that information of the revenue that is brought in. Do we have a break down on that? How many scouts do you have?

Chris Faivre said we don't have any direct economic impact numbers right now, but I can certainly get that for you.

Councilor Flores asked the employees, are they all from Las Cruces or from our little surrounding towns? We are a little city too but are they all from this local area?

Andrew Jara said yes, it depends. We try to get them as locally as possible. It is beneficial for everyone including the production. They save more money if they hire locally so what we have noticed is that now they just seem to be hiring outside of the area when they absolutely need it and that is why again we are kind of focusing a lot more on getting people like Patrick Sanchez to get those head roles because we have a lot of below the head department and so we want to get as many people as head so that they can hire one. Another one was Loris Allen who has not only become production designer, but he has opened his own prop house here in Las Cruces called the Gold Room. That is one of those things since he has both of those things every production that has been in town he has been working on it just because again he is local, and it is easier to hire them. I would say right now it is probably about 60%-70% usually is from local.

Councilor Flores asked local meaning how far north and how far south?

Andrew Jara said in the county.

Councilor Flores said I was really happy to see that Tyler Perry did a film here because I really follow his movies. They are universal, life and its tragedies or whatever challenges. That is all I have I just wanted to thank you very, very much for making this happen. It was a long time coming and I thank you very much.

Councilor Corran asked I am curious about the new building that the CMI Program is about to open I think, and I don't know how that might affect you all? I think there is a pretty big sound stage that is a part of that, but I am not sure if that will help in the scene.

Andrew Jara said it has not opened yet. It should plan to start accepting students and also it is DACC not CMI but it is planning to open and start accepting students in August and it should officially open in September but that should be a great help to us. They can't let people use it yet but if we can fit it in the space of their breaks, we can possibly use it. So, it is going to open another window. I think right now our biggest issue we have to which it will also solve is a sound stage and CMT will provide that even if it is not as big as a normal one it will especially for car scenes, so we are very excited for them to open and of course with that you also have all the students will now learn how to work on a studio because it is not the same as working on the outside. It is very controlled which you need to learn how to do that. So again, that will also help to add to our crew base so we are very excited for those kinds of additions.

Karin Bradshaw, Las Cruces Farmers and Crafts Market continued the overhead presentation.

Councilor Flores asked last time you presented I asked a question about the revenues

Agenda Item #6.2.

insofar as the taxes because a lot of the vendors have a cash bar, so I was wondering and I have not asked our department to see, our Economic Department to see if there has been any headway on that or if there is any tracking of that?

Karen Bradshaw said we have no ability to track and in fact the state changed their parameters where it has made us even more difficult for us to even access our vendors accounts.

Councilor Flores asked the state is the one that regulates the farmer's markets throughout the state?

Karin Bradshaw said no ma'am. That is just as far as any access to revenues or anything like that. All of our vendors are individual businesses. They are in charge of their own finances and the only thing that we attempt to do per our agreement with the city is to ensure that our vendors are at least filing their gross receipt reports.

Councilor Flores asked with the city?

Karen Bradshaw said with the state. Gross receipts reports must be filed with the State of New Mexico and per our agreement with you guys we do verify that the vendors do that, but we do not have access to the reports themselves of what they file.

Councilor Flores asked is there any way of tapping into that?

Chris Faivre asked you are looking for specific revenue related to each of the vendors? I don't know if we would have access to those reports but maybe we could work with the market staff to do some sort of a survey, an unofficial survey to kind of gauge maybe the ranges of revenues that they are bringing in to give us an idea of how successful they are.

Councilor Flores said I think they have been very successful. I think the city should be benefiting a little bit too after all we do have the agreement and it's our plaza and our beautiful downtown area so I was just wondering if there had been any progress or any change in that.

Karin Bradshaw said we do inform our vendors that the tax rate code that they are to use is the one for the TIDD district. We ask them to please do that that way all the gross receipts that do get reported go directly into the TIDD for the downtown area. We do per our agreement with NMFMA, New Mexico Farmers Market Association which is part of the program for the SNAP and Double Up Program, we do a survey and it's a rough estimate of monies that comes in through the market per our farmers and everything and this last year the estimate for produce sales and everything else was almost between the SNAP Program and the WIC and everything else just regular sales was close to a billion is what our estimate.

Councilor Flores said then a lot of the vendors are cash only.

Karin Bradshaw said we have a lot of vendors that are cash. We have a lot of vendors that are a lot of cards as well.

Councilor Mattiace said I am always excited about the market downtown. It draws a lot of people. I just like a small request, I had some friends and we did the market this weekend. Is there any signage that reads, if you can spit your gum into a gum container? It is a little bit unsightly, the sidewalks, everything else is fine. The vendors were fantastic. There is some graffiti by Las Cruces Furniture Store that needs to be cleaned up. Who manages that, is that the City?

Karin Bradshaw said yes sir. We just utilize the space for that four and half hours, actually 6 a.m. to 3 p.m. on Saturday mornings. It is still classified, public city property. We just have the use of it.

Councilor Mattiace said I am also a little bit apprehensive sometimes about the number of dogs that come down there. I had my pug, he's eight months old so he was controllable but there were some large animals and sometimes that is a little bit annoying.

Karin Bradshaw said it is the owner's responsibility. We are a pet friendly market. Everyone knows this. It is up to the owners to ensure that their dogs are controllable. We do have poop bags available throughout places in the market. Our vendors provide water for the dogs to drink throughout the market.

Councilor Mattiace said maybe the city can add a little more signage for the gum spitting or littering containers and/or some signage about control your dog and if they are going to leave a deposit, take it to your own bank.

2.2 INDUSTRIAL REVENUE BOND (IRB) POLICY.

Elizabeth Teeters, Economic Development Director gave the overhead presentation.

Councilor Corran asked if we are looking at how we support economic development is this in the normal wheelhouse of things or is this an exceptional practice? Why haven't we been doing this already? Where does this fit into the scope of packages of economic development that we use and I don't know if there are other more, the industrial park is a unique situation. I don't know if there are other applications that you can tell us about as well.

Elizabeth Teeters said I don't think this has really been used previously because up until a few years ago the industrial park wasn't a priority for the city. So, this has just been as we put the industrial park plan in place the overlay district, everything that went along with it we have been trying to just get everything in place to better compete with other cities that are already doing this. The County and Albuquerque already has these policies in place. So basically, where we are now is just another step to get us at the same level of other communities and other counties in the area.

Agenda Item #6.2.

This tool is mostly used for industrial type businesses so it wouldn't be for the Walmart's or anything like that. There are other incentives that could potentially bring in retail. I wouldn't say Walmart is one of them but there are other incentives that we could potentially look into formalizing as well.

Councilor Corran asked under general policy projects of specific interest to the city, for me I do believe some of the things that happen in particular very extractive things like server farms often are built to take advantage of incentives like this and I would ask that we might consider articulating as things that are priorities to us are not looking to incentivize businesses that will just take from our water in particular at the industrial park but I am sure there are other extractive things that I can imagine that could happen and the most proximately water. I don't know if it is possible to include that as part of what we are interested in that I would like us to articulate that we are aiming to sort of build sustainability as part of this as well. I don't know if that is possible but I would just like to say that is the one concern that I have in thinking about incentivizing folks here and I see, and I think we should and I want us to be there and I want it to grow and thrive and I don't want it to be at the expense like things like our water.

Elizabeth Teeters said our IRB counsel wrote this policy for us and I think sustainability is a good word so I can always take it back to them and see if they can draft up language to put into that section so that when I bring it back for adoption that can be considered.

Councilor Bencomo asked this would be primarily the focus of the Industrial Park but in the policy, it is not saying strictly the Industrial Park, right? And I ask that because you are talking about housing and so I don't think we are talking about building housing at the Industrial Park, right?

Elizabeth Teeters said yes, it is mostly used for industry and at the Industrial Park, but it is written into the state statute that affordable housing is allowed which is why I spoke with Ms. Natalie Green and we decided to write it into the policy so that is and I wanted to make sure it was in the policy so it could be considered in the future.

Councilor Bencomo asked can you give us an example of how this would be used for affordable housing development? I know you said Bernalillo and the County are using this already. Is it for housing?

Natalie Green, Housing and Neighborhood Revitalization Administrator said Bernalillo County does use the conduit financing for multifamily rental housing. We are actually using this process right now with the Pedrena Senior Apartments. The difference is Dona Ana County is the conduit financier, so our program was not in place at the time that they were closing on their deal, so we were able to, well we weren't able, but we weren't prepared to be the conduit financier for their bonding and so the county was kind enough to step in and they're doing it. So, this as Ms. Teeters mentioned just adds an extra tool into our toolbox when we are doing affordable housing development it helps make the projects more sustainable because they are not paying property taxes on affordable housing and so it just gives them that extra financing that

Agenda Item #6.2.

they need to make the numbers work long term. Some projects do have other types of exceptions we have been able to get for property taxes, but it is not always applied across the board but is really dependent on the assessors, so this gives us a guaranteed property tax exemption for these projects.

Councilor Bencomo said thank you, I appreciate that. I think it is helpful to know it is another tool in the belt, but I did say wait a minute we are talking about housing, and I don't think we're going to make people live out there.

Natilie Green said so, when someone looks up Pedrena they will actually see that the physical property is owned by the County and they lease it to Pedrina LLC., for the apartments.

Councilor Bencomo said I think this helps me a little bit more to be more supportive of this because as I first read this I thought we are right now having a big conversation about GRT and increasing the GRT. In the meantime we are talking about giving some of these big businesses a ways out of the GRT and so that feels a little bit tricky for me right to sell to the public and so I think it is really important that we talk about what are the gains then, like what is this community gaining because of this kind of economic development tool so you know we can be better champions of it. That would be my only suggestion Elizabeth just thinking about the narrative around this.

Councilor Mattiace asked you're saying the Industrial Revenue Bonds have never been used by the City of Las Cruces or by the companies out at the park right now? None of them have received any kind of tax abatements?

Elizabeth Teeters said so Saputo Cheese back when it was FNA Dairy they did use it years ago. When Saputo did their expansion three years ago now, they had originally repropose giving them an IRB but they pulled out of the deal and we just did the LEDA instead and so we haven't used it in recent years.

Councilor Mattiace asked it was used by FNA and how many years did they go with the termination out there, 20 years, 30 years?

Elizabeth Teeters said I am not sure off the top of my head, but I can get that information for you.

Councilor Mattiace said when I think of IRB's and Mr. Lopez realizes my tenure at New Mexico Border Authority with Jerry Pacheco and many of the companies that come into Santa Teresa in the free zones as well as using IRBs down there it created jobs. I thought that was the primary purpose of IRBs was creating jobs. Is that still the principal use?

Elizabeth Teeters said whenever we look at incentives for any business it is really each community that sets their own benchmarks or like their own expectations. We have always looked at jobs, wages and investment. Those are our three when we are considering giving an incentive to a business those are the three big ones that we consider. So, whenever a business fills out a IRB application they will have to put that

Agenda Item #6.2.

information in there and we will decide whether it fits what we are looking for or not.

Councilor Mattiace said then the ROI, the return on the investment.

Elizabeth Teeters said yes.

Mayor Enriquez said I think this is an incentive that we would want brought forward for our economic development, so thank you.

2.3 ACCOUNTABILITY IN GOVERNMENT ORDINANCE DISCUSSION.

Brad Douglas, City Attorney gave the overhead presentation.

Councilor Corran said I appreciate you opening the language to allow for other folks to be appointed because I think it is really hard to get people who are functioning as professionals in any field to give up a lot of time to be on an unpaid volunteer committee for the city which is across the board but specific to this. In that same paragraph there is a clarification about, I do wonder the very last sentence as to not to form a quorum, no more than three council members shall be in attendance. When you say council members does that include the Mayor? I ask this because I don't know if we should make that more explicit and say.

Brad Douglas said yes. It would be our intention that the three council members would include the Mayor but we can clarify that wording if you like to be more specific.

Councilor Corran said just so that it is more clear across the board. I am hoping that you can really talk about what the flow of reporting concerns is and how the IG relates to the Oversight Committee as it relates to audit and just sort of paint a picture as to what that looks like when someone complains about something or when someone has a concern internal or external. Where does it go? How is it triaged? Is it independent, is it simultaneous, how do those reviews work with those three sets of sorts of different overseers and how do they relate each other?

Viola Perea, City Auditor said as far as internal audits are concerned every year we develop an audit plan and we bring that plan forward for council approval, should there be an issue that arises where a special audit needs to occur, something that we didn't anticipate initially that we need to add to the plan we will bring that forward to the city manager and also report that to the Oversight Committee to let folks know that we are going to substitute something on our plan for that additional issue that has risen without prior knowledge and we will be able to conduct that audit. As far as investigations are concerned and I don't want to speak for the IG but I will give you just a quick background and then I will let Charles inform you additionally. When a complaint comes through it has various avenues where it may come to our attention whether it is in person, verbally in person, we have our hotline, whether it is a PD complaint that goes through the Police Department's hotline. There are various avenues where a complaint can be raised. If it does come through either internally or through our hotline process all of those complaints will get directed to the Inspector General and he will be able to determine whether or not there is merit to move forward. He can do some additional inquiries to determine the validity to move

Agenda Item #6.2.

forward. If they go through the PD that is under the purview of Internal Affairs, however with this revision that we are proposing if there is a complaint related to fraud, waste, or abuse the IG will now be able to assist with that process by being present during those processes.

Charles Tucker, Inspector General said when a complaint comes in like Viola said if it comes in through our hotline, I review them all. If it is something that has to do with fraud, waste, and abuse then I will let the hotline committee know my recommendation that I will take care of that investigation. If it is not, then I will make a recommendation that it be looked at either through one of the Assistant City Managers and their subordinates do the investigation if it is not something that is fraud, waste, or abuse and then we handle it that way.

Councilor Corran asked how do you relate to the Oversight Committee? I sort of understand how audits fit in there and if there is sequential or subsequent, if there is feedback loops between them?

Charles Tucker said when I sat on the Oversight Committee the intent was for us to review the IG's products. So once the IG is done with his investigation, the fraud, waste, or abuse it would go to the City Manager, City Manager signs off on it. I can't hang it for public distribution, or I can't redact it or I will redact it, take it to the Oversight Committee for review, they will look at my product, they will make recommendations on whether I should look at something a little bit more or again they may make recommendations. They can't change my product. They can't tell me that I am not doing the right thing. If they make recommendations, I prefer written on my product and it has to be posted for transparency reasons. Now because we don't have an Oversight Committee right now, I have got a lot of packets once we actually have one. We are going to be going through a lot of investigations that have been done so that we can actually put these out for public but that is something that will happen once we stand up an Oversight Committee.

Councilor Corran asked the triage happens at your level?

Charles Tucker said yes.

Councilor Corran said that is what I was curious about because often people write and say this city staff member should be fired and I say that because probably I get 10 emails a week saying things like that, and I hope that someone is triaging those at some capacity. Not to dismiss it but I want there to be a layer.

Charles Tucker said I get complaints of people not flushing toilets in City Hall to cars being driven crazily so I see the gambit of it all. So, I do the initial assessment and then we will determine what route that goes to.

Councilor Flores said Viola did an excellent job when we had that snafu, I don't think I want to go into the details, but I think we all know what I am talking about. Would it avoid that kind of a scenario? Who oversees the IG?

Agenda Item #6.2.

Brad Douglas said it is my hope with a more robust oversight system which I do believe that we have maybe incidents like that could be avoided because the Inspector General monitoring the hotline complaints and having, I don't want to say carte blanche authority but a very wide latitude to do investigations throughout the city and including investigating city contractors, subcontractors, or lower tier contractors. That is not something that has always existed and in any event that those parties do not cooperate it is anticipated and built into the revisions. For example we have an allegation of wrongdoing, an allegation of fraud on behalf of one of our city contractors or employee and let's say that the contractor refuses to cooperate with the IG investigation at our discretion, the city's discretion that contractor may be barred or rather disbarred from doing business with the city for a prescribed amount of time at our discretion and so this has some real teeth in it to encourage transparency and cooperation. It is kind of like the universe to as what I was speaking about earlier if we have a city employee who may be accused of some wrongdoing. At some point during the investigation if it truly does turn criminal then our IG will turn the matter over to law enforcement but if it is not criminal in nature, we don't want to make every possible infraction criminal in nature because then nobody is going to talk to you. They are going to invoke their rights and going to want an attorney present. What we really want is that cooperation and so the carrot would be taking away the criminal penalty for each and every possible, imaginable violation of the ordinance. The stick would be if you are a contractor who is doing business with us, you aren't cooperating with our investigation you may not be allowed to do business with us the city in the future. With regard to your second question. Who oversees the office of the Inspector General? Under our proposed revisions if there is a complaint concerning the fraud, waste, or abuse and I am not picking on Mr. Tucker, it could be anybody but in the IG's office external review counsel will take over that investigation themselves, the City Manager, and the City Attorney will be notified immediately. There will be people tracking that.

Councilor Flores asked who are the people that will be tracking that?

Brad Douglas said well, the City Manager and the City Attorney would be at least apprised of the investigation.

Councilor Flores asked what would prompt the investigation? I just want to know how it all functions and how that person sitting in that position would be checked.

Brad Douglas said probably the most common way that would come about would be through our hotline system, but it can also come about through internal complaints or external complaints from anyone in the community.

Councilor Flores asked there is enough of an internal oversight administratively speaking?

Brad Douglas said I believe that there will be. Right now, there is very little. At the conclusion of external review counsel's investigation, they would generate a report for the City Manager to review and then the City Manager would take additional steps appropriate.

Charles Tucker said when we get a hotline complaint that comes in, I am not the only one that reviews it. I do the initial review, but it has to go out the rest of the hotline committee for their suggestions and for how we process those. If there is a complaint against me, I don't have a choice I have to send it out to both ACMs to look at, the HR Director, and the City Attorney. So, all four of those folks review every single hotline complaint that comes in, not just me.

Councilor Flores asked what about the Auditor?

Charles Tucker said no. We wanted to do that so that she could focus on her audits. That same question that you brought up was brought up by Chief Story. When we initially sat down, and we were talking he said who watches you? Because right now we don't have anybody watching me. The way the ordinance is written if I was to go rogue. We are trying to write in those safeguards because I am not always going to be that IG. It could be somebody else that doesn't want to follow those rules or wants to paint outside the lines, and you never know where that could go. If you give somebody this much power or the office grows in some cases, and it got really ugly with the IG up in Albuquerque where she ended up having to completely separate her office from the city. It got real political and so we didn't want to do that and we wanted to make sure that we had somebody who could keep the IG under a microscope if needed.

Councilor Flores asked you participated and the City Attorney, Brad Douglas and then Viola Perea participated also in the framing of it?

Charles Tucker said yes.

Councilor Graham asked I am looking at Section 2-176 and of the proposed definitions for abuse, fraud, and waste, only abuse refers specifically to government resources. The other two do not and I am just wondering why there is a distinction there?

Brad Douglas said these definitions I wish I could take credit for crafting them on my own, but they were pulled directly from the Federal Government's Office of Government Accountability with regard to fraud and waste, we could certainly make edits to those definitions to clarify that they do apply to government resources so I will take a look at that.

Councilor Bencomo said I continue to have some concern about the oversight of the IG. I think everybody has a boss, right? So, I think with this revision we should really consider are we really changing the character of the hierarchy map of the city, right? The top boss is our bosses which is the public, and then the city council and the Mayor are the bosses of City Manager and then the City Manager is the boss of literally everyone else. I think even when we think about Municipal Court which is sort of over here, right? Even Municipal Court has a boss which is the public as well, right? I do feel like there is some concern just regarding who then the IG is reporting to. I think that needs to be clarified and I would strongly discourage us from thinking about

Agenda Item #6.2.

the committee, the Oversight Committee. Like those were volunteer folks and I feel like that would be highly inappropriate as well and I think this is also where we want to avoid saying well I guess the IG's office should be an elected position because then that becomes deeply political and I don't think that is the point of this kind of office so I understand the messiness of having the IG be under the City Manager but I just feel like for me there is still a big concern around how we navigate that Brad so good luck to you. I think there is still room to grow this conversation around the oversight of the IG just so that we are cognizant of the makeup of the hierarchy of the city as it is. So that is one of a little of concern for me. I did go back and in preparation for today I did go back and read the McHard Report and I think the enormity of what triggered us to be talking about Oversight and the IG obviously is, I think is important for us to remember what is at the core of why we are doing this and I promise this has a point because I just keep thinking about how do we ensure that in this revision we keep the integrity of effective oversight versus what could spiral into the petty, like the toilet situation. How do we keep, and I am not saying to whoever made that complaint that there is some validity in that I guess I just want to make sure that at the core of this office in this committee is that integrity. Like we are talking about fraud, waste, and abuse and so how do we put that into language? I think because in some ways that is sort of subjective. Do you understand what I am trying to get at?

Brad Douglas said I certainly do. I will be very candid with all of you. This had been a hard ordinance to revise. Something that I have to, and I am not very good at following this advice is, something I try to tell myself specifically with this ordinance is don't let the perfect be the enemy of the good but it is very difficult and I can promise you that these are conversations that we have had internally between myself and Ms. Perea, Mr. Tucker. As it stands now there really is no oversight for the Office of Inspector General and we welcome ideas but the way that the revisions read if there is an allegation against the Office of IG at least now City Manager and City Attorney would be immediately be made aware of it and we would be made aware of it anyway because we get those hotline complaints and we would coordinate with external review counsel and if something very untoward had taken place then the City Manager at his or her discretion could take corrective action but that is a balancing act because we also don't want to live in a world where the City Manager whoever that might be directing the IG investigations or stopping them in some scenario but I do welcome your thoughts and that is something that I do consider.

Councilor Bencomo said that is tricky, I hear you, Brad. I don't envy any of you as you do these revisions but I know that I read somewhere in here that you are definitely looking at best practices from all over the country and so I know that you will find the right answer. Just to clarify, the IG is very much like the City Attorney in terms of who appoints and who fires that person, correct?

Brad Douglas said right now the way the ordinance is written the Inspector General reports to me. It doesn't feel appropriate to me. I would like for the IG to be more independent.

Councilor Bencomo asked but who hires the IG? The City Manager, right?

Agenda Item #6.2.

Brad Douglas said yes, Mayor Pro Tem.

Councilor Bencomo said that feels, super muddy still. So, I know that there has been some push back from even members from the Oversight Committee, so why aren't we meeting, what's going on? I appreciate the thoughtfulness behind this ordinance, again it came out of a moment of crisis and then it was put in place, and it was necessary in all of that, and I think now I think it is important that we are thoughtful about how this is written in the way that we are effectively looking at fraud, waste, and abuse. I also wanted to talk about the role of the IG regarding any complaints toward volunteer board positions. We have a ton of boards that we ask people to be on, is oversight included there?

Brad Douglas said I have not considered whether the actual oversight committee would fall under the purview of the IG.

Charles Tucker said I have had to sit in because I have gotten complaints on different commissions and boards and I have gone down to watch and a lot of it is how people act, how they treat city employees, and so I go in and I observe. What end up happening is if something was found it would end up going to Christine and stand up the Ethics Board and then we would go that route and have somebody to be removed if that was the case. I don't have authority over a civilian. I have authority over a city employee, authority over contractors, somebody that has a financial contract with the city, their subcontractors and even the third tier down subcontractors but a volunteer is another thing. We would do it through an ethics to remove somebody that way.

Councilor Bencomo said okay, that is helpful. I think this is important because oh my gosh I obviously appreciate every single person who volunteers their time to sit on any board, Oversight, Parks and Rec, the Utilities, any board, right people are volunteering their time. Also, the fact that you don't have any oversight doesn't also give anybody the right to treat city staff to abuse or treat poorly of any city staff. It is important.

Charles Tucker said it is in our ordinance that the members of the boards/commissions have to treat people with respect. It can be founded if that does happen. Again, it would go through the Ethics Board for the removal of the person if that is the case.

Councilor Bencomo asked you make that call or who makes that call?

Charles Tucker said I don't make that call. I would observe it and then I would refer it.

Councilor Bencomo asked are you the only one that can refer that?

Charles Tucker said no. Anybody can refer to the Ethics Board.

Councilor Bencomo said that is helpful. Is that written somewhere? Where is that language?

Charles Tucker said it is in our ordinance.

Councilor Bencomo asked back to the complaints of fraud, waste, and abuse versus personnel matters, right? Even the city council does not have anything to do with personnel matters as the City Manager is our only employee. How are you navigating that? Are you then taking it to the City Manager? What is the process there?

Brad Douglas said by law the IG doesn't have authority to investigate matters that are purely personnel based in nature. That would be more appropriately handled by or redirected to our Director of Human Resources.

Councilor Bencomo asked is that language differentiated here?

Brad Douglas said yes. What we were trying to do and maybe we didn't do a good enough job. We will go back and look at it again is to make sure that the only thing the IG looks into are matters concerning fraud, waste, and/or abuse.

Councilor Bencomo said maybe if there is just a way to clarify that a little bit more, I think that would be helpful. I do apologize for making this a little bit messier if anything. I will continue to do some of my own research but gosh I have full faith that you all are looking at best practices and finding the best ways to move this forward. My last question would be around the Oversight Committee and when that would be brought back to life and I know that there is only one member right now and then so there are two vacancies, right? And then I think the Mayor and Council appointed two members of the council already. Just a timeline on that?

Brad Douglas said our goal is to have this first read August 19th and second read September 3rd and hopefully very, very shortly after that.

Charles Tucker said you mentioned HR. Part of the Hotline Committee that reviews the hotline cases that we send out is the HR Director. So, she is on the hotline committee so if anything comes up that is personnel matters, we will either refer down to one of the ACMs for them to look at it or it will go through her as well and she will appoint somebody to investigate it. So, HR is in the whole process where personnel matters should be.

Councilor Bencomo asked on Oversight I think I wanted there to be more clarity as well on the role of Oversight that they play, an advisory role, correct? The Oversight Committee aren't necessarily making any decisions regarding what happens after any complaints are found true.

Brad Douglas said that is correct. The Oversight Committee will act in a purely advisory role and I want to say that we added that language. It might not hurt to emphasize that language throughout this.

Councilor Corran said my sense is not that any of us are objecting to the loosening of the requirements for the Oversight Committee. I don't think I am hearing that from

Agenda Item #6.2.

folks so I would say if the September date is the planned date that people could be applying through the boards and committee website now I would think. It is already open. So, knowing and having heard these revised kind of open things I would suggest that if there were folks that are like now I can apply, that you can actually apply right now through our boards and committee website and so just to clarify I think we can get it up and running pretty quickly if folks want to apply now. I don't think anyone is going to object to the changes. I don't see any objections to those changes so it feels like you can say please apply and consider that you might be the person for the Oversight Committee now.

Mayor Enriquez said anybody interested please apply. Just want to say again thank you Brad and Viola for bringing this forward. This has been anticipated and we do want people. We do want the Oversight Committee. It is all about accountability in government and we do support it, we encourage it, and again thank you all for bringing it forward.

3. ADJOURNMENT
3.1

Councilor Johana Bencomo moved, seconded by Councilor Yvonne Flores, to Adjourn at 2:32 p.m.

RESULT:	Carried
MOVER:	Councilor Johana Bencomo
SECONDER:	Councilor Yvonne Flores
AYES:	Councilor Johana Bencomo, Councilor Yvonne Flores, Councilor Becki Graham, Councilor Becky Corran, Mayor Eric Enriquez, Councilor Cassie McClure, and Councilor William Mattiace

Mayor

City Clerk



25-012

City Council Action and Executive Summary

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

District:	☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☒ N/A		
1st Reading:	Adopted: August 5, 2024		
Drafter:	Greg Gonzalez	Department:	Financial Services
Program:	Purchasing	Line of Business:	Procure-to-Pay
Title:	A RESOLUTION TO AUTHORIZE AN ANNUAL NOT-TO-EXCEED AMOUNT OF \$2,000,000 PER VENDOR FOR TEMPORARY EMPLOYMENT SERVICES, SUBJECT TO APPROVED BUDGET APPROPRIATIONS (PROCUREMENT NO. 23-24-047).		

TYPE OF ACTION: ☒ Administrative ☐ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:
To set an annual spending limit for temporary employment services.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
In March 2024, the City of Las Cruces Purchasing Program issued Request for Proposals No. 23-24-047, soliciting proposals from qualified firms to provide the City with continued temporary employment services. Those services include accounting, administrative, engineering, custodial, information technology and general labor services, as well as special events staff. The Purchasing Program received fifteen (15) responses to the solicitation that were scored and evaluated by the Selection Advisory Committee (SAC) on June 7, 2024. The SAC recommended award to the ten (10) highest-ranked firms: ITSQuest, Inc., Manpower US, Inc, and RS Employment Services, LLC dba RedCap Staffing, of Las Cruces, New Mexico; 22nd Century Technologies, Inc. of McLean, Virginia; Athena Consulting, LLC of Gaithersburg, Maryland; Cogent Infotech Corporation of Pittsburgh, Pennsylvania; Compunnel Software Group, Inc. of Plainsboro, New Jersey; CathyJon Enterprises, Inc. dba HB Staffing of Huntington Beach, California; Sparrow Company, LLC of El Paso, Texas; and Think Beyond, Inc. of Leander, Texas, as outlined in Attachments A through J.

The City has historically used these services to address temporary employment needs due to illnesses, backlogs, vacancies, and/or federally protected leave under the Family and Medical Leave Act. Valuable time is saved in securing temporary employment services to minimize negative impacts on service delivery and enable existing staff to be utilized in other capacities. It is advantageous for the City to have a list of pre-qualified temporary employment firms from which departments can select for their specific staffing requirements. All departments will be able to utilize the services provided by these firms on an as-needed basis.

The City's Human Resources Department is requesting authorization to spend up to \$2,000,000 annually per vendor for temporary employment services on an as-needed basis for a period of four (4) years, subject to approved budget appropriations.

SUPPORT INFORMATION:
[Attachment "A" - 23-24-047 TemporaryEmploymentServices SA 22ndCentury](#)

Agenda Item #7.1.

[Attachment "B" - 23-24-047 TemporaryEmploymentServices SA Athena](#)

[Attachment "C" - 23-24-047 TemporaryEmploymentServices SA Cogent](#)

[Attachment "D" - 23-24-047 TemporaryEmploymentServices SA Compunnel](#)

[Attachment "E" - 23-24-047 TemporaryEmploymentServices SA HBStaffing](#)

[Attachment "F" - 23-24-047 TemporaryEmploymentServices SA ITSQuest](#)

[Attachment "G" - 23-24-047 TemporaryEmploymentServices SA Manpower](#)

[Attachment "H" - 23-24-047 TemporaryEmploymentServices SA RedCap](#)

[Attachment "I" - 23-24-047 TemporaryEmploymentServices SA Sparrow](#)

[Attachment "J" - 23-24-047 TemporaryEmploymentServices SA ThinkBeyond](#)

PLAN(S):

None

COMMITTEE/BOARD REVIEW:

None

DOES THIS AMEND THE BUDGET?:

☐ Yes

☒ No

BUDGET / FISCAL IMPACT:

BUDGETED AMOUNT: Various

AVAILABLE AMOUNT: Various

EXPENDITURE AMOUNT:
Various

Funding Source(s):

Various

Overall Budget Impact:

Individual department purchase order requests will be dependent upon available budgeted amounts and funds approved through the annual budget process.

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes

☒ No

Does this action align with Elevate Las Cruces?

☒ Yes

☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution authorizing an annual not-to-exceed amount of \$2,000,000 per vendor for temporary employment services.
2. Vote "No"; this will deny the Resolution authorizing an annual not-to-exceed amount of \$2,000,000 per vendor for temporary employment services, which could negatively impact continued City operations.
3. Vote to "Amend"; this could modify the Resolution, and Council will need to provide direction to staff.
4. Vote to "Table"; this could delay procurement of temporary employment services, which could negatively impact continued City operations.

RESOLUTION 25-012

A RESOLUTION TO AUTHORIZE AN ANNUAL NOT-TO-EXCEED AMOUNT OF \$2,000,000 PER VENDOR FOR TEMPORARY EMPLOYMENT SERVICES, SUBJECT TO APPROVED BUDGET APPROPRIATIONS (PROCUREMENT NO. 23-24-047).

The City Council is informed that:

WHEREAS, on March 2024, the City of Las Cruces Purchasing Program issued Request for Proposals No. 23-24-047, soliciting proposals from qualified firms to provide the City with continued temporary employment services; and

WHEREAS, the Purchasing Program received fifteen (15) responses to the solicitation that were scored and evaluated by the Selection Advisory Committee (SAC) on June 7, 2024; and

WHEREAS, the SAC recommended award to the ten (10) highest-ranked firms: ITSQuest, Inc., Manpower US, Inc., and RS Employment Services, LLC dba RedCap Staffing, of Las Cruces, New Mexico; 22nd Century Technologies, Inc. of McLean, Virginia; Athena Consulting, LLC of Gaithersburg, Maryland; Cogent Infotech Corporation of Pittsburgh, Pennsylvania; Compunnel Software Group, Inc. of Plainsboro, New Jersey; CathyJon Enterprises, Inc. dba HB Staffing of Huntington Beach, California; Sparrow Company, LLC of El Paso, Texas; and Think Beyond, Inc. of Leander, Texas; and

WHEREAS, the City has historically used these services to address temporary employment needs due to illnesses, backlogs, vacancies, and/or federally protected leave under the Family and Medical Leave Act; and

WHEREAS, valuable time is saved in securing temporary employment services to minimize negative impacts on service delivery and enable existing staff to be utilized in other capacities; and

WHEREAS, it is advantageous for the City to have a list of pre-qualified temporary employment firms from which departments can select for their specific staffing requirements, and all departments will be able to utilize the services provided by these firms on an as-needed basis; and

WHEREAS, the City's Human Resources Department is requesting authorization to spend up to \$2,000,000 annually per vendor for temporary employment services on an as-needed basis for a period of four (4) years, subject to approved budget appropriations.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT the Resolution authorizing an annual not-to-exceed amount of \$2,000,000 per vendor for temporary employment services on an as-needed basis for a period of four (4) years, subject to approved budget appropriations, is hereby approved.

(II)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

Agenda Item #7.1.

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS



CITY OF LAS CRUCES

SERVICE AGREEMENT

23-24-047
Temporary
Employment
Services

THIS AGREEMENT made and entered into on this ____ day of June, 2024 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and 22nd Century Technologies, Inc., of 8251 Greensboro Drive, Suite 900, McLean, VA, 22102, hereinafter called "CONTRACTOR".

1. PROJECT DESCRIPTION

Temporary employment services to be provided on an as needed basis. Various purchase orders will be issued according to the needs of CITY departments and Joint Power Agreement (JPA) agencies.

2. SCOPE OF SERVICES

In a satisfactory and proper manner, the CONTRACTOR shall perform SERVICES as proposed in response to the CITY'S RFP No. 23-24-047 as set forth in Exhibit A, attached hereto and made a part of this Agreement.

3. APPROPRIATIONS

The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

4. COMPENSATION

The CITY shall compensate CONTRACTOR for the performance of SERVICES under this Agreement an amount as proposed in response to the CITY's RFP No. 23-24-047, plus applicable taxes as set forth in Exhibit B, attached hereto and made part of this Agreement. CONTRACTOR shall perform the SERVICES upon receipt of a purchase order or written Notice to Proceed from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed. CONTRACTOR shall submit invoices weekly or biweekly. CITY shall pay invoices Net 30 days upon receipt of undisputed invoice.

CONTRACTOR is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. CONTRACTOR agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

5. DEVOTION OF ADEQUATE TIME

CONTRACTOR will devote the necessary hours each week to the performance of project that are required by the CITY, and it will serve the CITY, diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE

This Agreement shall become effective on July 1, 2024 for a term of four (4) years through June 30, 2028. CONTRACTOR shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and CONTRACTOR.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall CONTRACTOR be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request CONTRACTOR to perform other extra services not incorporated within the Services set forth in this Agreement. If the CONTRACTOR is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the CITY, CONTRACTOR shall so notify the CITY, of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the CONTRACTOR within five (5) business work days from the date of receipt of CONTRACTOR'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE CONTRACTOR

In the event a condition is identified by the CONTRACTOR which, in the opinion of the CONTRACTOR, changes the services, costs, and/or time required for performance under this Agreement, the CONTRACTOR shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business work days from the date of receipt of CONTRACTOR'S notification.

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of CONTRACTOR, and without the fault or negligence of CONTRACTOR, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. CONTRACTOR shall provide the CITY, with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by CONTRACTOR to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in

accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY, for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to CONTRACTOR.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY, deliver to the CITY, the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

CONTRACTOR will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S, right to recover excessive or illegal payments. CONTRACTOR will retain records for five (5) years after the completion of the project.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY, will be kept confidential and CONTRACTOR will not disclose to any other party, directly or indirectly, without the CITY'S, prior written consent unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the CONTRACTOR shall be the sole property of the CITY, and shall be delivered to the CITY, when requested and at the end of the Agreement.

14. INDEPENDENT CONTRACTOR

CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY, CONTRACTOR, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY, by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR's employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to perform services for other parties; and (ii) CONTRACTOR may perform for its own account other professional services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as otherwise specifically set forth herein, neither CONTRACTOR nor CITY, shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT

CONTRACTOR shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

CONTRACTOR shall obtain and maintain at least the following insurance at its own cost and expense during the life of this Agreement, and shall require Subcontractors, if any, to maintain the same insurance during the life of the subcontracted work:

1. Professional Liability
 - a. \$1,000,000 per occurrence.

2. Commercial General Liability Insurance
 - a. \$1,000,000 per occurrence / \$2,000,000 aggregate
 - b. Coverage must include premises and operations, products and completed operations, and personal and advertising injury.
 - c. The City of Las Cruces must be named as an Additional Insured for all coverages listed above on endorsements acceptable to the City.
 - d. Coverage must be primary and non-contributory.
 - e. Coverage must be per project or per location.
 - f. Coverage must be on an occurrence form.
 - g. Subrogation must be waived.
3. Commercial Auto Liability
 - a. \$1,000,000 per occurrence
 - b. Coverage must be for "owned, leased, hired, and non-owned autos" or "any autos."
4. Workers' Compensation and Employers Liability
 - a. Statutory Limits
 - b. Employer liability – \$1,000,000 each accident, \$1,000,000 each employee by disease, \$1,000,000 policy limit
 - c. Subrogation must be waived.

Endorsements for additional insured coverage and waivers of subrogation must be provided as a condition of this Agreement and shall be noted on the certificate.

CONTRACTOR shall furnish the CITY with a certificate(s) of insurance showing CONTRACTOR and Subcontractors, if any, have complied with this Article. The CONTRACTOR shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

CONTRACTOR shall indemnify, defend, and hold harmless the CITY, from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused in whole or in part by, resulting in whole or in part from, or arising in whole or in part out of the negligent acts, errors, or omissions of CONTRACTOR, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

CONTRACTOR shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the CONTRACTOR'S services or any work done pursuant to this Agreement, including anti-discrimination.

20. BREACH

In the event CONTRACTOR breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY, shall give CONTRACTOR written notice of such breach. In the event CONTRACTOR fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy CONTRACTOR'S breach and recover any and all costs and expenses in so doing from CONTRACTOR.

21. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and CONTRACTOR under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

22. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY: City of Las Cruces
 PO Box 20000
 Las Cruces, NM 88004
 ATTENTION: Greg Gonzalez, Buyer I

With Copies to: Purchasing Manager

TO CONTRACTOR: 22nd Century Technologies, Inc.
 8251 Greensboro Drive, Suite 900
 McLean, VA 22102
 ATTENTION: Isha Sharma, Contracts Manager

23. SCOPE OF AGREEMENT

This Agreement incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof and that all such covenants, agreements, and understandings have been merged into this written agreement. No prior agreement or understanding verbal or otherwise of the parties or their agents shall be valid or enforceable unless embodied in this agreement.

24. SEVERABILITY

The parties agree that each provision of this Agreement is severable and the invalidity or unenforceability of any one or more of the provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

25. CONFLICT OF INTEREST

CONTRACTOR represents and warrants that CONTRACTOR has no business, professional, personal, or other interest, including, but not limited to, the representation of other clients, that would conflict in any manner or degree with the performance of its obligations under this Agreement. If any such actual or potential conflict of interest arises under this Agreement, CONTRACTOR shall immediately inform the CITY in writing of such conflict. If, in the reasonable judgement of the CITY, such conflict poses a conflict to and with the performance of CONTRACTOR'S obligations under this Agreement, or is otherwise a violation of the CITY'S current policy or ordinances, then the CITY may terminate the Agreement immediately upon written notice to CONTRACTOR; such termination of the Agreement shall be effective upon the receipt of such notice by CONTRACTOR.

22ND CENTURY TECHNOLOGIES,
INC.

CITY OF LAS CRUCES

BY: _____
Isha Sharma
Contracts Manager

BY: _____
Alicia Hernandez
Purchasing Manager

Date

Date

APPROVED AS TO FORM

City Attorney

EXHIBIT A

SERVICES

A. General Conditions

Temporary services are requested as needed throughout the contract period. Temporary employees will be subject to all applicable City work rules and their amendments. The contract will not guarantee that any specific amount of services will be obtained. Orders will only be placed when the City identifies a need and issues a purchase order or written Notice to Proceed. It shall be the Contractor's responsibility to meet the City's requirements. The contract(s) are non-exclusive, and the City reserves the right to obtain services on the open market to serve the best interest of the City.

B. Specific Conditions

1. The Contractor(s) shall:

- a. Designate a coordinator as a local single point of contact (SPOC), as well as a backup, that will be accessible during normal work hours to receive temporary employment requests, handle and assist in any and all inquiries regarding scheduling, billing, status of orders, availability, contract pricing, contract compliance requirements, and problem solving. Normal work hours for the City are from 8:00am until 5:00pm Monday through Friday, with the exception of designated holidays.
- b. Refer personnel that have successfully undergone applicable background check and drug testing upon request of the city and provide verification that these pre-employment screenings have been successfully completed. Personnel shall be immediately productive, requiring minimal training and orientation.
- c. Be responsible for obtaining and informing and orienting its personnel on all relevant rules, regulations, policies, etc. of the City. Written acknowledgement of receipt of this information by the employee shall be provided to the City.
- d. Be given four (4) business hours and one (1) business day to confirm availability of a temporary employee to fill a request. However, if Contractor is unable to fill the job request, the City may fill the requirement from other qualified sources. City personnel will endeavor to give as much notice as is practical and possible.
- e. Ensure all temporary employees referred to the City have been screened for minimum qualifications required for the position.
- f. Be notified by the City in the event any temporary employee fails to adhere to the City's directions, policies, procedures, security / safety regulations, or demonstrates that they are not qualified to perform the required duties, and the Contractor shall replace the temporary employee within two (2) working days at

no cost to the City (including, but not limited to, training time; background checks; ID badges; drug testing; etc.). This also applies to any temporary employee that leaves for any reason before the assignment is completed. When a temporary employee leaves, at any time, the Contractor shall be responsible for any unreturned keys, ID badges, etc. If such items are not returned to the City within five (5) working days, the City shall send an invoice to the Contractor for the exact replacement cost. The Contractor shall pay this invoice within twenty (20) days.

- g. Agree to compensate employees in accordance with the requirements of the Fair Labor Standards Act (FLSA) as amended, New Mexico State Law and the New Mexico Workers' Compensation Act as amended, and the City's minimum wage ordinance. Additionally, the Contractor must ensure that each temporary employee acknowledges, in writing, their exempt or non-exempt FLSA status, whichever is applicable.
- h. Include provisions for the City to hire the temporary employee without payment of a finder's fee or any other fee, after the temporary employee has completed no less than ninety (90) days of temporary service to the City.
- i. Submit a legible, detailed invoice to the requesting City department and the Disbursements (Accounts Payable) office on a weekly or bi-weekly basis before payment(s) can be made. The City will pay invoices within twenty (20) days. Tax for services must be included in the invoice. At a minimum, the invoice must provide the following information:
 - i. Company name, address and contact information
 - ii. City bill-to name and contact information
 - iii. Name and title of hire, hours worked and hourly rate
 - iv. Dates of service
 - v. Extended price
 - vi. Total amount

Preferably, invoices should be sent via e-mail to disbursements@lascruces.gov.

Invoices can also be mailed to:

City of Las Cruces
Attention: Accounts Payable
PO Box 20000
Las Cruces, NM 88004

- j. Furnish, upon request by the City, a monthly usage delineating the acquisition activity governed by the contract. The format of the report shall be approved by the City and shall disclose the quantity and dollar value of each contract item by individual department.
2. The Contractor shall provide contracted employees who shall:
- a. Based on position and services to be provided to the City, be subject to various criminal checks, fingerprinting, background checks, and applicable drug testing

upon whose results the City may choose to base its decision to accept an individual for assignment. This option would allow the temporary employee access to areas within the City such as court buildings, and any restricted areas.

- b. Conform in all respects to fire and safety / security regulations while on the City's premises.
 - c. Receive training on preventing discrimination and harassment and have received and acknowledged receipt of the City's Discrimination Policy as provided by the City.
 - d. Be able to read, write, speak, and comprehend the English language in accordance with the minimum requirements of the position description, unless otherwise requested.
 - e. Be dressed appropriately and with the equipment specified by the City as being required to perform work in the service categories covered under this contract. The City requires most field personnel to have safety shoes, at the expense of the temporary employee. The safety shoes must meet American National Standards Institute (ANSI) and Occupational Safety and Health Administration (OSHA) standards.
 - f. Be respectful of all people with whom they interact, including City employees and customers of the City. The City reserves the right to reject any candidate that does not exhibit common courtesy and cordiality towards all individuals with which they may come in contact.
 - g. Limit personal mobile phone calls to emergency calls while on duty.
 - h. Report to an assignment at the time designated by the City. The work week shall be Monday through Friday. Normal business hours are 8:00am to 5:00pm, and occasionally weekends, excluding City holidays. There may be requirements or alternate schedules which require evening, weekend, holiday and overtime work. Weekend work shall be defined as Saturday and Sunday during the same week. Weekend or holiday work will not be considered overtime unless in excess of forty (40) hours worked.
 - i. Be entitled to lunch periods ranging from 30-60 minutes as determined by the City. No payments shall be made for lunch periods.
 - j. In some instances, require additional types of certifications such as First Aid and CPR certification. Temporary employees shall have these certifications prior to applying for such positions. Temporary employees shall maintain and recertify these certifications at their own expense.
3. The Contractor shall accept that the City shall:
- a. Have the right to interview and / or screen all prospective personnel, and to accept or reject any or all based upon the required skills and the background and experience of each individual. A resumé may be required upon request prior to an interview.
 - b. Supervise Contractor's employees. The City shall have direct control over the daily activities of the Contractor's employees.
 - c. Reserve the right to add and / or delete services provided under this contract. If a requirement is deleted, payment to the Contractor will be reduced proportionately to the amount of service reduced in accordance with the proposal price. If

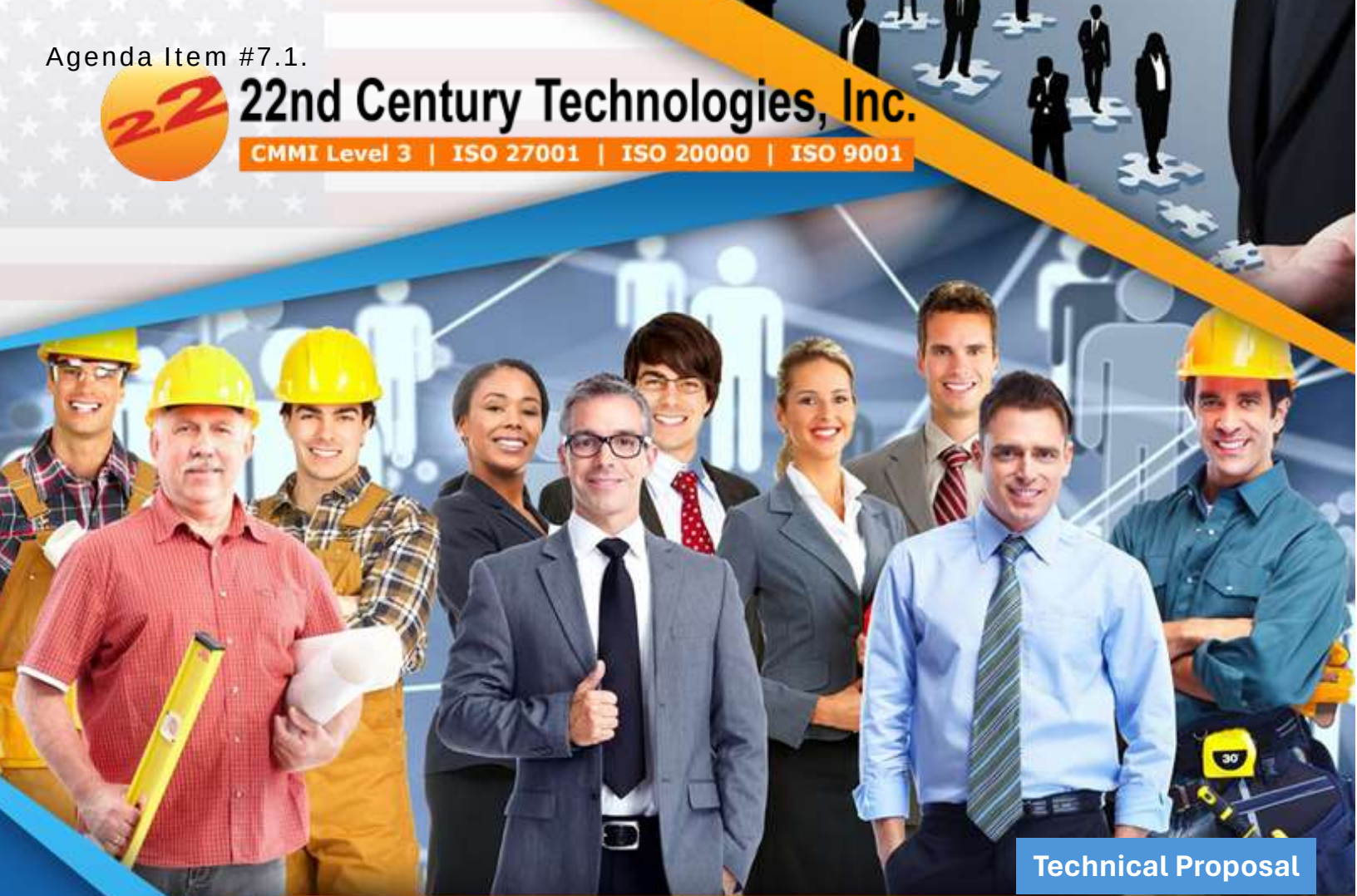
additional services are required from this contract, prices for such additions will be negotiated by the Contractor and the City.

4. The Contractor shall accept a contract provision that any request for fee adjustments must be submitted sixty (60) days prior to the current contract annual anniversary date. Requests for adjustment in cost of labor must be supported by appropriate documentation. If the City agrees to the adjusted fee, the City shall issue written approval of the change in the form of a contract amendment to be executed by both parties. The reasonableness of the request will be determined by comparing the request with the Consumer Price Index or by performing a market survey.



22nd Century Technologies, Inc.

CMMI Level 3 | ISO 27001 | ISO 20000 | ISO 9001



Technical Proposal

The City of Las Cruces, New Mexico

Request for Proposals RFP 23-24-047

Temporary Employment Services



Due Date/Time:

April 23, 2024 / 4:00 p.m. MST

Submitted By:

Ashely Christina De Sa, Administrator

22nd Century Technologies, Inc.

Local Office: 206 S Coronado AVE, Espanola, NM 87532

H.Q: 8251 Greensboro Drive, Suite 900, McLean, VA 22102

T: (866) 537-9191 Ext2 | **F:** 732-537-0888 | **Email:** sledproposals@tscti.com



RFP Compliance Declaration



CITY OF LAS CRUCES

RFP COMPLIANCE DECLARATION

RFP TITLE: Temporary Employment Services

RFP NO.: 23-24-047

DUE DATE/TIME: April 23, 2024 / 4:00 p.m.

In compliance with the requirements of this RFP, I, the undersigned, offer and agree to furnish any or all materials and/or services to the City of Las Cruces within the time agreed.

I further certify that this company has not been debarred, suspended, or otherwise made ineligible for participation in Federal Assistance programs under Executive Order 12549 Debarment and Suspension as described in the Federal Rules and Regulations.

Receipt of Addenda Nos.: 01, 02 is hereby acknowledged (where none received, place a zero in this space)

Company Name and Address:

22nd Century Technologies, Inc.

206 S Coronado AVE,

Espanola, NM 87532


Authorized Signature
Ashley Christina De Sa
Typed or Printed Name
Administrator
Title
sledbids@tscti.com
Email Address

Telephone number (866)-537-9191 x 2 Fax number 732-537-0888

NM Tax & Revenue Dept. CRS # 03-277388-00-9

Current NM Secretary of State Business ID # 4631374 (corporations only)

Current CLC Business Registration # N/A (respondents located in Las Cruces only)

Federal I.D. number 22-3502121 (mandatory for all respondents)

NM Resident Certificate from NM Tax and Revenue Department enclosed ☐ Yes ☒ N/A No

**THIS FORM MUST BE COMPLETED AND INCLUDED WITH PROPOSAL
FAILURE TO INCLUDE WILL SUBJECT RESPONSE TO REJECTION**

Revised: February 2024

Page 1 of 10





Cover Letter

The City of Las Cruces, NM
Temporary Employment Services

Date: Apr 23, 2024

22nd Century Technologies, Inc. ("TSCTI") is pleased to submit this proposal to City of Las Cruces (City) for RFP # 23-24-047, to provide temporary employment services for administrative support, professional, and general labor personnel on an as needed basis as determined by the city. Incorporated in 1997 as an S-Corporation, certified as ISO 9001:2015, with over 27 years of experience providing similar Temporary Employment Services, TSCTI is known for their flexibility and innovative solutions to deliver the required Services within a minimum timeframe to various City-wide contracts and even as a single vendor. *TSCTI certified by National Minority Supplier Development Council as a Minority Business Enterprise, has 350+ Temporary Employment contracts.*

TSCTI has 27 years of expertise in recruiting, payroll, and invoicing, with computer-based testing services, and a compliance focused firm with SLED contracts. TSCTI has mastered successful recruiting tactics custom made to the requirements of our government clients and for creating a sufficient pool of qualified temporary agency workers available for possible assignment. With *Incumbent Transition Model* and designated Customer Support, TSCTI has over 350+ government clients utilizing similar services stated in this RFP. TSCTI has been providing similar services to its clients generally from the client's location as required. Since inception, TSCTI has been recognized for its delivery excellence, customer focus, business growth and its commitment and dedication to its employees. With D&B open rating score of 93, we have been successfully serving customers with high level of customer satisfaction.

Our proactive approach includes a continuous recruitment program specifically designed to address high turnover positions, ensuring a readily available and qualified talent pool. We understand the importance of seamless workforce augmentation, therefore, with a team of experienced and local support staff, we provide comprehensive assistance to our temporary services staff (contract staff). Our offerings encompass a range of workforce solutions, including on an as-needed basis contract staff, payroll services, and temp-to-hire arrangements. Consequently, to ensure seamless support, TSCTI has local single point of contact, along with a local staff as back-up for the primary staff and a dedicated team with experience with diverse SLED (State, Local and Education) projects. Our proven track record is underscored by the successful delivery of over \$500 million in staffing services, translating to more than 2,000,000 hours of temporary staffing over the past five years – a testament to our commitment to excellence in alignment with the services outlined in section III. SCOPE.

With a robust infrastructure, we have a vast reach-back of skilled resources, supporting over 50 similar large single award contracts, where we serve as the Principal/Prime Contractor for similar administrative support, professional, and general labor personnel. Through extensive experience with large contracts, TSCTI has cultivated a rich history of association with 85 City clients similar to The City of Las Cruces, NM. Our primary representative's detail is mentioned below for all RFP response-related communications, including any requests for clarification or other communication needed between the City and she is authorized to negotiate on its behalf with the City in connection with this RFP. We look forward to a mutually rewarding partnership.

Sincerely

Ashley Christina De Sa, Administrator,
22nd Century Technologies, Inc.

Add.: 206 S Coronado AVE, Espanola, NM 87532

Tel No: (866)-537-9191 x 2 | Fax No.: 732-537-0888 | Email: sledproposals@tscti.com





Company Background

Established in 1997 as an S-Corporation, TSCTI has proudly served the staffing industry for 27 years. Certified by the National Minority Supplier Development Council as a Minority Business Enterprise, we have forged over 350 Temporary Employment contracts, encompassing a diverse portfolio of clients including 71 Federal, 59 State, 115 Local agencies, 87 *City-wide contracts*, and 73 County entities. TSCTI specializes in delivering comprehensive 360-degree Temporary Employment Services tailored specifically for government clients, with current contract awards totaling \$1.1 billion. Our extensive expertise spans three decades, during which we have honed our skills in recruiting, payroll management, and invoicing. Additionally, we offer computer-based testing services and maintain a strong focus on compliance, particularly within SLED contracts. At TSCTI, we have developed highly effective recruiting tactics tailored to the unique requirements of government clients, ensuring a robust pool of qualified temporary workers ready for deployment.



Utilizing our Incumbent Transition Model and dedicated Customer Support, TSCTI boasts a vast network of over 350 government clients who rely on similar services outlined in this RFP. *Our comprehensive suite of Temporary Employment Services includes Contingent Staffing, Direct Hire, SOW, Payroll Services, Recruitment Outsourcing, MSP Partnerships, and Vendor on Premise/Master Supplier arrangements.* These offerings represent the core of our workforce solutions tailored specifically for government agencies. With our wealth of experience, TSCTI has optimized our temporary services to deliver low operational costs, exceptional customer satisfaction, and a competitive edge to our clients' business processes and operations. Our track record of success and commitment to excellence make us the trusted partner for government agencies seeking reliable temporary workforce solutions.

City-wide contracts	
City of Richmond, FL	City of Weston, FL
City of Dania Beach, FL	City of Jacksonville, FL
The City of Ocala, FL	City of Sunrise, FL
City of Clearwater, FL	City of Coral Gables, FL
City of Alexandria, VA	City of Portsmouth, VA
City of Chesapeake, VA	City of Lynchburg, VA
City of Newport News, VA	City of Norfolk, VA
City of New Braunfels, TX	City of Dallas, TX
City of Houston, TX	City of Tucson, TX
The City of Mesa's, AZ	City of Phoenix, AZ
City of Las Vegas, CA	City of Sunnyvale, CA
The City of Sunnyvale, CA	City of Anaheim, CA
City of Pasadena, CA	City of Cincinnati, OH
City of Minneapolis, MN	City of Durham, NC
City of Dearborn, MI	City of Milwaukee, WI
City of Salem, OR	City of Redmond, WA

Financial Capability: TSCTI is a financially stable and growing company. *In 2023, we were financially valued at \$480M with a credit line of \$11 million and hold deposits of over \$56million at Bank and have the required financial capacity to provide the services. We don't have any short-term or long-term debts.* TSCTI does not have any pending merger or financial liabilities that may affect this current contract. TSCTI possesses the necessary financial capacity, working capital, and other resources to carry out the capital, operating, planning and future maintenance activities listed in the solicitation, without assistance from an external source.

Technical Capability Highlights



TSCTI is experienced in recruiting, payroll and invoicing, computer-based testing services	TSCTI's Contract Management Tools & Software ○ TSCTI has 27 years of sourcing, recruiting, screening, payroll, and invoicing. ○ TSCTI has fully Automated recruiting software (JobDiva) linked with online job boards through Payroll and Invoicing is set-up and maintained through Automated and DCAA approved software. ○ TSCTI has computer-based testing software to screen the qualified candidates, IBM Kenexa Prove It, SkillCheck, Brainbench and our internal skill testing tool to evaluate the proficiency of the applicants. ○ TSCTI has an online system i.e. "eOrder" a key component created to help our clients streamline the hiring process. ○ TSCTI's SharePoint-based CMMI-certified program management tool stores and manages project documents, and enables all project personnel to report process, status, and risk. ○ TSCTI uses E-onboarding through Job Diva to reduce paperwork and expedite response times. ○ EVM system as a critical cost forecasting, monitoring, and evaluating tool/Software. ○ TSCTI is engaged in many similar projects through ERP Kick timekeeping and billing software.
TSCTI has experience with compliance related to Scope of Work, and administrative, technical, and financial requirements as set forth in this solicitation	TSCTI has no exception and has the capability and ability to provide the services requested services, and agree to comply with Standard Terms and Conditions, Minimum Qualifications. And Scope of Work, and administrative, technical, and financial requirements as set forth in this solicitation by City.
TSCTI has successful recruiting tactics that have or will result in a sufficient pool of qualified temporary agency workers available for possible assignment to City.	○ ISO compliant recruitment process to source screen candidates ○ TSCTI uses ten-step Recruitment Methodology also referred to as our Recruitment Process and broken into ten specific procedures. ○ TSCTI's long established, proven staffing experience refined over 27 years of staffing experience. ○ 5.1M Resume Pool of pre-vetted candidates and Applicant Tracking Software to source more profiles if needed.
TSCTI has experienced in computer-based skills testing and demonstrate to test their potential employees being offered to City	○ TSCTI uses computer-based skills assessment testing tools and several tools that help us to choose the right candidate. ○ TSCTI utilizes IBM Kenexa Prove It, SkillCheck, Brainbench and our internal skill testing tool to evaluate the proficiency of the applicants.
Centralized payroll services for more than 27 years	○ Fast turnaround ○ Assistance throughout the entire life cycle of the employee, right from the day of recruitment to exit ○ Streamlining of all payroll processes ○ Flexible payroll schedule, we can provide <i>weekly, bi-weekly, monthly payroll</i> schedules as per the City's requirement.





A. Technical Proposal Content

The respondent's Technical Proposal shall include the following items and, in the sequence, presented:

1. To address Evaluation Criteria No. 1 below, provide description of the proposed technical approach of all professional, technical, and customary services provided. Methods and results of candidate qualification, including pre-employment testing, screening, and / or assessments should be included.

Understanding: The City of Las Cruces, is soliciting proposals from qualified vendors/ Temporary Agency for administrative support, professional, and general labor personnel. The city is looking to form agreements with several staffing agencies that offer temporary employment services. The City aims to secure contracts for administrative support, professional, and general labor personnel. The chosen Contractors are required to supply skilled temporary workers with proficiency in carrying out the typical duties associated with the specified job classifications. As per our understanding, in this contract, temporary services will be requested as necessary throughout the contract period. Temporary employees are required to comply with all applicable City work regulations and any updates to those regulations. Under this contract, City does not guarantee a specific quantity of services to be obtained and requested services will only be initiated by the City when there is a recognized need and a purchase order or written Notice to Proceed is issued. The Contractor is responsible for meeting the needs of the City and this contract is non-exclusive, meaning the City reserves the right to obtain services from other sources in order to best serve the City's interests.

Technical Approach: TSCTI assigns a Client Engagement and Delivery Office (CEDO) for the City's contract to provide regular and after-business-hours support. CEDO will empower TSCTI to respond quickly to all the City's requirements and queries, with turnaround time as little as 12 hours for all the job requirements. CEDO is focused on adding values and delivering the temporary staff "whenever the Client needs" through a deep understanding of the experience, skills and other details for successful deployment and project completion. CEDO ensures a perfect match with continuity at a place using an innovative, best in class 24x7x365 recruiting and deployment engine, complemented by internal teamwork to validate candidate and background, deployment, candidate replacement, change management, and timesheet management & administration. Here is a snapshot of what the City can expect from CEDO under this contract.

- 24x7 round the clock availability of Accounts teams with a toll-free number and centralized email address,
- End to end resource management including compliance, onboarding, training and development, off-boarding, and candidate replacement,
- A dedicated Client-Care team and Quality Assurance team to ensure the right delivery of services,
- Local City of Las Cruces based database of temporary staff and access to the passive consultants available only to TSCTI,
- Availability of the consultants for in-person interviews or according to the City's needs,
- A robust Applicant Tracking System (JobDiva), that covers the entire sub-vendor management process and customized invoicing and payroll services,
- Strong compliance group to eliminate the risk of co-employment claims by consultants,
- Time and administrative cost saving. All timesheets management, consultant query handling, and other administrative processes are handled by TSCTI, at no additional cost,
- Comprehensive analytics and ad-hoc reports to objectively measure quality, responsiveness, and success of each deployment,
- End to end resource management including compliance, onboarding, training and development, and off-boarding.

Contract Initiation: CEDO will begin the contract with a kick-off session with the City to introduce team members and set the stage for our partnership. During this meeting, we will discuss the City objectives for the program to determine the services required to best meet the objectives. Also, we determine the nature and scope of the work, lines of authority, and issue escalation procedures. As our management approach is proactive, we conduct needs assessments to assess the business environment to ensure that all necessary controls are incorporated into the scope. TSCTI analyses the business needs/ requirements in measurable goals; reviews the current operations; and analyses the costs and benefits, which includes creating a detail overall budget.

TSCTI's Recruitment Process: For identifying, screening, and referring applicants for consideration, we will utilize our proven approaches. Recruitment is TSCTI's core competency executed according to best practices developed through industry analysis and optimization. Once we get a mandate to work on, our qualified and experienced Account Director starts a study of the City and the scope of work. During the evaluation phase, all applicants are required to go through a detailed screening, testing, and interview process before assigning them to any





project or position. For hiring quality resources, we will utilize our *ISO 9001:2015 compliant ten-step recruiting framework* also referred to as our recruitment productivity process that breaks recruitment down into ten clearly identifiable steps. The factors that make our process unique are the way we execute these steps and TSCTI's long-established, proven staffing experience. Our proprietary recruitment methods make us unique from any other firm. Our recruitment team consists of 300+ recruiters, data miners and research analysts with an average experience of 12+ years supporting various client requirements. Our recruitment team works closely with our Account Director to understand the City's requirements for providing the best match candidates. TSCTI will use our ISO compliant staffing approach, processes, and tools perfected on 300+ government contracts to provide qualified employees as per the City's requirement. Our *10-step process* ensures that we provide the right employees to the City.

TSCTI's Proactive Approach in building the candidates' network:

Step 1 – Understanding the Client: After securing the contract, TSCTI identifies the team and the defined responsibilities for each member of the contract. The first step in this process is that our proposed Account Manager will draft a report that reflects our understanding of the City. This report provides input to the Recruiting Manager about the nature of work at the City's site. It also details the City's future acquisition and plans for their needs and explains the location parameters.

Step 2 – Building Network: Based on the input received from the Account Manager, the recruitment team starts the proactive approach to identify the resources internally and externally to build a database for the City. This work includes making calls to candidates, introducing our new clients, and establishing a relationship with them. Our team also shares our success of this contract and the nature of work involved with our previous employees who worked with us in the past. TSCTI uses job fairs, advertisements, and referrals to build our candidate database. The candidates are added into our database only after the screening process.

TSCTI's Reactive Approach: The work is initiated as soon as we get the task order/sourcing requirement from the City. The task order is immediately entered into our centralized recruiting portal, JobDiva. Our Account Manager understands the requirements of the City based upon the task order received from them. This includes an understanding of the project requirements, SOW, qualification, experience, mandatory and desirable skill set requirement. The Account Manager will draft a requisition about the requirement and submit the requirement in JobDiva along with sending it to the recruitment manager. From there, the recruitment team will source the candidate using one of the following sources. After finding 4-5 consultants per requirement, the screening process is triggered.

Multichannel Sourcing: We will employ a comprehensive, City's specific sourcing strategy. From our past experience serving various SLED agencies in State of NM, our sourcing team has already examined the state of NM local market(s), that allow us to understand its dynamics, including demographics, labor conditions, unemployment rate, and statistical workforce projections. Based upon labor market conditions and the types of skills the City's requires, we identify the highest-yield target groups from which to recruit and determine an appropriate strategy to attract talent from those areas. This includes selecting appropriate sources for talent, isolating the most effective tactics to penetrate these sources, and creating an overall market approach.

TSCTI's Multichannel Sourcing				
Channel: 1	Channel: 2	Channel: 3	Channel: 4	Channel: 5
Proprietary Technology (ATS)	5.1M+ Candidate Resume database	Incumbent Capture	Internal Employee Pool	Job Boards
Channel: 6	Channel: 7	Channel: 8	Channel: 9	Channel: 10
Employee Referrals	Traditional Media & Social Media	3rd Party Vendors & Suppliers	TSCTI's Job Board (www.tscti.com)	Local Recruiting
Our Multichannel Sourcing make us able to source thousands of qualified resumes in a minute				

- **Internal Resume Database:** TSCTI has an internal resume database of more than 5.1M resources, which is growing every day as we work proactively on building databases by understanding our client's requirements. We have more than 600K resources who are local to the State of NM who are either currently working on similar positions mentioned the solicitation or pre-vetted profiles.
- **Local Resume Database:** TSCTI has an internal resume database of more than 3,000+ pre-screen resources across local to *City of Las Cruces*, which is growing every day as we work proactively on building database after understanding our client's requirements.
- **Job Sites:** TSCTI has accounts with popular job websites, such as *LinkedIn, indeed, CareerBuilder, Monster, Dice, etc.* This provides access to a wide pool of resources across the nation.
- **Advertisement:** TSCTI posts all the requirements on our website and with other government employment agencies.
- **Internal Referrals:** In parallel, we share the requirements with our employees by posting them on our internal web site for internal referrals.





- **Local Employment Posting Papers and Websites:** We understand that many candidates review free employment-related websites (e.g. Craigslist) and papers that can be found in local establishments and many support organization's missions and we post on these sources.
- **Local Job Fairs:** In addition to selected advertising in local media, TSCTI's recruitment/management team sponsors and participates in the regular *job fair, hosts recruiting open houses, saturates local markets* with recruiting and *referral fliers*, and works closely with State and local job-assistance agencies to ensure every possible sourcing option is pursued. Additional examples include multi-lingual job postings and diversity-based referral bonus programs.
- **Teaming with local govt. employment agencies:** TSCTI is a teaming partner with the local govt. employment agencies in the State of NM. On occasions, we rely on our local teaming partners to augment our temporary employee staffing capabilities.
- **Pre-Screening:** With the ISO 9001:2015 compliant quality process, we successfully provide consistent assessment testing on the City's requirement. TSCTI personnel undergoes a stringent skill test in order to ensure quality candidates are placed at City with proper qualification and experience. From our effective recruitment process, we hire the right people from the start. Our recruiters have the experience to screen and seek candidates matching the skill requirement with various government clients which makes them fully capable to handle the City requirements.

Behavioral & Aptitude Tests: *Attitudes and behavior are equally important in determining whether a candidate is a good match for the job and organization. Cognitive ability tests measure intelligence. The most common types, known as "IQ" tests, measure general mental ability. Other tests gauge verbal ability, math skills, spatial perception, or inductive and deductive reasoning. Behavioral Tests and Aptitude Tests will help to know candidate's prior work experience, clients know that they have the necessary skills and experience.* A behavioral test investigates propensities towards certain kinds of behavior and styles of interaction with clients. In behavioral tests we can provide constructive feedback which directly informs the way a candidate behaves in the workplace.

- **Tests by Industry:** For candidates in the industry, prospective candidates will be tested on their industry field expertise in subjects including Administration, Housing, Medical, Art, Educational etc.
- **Identity Test,** we have a powerful tool to test not only their skill levels but also their attitude and aptitude.

TSCTI Interviewing Process: All TSCTI candidates are interviewed by a recruiter trained to uncover the candidates past performance and future goals. The interview comprises an in-depth assessment of each candidate's skills and abilities, proven past performance, attitude, career goals, motivations, and aspirations. TSCTI recruiters understand these detailed elements to provide the Las Cruces with the most qualified candidates from a performance, cultural, and retention perspective. The key objectives of the interview process are to find resources that match the Las Cruces's requirements.

Interviews - TSCTI's priority is to conduct in-person interviews with our team of SMEs. If it isn't possible for a consultant to be present at an in-person interview, we conduct a video interview.

- **Telephone Interview:** After a thorough resume review, our recruiters perform a telephone interview to determine how their current and previous work experiences are relevant to our client's primary needs. Our recruiters ask about employment history, training, and education, expected wages, travel preferences, and if they're willing to submit to a drug screen and background check.
- **In-person/Skype Interview:** The selected candidate has a face-to-face with a staffing professional to go more in depth into their resume. Previous work experience, primary skillsets, salary history, and future goals are all covered in these interviews.

Background and Drug screening: An independent third-party certified agency will perform background checks on the selected candidates. The candidate is notified and is required to sign a consent and authorization form as to the procedures set forth in our Background Check Policy. We notify the Las Cruces in writing regarding the result of the background checking conducted for a candidate. The candidates successfully clearing the background check to proceed to join the Las Cruces's project. TSCTI's partnered agency have the resources to perform a variety of background checks at a local, county, and state level, including 2-panel, 5-panel, and 7-panel drug Test:

Academic Record check	Credentials Check	Database Check
Civil Litigation Check	Criminal Record Check	Driving Record Checks
Employment Eligibility Check	Reference Check	Residence Check
Social Security verification	Social Media Check	Identity Check

The purpose of a Background Investigation is to maintain a safe and productive environment at the City. Therefore, TSCTI agree and will comply with the Background Investigation process and Drug Screen requirements set forth in this RFP. Furthermore, as requested by the City, TSCTI will also complete and misdemeanors and felonies (i.e., assault, burglary, disorderly conduct, domestic violence, drug-related





convictions, Driving Under the Influence (DUI); Driving While Intoxicated (DWI), failure to appear in court, larceny, shoplifting, trespassing, etc.). Such convictions may have resulted in a fine(s), community service, probation, or jail/prison time.

Onboarding: Once a candidate has been interviewed and selected by the City, the candidate begins the onboarding and orientation process. TSCTI can offer the City options for onboarding and orientation, including a standard version as well as programs adapted to your specific industry, location, or business environment. TSCTI's standard orientation for new employees includes an overview of our Employee Handbook, which is received and acknowledged by every temporary employee to indicate their review and understanding of our policies and procedures. Examples of content include information on TSCTI's Commitment to *Safety and Quality, Equal Employment Opportunity, Drug Free Workplace and policies on Harassment, Weapons, and Workplace Violence.*

The City focused Orientation: TSCTI will develop a customized assignment guide to distribute and discuss with each temporary employee assigned to the City. The assignment guide can include items such as directions to your facility, work hours, dress code, safety rules, absence notification procedures, as well as information on your organization such as your values and ethics policies, business objectives, and strategy. The orientation process might also include:

- ERPKICK Timekeeping practices,
- Drug testing and background checks,
- Safety expectations and testing,
- Attendance rules,
- The City policy acknowledgement,
- Equipment management, from badges to distribution of personal protective equipment.

In addition, TSCTI will ensure that the temporary staff has read and understood the orientation material provided by the City, if any. Upon completion of the orientation, all our consultants will be "ready" (according to the City's standards) to start their assignments.

Invoicing & Billing: At TSCTI, our goal is to provide our clients with the highest level of billing accuracy and timeliness. Our billing department works in conjunction with our front and back-office teams to ensure billing processes and procedures are clearly communicated and supported. As a standard, TSCTI submits separate and distinct invoices per temporary employee. However, TSCTI is open to the City requirements and agrees to provide the electronic invoices.

Billing/Invoicing quality assurance procedures: TSCTI aims for 100% accuracy in all our invoice transactions. Our process for achieving this metric includes:

- Dedicated TSCTI Billing Specialist to manage all the City's billing processes,
- Extensive quality control performed before released (i.e., adherence to unique requirements, etc.),
- Time and hours match performed to ensure invoicing accuracy and review of overtime authorization,
- Daily audit of invoices to check for rejects and re-issuance of a corrected version, if necessary (within 15 days for TSCTI errors),
- Review to ensure all applicable discounts are applied at the appropriate times.

Our accounting system is DCAA approved, and we use standardized processes built on latest technology, our invoice issue rate is less than 0.01%. We understand that there may be overpayment or underpayments due to incorrect invoice or any other reason, such as The Las Cruces is not in agreement with the invoice submitted by TSCTI. For realized overpayments, we credit the difference amount to client account within 15 days.

Reporting: TSCTI provides a multitude of reporting mechanisms to report to our internal management teams and client stakeholders to maintain critical core business functions. Any reports needed by our clients for analysis can be directly executable within standard timeframe of 1 -2 business days. TSCTI reporting database serves as a repository for all contract data, available for extended analysis, and updated in real-time. All contract data is available i.e. Active Requisitions Report, Usage Reports, Engaged Candidate Report, Engagement Budgeted





Hours, Engagement End Dates Based on Hours Remaining. Along with engagements by candidate with spend, candidate, engagement, and timesheet history are stored within the tool and is available for reporting.

Also, at TSCTI, we keep reports for tracking and statistical purposes for each consultant we submit to our client through ATS - JobDiva. ATS helps us to keep track each consultant's status on the project. The reports are tracked till the candidate completes his/her tenure. After placement, any candidate is removed from an assignment, TSCTI's recruitment manager alerts the management and the recruitment team to either blacklist the applicant or to remove the resume from the database and from the ATS - JobDiva, to ensure the same candidate is not submitted as a potential candidate for another department within the Borough. Types of reports generated from JobDiva:

User reports	Termination (end of project) Report	HR Reports
Productivity Reports	Technical reports	Hires Report
Job Activity reports	Employee Report	Applicant Report
EEO Report	On-Boarding Documents Report	Employees on Bench

Candidate replacement due to non-performance: In case the TSCTI's contracted staff unable to perform and the City wants an immediate replacement (within 24 hours), TSCTI will replace the contracted staff. The contracted staff is communicated by the Human Resource department. And the Account Management team immediately escalate the same to the senior management for corrective action. Parallel, the request will be forwarded to the recruiting team along with complete skill set, qualification and experience requirement and other preferred areas like domain experience. As part of this process, consultant's documents their daily tasks are submitted to City and/ or TSCTI Account Manager. Throughout the lifecycle of the project, the status of key milestones is regularly and formally documented. Changes to project scope, timing, or direction are frequently communicated to ensure the project schedule is monitored and clearly understood at all levels. Under normal scenarios, TSCTI's employee has to give a notice of a minimum of 10 days before leaving the contract. The newly hired employee works along with the employee during this period for complete knowledge transfer - understand the project, status, and pending tasks/ issues to minimize the project impact.

2. To address Evaluation Criteria No. 2 below, provide the names of key personnel who will be assigned to provide the services described herein. For each person listed, a description of experience, areas of competence and percent of time assigned to the project shall be provided. (Qualifications/competence of team members to manage services to be provided)

Reply: TSCTI's approach is based on a dedicated Service Delivery model, leverages its best resources to fully support the mission and objectives of the City. TSCTI will provide regular, and after-business-hours support and respond quickly to all your requirements and queries, with low turnaround time for City's TE requirements. We are proposing 2 Key Personnel: 1) Sandeep Singh as Program Manager (PMP certified), 2) Nicola Jones, Account Manager (SPOC), and 3) Leslie Smith, Account Manager (Back-up Staff).

Nicola is local and she also holds an expertise in delivering variety of temporary employment requirements and resolving disputes or service problems. She is working currently in NM with various SLED agencies across the State of NM. Nicola will be a single point of contact for all the matters pertaining to the contract between City and TSCTI. She will lead all the conversations and communications required for this contract. She holds the authority, responsibility, and accountability to manage all TSCTI resources; meet the cost, schedule, and objectives of the contract.

Names of key personnel:

Personnel	Background	Roles and Responsibilities	Time assigned to the project
Account Director Sandeep Singh, PMP certified Professional	Sandeep is a highly skilled and experienced Account Director, having more than 18 years of enriched experience in strategic planning, identification of opportunities, and development of new services. He possesses excellent working experience with a complete Staffing Lifecycle starting from the quality hiring process including coordinating interviews with clients, and selection till the successful accomplishment of a project milestone. He has excellent experience in selling Staffing solutions and services in the manufacturing, retail, and government sectors. He possesses expert-level knowledge and	- Providing leadership and direction to all project staff, ensuring the most efficient use of their skills. - Single point of contact for all management-related communication. - Ensuring SLAs and project timelines are met and taking corrective actions for issues identified. - Acting as Quality Manager and attending performance reviews and status meetings.	Fulltime assigned to the project



	working experience in Vendor Management Systems for tracking candidate submissions.	Ensuring that all deliveries meet quality standards and meet or exceed client expectations.	
Account Manager (SPOC) Nicola Jones	Nicola Jones is a certified professional with 10 years' experience. Extensive experience in managing projects and people while effectively promoting a cohesive team environment. Creative problem solver, adept at conflict management, talent management, immigration, benefits, auditing, training, and workforce planning. Excellent communicator with a proven track record of meeting and exceeding goals and building long-lasting customer relationships. Able to successfully balance employee needs with business objectives to create integrated solutions. Creative problem solver, adept at conflict management, talent management, immigration, benefits, auditing, training, and workforce planning. Excellent communicator with a proven track record of meeting and exceeding goals and building long-lasting customer relationships. Able to successfully balance employee needs with business objectives to create integrated solutions.	- Primary contact (POC) responsible for handling the city and all matters related to the efficient execution of all services and a key contact at TSCTI for the city. - A local (the City of Las Cruces) single point of contact to receive temporary employment requests, handle and assist in any and all inquiries regarding scheduling, billing, status of orders, availability, contract pricing, contract compliance requirements, and problem solving. - Will be available between normal work hours for the City are from 8:00am until 5:00pm Monday through Friday - Taking care of the consultant's requests/issues and resolving all the requests. - Providing training to users and maintaining telephone support and online help information throughout the term of the contract. - Responsible for informing and orienting its personnel on all relevant rules, regulations, policies, etc. of the City.	Fulltime assigned to the project
Account Manager (Back-up) Leslie Smith	Leslie Smith highly skilled and qualified professional with over 10 years of experience in the Account Management, Operations, and Customer Relationship Management, Business Development strategic planning, identification of opportunities, and development of new services. She possesses excellent working experience with complete Recruitment Lifecycle starting from quality hiring process includes coordinating interviews with client, selection till the successful accomplishment of a project milestone. She has excellent experience in selling staffing solutions and services. She holds extensive experience in ensuring the timely and successful delivery of our staffing solutions according to client needs and objectives. Holds proven experience in communicating the progress of weekly, monthly, and quarterly status updates to internal stakeholders.	- Responsible for developing overall recruitment strategies and talent acquisitions for the contract. - Will be available between normal work hours for the City are from 8:00am until 5:00pm Monday through Friday - Taking care of the consultant's requests/issues and resolving all the requests. - Providing training to users and maintaining telephone support and online help information throughout the term of the contract. - Responsible for informing and orienting its personnel on all relevant rules, regulations, policies, etc. of the City. - Provide training to users and maintain telephone support and online help information throughout the term of the contract.	Fulltime assigned to the project





3. To address Evaluation Criteria No. 3 below, provide the following:

Description and name of a minimum of five past contracts similar to the scope herein that have been completed by the firm including the name and telephone number of the contact person for each project. (Performance of the firm with previous clients, based upon quality of the work, control of costs, ability to meet schedules or deadlines; and responsiveness to the client)

Reply:

Client Name	City of Richmond, VA
Contact person	Adriene Davis, Executive Assistant
Telephone Email	Tel.: (804)-646-5950 Email: Adriene.Davis@RVA.gov
Duration	Aug 2019 – Jul 2023
Contract Description	The City of Richmond (City) issued RFP for a qualified contractor (Contractor) to provide the goods or services to the City and including other City departments. The TSCTI is responsible for recruiting, screening, interviewing, selecting, and hiring the best qualified applicant to perform the type of work required ensuring minimum requirements are met. Recruitment interviews shall be conducted in person, or video remote, by the Offeror to ensure employment candidates can effectively communicate orally. Therefore, Criminal History/Sex Offender checks, Certification/Education checks, Drug Screening, Child Protective Services Check, Driving Record. Total spending in last 4 years is approximately \$17.4 Million.
Performance of the firm	TSCTI designated one point of contact (project administrator) to direct TSCTI's efforts in fulfilling the City's as-needed request for temporary services under the subsequent agreement. TSCTI provided a single point of contact along with a backup, responsible to receive temporary employment requests, handle and assist in any inquiries regarding scheduling, billing, status of orders, availability, contract pricing, contract compliance requirements, and problem solving. TSCTI has placed over 33 similar staff that are required by the City of Las Cruces. TSCTI performed verification of the past five (5) years of employment, education verification of education (depending on job requirements), Social security verification, and verification of employment eligibility under the provisions of the Immigration Reform and Control Act (IRCA), Department of Motor Vehicle (DMV) (depending on job requirement), and Criminal check. Agency's personnel shall have no pending criminal proceedings and no criminal convictions for the past seven (7) years.
Ability to meet schedules or deadlines	As per the schedule set by the client, vendors need to provide skilled staff within 72 hours. TSCTI provided qualified screened staffed within 24-48 hours along with availability of a temporary employee to fill a request and meeting deadlines consistently.
Responsiveness to the client	With a dedicated team to handle request, TSCTI was able to respond to requests within first 2 hours and temporary staff was provided within the agreed timeline i.e. within 72 hours.

Client Name	City of Gresham, OR
Contact person	James Dunn, Superintendent





Telephone Email	Tel.: (503)-618-2934 Email: James.Dunn@greshamoregon.gov
Duration	Feb 2019 – Feb 2022
Contract Description	City of Gresham was seeking a qualified contractor (Contractor) to provide the goods or services. To solicit sealed bids to establish a contract with one or more qualified suppliers to provide Temporary Personnel Services, on an as needed basis, to City of Gresham agencies, institutions of higher education, and other public bodies. The City's current Temporary Personnel Services needs are managed under the optional-use statewide contract. TSCTI was responsible for a criminal history background check i.e., a fingerprint-based criminal history background check obtained from the FBI through the Virginia State Police, Child Protective Services (CPS) Checks, Credit Checks, Drug Screening, and DMV Driving Record Checks. Additionally, TSCTI is responsible for all payroll taxes, workers' compensation, payroll reports, applicable insurances, and other employer Federal and State mandatory requirements for employees. TSCTI designated a Dedicated Point of Contact(s) (POC), authorized to fulfil Temporary Personnel request handle, and assist in all inquiries regarding scheduling, billing, status of orders, availability, state-wide contract pricing.
Performance of the firm	TSCTI designated a point of contact, along with a backup to handle inquiries regarding scheduling, billing, status of orders, availability, contract pricing, contract compliance requirements, and disputes or escalation. TSCTI ensured all temporary employees are screened and tested as per the City's minimum qualifications required for the position. All temporary staff referred to the City were thoroughly screened for background check and drug testing and provide verification that these pre-employment screenings have been successfully completed. Furthermore, TSCTI provides reporting for contract for as per the agency's requirements. Overall TSCTI has provided 22 temporary staff under the contract till now and being a state-wide contract multiple agencies are involved. Total spending in last 4 years is \$8 Million approximately.
Ability to meet schedules or deadlines	As per the schedule set by the client, vendors need to provide skilled staff within 72 hours. TSCTI provided qualified screened staffed within 24-48 hours along with availability of a temporary employee to fill a request and meeting deadlines consistently.
Responsiveness to the client	With a dedicated team to handle request, TSCTI was able to respond to requests within first 2 hours and temporary staff was provided within the agreed timeline i.e. within 72 hours.

Client Name	City of Anaheim, CA
Contact person	Kimberly Phong-Ngo, CTA
Telephone Email	Tel.: (714)-765-8905 Email: kphong-ng@anaheim.net
Duration	Apr 2020 – Mar 2024
Contract Description	The City of Anaheim Human Resources Department was seeking proposals from qualified temporary staffing agencies that are





	interested in providing the City with temporary services in various citywide job classifications. The object of this Request for Proposal (RFP) solicitation is to identify the most qualified, responsive, and responsible agencies to provide these services over the course of a proposed two (2) year contract period with an option to extend up to two (2) years with the approval of the Human Resources Director, subject to budget appropriation.
Performance of the firm	TSCTI designated one point of contact and one back-up staff to fulfill the City's as-needed request for temporary services under the subsequent agreement. TSCTI is responsible for the professional quality and technical competence of personnel supplied to the City, including coordination of all efforts and other services furnished by TSCTI under the Agreement. TSCTI thoroughly screen, test, and interview all temporary workers to ensure that they meet the minimum qualifications. TSCTI has placed over 10 similar staff that are required by the City of Las Cruces. TSCTI completed testing requirements, measured, and evaluated to complete hiring, screening matching job specific skills including applicable certifications and licenses for its employees to demonstrate Temporary staff's ability to fulfill the temporary work assignment.
Ability to meet schedules or deadlines	As per the schedule set by the client, vendors need to provide skilled staff within 72 hours. TSCTI provided qualified screened staffed within 24-48 hours along with availability of a temporary employee to fill a request and meeting deadlines consistently.
Responsiveness to the client	With a dedicated team to handle request, TSCTI was able to respond to requests within first 2 hours and temporary staff was provided within the agreed timeline.

Client Name	City of Newport News, VA
Contact person	Kersha E. Aerga, Senior Buyer/Contract Officer
Telephone Email	Phone: (757)-926-8029 Email: aergake@nnva.gov
Duration	Dec 2019 – Dec 2023
Contract Description	The City of Newport News (City) was seeking a qualified contractor (Contractor) to provide the goods or services. The Department of Human Services requires need of immediate staffing of personnel in the profession. TSCTI is responsible of maintenance of all personnel and payroll records for temporary employees, computation of wages and withholdings applicable Federal, State, and local taxes, and Federal Social Security payments, Remittance of temporary employees' withholdings to the proper governmental authorities and employer contribution for Federal FICA, and Federal and State unemployment insurance payments, Pay new wages and fringe benefits, if any, directly to the temporary employees, Provide unemployment insurance, Worker's Compensation benefits, and handle all unemployment and worker's compensation claims of temporary employees, Compliance with all provisions of the Affordable Care Act (ACA) applicable to





	temporary employees including the employer shared responsibility provision relating to the offer of “Minimum essential coverage” to “full-time” employees and the applicable employer information reporting provision. Due to the dedicated support provided to the City, the customer services are prompt and responsive.
Performance of the firm	TSCTI designated one point of contact and one back-up staff to fulfill the City’s as-needed request for temporary services under the subsequent agreement. TSCTI is responsible for the professional quality and technical competence of personnel supplied to the City, including coordination of all efforts and other services furnished by TSCTI under the Agreement. TSCTI thoroughly screen, test, and interview all temporary workers to ensure that they meet the minimum qualifications. TSCTI completed testing requirements, measured, and evaluated to complete hiring, screening matching job specific skills including applicable certifications and licenses for its employees to demonstrate Temporary staff’s ability to fulfill the temporary work assignment. Total spending in last 4 years is \$2.4 Million approximately and TSCTI has placed over 30 similar staff that is required by the City of Las Cruces.
Ability to meet schedules or deadlines	As per the schedule set by the client, vendors need to provide skilled staff within 48 hours. TSCTI provided qualified screened staffed within 24-48 hours along with availability of a temporary employee to fill a request and meeting deadlines consistently.
Responsiveness to the client	With a dedicated team to handle requests, TSCTI was able to respond to requests within first 2 hours and temporary staff was provided within the agreed timeline.

Client Name	Governor's Office of Storm Recovery, NY (GOSR)
Contact person	Kirk Pacheco, Director of Human Resources
Telephone Email	Tel.: (212)-480-7255 Email: kirk.pacheco@hcr.ny.gov
Duration	Oct 2018 – Sep 2023
Contract Description	The GOSR was seeking qualified contractors (Contractor) to provide the goods or services. To solicit sealed bids to establish a contract with one or more qualified suppliers to provide Temporary Personnel Services, on an as needed basis, to GOSR, institutions of higher education, and other public bodies. GOSR current Temporary Personnel Services needs are managed under the optional-use statewide contract. TSCTI was responsible for a criminal history background check i.e., a fingerprint-based criminal history background check obtained from the FBI through the Virginia State Police, Child Protective Services (CPS) Checks, Credit Checks, Drug Screening, and DMV Driving Record Checks. Additionally, TSCTI is responsible for all payroll taxes, workers’ compensation, payroll reports, applicable insurances, and other employer Federal and State mandatory requirements for employees. TSCTI designated a Dedicated Point of Contact(s) (POC), authorized to fulfil Temporary Personnel request handle, and assist





	in all inquiries regarding scheduling, billing, status of orders, availability, state-wide contract pricing. Furthermore, TSCTI is providing reporting for contract for as per the agency's requirements.
Performance of the firm	TSCTI designated one point of contact and one back-up staff to fulfill the City's as-needed request for temporary services under the subsequent agreement. TSCTI has provided temporary staff to the City's directions, policies, procedures, security / safety regulations, or demonstrates that they are not qualified to perform the required duties, and TSCTI replaced the temporary employee within two (2) working days at no cost to the City (including, but not limited to, training time; background checks; ID badges; drug testing; etc.). TSCTI thoroughly screened, tested, and interviewed all temporary workers to ensure that they meet the minimum qualifications. TSCTI is compensated employees in accordance with the requirements of the Fair Labor Standards Act (FLSA) the City's minimum wage ordinance.
Ability to meet schedules or deadlines	TSCTI provided qualified screened staffed within 24-48 hours along with availability of a temporary employee to fill a request and meeting deadlines consistently.
Responsiveness to the client	With a dedicated team to handle requests, TSCTI was able to respond to requests within first 2 hours and temporary staff was provided within the agreed timeline.



EXHIBIT B

COST PROPOSAL



B. Cost Proposal Content

The cost proposal will not be used in the evaluation of the RFP; it will be used as a basis for negotiating a contract.

The cost proposal must be submitted in a separate sealed envelope and contain the following:

1. Direct costs
2. Indirect costs
3. Hourly billing rate per position / job class offered.
4. Any other proposed costs that may be incurred by the City.

Reply:

Position	Min	Max	Mark-up
Accounting/Finance			
Accountant Senior	\$28.35	\$47.25	30%
Accounting Manager	\$39.38	\$55.13	30%
Auditing External Auditor	\$31.50	\$39.38	30%
Auditing External Auditor Senior	\$47.25	\$63.00	30%
Auditing Internal Auditor	\$47.25	\$55.13	30%
Auditing Internal Auditor Senior	\$55.13	\$63.00	30%
Budget Analyst	\$31.50	\$39.38	30%
Budget Analyst Senior	\$39.38	\$55.13	30%
Fiscal Assistant	\$18.90	\$23.63	30%
Fiscal Technician	\$23.63	\$31.50	30%
Fiscal Technical Senior	\$31.50	\$39.38	30%
Call Center/Customer Service			
Customer Service Inbound	\$18.90	\$23.63	30%
Customer Service Outbound	\$18.90	\$23.63	30%
Detailing Representative	\$18.90	\$23.63	30%
Help Desk Analyst	\$39.38	\$55.13	30%
Market Research Inbound	\$31.50	\$47.25	30%
Market Research Outbound	\$31.50	\$47.25	30%
Sales & Promotion Comparison Shopper	\$31.50	\$39.38	30%
Sales & Promotion Demonstrator	\$31.50	\$39.38	30%
Sales & Promotion Sampler	\$28.35	\$39.38	30%
Sales Inbound	\$23.63	\$28.35	30%
Sales Outbound	\$23.63	\$28.35	30%
Tradeshow Booth Attendant	\$18.90	\$23.63	30%
Tradeshow Host/Hostess	\$18.90	\$23.63	30%
Education			
Certified Substitute Teacher	\$22.00	\$39.00	30%
Non-Certified Substitute Teacher	\$20.00	\$35.00	30%
Teacher Aide	\$18.90	\$28.35	30%
Cafeteria Worker	\$17.33	\$22.05	30%





Office Clerk	\$18.90	\$23.63	30%
Custodian	\$15.75	\$20.00	30%
Maintenance Worker	\$18.90	\$23.63	30%
General Administrative			
Administrative Assistant	\$23.63	\$30.00	30%
Administrative Staff Assistant	\$23.63	\$30.00	30%
Agency Management Analyst	\$31.50	\$39.38	30%
Data Entry Operator	\$18.90	\$28.35	30%
Data Entry Operator Senior	\$23.63	\$31.50	30%
Executive Secretary	\$18.90	\$25.00	30%
Executive Secretary Senior	\$23.63	\$33.00	30%
Legal Assistant	\$23.63	\$28.35	30%
Legal Assistant Senior	\$28.35	\$34.65	30%
Library Assistant	\$15.75	\$25.00	30%
Medical Assistant	\$23.63	\$31.50	30%
Medical Biller	\$18.90	\$23.63	30%
Medical Records Clerk	\$18.90	\$23.63	30%
Office Manager	\$39.38	\$47.25	30%
Office Services Aide	\$23.63	\$31.50	30%
Office Services Assistant	\$23.63	\$31.50	30%
Operator	\$18.90	\$23.63	30%
Personal Assistant	\$18.90	\$23.63	30%
Photocopy Supervisor	\$18.90	\$23.63	30%
Photocopy Technician	\$23.63	\$28.35	30%
Phototypesetting Specialist	\$23.63	\$31.50	30%
Phototypesetting Supervisor	\$31.50	\$39.38	30%
Postal Assistant	\$15.75	\$23.63	30%
Public Relations Coordinator	\$31.50	\$39.38	30%
Public Relations Assistant	\$23.63	\$28.35	30%
Receptionist	\$18.90	\$23.63	30%
Secretary	\$23.63	\$28.35	30%
Translator	\$28.35	\$39.38	30%
Food Related Services			
Food Operations Assistant	\$15.75	\$22.00	30%
Food Operations Manager Assistant	\$18.90	\$23.63	30%
Food Production Worker	\$15.75	\$22.00	30%
Second Cook	\$17.33	\$23.00	30%
Second Cook Senior	\$20.48	\$25.00	30%
Server	\$15.75	\$20.00	30%
Human Resources			
Classification / Compensation Analyst	\$28.35	\$39.38	30%





Classification / Compensation Consultant	\$28.35	\$39.38	30%
EEO Program Analyst	\$55.13	\$63.00	30%
EEO Program Specialist	\$63.00	\$70.88	30%
Employee Relations Analyst	\$23.63	\$31.50	30%
Employee Relations Analyst Senior	\$31.50	\$39.38	30%
Assistant	\$15.75	\$22.05	30%
Generalist	\$31.50	\$39.38	30%
Personnel Practices Analyst	\$23.63	\$31.50	30%
Personnel Practices Manager	\$39.38	\$47.25	30%
Human Services			
Social Worker	\$31.50	\$39.38	30%
Support Enforcement Specialist	\$31.50	\$39.38	30%
Support Enforcement Specialist Senior	\$39.38	\$47.25	30%
Utilization Review Analyst	\$31.50	\$39.38	30%
Utilization Review Analyst Senior	\$39.38	\$47.25	30%
Information Technology			
Business Analyst	\$55.13	\$95.00	30%
C++ Programmer	\$63.00	\$99.00	30%
CADD Technician	\$47.25	\$90.00	30%
Client/Server Specialist	\$70.88	\$86.63	30%
Computer Operator	\$31.50	\$40.00	30%
Data Communications Network Analyst	\$39.38	\$70.00	30%
Data Processing Operations Control	\$63.00	\$78.75	30%
Data Processing Planning Analyst	\$39.38	\$55.13	30%
Data Warehouse Developer	\$63.00	\$102.38	30%
Database Administrator	\$78.75	\$110.00	30%
Database Manager	\$75.60	\$91.35	30%
Database Modeler	\$94.50	\$125.00	30%
Database Specialist	\$70.88	\$105.00	30%
Development Manager	\$70.88	\$99.00	30%
Documentation Specialist	\$47.25	\$65.00	30%
E-Commerce Solutions Architect	\$94.50	\$110.25	30%
EDP Planning Analyst	\$78.75	\$115.00	30%
GISs Specialist	\$60.00	\$90.00	30%
Internet Application Developer	\$63.00	\$102.00	30%
Java Programmer	\$78.75	\$100.00	30%
LAN/WAN Administrator	\$63.00	\$90.00	30%
Mainframe Capacity Study	\$78.75	\$94.50	30%
Management Information Specialist	\$70.88	\$86.63	30%
MS SQL Server Administrator	\$78.75	\$99.00	30%
Oracle Server Administrator	\$78.75	\$110.00	30%





Other Database Server Administrator	\$94.50	\$110.25	30%
PC LAN Technician	\$31.50	\$39.38	30%
Programmer Analyst	\$55.13	\$99.00	30%
Project Administrator	\$63.00	\$78.75	30%
Project Director	\$63.00	\$78.75	30%
Project Manager	\$94.50	\$110.25	30%
Quality Assurance Engineer	\$55.13	\$85.00	30%
Quality Assurance Manager	\$70.88	\$95.00	30%
Quality Assurance/systems Testing Analyst	\$55.13	\$80.00	30%
Security Engineer	\$70.88	\$112.00	30%
Server Based Computing Engineer	\$78.75	\$94.50	30%
Sr. EDP Planning Analyst	\$63.00	\$112.00	30%
Storage and Retrieval System Design	\$70.88	\$86.63	30%
System Architect	\$78.75	\$140.00	30%
Systems Project Manager	\$70.88	\$120.00	30%
Technical Support Specialist	\$39.38	\$60.00	30%
Telecommunications Specialist	\$55.13	\$80.00	30%
UNIX System Administrator	\$70.88	\$95.00	30%
Visual Basic Developer	\$63.00	\$80.00	30%
Web Content/Communications Manager	\$70.88	\$90.00	30%
WEB Site Developer	\$70.88	\$90.00	30%
WEWB Document Specialist	\$78.75	\$94.50	30%
Insurance			
Claims Adjuster	\$23.63	\$31.50	30%
Claims Specialist	\$31.50	\$39.38	30%
Worker's Compensation Specialist	\$28.35	\$39.38	30%
Labourer/Industrial			
CDL Driver	\$18.90	\$30.00	30%
Forklift Operator	\$22.05	\$32.00	30%
Forklift Operator Senior	\$28.35	\$38.00	30%
Flagger / Laborer	\$14.18	\$25.00	30%
Grounds/Landscape Worker	\$15.75	\$25.00	30%
Grounds Worker Senior	\$18.90	\$28.35	30%
Heavy Industrial Materials Handler (Warehouseman)	\$18.90	\$34.00	30%
Heavy Industrial Materials Handler, Freezer (Warehouseman)	\$18.90	\$34.00	30%
Heavy Industrial Worker (General Laborer)	\$23.63	\$31.50	30%
Housekeeping Supervisor	\$23.63	\$31.50	30%
Housekeeping Worker	\$18.90	\$23.63	30%
Inventory Worker Light	\$18.90	\$23.63	30%
Light Industrial Worker (General Laborer)	\$15.75	\$18.90	30%
Motor Vehicle Operator	\$18.90	\$28.35	30%





Packer	\$15.75	\$23.63	30%
Warehouse Specialist	\$23.63	\$39.38	30%
Warehouse Worker	\$14.18	\$23.63	30%
Media			
Audio Visual Technician	\$31.50	\$39.38	30%
Graphic Artist	\$31.50	\$39.38	30%
Graphic Designer	\$39.38	\$47.25	30%
Photographer	\$23.63	\$39.38	30%
TV / Video Production Specialist	\$31.50	\$47.25	30%
TV / Video Production Technician	\$23.63	\$39.38	30%
Security			
Dispatcher/Police	\$23.63	\$31.50	30%
Security Guard	\$18.90	\$28.35	30%
Security Officer	\$23.63	\$39.38	30%
Tax			
Data Entry Clerk	\$18.90	\$23.63	30%
Data Entry Clerk/Remittance Processor Blended	\$18.90	\$23.63	30%
Error Resolution and Document Processor	\$23.63	\$31.50	30%
General Clerical	\$18.90	\$28.35	30%
Onsite Administrator	\$28.35	\$39.38	30%
Remittance Processor	\$22.05	\$28.35	30%
Taxpayer Information & Assistance Agent	\$23.63	\$31.50	30%
Technical			
Agricultural Technician	\$28.35	\$39.38	30%
Agricultural Technician Supervisor	\$31.50	\$47.25	30%
Analytical Chemist	\$23.63	\$39.38	30%
Analytical Chemist Assistant	\$23.63	\$31.50	30%
Analytical Chemist Senior	\$31.50	\$39.38	30%
Bridge Design Drafter	\$34.65	\$44.10	30%
Cartographic Drafter	\$31.50	\$39.38	30%
Cartographic Supervisor	\$23.63	\$39.38	30%
Engineering Design Drafting Specialist	\$78.75	\$94.50	30%
Engineering Design Drafting Supervisor	\$78.75	\$94.50	30%
Engineering Design Drafting Technician	\$63.00	\$78.75	30%
Engineering Drafting Technician	\$18.90	\$28.35	30%
Engineering Drafting Technician Senior	\$31.50	\$39.38	30%
Environmental Engineer	\$39.38	\$55.13	30%
Environmental Engineer Senior	\$63.00	\$78.75	30%
Environmental Program Analyst	\$28.35	\$39.38	30%
Environmental Program Planner	\$31.50	\$47.25	30%
Environmental Program Specialist	\$31.50	\$47.25	30%





Environmental Specialist Field	\$31.50	\$47.25	30%
Environmental Specialist Senior Field	\$39.38	\$55.13	30%
Environmental Technician	\$23.63	\$31.50	30%
Environmental Technician Senior	\$31.50	\$47.25	30%
Laboratory Technician	\$23.63	\$39.38	30%
Laboratory Technician Senior	\$31.50	\$47.25	30%
Residential Plan Reviewer	\$31.50	\$47.25	30%
Right of Way Technician	\$23.63	\$39.38	30%
Right of Way Technician Supervisor	\$39.38	\$55.13	30%
Safety Engineer	\$31.50	\$47.25	30%
Safety Engineer Senior	\$47.25	\$63.00	30%
Title Examiner	\$23.63	\$31.50	30%
Traffic Controller	\$23.63	\$31.50	30%
Traffic Controller Senior	\$31.50	\$47.25	30%
Transportation Data Analyst	\$28.35	\$44.10	30%
Transportation Data Analyst Senior	\$39.38	\$55.13	30%
Transportation Data Analyst Supervisor	\$47.25	\$63.00	30%
Transportation Data Technician	\$31.50	\$47.25	30%
Transportation District Utilities Specialist	\$28.35	\$44.10	30%
Transportation Engineering Technician Survey	\$47.25	\$63.00	30%
Transportation Materials Technician	\$39.38	\$55.13	30%
Transportation Planning Specialist	\$39.38	\$55.13	30%
Transportation Program Coordinator	\$31.50	\$47.25	30%
Transportation Support Coordinator	\$28.35	\$44.10	30%
Trades			
Boiler Operator	\$22.50	\$31.50	30%
Boiler Operator Senior	\$27.00	\$34.65	30%
Carpenter	\$22.50	\$31.50	30%
Carpenter Assistant	\$18.00	\$23.63	30%
Carpenter Senior	\$30.00	\$39.38	30%
Electrician	\$22.50	\$39.38	30%
Electrician Assistant	\$15.00	\$23.63	30%
Electrician Senior	\$22.50	\$31.50	30%
Electrician Supervisor Senior	\$30.00	\$39.38	30%
Electronic Equipment Install & Repair Supervisor	\$37.50	\$47.25	30%
Electronic Equipment Install & Repair Technician	\$30.00	\$39.38	30%
Electronic Technician	\$18.00	\$28.35	30%
Electronic Technician Senior	\$22.50	\$39.38	30%
Equipment Repair Supervisor	\$30.00	\$47.25	30%
Equipment Repair Technician	\$18.00	\$28.35	30%
Equipment Repair Technician Senior	\$30.00	\$39.38	30%





HVAC Installation & Repair Assistant	\$22.50	\$31.50	30%
HVAC Installation & Repair Assistant Senior	\$37.50	\$55.13	30%
Laboratory Mechanic	\$22.50	\$31.50	30%
Laboratory Mechanic Senior	\$30.00	\$39.38	30%
Locksmith	\$22.50	\$31.50	30%
Maintenance Field Worker	\$15.00	\$23.63	30%
Mason Plasterer	\$22.50	\$31.50	30%
Mason Plasterer Assistant	\$15.00	\$23.63	30%
Mechanic	\$22.50	\$31.50	30%
Painter	\$15.00	\$23.63	30%
Plumber / Steamfitter	\$30.00	\$47.25	30%
Plumber / Steamfitter Assistant	\$22.50	\$39.38	30%
Printing Press Operator	\$15.00	\$23.63	30%
Production Supervisor	\$22.50	\$31.50	30%
Radio Specialist	\$30.00	\$39.38	30%
Radio Specialist Senior	\$30.00	\$39.38	30%
Sheet Metal Worker	\$22.50	\$31.50	30%
Sheet Metal Worker Assistant	\$15.00	\$23.63	30%
Sheet Metal Worker Lead	\$22.50	\$31.50	30%
Shipping / Receiving Clerk	\$18.00	\$23.63	30%
Storekeeper Assistant	\$18.00	\$23.63	30%
Storekeeper	\$15.00	\$18.90	30%
Storekeeper Senior	\$18.00	\$23.63	30%
Tool Room Assistant	\$15.00	\$23.63	30%
Tool Room Assistant Senior	\$18.00	\$28.35	30%
Utilities Worker Senior	\$18.00	\$28.35	30%
Utility Worker	\$15.00	\$23.63	30%
Tradesman Helper	\$15.00	\$18.90	30%
Tradesman Helper Senior	\$18.00	\$23.63	30%
Welder	\$18.00	\$23.63	30%
Welder Senior	\$22.50	\$31.50	30%
Work Zone Safety Officer	\$30.00	\$39.38	30%
Health			
Breath Alcohol Technician	\$29.77	\$34.65	30%
Certified Occupational Therapist Assistant	\$33.08	\$55.00	30%
Certified Physical Therapist Assistant	\$33.08	\$50.00	30%
Claims Processor	\$24.81	\$31.50	30%
Claims Processor (Senior)	\$33.08	\$47.25	30%
Dental Assistant	\$35.00	\$45.00	30%
Dental Hygienist	\$41.35	\$60.00	30%
Dietary Aide	\$16.54	\$23.63	30%





EKG Technician	\$29.77	\$45.00	30%
Electro neuro diagnostic Technologist	\$33.08	\$55.00	30%
Eligibility / Insurance Verifier	\$29.77	\$39.38	30%
Eligibility Referral Coordinator	\$29.77	\$39.38	30%
Emergency Medical Technician	\$29.77	\$39.38	30%
Insurance Coordinator	\$24.81	\$31.50	30%
Licensed Practical Nurse I	\$29.77	\$60.00	30%
Licensed Practical Nurse II	\$36.38	\$65.00	30%
Licensed Practical Nurse III	\$41.35	\$70.00	30%
Medical Assistant	\$29.77	\$39.38	30%
Medical Laboratory Technician	\$29.77	\$39.38	30%
Medical Record Clerk	\$19.85	\$28.35	30%
Medical Record Technician	\$24.81	\$39.38	30%
Medical Transcriptionist	\$33.08	\$39.38	30%
Nuclear Medicine Technologist	\$41.35	\$55.13	30%
Nursing Assistant I	\$25.00	\$35.00	30%
Nursing Assistant II	\$28.00	\$40.00	30%
Nursing Assistant III	\$30.00	\$45.00	30%
Nursing Assistant IV	\$32.00	\$39.38	30%
Optical Dispenser	\$35.00	\$50.00	30%
Optical Technician	\$35.00	\$55.00	30%
Pharmacy Technician	\$30.00	\$45.00	30%
Phlebotomist	\$24.81	\$39.38	30%
Radiologic Technologist	\$29.77	\$44.10	30%
Registered Nurse I	\$50.00	\$70.00	30%
Registered Nurse II	\$55.00	\$75.00	30%
Registered Nurse III	\$60.00	\$80.00	30%
Registered Nurse IV	\$60.00	\$90.00	30%
Scheduler (Drug and Alcohol Testing)	\$29.77	\$39.38	30%
Substance Abuse Treatment Counselor	\$33.08	\$47.25	30%





CITY OF LAS CRUCES

SERVICE AGREEMENT

23-24-047
Temporary
Employment
Services

THIS AGREEMENT made and entered into on this ____ day of June, 2024 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and ATHENA Consulting LLC, of 506 Main Street, Suite 215, Gaithersburg, MD, 20878, hereinafter called "CONTRACTOR".

1. PROJECT DESCRIPTION

Temporary employment services to be provided on an as needed basis. Various purchase orders will be issued according to the needs of CITY departments and Joint Power Agreement (JPA) agencies.

2. SCOPE OF SERVICES

In a satisfactory and proper manner, the CONTRACTOR shall perform SERVICES as proposed in response to the CITY'S RFP No. 23-24-047 as set forth in Exhibit A, attached hereto and made a part of this Agreement.

3. APPROPRIATIONS

The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

4. COMPENSATION

The CITY shall compensate CONTRACTOR for the performance of SERVICES under this Agreement an amount as proposed in response to the CITY'S RFP No. 23-24-047, plus applicable taxes as set forth in Exhibit B, attached hereto and made part of this Agreement. CONTRACTOR shall perform the SERVICES upon receipt of a purchase order or written Notice to Proceed from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed. CONTRACTOR shall submit invoices weekly or biweekly. CITY shall pay invoices Net 30 days upon receipt of undisputed invoice.

CONTRACTOR is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. CONTRACTOR agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

5. DEVOTION OF ADEQUATE TIME

CONTRACTOR will devote the necessary hours each week to the performance of project that are required by the CITY, and it will serve the CITY, diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE

This Agreement shall become effective on July 1, 2024 for a term of four (4) years through June 30, 2028. CONTRACTOR shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and CONTRACTOR.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall CONTRACTOR be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request CONTRACTOR to perform other extra services not incorporated within the Services set forth in this Agreement. If the CONTRACTOR is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the CITY, CONTRACTOR shall so notify the CITY, of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the CONTRACTOR within five (5) business work days from the date of receipt of CONTRACTOR'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE CONTRACTOR

In the event a condition is identified by the CONTRACTOR which, in the opinion of the CONTRACTOR, changes the services, costs, and/or time required for performance under this Agreement, the CONTRACTOR shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business work days from the date of receipt of CONTRACTOR'S notification.

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of CONTRACTOR, and without the fault or negligence of CONTRACTOR, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. CONTRACTOR shall provide the CITY, with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by CONTRACTOR to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in

accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY, for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to CONTRACTOR.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY, deliver to the CITY, the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

CONTRACTOR will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S, right to recover excessive or illegal payments. CONTRACTOR will retain records for five (5) years after the completion of the project.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY, will be kept confidential and CONTRACTOR will not disclose to any other party, directly or indirectly, without the CITY'S, prior written consent unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the CONTRACTOR shall be the sole property of the CITY, and shall be delivered to the CITY, when requested and at the end of the Agreement.

14. INDEPENDENT CONTRACTOR

CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY, CONTRACTOR, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY, by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR's employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to perform services for other parties; and (ii) CONTRACTOR may perform for its own account other professional services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as otherwise specifically set forth herein, neither CONTRACTOR nor CITY, shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT

CONTRACTOR shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

CONTRACTOR shall obtain and maintain at least the following insurance at its own cost and expense during the life of this Agreement, and shall require Subcontractors, if any, to maintain the same insurance during the life of the subcontracted work:

1. Professional Liability
 - a. \$1,000,000 per occurrence.

2. Commercial General Liability Insurance
 - a. \$1,000,000 per occurrence / \$2,000,000 aggregate
 - b. Coverage must include premises and operations, products and completed operations, and personal and advertising injury.
 - c. The City of Las Cruces must be named as an Additional Insured for all coverages listed above on endorsements acceptable to the City.
 - d. Coverage must be primary and non-contributory.
 - e. Coverage must be per project or per location.
 - f. Coverage must be on an occurrence form.
 - g. Subrogation must be waived.
3. Commercial Auto Liability
 - a. \$1,000,000 per occurrence
 - b. Coverage must be for "owned, leased, hired, and non-owned autos" or "any autos."
4. Workers' Compensation and Employers Liability
 - a. Statutory Limits
 - b. Employer liability – \$1,000,000 each accident, \$1,000,000 each employee by disease, \$1,000,000 policy limit
 - c. Subrogation must be waived.

Endorsements for additional insured coverage and waivers of subrogation must be provided as a condition of this Agreement and shall be noted on the certificate.

CONTRACTOR shall furnish the CITY with a certificate(s) of insurance showing CONTRACTOR and Subcontractors, if any, have complied with this Article. The CONTRACTOR shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

CONTRACTOR shall indemnify, defend, and hold harmless the CITY, from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused in whole or in part by, resulting in whole or in part from, or arising in whole or in part out of the negligent acts, errors, or omissions of CONTRACTOR, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

CONTRACTOR shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the CONTRACTOR'S services or any work done pursuant to this Agreement, including anti-discrimination.

20. BREACH

In the event CONTRACTOR breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY, shall give CONTRACTOR written notice of such breach. In the event CONTRACTOR fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy CONTRACTOR'S breach and recover any and all costs and expenses in so doing from CONTRACTOR.

21. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and CONTRACTOR under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

22. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY: City of Las Cruces
 PO Box 20000
 Las Cruces, NM 88004
 ATTENTION: Greg Gonzalez, Buyer I

With Copies to: Purchasing Manager

TO CONTRACTOR: ATHENA Consulting LLC.
 506 Main Street, Suite 215
 Gaithersburg, MD 20878
 ATTENTION: Melissa Pappas, CEO

23. SCOPE OF AGREEMENT

This Agreement incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof and that all such covenants, agreements, and understandings have been merged into this written agreement. No prior agreement or understanding verbal or otherwise of the parties or their agents shall be valid or enforceable unless embodied in this agreement.

24. SEVERABILITY

The parties agree that each provision of this Agreement is severable and the invalidity or unenforceability of any one or more of the provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

25. CONFLICT OF INTEREST

CONTRACTOR represents and warrants that CONTRACTOR has no business, professional, personal, or other interest, including, but not limited to, the representation of other clients, that would conflict in any manner or degree with the performance of its obligations under this Agreement. If any such actual or potential conflict of interest arises under this Agreement, CONTRACTOR shall immediately inform the CITY in writing of such conflict. If, in the reasonable judgement of the CITY, such conflict poses a conflict to and with the performance of CONTRACTOR'S obligations under this Agreement, or is otherwise a violation of the CITY'S current policy or ordinances, then the CITY may terminate the Agreement immediately upon written notice to CONTRACTOR; such termination of the Agreement shall be effective upon the receipt of such notice by CONTRACTOR.

ATHENA CONSULTING LLC.

CITY OF LAS CRUCES

BY: _____
Melissa Pappas
CEO

BY: _____
Alicia Hernandez
Purchasing Manager

Date

Date

APPROVED AS TO FORM

City Attorney

EXHIBIT A

SERVICES

A. General Conditions

Temporary services are requested as needed throughout the contract period. Temporary employees will be subject to all applicable City work rules and their amendments. The contract will not guarantee that any specific amount of services will be obtained. Orders will only be placed when the City identifies a need and issues a purchase order or written Notice to Proceed. It shall be the Contractor's responsibility to meet the City's requirements. The contract(s) are non-exclusive, and the City reserves the right to obtain services on the open market to serve the best interest of the City.

B. Specific Conditions

1. The Contractor(s) shall:

- a. Designate a coordinator as a local single point of contact (SPOC), as well as a backup, that will be accessible during normal work hours to receive temporary employment requests, handle and assist in any and all inquiries regarding scheduling, billing, status of orders, availability, contract pricing, contract compliance requirements, and problem solving. Normal work hours for the City are from 8:00am until 5:00pm Monday through Friday, with the exception of designated holidays.
- b. Refer personnel that have successfully undergone applicable background check and drug testing upon request of the city and provide verification that these pre-employment screenings have been successfully completed. Personnel shall be immediately productive, requiring minimal training and orientation.
- c. Be responsible for obtaining and informing and orienting its personnel on all relevant rules, regulations, policies, etc. of the City. Written acknowledgement of receipt of this information by the employee shall be provided to the City.
- d. Be given four (4) business hours and one (1) business day to confirm availability of a temporary employee to fill a request. However, if Contractor is unable to fill the job request, the City may fill the requirement from other qualified sources. City personnel will endeavor to give as much notice as is practical and possible.
- e. Ensure all temporary employees referred to the City have been screened for minimum qualifications required for the position.
- f. Be notified by the City in the event any temporary employee fails to adhere to the City's directions, policies, procedures, security / safety regulations, or demonstrates that they are not qualified to perform the required duties, and the Contractor shall replace the temporary employee within two (2) working days at

no cost to the City (including, but not limited to, training time; background checks; ID badges; drug testing; etc.). This also applies to any temporary employee that leaves for any reason before the assignment is completed. When a temporary employee leaves, at any time, the Contractor shall be responsible for any unreturned keys, ID badges, etc. If such items are not returned to the City within five (5) working days, the City shall send an invoice to the Contractor for the exact replacement cost. The Contractor shall pay this invoice within twenty (20) days.

- g. Agree to compensate employees in accordance with the requirements of the Fair Labor Standards Act (FLSA) as amended, New Mexico State Law and the New Mexico Workers' Compensation Act as amended, and the City's minimum wage ordinance. Additionally, the Contractor must ensure that each temporary employee acknowledges, in writing, their exempt or non-exempt FLSA status, whichever is applicable.
- h. Include provisions for the City to hire the temporary employee without payment of a finder's fee or any other fee, after the temporary employee has completed no less than ninety (90) days of temporary service to the City.
- i. Submit a legible, detailed invoice to the requesting City department and the Disbursements (Accounts Payable) office on a weekly or bi-weekly basis before payment(s) can be made. The City will pay invoices within twenty (20) days. Tax for services must be included in the invoice. At a minimum, the invoice must provide the following information:
 - i. Company name, address and contact information
 - ii. City bill-to name and contact information
 - iii. Name and title of hire, hours worked and hourly rate
 - iv. Dates of service
 - v. Extended price
 - vi. Total amount

Preferably, invoices should be sent via e-mail to disbursements@lascruces.gov.

Invoices can also be mailed to:

City of Las Cruces
Attention: Accounts Payable
PO Box 20000
Las Cruces, NM 88004

- j. Furnish, upon request by the City, a monthly usage delineating the acquisition activity governed by the contract. The format of the report shall be approved by the City and shall disclose the quantity and dollar value of each contract item by individual department.
2. The Contractor shall provide contracted employees who shall:
- a. Based on position and services to be provided to the City, be subject to various criminal checks, fingerprinting, background checks, and applicable drug testing

upon whose results the City may choose to base its decision to accept an individual for assignment. This option would allow the temporary employee access to areas within the City such as court buildings, and any restricted areas.

- b. Conform in all respects to fire and safety / security regulations while on the City's premises.
 - c. Receive training on preventing discrimination and harassment and have received and acknowledged receipt of the City's Discrimination Policy as provided by the City.
 - d. Be able to read, write, speak, and comprehend the English language in accordance with the minimum requirements of the position description, unless otherwise requested.
 - e. Be dressed appropriately and with the equipment specified by the City as being required to perform work in the service categories covered under this contract. The City requires most field personnel to have safety shoes, at the expense of the temporary employee. The safety shoes must meet American National Standards Institute (ANSI) and Occupational Safety and Health Administration (OSHA) standards.
 - f. Be respectful of all people with whom they interact, including City employees and customers of the City. The City reserves the right to reject any candidate that does not exhibit common courtesy and cordiality towards all individuals with which they may come in contact.
 - g. Limit personal mobile phone calls to emergency calls while on duty.
 - h. Report to an assignment at the time designated by the City. The work week shall be Monday through Friday. Normal business hours are 8:00am to 5:00pm, and occasionally weekends, excluding City holidays. There may be requirements or alternate schedules which require evening, weekend, holiday and overtime work. Weekend work shall be defined as Saturday and Sunday during the same week. Weekend or holiday work will not be considered overtime unless in excess of forty (40) hours worked.
 - i. Be entitled to lunch periods ranging from 30-60 minutes as determined by the City. No payments shall be made for lunch periods.
 - j. In some instances, require additional types of certifications such as First Aid and CPR certification. Temporary employees shall have these certifications prior to applying for such positions. Temporary employees shall maintain and recertify these certifications at their own expense.
3. The Contractor shall accept that the City shall:
- a. Have the right to interview and / or screen all prospective personnel, and to accept or reject any or all based upon the required skills and the background and experience of each individual. A resumé may be required upon request prior to an interview.
 - b. Supervise Contractor's employees. The City shall have direct control over the daily activities of the Contractor's employees.
 - c. Reserve the right to add and / or delete services provided under this contract. If a requirement is deleted, payment to the Contractor will be reduced proportionately to the amount of service reduced in accordance with the proposal price. If

additional services are required from this contract, prices for such additions will be negotiated by the Contractor and the City.

4. The Contractor shall accept a contract provision that any request for fee adjustments must be submitted sixty (60) days prior to the current contract annual anniversary date. Requests for adjustment in cost of labor must be supported by appropriate documentation. If the City agrees to the adjusted fee, the City shall issue written approval of the change in the form of a contract amendment to be executed by both parties. The reasonableness of the request will be determined by comparing the request with the Consumer Price Index or by performing a market survey.



Temporary Employment Services

RFP #23-24-047

Due: April, 23 2024

Submitted by:

ATHENA Consulting
506 Main Street, Suite 215
Gaithersburg, MD 20878
Office: 301-216-9654
Fax: 240-396-4110

ORIGINAL



ATHENA Consulting LLC
506 Main Street, Suite 215
Gaithersburg, MD 20878

April 23, 2024

To: City of Las Cruces

Reference: PROPOSAL– RFP 23-24-047

To Whom It May Concern,

ATHENA is pleased to submit this proposal for the Temporary Employment Services to the City of Las Cruces. With more than 21 years of experience providing temporary staffing solutions to government clients, we are confident in our ability to provide the highest-quality services for this engagement.

Since 2002, ATHENA has successfully completed more than 250 staffing service contracts for various local, county, and state governments throughout the United States. We have experience providing employees for a wide variety of positions, including administrative support and professional and general labor personnel. Leveraging our extensive experience, we have refined our processes to prioritize efficiency in recruiting, screening, onboarding, and ensuring precise and timely compensation for our employees.

In addition to our wealth of experience in staffing services, ATHENA maintains the financial stability necessary for the successful implementation of this service. Our strengths include:

- Over two decades of expertise in providing temporary staffing services.
- Proven track record in successfully providing temporary staffing services to local and state governments.
- Ability to manage a high volume of payroll and administrative needs for temporary workers.
- An average client satisfaction score between 94% to 96% across all clients.

We are confident that our team possesses the requisite skills, knowledge, and experience required to effectively perform this contract. We welcome the opportunity to assist the City of Las Cruces in this initiative and are happy to discuss any of the details contained in this proposal at your convenience.

Sincere regards,

Mark Elvin
Chief Officer for Strategy and Growth



CITY OF LAS CRUCES

RFP COMPLIANCE DECLARATION

RFP TITLE: Temporary Employment Services
RFP NO.: 23-24-047
DUE DATE/TIME: April 23, 2024 / 4:00 p.m.

In compliance with the requirements of this RFP, I, the undersigned, offer and agree to furnish any or all materials and/or services to the City of Las Cruces within the time agreed.

I further certify that this company has not been debarred, suspended, or otherwise made ineligible for participation in Federal Assistance programs under Executive Order 12549 Debarment and Suspension as described in the Federal Rules and Regulations.

Receipt of Addenda Nos.: 1 & 2 is hereby acknowledged (where none received, place a zero in this space)

Company Name and Address:	
ATHENA Consulting, LLC	<u>Mark E. Elvin</u>
	Authorized Signature
506 Main Street, Suite 215	Mark E. Elvin
	Typed or Printed Name
Gaithersburg, MD 20878	Chief Officer for Strategy and Growth
	Title
	mark@athenaconsultingllc.com
	Email Address

Telephone number 484-477-7747 Fax number 240-396-4110

NM Tax & Revenue Dept. CRS # NA

Current NM Secretary of State Business ID # 6329489 (corporations only)

Current CLC Business Registration # registration ATHENA has applied for business registration (respondents located in Las Cruces only)

Federal I.D. number 16-1616169 (mandatory for all respondents)

NM Resident Certificate from NM Tax and Revenue Department enclosed Yes X No

**THIS FORM MUST BE COMPLETED AND INCLUDED WITH PROPOSAL
FAILURE TO INCLUDE WILL SUBJECT RESPONSE TO REJECTION**



Contents

1. Technical Approach1

 Company Profile 1

 ATHENA Approach to the Scope of Work..... 2

 Recruiting Potential Staff..... 2

 Testing, Screening, Interviewing, & Selecting Staff 3

 Telephone Interviews 4

 Face-to-Face Interviews..... 4

 Approach to Performing Background Investigations and Drug Screening 4

 Verify Education, Training and Experience, Background, and Drug Testing..... 5

 Skills Testing and Training 5

 Seven Steps to Fulfilling Staffing Requests..... 6

 Onboarding 6

 Appropriate Attire and Safety 7

 Assignments & Working for ATHENA at a Client Site..... 7

 Tracking Employee Performance 7

 Benefits Available to ATHENA Staff..... 8

 Payroll and Timekeeping..... 8

 Employee Self Service Portal..... 9

 ATHENA’s “No Risk” Transition Plan 9

 Problem Resolution Process 9

 Reporting10

 ATHENA Invoices10

 ATHENA Assurances.....11

 Insurance.....11

2. Qualifications of Key Personnel.....11

3. Past Performance14

1. Technical Approach

Company Profile

ATHENA Consulting LLC (ATHENA) is a distinguished Maryland-based staffing agency, proudly woman-owned, with over 21 years of industry expertise. We specialize in Recruiting, Temporary Professional Placement, Direct Hire, Employer of Record, and Executive Search services. Since inception, ATHENA has successfully provided temporary staffing solutions to more than 250 state, local, and municipal governments nationwide.

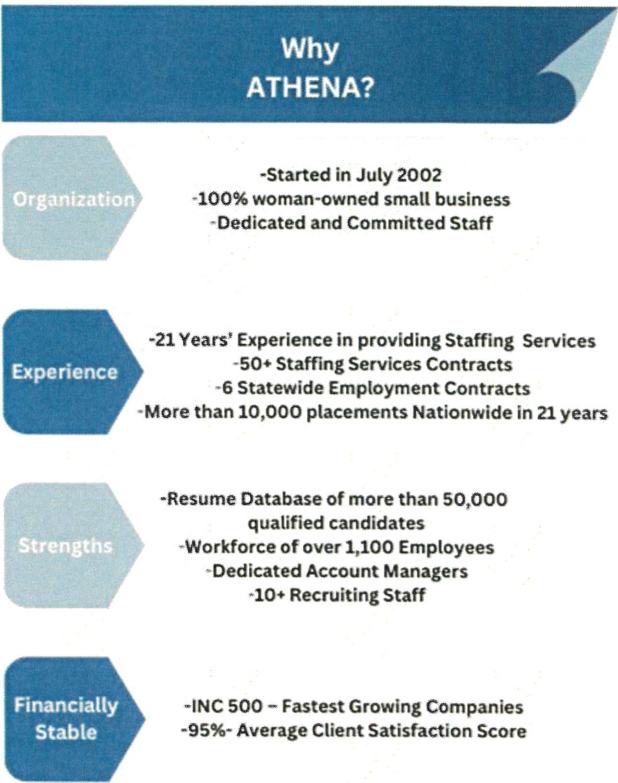
With an extensive track record in delivering temporary staffing solutions to government entities, ATHENA excels in integrating temporary staff without disrupting daily agency operations. Recognizing the critical importance of swift and efficient onboarding and payroll services, we ensure uninterrupted workflow for our clients. Our proficiency lies in promptly providing qualified temporary staff and managing all aspects of employment, including onboarding, screenings, and payroll services.

ATHENA supplies a full range of staffing services to our state and local government clients, including:

- Contract Staffing
- Project Team Staffing
- Contract-to-Hire Staffing
- Direct Hire Staffing
- Executive Recruiting

We regularly handle recruitment, screening, and placement of personnel for various temporary roles, including seasonal, event-based, and project-specific positions. Additionally, we specialize in fulfilling critical needs and addressing challenging-to-fill roles. Our streamlined staffing systems ensure swift access to qualified individuals to meet staffing requirements promptly.

ATHENA's comprehensive recruitment, screening, onboarding, and candidate engagement processes ensure a constant pool of vetted employees, enabling us to effectively meet temporary staffing needs. In addition, we have instituted an optimized approach for staff substitution and issue resolution, guaranteeing operational effectiveness. Moreover, we harness innovative human capital technology to monitor and manage contracts, staying at the forefront of industry advancements.



Our wealth of experience in onboarding, conducting screenings, and managing payroll services for thousands of employees highlights our adaptability to our clients' evolving needs. With over 1,100 dedicated employees, our commitment to excellence is evident in every staffing contract. We collaborate closely with clients to tailor temporary staffing programs to their specific requirements, consistently exceeding performance and quality standards. ATHENA has a Las Cruces office located at *141 Roadrunner Parkway, Ste 141, Las Cruces, NM 88011*

ATHENA Approach to the Scope of Work

With over two decades of expertise in recruitment, screening, and placement, ATHENA excels in providing personnel for diverse temporary positions. Leveraging our extensive experience, we are equipped to meet the staffing requirements of the City of Las Cruces, delivering top-tier candidates who have passed thorough background checks, drug tests, and pre-employment screenings. Moreover, **ATHENA guarantees that our recruited personnel are ready to contribute from day one, minimizing the need for extensive training and orientation.** The following sections detail ATHENA's approach to recruitment, background checks, pre-employment screenings, verifications, onboarding, and employee management.

Recruiting Potential Staff

During the past 21 years, ATHENA has developed a recruitment and screening process that enables us to quickly identify and source highly qualified candidates. We actively recruit candidates, on an ongoing basis, for a wide variety of labor categories, including administrative support and professional and general labor personnel. ATHENA maintains an extensive Applicant Tracking System (ATS) database with more than 50,000 candidates. This database enables us to easily categorize, pre-screen, and select candidates. This means we have access to a large pool of potential candidates very quickly upon issuance of a temporary position request.

ATHENA receives thousands of resumes from potential candidates every week throughout the entire year. In addition, upon contract award and prior to the release of a specific staffing request, ATHENA begins sourcing to attract candidates matching the stated job titles and descriptions. All applicants apply through our ATS, which automatically ranks and categorizes candidates against the identified labor categories.

Applicants who have applied within the past five years remain in the ATHENA ATS database and are contacted regularly to gauge job satisfaction and future job interest. This allows us to stay connected with potential talent even when immediate positions are unavailable. Proactively engaging with candidates who are not active job seekers is integral to our recruitment strategy. By directly connecting with professionals who may not be actively seeking new opportunities, we uncover individuals who are consistently receptive to new prospects when approached.

The system's advanced sorting and matching capabilities eliminates countless hours reaching out to uninterested candidates, resulting in a streamlined recruitment that is more efficient with time and costs. Shortlisted candidates receive prompt notifications via voice and text, facilitating communication throughout the hiring process.

Our ATS also simplifies the application process for candidates, automatically linking resumes to relevant openings and securely storing their details. Additionally, we source candidates through local professionals through outreach efforts spanning public agencies, unemployment offices, workforce services, and community-based organizations. Leveraging platforms like Monster, LinkedIn, ZipRecruiter, and CareerBuilder, we attract and engage with qualified candidates, ensuring a robust talent pool for current and future needs. Furthermore, our dedicated team establishes meaningful connections with job seekers, documenting interactions to enhance our candidate ranking process in the ATS.

Testing, Screening, Interviewing, & Selecting Staff

After compiling a list of pre-qualified and matched candidates, our recruiters review each match to ensure we assemble the strongest pool of candidates ready to progress to the detailed screening stage. During this screening phase, every potential candidate undergoes a thorough assessment of the job requirements. **As outlined in the RFP, ATHENA commits to screening all temporary employees referred to the City to ensure they meet the minimum qualifications specified for the position. Additionally, candidates will possess proficiency in reading, writing, speaking, and understanding the English language as stated in the position description's minimum requirements.**

Based on this evaluation, applicants are categorized as follows:

- **Not Qualified:** Candidates failing to meet the stipulated requirements are excluded from further consideration. Their employee profiles clearly indicate a lack of alignment with the job title's prerequisites, providing valuable insights for future searches.
- **Qualified:** Applicants deemed qualified successfully meet all the minimum requirements for the positions, rendering them eligible for further consideration.
- **Exceeds Qualifications:** Candidates exceeding qualifications not only fulfill the minimum requirements but also possess some additional, desirable qualifications. These applicants are also eligible for additional consideration for the role.

ATHENA Account Managers automatically generate emails via the ATS to the list of qualified candidates. These emails outline the opportunity at hand and prompt candidates to express their interest in further discussing the position with a recruiter. This process ensures that ATHENA Account Managers receive a roster of qualified and interested candidates who are eager to explore the opportunity further.

When our Account Managers identify potential candidates, our initial step involves conducting a comprehensive skills assessment of the position prerequisites. This thorough evaluation ensures that applicants have satisfactorily met the minimum educational and experiential criteria. In addition, ATHENA customizes screening questionnaires tailored to the unique requirements of each requested position. Each question is assigned a point value, which is utilized to evaluate and score candidate responses.

The ATHENA Account Manager also carefully reviews each resume that passes the initial screening criteria, focusing on longevity in positions, applicability of experience, and type of

experience. Any inconsistencies or concerns that may disqualify an applicant are identified and documented.

Telephone Interviews

ATHENA conducts telephone screenings with candidates deemed Highly Qualified or Qualified. Through these extensive interviews, we examine the candidates' expertise in their respective fields, assess their interpersonal competencies, including teamwork, conflict resolution, and problem-solving, and provide insights into our hiring procedures. The primary objective of this phase is to identify a roster of prequalified candidates poised to advance to the subsequent screening stage.

Face-to-Face Interviews

Immediately following the phone interviews, the Account Manager rates the applicant as Highly Qualified, Qualified, or Not Qualified. Highly Qualified candidates proceed to the subsequent stage in the interview process, which involves a face-to-face interview conducted via Zoom, Microsoft Teams, Skype, or Facetime with the Account Manager.

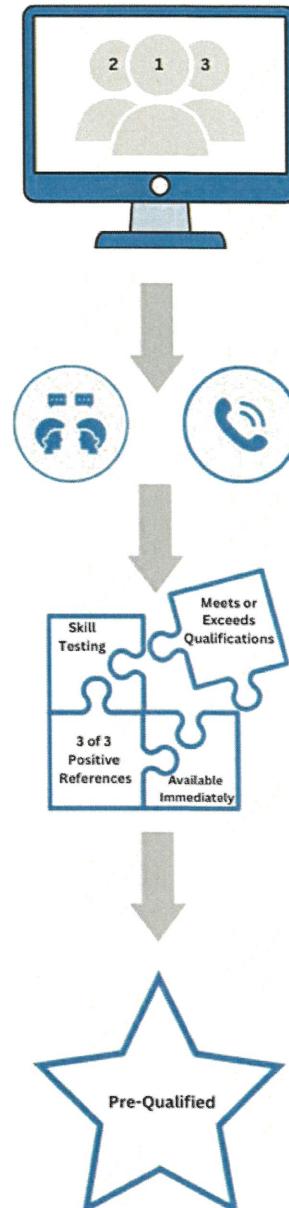
Our Account Manager prepares face-to-face interviews by reviewing the responses gathered from the initial phone screening. During the face-to-face interview, recruiters pose behavioral-related questions to explore candidates' past experiences, skills, and behavioral traits.

This interview aims to delve deeper into the applicant's experience and professionalism. Typically, the face-to-face interview takes place within 24–48 hours of the phone screening. Questions presented during this interview are evaluated based on their alignment with the specific requirements of each position.

Approach to Performing Background Investigations and Drug Screening

ATHENA provides all necessary candidate screenings, including criminal background, education verification, fingerprinting, employment verification, and drug screenings. Job candidates provide written permission to ATHENA to conduct a thorough background and reference investigation by completing, signing, and returning our Applicant Reference and Background Investigation Process release form. Candidates understand these checks may include criminal background checks, CPS record checks, pre-employment physicals, drug screenings, and driving record checks, as may be required by the requesting department. Candidates must also provide three professional references.

Applicant Tracking System (ATS)



Verify Education, Training and Experience, Background, and Drug Testing

ATHENA adheres to rigorous protocols for verifying education, training, skills, and experience. Each potential candidate undergoes a thorough screening to assess technical proficiency and background credentials. Our Account Manager oversees the verification of education levels, conducts comprehensive investigations into past work history, and accurately identifies training and skills.

As a minimum standard, ATHENA performs criminal records checks, verifies education and employment records, and conducts driver's license checks (if necessary) for all temporary personnel assigned to positions covered by our contracts. The costs associated with these essential background checks are incorporated into ATHENA's proposed hourly rates for each job classification. For positions necessitating drug screening, we collaborate with a nationwide network of certified laboratories to facilitate testing. Employees are required to undergo screening at the nearest designated site before reporting to their worksite.

ATHENA adheres to all Federal laws safeguarding applicants and employees against discrimination, including compliance with the Fair Credit Reporting Act (FCRA) and relevant State laws governing background reports and information. Additionally, we conduct further investigations at the client's request to meet job-related requirements. For instance, ATHENA collects annual driving records for employees whose roles involve driving responsibilities.

Skills Testing and Training

ATHENA administers skill tests tailored to match candidates' proficiency levels and align them with specific labor classifications and job responsibilities. To facilitate this, ATHENA partners with eSkill for skill testing services. Leveraging eSkill's versatile platform, ATHENA can select from a wide array of standardized skills tests relevant to the requested areas. Moreover, the platform offers the flexibility to create customized tests tailored to specific client needs. eSkill employs a web-based system, ensuring accessibility to tests via the Internet without requiring plug-ins or encountering security system issues. Its comprehensive and user-friendly administration panel allows for easy test customization, flexible reporting tools, and remote testing capabilities. Additionally, eSkill seamlessly integrates with our ATS platform, Akken Cloud, enabling us to provide integrated pre-employment tools and effortlessly administer skill testing to every candidate we screen. eSkill assessments undergo rigorous validation processes designed to simulate real-life scenarios and evaluate knowledge-based actions. These assessments effectively gauge candidates' skill levels against the established criteria necessary for success in specific job roles.

The objective of the skill-testing phase is to compile a roster of confirmed, skilled applicants eligible for referral to temporary positions. Upon completion of the skill tests, applicants proceed to fill out the ATHENA New Hire Application and complete I-9 forms. After the completion and scoring of the skill testing, references provided by applicants are contacted and assessed. For each temporary staffing contract, ATHENA collaborates closely with our clients to create a detailed job description and profile encompassing all necessary qualifications for effectively identifying skilled candidates.

Our thorough screening process guarantees that the personnel referred to the City possess the essential skills and training required for successful placement in available positions. As we identify requisite skills upfront, we do not provide job-specific skills training for staff. Instead, all job applicants are required to attend ATHENA orientation and site-specific training sessions.

As specified in the RFP, in instances where additional types of certifications such as First Aid and CPR certification are required, ATHENA ensures these employees have these certifications prior to applying and will maintain and recertify these certifications at their own expense.

Seven Steps to Fulfilling Staffing Requests

ATHENA follows a seven-step process to fulfill staffing requests swiftly and effectively. Under the supervision of a dedicated full-time Account Manager, each step is efficiently executed to ensure prompt and successful completion.

The seven steps are included below:

1. Receive work orders via email and respond within four hours.
2. Review the requirements and clarify with clients as needed.
3. Assess the skills of the prequalified pool of applicants against the specific requirements of the request.
4. Interview and reconfirm applicant availability and confirm candidate interest in specific position.
5. Select the top 2-4 matching applicants and send them to the client for review.
6. Complete background checks, motor vehicle record checks, and drug testing
7. Hire and onboard selected staff.

In the rare instance where an employee is deemed unsuitable, ATHENA promptly removes them from consideration and provides a replacement upon identifying and recruiting a qualified candidate.

Our standard response time for each job position request routinely exceeds our clients' requirements. **As requested by the City of Las Cruces, ATHENA can ensure a temporary employee's availability within one business day and four hours. Additionally, ATHENA acknowledges the City's option to fulfill the requirement through other qualified sources if necessary.**

Onboarding

ATHENA understands the importance of providing quick and efficient staff onboarding services to avoid any disruption to daily operations. We provide an orientation for new hires prior to their commencement of assignment with their worksite employer. **ATHENA trains and orients all personnel on relevant rules, regulations, and policies of the client. As requested by the City of Las Cruces, ATHENA provides written acknowledgment of receipt of this information by the employee.**

ATHENA conducts its employee onboarding process entirely through electronic services, which includes setting up new hires in the timekeeping system, completing background

screenings, and verifying employment and education. This process ensures that employees are well-prepared to start work at the client's office by orienting them to ATHENA's internal policies, procedures, and client-specific requirements. Training covers various aspects such as understanding the role of ATHENA contractors, maintaining accurate time records, adhering to customer service standards, discrimination and harassment, respectfulness, and ensuring work-related safety protocols. Additionally, each employee receives the ATHENA Policy and Procedure Handbook and a project-specific Addendum tailored to the individual contract. This comprehensive orientation program ensures a shared understanding among staff members and compliance with all necessary training requirements.

During onboarding, we also inform the staff of the client's dress code, badging and security requirements, and other site-specific information such as location, on-site client supervisor, work hours, break times, etc. Additionally, we emphasize the job requirements that were identified and assessed during the selection process, including appropriate business etiquette for communications, time management, reliability, punctuality, and customer service.

Appropriate Attire and Safety

Prior to orientation, each contract employee is provided with the specific requirements of their position, including proper work attire (as specified by the work order). **This includes any required safety items or personal protective equipment as needed.** During the ATHENA contractor orientation, employees receive training emphasizing the significance of adhering to safety protocols and complying with client operating policies, procedures, and safety guidelines. The repercussions of failing to comply with these standards are communicated.

Assignments & Working for ATHENA at a Client Site

New hires are reminded that they are not regarded as clients' employees and, consequently, do not have access to the same privileges or benefits. Additionally, we clarify that their daily tasks and job assignments are provided by their on-site client supervisor. If employees have inquiries regarding their job responsibilities, they are instructed first to consult their on-site client supervisor, followed by ATHENA.

Furthermore, we also explain to new hires that ATHENA manages their pay, timekeeping, and benefits. We emphasize the importance of always displaying their company identification badge while on the client premises, and we explain that there may be instances where they are escorted as necessary within client facilities. Prior to commencing work at any facility, all ATHENA personnel receive this overview. Our staff are also informed that they are not permitted to use their personal laptops or devices without prior approval from the on-site client supervisor. **In addition, staff are informed they must limit personal mobile phone calls to emergency calls while on duty. ATHENA also informs staff of the need to conform to all fire and safety/security regulations while on client premises.**

Tracking Employee Performance

Once a temporary staffing request is fulfilled with a qualified candidate, it is understood that this employee is assigned to an on-site client supervisor. The on-site client supervisor then provides the employee with tasks, responsibilities, and job expectations. Concurrently, ATHENA's Account Manager offers supervision, training, and assistance to the assigned

employee. The Account Manager collaborates closely with the on-site client supervisor, maintaining open lines of communication to ensure the selected employee's success in their role. Any issues or concerns regarding the ATHENA employee are addressed through discussions between the Account Manager and the on-site client supervisor to determine the appropriate course of action.

Following placement, ATHENA conducts regularly scheduled check-ins with our staff and site supervisors, including first day, first-week, two-week, and four-week check-ins, as well as periodic site visits.

Benefits Available to ATHENA Staff

ATHENA is one of the few temporary staffing agencies that provide a robust offering of benefits to their employees after a short 60 days of employment. We find that providing such benefits plays a vital role in minimizing employee turnover and encouraging continuity in their current roles and client assignments. This decrease in turnover not only boosts productivity for the client by increasing overall work hours but also reduces the need for additional training time, enabling employees to fulfill their job assignments more efficiently.

Our benefits include:

- Health and Vision Insurance
- 401K
- Pet Insurance
- Life Insurance
- Short-term Disability Insurance
- Long-term Disability Insurance
- Voluntary Life and AD&D Insurance
- Employee Assistance Program
- Working Advantage Discount Program

Payroll and Timekeeping

ATHENA utilizes Paycom, a robust solution for managing human resources, electronic timecards, benefits administration, payroll, and regulatory (i.e., ACA) compliance. With a single login to all components, Paycom eliminates administratively burdensome back-office processes, including the administration and maintenance of employment and payroll records, payroll processing, and remittance of payroll and taxes.

Utilizing Paycom, ATHENA can efficiently provide accurate information and reporting as needed by our clients. Paycom enables ATHENA to reduce the cost and complexity of workforce management, allowing ATHENA to focus on providing outstanding staffing and temporary staffing services to our clients.

ATHENA uses Paycom's web-based timekeeping component for all our payroll services. Employees and approving on-site client supervisors can easily access this component electronically from any computer or smart device with internet access. ATHENA establishes the system for both the employees and supervisors, providing instructions on how to log in, enter time, make corrections, and submit approved timecards.

We can process payroll on a variety of cycles, including weekly or semi-monthly, depending on the contract and client specifications.

Employees can opt for electronic direct deposit for their pay. ATHENA sends email reminders to employees and on-site client supervisors each pay period to complete and verify timecards. Employees input their work hours, breaks, and lunch daily, with Paycom calculating the total hours worked. At the end of the pay period, employees review and correct their timecards for accuracy. Once verified, the timecards are sent to on-site client supervisors for approval. Supervisors can approve or reject timecards, and those with multiple employees can review and approve all timecards at once.

ATHENA ensures that all employees are compensated in accordance with the requirements of the Fair Labor Standards Act (FLSA), minimum wage requirements, and all applicable laws. As requested by the RFP, ATHENA ensures temporary staff are compensated in accordance with New Mexico State Law, the New Mexico Workers' Compensation Act, and the City's minimum wage ordinance. Additionally, ATHENA ensures that each temporary employee acknowledges, in writing, their exempt or non-exempt FLSA status.

Employee Self Service Portal

Paycom offers a convenient and easy-to-use Employee Self-Service Portal where employees can view their personal information, benefits, and pay history. Employees can also edit their address and contact information, federal and state tax withholdings, and print their pay stubs and W-2s without having to request such documents from Human Resources. When an employee initiates a change through the Employee Self-Service Portal, Human Resources is notified and requested to approve the change. Once the change has been approved, the employee is notified via email. Employees no longer employed with ATHENA still have the option to view (but not edit) their information in the self-service portal.

ATHENA's "No Risk" Transition Plan

ATHENA offers a "No Risk" Transition solution for employees currently employed by an incumbent vendor, ensuring a smooth transition without adverse effects on job performance or satisfaction. We have successfully transferred over 500 staff and observed increased satisfaction among those who transitioned to ATHENA. The transition plan involves several steps, including initial planning meetings, determining timing for assuming employees, establishing communication processes, conducting transition meetings, evaluating employee performance, determining employee supply and demand, and onboarding transitioning employees. We integrate the plan with the client to support ongoing performance. This process is tailored to meet the needs of clients and aims to ensure operational continuity and employee satisfaction throughout the transition.

Problem Resolution Process

ATHENA, drawing on over 21 years of temporary staffing expertise, has established a comprehensive Problem Resolution Process. Central to this process is the designated Account Manager, serving as the primary point of contact for any concerns. With consultation from the Human Resources Department, the Account Manager is authorized to act on employee-related matters. They also coordinate with the Financial Department to resolve billing discrepancies. Common issues, such as staff capability or attendance, are promptly

addressed through either removal or warning, fostering proactive collaboration with clients to identify and correct negative trends early. ATHENA closely monitors timecard hours, conducts surveys with employees to address concerns promptly, and **dispatches replacement workers if needed (within two working days)**. Moreover, ATHENA promptly resolves any invoice discrepancies or payment issues, ensuring efficient resolution and client satisfaction.

Reporting

Our reports are customized to suit the unique requirements of each client. Upon receiving a contract, the ATHENA Transition Team arranges a kick-off meeting with the designated City staff. This session serves as a platform for collaborative discussions regarding the development of reports tailored to the client's precise specifications. The Reporting table shown here outlines the standard information included in these reports. We have the flexibility to provide additional customization as required. **Upon request, ATHENA provides a monthly report detailing the acquisition activity governed by the contract. The report format is subject to City approval and includes the quantity and dollar value of each contract item categorized by individual department.**

Reporting	
Identifying Information	Supplier Name
	Invoice Number and Date
	Remit address for payments
	Payment terms, including discounts
	Name of City Department ordering services
	Contract number and purchase order number
	Description of services related to payment requests
	Amount requested
Staffing Information	Associated timesheets for the billing period
	Employee First and Last Name
	Occupational Category
	Hourly Rate
	Assignment Start Date
	Projected End Date
Hours and Billing	Approved Extension Date – when applicable
	Total Hours Worked in Statement Period
	Total Amount Charged to City for Statement Period
	Total Hours Worked in Entire Assignment
	Total Amount Charged During Assignment

ATHENA Invoices

Monthly proforma invoices are generated via Paycom, categorizing all employees by client, location, and division, and organized by either purchase order (PO) numbers or client-requested sequence. These invoices provide comprehensive details for the final invoice, including employee name, position number, assigned PO number, billable hours, and rates. Completed time and attendance forms for all ATHENA employees are included with the monthly invoices and sent to the client Contract Manager or designated recipient.

Billable hours are inputted into the accounting software invoice template, which automatically updates the PO budget per employee. Following the generation of final invoices, ATHENA reviews the updated PO Status Report to ensure proper assignment of supplementary POs and adherence to PO budgets. This process prevents ATHENA from filing claims for employees exceeding the PO budget and aids in predicting budget shortages for specific employees. In addition, it enables ATHENA to inform on-site client supervisors of necessary position terminations or extension requests.

Final invoices, accompanied by signed timesheets (arranged by PO numbers), are emailed within 10 days after each pay period's closure. The integration of outsourced timekeeping and payroll systems provides ATHENA with an efficient tool for creating and submitting

government reports promptly without additional labor. This operational efficiency allows the company to operate with minimal overhead, enabling the provision of exceptional temporary staffing services at competitive rates to valued clients.

ATHENA commits to providing a clear and detailed invoice to both the requesting City department and the Disbursements (Accounts Payable) office on a weekly or bi-weekly basis, with the minimum requirements included, as requested by the City of Las Cruces. The minimum requirements for the invoice include:

- Company name, address, and contact information
- City bill-to name and contact information
- Dates of service
- Name and title of the hire, along with hours worked and hourly rate
- Extended price
- Total amount

ATHENA Assurances

ATHENA commits to providing the City of Las Cruces with comprehensive operational, financial, and quality assurances for the temporary employment services contract. This includes hiring qualified local residents, reassigning current temporary staff to ATHENA, and ensuring transparency in hiring timelines and spending. ATHENA pledges to support the city's growth, cover all costs for drug screening and background checks, ensure timely payroll processing, and maintain capacity to support seasonal and other personnel needs. **Additionally, ATHENA recognizes and respects the City's right to hire a temporary employee without paying a finder's fee or any other compensation, after the employee has provided no less than ninety (90) days of temporary service to the City.**

Insurance

ATHENA carries insurance coverage for Worker's Compensation, Commercial General Liability, Commercial Auto Liability, and Professional Liability Insurance. We confirm that we will maintain the required limits of these insurances at our own cost and expense throughout the term of the Agreement. Proof of insurance will be provided to the City of Las Cruces upon contract award.

2. Qualifications of Key Personnel

The key personnel proposed to manage this engagement have decades of experience managing temporary staffing contracts.

Mr. Mark E. Elvin, with more than 41 years of experience, is the main point of contact for the City of Las Cruces. Mr. Elvin ensures transparent communication channels and manages all contract and compliance-related matters.

Ms. Colleen Mathias, with more than 20 years of temporary staffing experience, serves as the Project Manager for this contract. She oversees recruitment, interviewing, background screenings, employment verifications, and compliance with policies and procedures.

Mr. Elvin and Ms. Mathias are supported by our Chief Executive Officer, Ms. Melissa Pappas, our Chief Delivery Officer, Ms. Ashley Notthoff, and our Chief Financial Officer, Mr. Stephen McCain, who have more than 135 years of combined experience. Descriptions of key personnel are featured below.



Melissa Pappas, Chief Executive Officer

Melissa Pappas, the Chief Executive Officer of ATHENA, assumes the role of Executive Manager, holding ultimate corporate responsibility for all operations and financial matters within the organization. Ms. Pappas has more than 33 years of experience working with state and local human service agencies in the roles of recruiting, training, and program management. She has significant experience recruiting senior, mid, and entry-level professionals for government agencies. Ms. Pappas holds a Master of Social Work from the University of Chicago. Presently, Ms. Pappas' role and responsibilities include overseeing the company's operations, financial capability, and growth. She creates quality-focused company policies and implements innovative solutions to adapt to the complex landscape of recruiting and staffing.



Mark E. Elvin, Chief Officer for Strategy and Growth

Mark E. Elvin is the Chief Officer for Strategy and Growth at ATHENA. With over 41 years of expertise in strategy development, growth initiatives, contract and client management, and project oversight, he is responsible for serving as the primary liaison between ATHENA and the City. Mr. Elvin oversees all contract-related activities, including negotiations, amendments, and compliance. Mr. Elvin plays a crucial role in ATHENA's overall growth strategy, emphasizing the importance of maintaining strong relationships with existing clients. He has a Bachelor of Arts degree in Political Science from Albright College and a Juris Doctorate degree from Widener Law School. Furthermore, Mr. Elvin has contributed as an instructor at the University of Pennsylvania School of Law and remains active in various legal and human services organizations across the United States.



Ashley Notthoff, Chief Delivery Officer

Ms. Ashley Notthoff is the Chief Delivery Officer at ATHENA and has over 28 years of experience in recruiting and staffing management. She joined ATHENA in July 2020 with a commitment to maintaining the company's tradition of delivering excellent customer service and a client-focused operational approach. Ms. Notthoff has experience in various areas of temporary staffing services, from recruitment to operations. Her responsibilities include overseeing candidate recruitment, employee training, client satisfaction, the Quality Improvement Plan, and human resources. She holds a Bachelor of Science degree in Marketing and Advertising from California Lutheran University.



Stephen McCain, Chief Financial Officer

Mr. Stephen McCain is the Chief Financial Officer of ATHENA and possesses over 13 years of experience in contract and fiscal management, including seven years in the staffing industry. He is responsible for developing financial models and overseeing all fiscal aspects of ATHENA, including accounts payable, resolution of fiscal-related issues, and ensuring exceptional customer service delivery. He manages billing integrity and oversees the accuracy of the billing process. Mr. McCain previously served as a Manager at Price Waterhouse Coopers and holds a Bachelor of Science degree in Accounting and Finance, as well as a master's degree in accounting from Abilene Christian University. He is also a certified CPA in the Commonwealth of Virginia.



Colleen Mathias, Project Manager and Account Manager

Ms. Colleen Mathias serves as the Project Manager and Account Manager for this engagement. Ms. Mathias has over 30 years of experience in project management, including more than 20 years of experience in managing human services projects nationwide. Notably, her background includes 20 years of experience in government contracting, serving diverse populations and staff across both government and private sector contracts. Her expertise includes oversight of national government contracts, where she supports clients, staff, and contract needs by implementing sound business practices and establishing reliable interventions and approaches. Ms. Mathias also excels in building strong and effective teams of professionals. Furthermore, she provides comprehensive support and guidance to all staff assigned to contract work, which includes recruitment, interviewing, background screenings, employment verifications, and ensuring compliance with policies and procedures. Ms. Mathias holds a Bachelor of Science degree in Social Work from Radford University in Virginia. She also holds a certification for PMP (Project Management Professional) Training, from the Project Management Institute.

STAFF NAME	CORPORATE TITLE	on C F cer	33	✓	✓	✓	✓	✓	FIN
Melissa Pappas	Chief Executive Officer	5%	33	✓	✓	✓	✓	✓	✓
Mark E. Elvin, Esq.	Chief Officer-Strategy and Growth	8%	41	✓	✓	✓	✓	✓	✓
Ashley Notthoff	Chief Delivery Officer	20%	28	✓	✓	✓	✓	✓	✓
Stephen McCain	Chief Financial Officer	7%	13	✓	✓	✓	✓	✓	✓
Colleen Mathias	Account Manager	100%	21	✓	✓	✓	✓	✓	✓

3. Past Performance

ATHENA has a proven record of providing temporary staffing services to dozens of city, county, and statewide government entities since our inception in 2002. ATHENA is pleased to provide the City of Las Cruces with five client references that demonstrate our consistent delivery of professional and reliable services as required for temporary staffing contracts similar to those requested under this RFP. We provide contact information including project names, cities/towns, or states, duration, date of work, scope of the work/services performed, and contact names and telephone numbers for selected contracts below.

We highly recommend that the City reach out to these contract administrators and managers who can offer first-hand insight into our ability to fulfill the services outlined in the RFP. Furthermore, we are happy to provide additional references upon request should you require more information.

	Mayor's Office of the City of Baltimore. MD
SCOPE OF WORK	ATHENA provides case managers, shelter monitors, administrative assistants, clerical and human services managers, and shift managers to aid with the city shelter programs and facilities
CONTRACT PERIOD	April 2020 – Present
ADDRESS	100 Holliday Street Baltimore, MD 21201
CONTACT INFORMATION	Elise Gillespie, Deputy Director of Administration; 410-299-5787; Elise.Gillespie@baltimorecity.gov

	Montgomery County Department of Health and Human Services, Maryland
SCOPE OF WORK	ATHENA provides case managers, navigators, and other contract staff for Health and Human Services
CONTRACT PERIOD	05/13 - 06/17 & 1/1/18-12/31/24
ADDRESS	400 Hungerford Drive, 6 th Floor
CONTACT INFORMATION	Patrick M. Campbell, Deputy Chief Operating Officer; 240-777-1622; Patrick.Campbell@montgomerycountymd.gov

	MDOT On-Call Temporary Contingent Labor Services
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	(ADPIVS #J01BY400039)
SCOPE OF WORK	ATHENA was one of the two contractors selected through a competitive bidding process to provide on-call temporary labor services for 25 administrative labor categories across six operating divisions within the Maryland Department of Transportation (MDOT). Upon contract award, MDOT had over 160 temporary employees, requiring a seamless transition to the selected contractors.
CONTRACT PERIOD	4/1/17 – 9/30/24
ADDRESS	7201 Corporate Center Drive, Hanover, MD 21076
CONTACT INFORMATION	Joy Abrams, Procurement Manager; 410-865-1129; jabrams@mdot.state.md.us

	Veritas
SCOPE OF WORK	Veritas has contracted with ATHENA to provide Child Support Case Managers in Baltimore County, MD.
CONTRACT PERIOD	12/1/2017 – 2/28/2025
ADDRESS	1120 Lincoln Street, Suite 1300, Denver, CO 80203
CONTACT NAME	Tim Hansen. VP of Human Resources; 303-830-1400; thansen@veritas-hhs.com

	Virginia Department of Health
SCOPE OF WORK	In 2019, ATHENA was selected as a contractor to provide all of Virginia's state agencies with a vast list of temporary staffing positions ranging from custodians and secretaries to scientists and media specialists. ATHENA has a 100% fulfillment rate for this contract for all positions requested.
CONTRACT PERIOD	2019 - Present
ADDRESS	109 Governor Street, Richmond, VA 23219
CONTACT INFORMATION	William Edmunds, Director of Process Evaluation & Oversight; 804-221-1582; william.edmunds@vdh.virginia.gov

EXHIBIT B

COST PROPOSAL



Contents

1. ATHENA STAFF BENEFITS 1

2.ATHENA PRICING ASSUMPTIONS for LAS CRUCES2

ATHENA Core Values 3

1. ATHENA STAFF BENEFITS



ATHENA's core value is to Make our Employees' Lives Better, which is why we are excited to present our 2024 Benefit Plans! Our benefits philosophy is centered on providing you with a high-value, market-competitive benefits package that reflects our commitment to your well-being and overall job satisfaction.

Benefit Name		Benefit Description	
	Medical	We offer 3 Cigna managed High Deductible Health Plans (HDHP) that are eligible for Health Savings Account (HSA). A 4 th plan is an Open Access Plan (OAP) with a low deductible and co-pay options.	
	Prescription Drugs	Prescription Drug coverage is included for all who enroll in a Cigna Medical Plan.	
	Health Savings Account (HSA)	If you enroll in one of the HDHP plans, you are eligible to participate in and contribute to a Health Savings Account (HSA) offered through HSA Bank.	
	Dental	Dental & Vision coverage is offered through MetLife.	Dental: ATHENA offers two dental plans. Our High Plan includes orthodontic coverage for both kids and adults.
	Vision		Vision: This coverage offers one eye exam and one set of lenses and one pair of frames every 12 months.
	Health Flex Spending Account (FSA)	A Flexible Spending Account (FSA) is a savings account for health care expenses. You are not taxed on the money put into the FSA, and you can use the account to pay for qualified out-of-pocket health care costs, such as your deductible and copays.	
	Dependent Care Flexible Spending Account	A Dependent Care FSA (DCFSA) is used to pay for childcare or adult dependent care expenses that are necessary to allow you and your spouse, if married, to work, look for work or attend school full-time.	
	Commuter Benefit Account	The Commuter Benefit Account (CBA) can reimburse you for allowable commuter and transit costs with tax free dollars! This allows you to set aside pre-tax funds to pay for qualified mass transit and parking expenses associated with your commute to work.	
	Life and Accidental Death & Dismemberment (AD&D) Insurance	Basic & Voluntary Life and AD&D insurance is issued by Prudential. ATHENA provides \$10,000 basic life & AD&D coverage to all employees at no cost! Voluntary life policies are also available to employees, spouses and children. Initial enrollment period allows employees to waive evidence of insurability for amounts up to 5x employee salary or \$500,000, whichever is lower.	
	Short-Term Disability (STD)	Both disability plans provide supplemental income should you be unable to work due to non-work-related injury or illness.	STD: Disability benefits pay after 7-day wait period and pays the lesser of either 60% of your weekly earnings or the maximum disability benefit of \$1,500/week.
	Long-Term Disability (LTD)		LTD: Disability benefits pay after 90 days of continued incapacity and pays the lesser of either 60% of your weekly earnings or the maximum disability benefit of \$7,000/month.
	Employee Assistance Program (EAP)	Guidance Resource manages our Employee Assistance Program (EAP) and is one of the benefits available at to all employees and their families at no cost! Services, such as counseling, legal and financial consultations, and wellness coaching are included.	
	Pet Insurance	Pet Insurance is offered by Nationwide and provides complete or à la carte coverage for canine, feline, aviary, and exotic pets.	
	401(k) Retirement Plans	Standard 401(k) and Roth retirement plans, administered by Ascensus and Merrill Lynch, are available to full- and part-time employees over the age of 21 on the first of the month following 4 months of employment. ATHENA matches employee contributions 100% of the first 3% and 50% of the next 2% of employee contributions, up to a maximum of 4%.	
	Working Advantage Discount Program	You will find deals on everything from Apparel to Zoo admission! Just <i>Become a member</i> , and enter the company code (ATHENAPERKS), and VOILA!	

Eligible Full-Time employees, work an average of 30 or more hours per week. Employees on a leave of absence must maintain the requirements to continue eligibility while off work. Please review plan documents for complete details.

Rev. 01.2024



506 Main Street, Suite 215, Gaithersburg, Maryland 20878

p: 301-216-9654

athenaconsultingllc.com

2.ATHENA PRICING ASSUMPTIONS for LAS CRUCES

In the table below, ATHENA provides a suggested pay range and bill range for the positions identified by the City. We also include a markup rate for other positions that may be requested by the City.

ATHENA understands the need to negotiate hourly wages with department hiring managers. We further understand that the current minimum wage in Las Cruces is \$12.36/hour. In addition, ATHENA assumes that Las Cruces may wish to maintain some or all of the existing temporary staff working under the existing contract.

With these assumptions in mind, ATHENA proposes the following approach to determine hourly rates for staff.

Existing Staff: Existing staff are working for a pay rate that was negotiated and approved by the department hiring manager. ATHENA proposes to transition these staff using the mark-up rates outlined in the table below, while working with department managers to determine appropriate pay rates, ensuring that all workers are at a level that meets or exceeds the current minimum wage.

New Staff: The table below outlines our estimates for the current market rates for positions identified by the City in Amendment 1. Our plan includes working with hiring managers to negotiate a salary acceptable to the City.

Our price is based on weekly invoicing, and covers all administrative charges related to payroll including for example required withholding including FICA, state unemployment tax, and insurance

City of Las Cruces: ATHENA Consulting LLC			
Suggested Market Rate for New Hires			
Position	Pay Rate Range Low to High	Markup Rate	Bill Rate Range Low to High
Accountant (journey level)	\$21.60 - \$27.00	29%	\$27.86 - \$34.83
Accounting Technician	\$20.00 - \$26.00	29%	\$25.80 - \$33.54
Accounting Clerk	\$14.00 - \$18.00	29%	\$18.06 - \$23.22
Administrative Assistant	\$16.00 - \$20.00	29%	\$20.64 - \$25.80
Transcriber (general)	\$20.50 - \$24.00	29%	\$26.45 - \$30.96
Engineer	\$34.00 - \$40.00	29%	\$43.86 - \$51.60
Engineering Technician	\$26.00 - \$30.00	29%	\$33.54 - \$38.70
Custodian	\$12.36 - \$15.00	29%	\$15.94 - \$19.35
General Laborer	\$12.36 - \$17.00	29%	\$15.94 - \$21.98
Special Events Staff	\$12.36 - \$25.00	29%	\$15.94 - \$32.25

Additional Administrative/Clerical Positions: 29% Markup

Additional Light Industrial Positions: 29% Markup

ATHENA Core Values





CITY OF LAS CRUCES

SERVICE AGREEMENT

23-24-047
Temporary
Employment
Services

THIS AGREEMENT made and entered into on this ____ day of June, 2024 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and Cogent Infotech Corporation, of 1035 Boyce Road, Suite 108, Pittsburgh, PA, 15241, hereinafter called "CONTRACTOR".

1. PROJECT DESCRIPTION

Temporary employment services to be provided on an as needed basis. Various purchase orders will be issued according to the needs of CITY departments and Joint Power Agreement (JPA) agencies.

2. SCOPE OF SERVICES

In a satisfactory and proper manner, the CONTRACTOR shall perform SERVICES as proposed in response to the CITY'S RFP No. 23-24-047 as set forth in Exhibit A, attached hereto and made a part of this Agreement.

3. APPROPRIATIONS

The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

4. COMPENSATION

The CITY shall compensate CONTRACTOR for the performance of SERVICES under this Agreement an amount as proposed in response to the CITY'S RFP No. 23-24-047, plus applicable taxes as set forth in Exhibit B, attached hereto and made part of this Agreement. CONTRACTOR shall perform the SERVICES upon receipt of a purchase order or written Notice to Proceed from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed. CONTRACTOR shall submit invoices weekly or biweekly. CITY shall pay invoices Net 30 days upon receipt of undisputed invoice.

CONTRACTOR is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. CONTRACTOR agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

5. DEVOTION OF ADEQUATE TIME

CONTRACTOR will devote the necessary hours each week to the performance of project that are required by the CITY, and it will serve the CITY, diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE

This Agreement shall become effective on July 1, 2024 for a term of four (4) years through June 30, 2028. CONTRACTOR shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and CONTRACTOR.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall CONTRACTOR be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request CONTRACTOR to perform other extra services not incorporated within the Services set forth in this Agreement. If the CONTRACTOR is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the CITY, CONTRACTOR shall so notify the CITY, of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the CONTRACTOR within five (5) business work days from the date of receipt of CONTRACTOR'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE CONTRACTOR

In the event a condition is identified by the CONTRACTOR which, in the opinion of the CONTRACTOR, changes the services, costs, and/or time required for performance under this Agreement, the CONTRACTOR shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business work days from the date of receipt of CONTRACTOR'S notification.

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of CONTRACTOR, and without the fault or negligence of CONTRACTOR, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. CONTRACTOR shall provide the CITY, with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by CONTRACTOR to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in

accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY, for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to CONTRACTOR.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY, deliver to the CITY, the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

CONTRACTOR will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S, right to recover excessive or illegal payments. CONTRACTOR will retain records for five (5) years after the completion of the project.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY, will be kept confidential and CONTRACTOR will not disclose to any other party, directly or indirectly, without the CITY'S, prior written consent unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the CONTRACTOR shall be the sole property of the CITY, and shall be delivered to the CITY, when requested and at the end of the Agreement.

14. INDEPENDENT CONTRACTOR

CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY, CONTRACTOR, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY, by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR's employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to perform services for other parties; and (ii) CONTRACTOR may perform for its own account other professional services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as otherwise specifically set forth herein, neither CONTRACTOR nor CITY, shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT

CONTRACTOR shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

CONTRACTOR shall obtain and maintain at least the following insurance at its own cost and expense during the life of this Agreement, and shall require Subcontractors, if any, to maintain the same insurance during the life of the subcontracted work:

1. Professional Liability
 - a. \$1,000,000 per occurrence

2. Commercial General Liability Insurance
 - a. \$1,000,000 per occurrence / \$2,000,000 aggregate
 - b. Coverage must include premises and operations, products and completed operations, and personal and advertising injury.
 - c. The City of Las Cruces must be named as an Additional Insured for all coverages listed above on endorsements acceptable to the City.
 - d. Coverage must be primary and non-contributory.
 - e. Coverage must be per project or per location.
 - f. Coverage must be on an occurrence form.
 - g. Subrogation must be waived.
3. Commercial Auto Liability
 - a. \$1,000,000 per occurrence
 - b. Coverage must be for "owned, leased, hired, and non-owned autos" or "any autos."
4. Workers' Compensation and Employers Liability
 - a. Statutory Limits
 - b. Employer liability – \$1,000,000 each accident, \$1,000,000 each employee by disease, \$1,000,000 policy limit
 - c. Subrogation must be waived.

Endorsements for additional insured coverage and waivers of subrogation must be provided as a condition of this Agreement and shall be noted on the certificate.

CONTRACTOR shall furnish the CITY with a certificate(s) of insurance showing CONTRACTOR and Subcontractors, if any, have complied with this Article. The CONTRACTOR shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

CONTRACTOR shall indemnify, defend, and hold harmless the CITY, from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused in whole or in part by, resulting in whole or in part from, or arising in whole or in part out of the negligent acts, errors, or omissions of CONTRACTOR, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

CONTRACTOR shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the CONTRACTOR'S services or any work done pursuant to this Agreement, including anti-discrimination.

20. BREACH

In the event CONTRACTOR breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY, shall give CONTRACTOR written notice of such breach. In the event CONTRACTOR fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy CONTRACTOR'S breach and recover any and all costs and expenses in so doing from CONTRACTOR.

21. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and CONTRACTOR under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

22. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY: City of Las Cruces
 PO Box 20000
 Las Cruces, NM 88004
 ATTENTION: Greg Gonzalez, Buyer I

With Copies to: Purchasing Manager

TO CONTRACTOR: Cogent Infotech Corporation
 1035 Boyce Road, Suite 108
 Pittsburgh, PA 15241
 ATTENTION: Justin Acord, Executive Vice President

23. SCOPE OF AGREEMENT

This Agreement incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof and that all such covenants, agreements, and understandings have been merged into this written agreement. No prior agreement or understanding verbal or otherwise of the parties or their agents shall be valid or enforceable unless embodied in this agreement.

24. SEVERABILITY

The parties agree that each provision of this Agreement is severable and the invalidity or unenforceability of any one or more of the provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

25. CONFLICT OF INTEREST

CONTRACTOR represents and warrants that CONTRACTOR has no business, professional, personal, or other interest, including, but not limited to, the representation of other clients, that would conflict in any manner or degree with the performance of its obligations under this Agreement. If any such actual or potential conflict of interest arises under this Agreement, CONTRACTOR shall immediately inform the CITY in writing of such conflict. If, in the reasonable judgement of the CITY, such conflict poses a conflict to and with the performance of CONTRACTOR'S obligations under this Agreement, or is otherwise a violation of the CITY'S current policy or ordinances, then the CITY may terminate the Agreement immediately upon written notice to CONTRACTOR; such termination of the Agreement shall be effective upon the receipt of such notice by CONTRACTOR.

COGENT INFOTECH
CORPORATION

CITY OF LAS CRUCES

BY: _____
Justin Acord
Executive Vice President

BY: _____
Alicia Hernandez
Purchasing Manager

Date

Date

APPROVED AS TO FORM

City Attorney

EXHIBIT A

SERVICES

A. General Conditions

Temporary services are requested as needed throughout the contract period. Temporary employees will be subject to all applicable City work rules and their amendments. The contract will not guarantee that any specific amount of services will be obtained. Orders will only be placed when the City identifies a need and issues a purchase order or written Notice to Proceed. It shall be the Contractor's responsibility to meet the City's requirements. The contract(s) are non-exclusive, and the City reserves the right to obtain services on the open market to serve the best interest of the City.

B. Specific Conditions

1. The Contractor(s) shall:

- a. Designate a coordinator as a local single point of contact (SPOC), as well as a backup, that will be accessible during normal work hours to receive temporary employment requests, handle and assist in any and all inquiries regarding scheduling, billing, status of orders, availability, contract pricing, contract compliance requirements, and problem solving. Normal work hours for the City are from 8:00am until 5:00pm Monday through Friday, with the exception of designated holidays.
- b. Refer personnel that have successfully undergone applicable background check and drug testing upon request of the city and provide verification that these pre-employment screenings have been successfully completed. Personnel shall be immediately productive, requiring minimal training and orientation.
- c. Be responsible for obtaining and informing and orienting its personnel on all relevant rules, regulations, policies, etc. of the City. Written acknowledgement of receipt of this information by the employee shall be provided to the City.
- d. Be given four (4) business hours and one (1) business day to confirm availability of a temporary employee to fill a request. However, if Contractor is unable to fill the job request, the City may fill the requirement from other qualified sources. City personnel will endeavor to give as much notice as is practical and possible.
- e. Ensure all temporary employees referred to the City have been screened for minimum qualifications required for the position.
- f. Be notified by the City in the event any temporary employee fails to adhere to the City's directions, policies, procedures, security / safety regulations, or demonstrates that they are not qualified to perform the required duties, and the Contractor shall replace the temporary employee within two (2) working days at

no cost to the City (including, but not limited to, training time; background checks; ID badges; drug testing; etc.). This also applies to any temporary employee that leaves for any reason before the assignment is completed. When a temporary employee leaves, at any time, the Contractor shall be responsible for any unreturned keys, ID badges, etc. If such items are not returned to the City within five (5) working days, the City shall send an invoice to the Contractor for the exact replacement cost. The Contractor shall pay this invoice within twenty (20) days.

- g. Agree to compensate employees in accordance with the requirements of the Fair Labor Standards Act (FLSA) as amended, New Mexico State Law and the New Mexico Workers' Compensation Act as amended, and the City's minimum wage ordinance. Additionally, the Contractor must ensure that each temporary employee acknowledges, in writing, their exempt or non-exempt FLSA status, whichever is applicable.
- h. Include provisions for the City to hire the temporary employee without payment of a finder's fee or any other fee, after the temporary employee has completed no less than ninety (90) days of temporary service to the City.
- i. Submit a legible, detailed invoice to the requesting City department and the Disbursements (Accounts Payable) office on a weekly or bi-weekly basis before payment(s) can be made. The City will pay invoices within twenty (20) days. Tax for services must be included in the invoice. At a minimum, the invoice must provide the following information:
 - i. Company name, address and contact information
 - ii. City bill-to name and contact information
 - iii. Name and title of hire, hours worked and hourly rate
 - iv. Dates of service
 - v. Extended price
 - vi. Total amount

Preferably, invoices should be sent via e-mail to disbursements@lascruces.gov.

Invoices can also be mailed to:

City of Las Cruces
Attention: Accounts Payable
PO Box 20000
Las Cruces, NM 88004

- j. Furnish, upon request by the City, a monthly usage delineating the acquisition activity governed by the contract. The format of the report shall be approved by the City and shall disclose the quantity and dollar value of each contract item by individual department.
2. The Contractor shall provide contracted employees who shall:
- a. Based on position and services to be provided to the City, be subject to various criminal checks, fingerprinting, background checks, and applicable drug testing

upon whose results the City may choose to base its decision to accept an individual for assignment. This option would allow the temporary employee access to areas within the City such as court buildings, and any restricted areas.

- b. Conform in all respects to fire and safety / security regulations while on the City's premises.
 - c. Receive training on preventing discrimination and harassment and have received and acknowledged receipt of the City's Discrimination Policy as provided by the City.
 - d. Be able to read, write, speak, and comprehend the English language in accordance with the minimum requirements of the position description, unless otherwise requested.
 - e. Be dressed appropriately and with the equipment specified by the City as being required to perform work in the service categories covered under this contract. The City requires most field personnel to have safety shoes, at the expense of the temporary employee. The safety shoes must meet American National Standards Institute (ANSI) and Occupational Safety and Health Administration (OSHA) standards.
 - f. Be respectful of all people with whom they interact, including City employees and customers of the City. The City reserves the right to reject any candidate that does not exhibit common courtesy and cordiality towards all individuals with which they may come in contact.
 - g. Limit personal mobile phone calls to emergency calls while on duty.
 - h. Report to an assignment at the time designated by the City. The work week shall be Monday through Friday. Normal business hours are 8:00am to 5:00pm, and occasionally weekends, excluding City holidays. There may be requirements or alternate schedules which require evening, weekend, holiday and overtime work. Weekend work shall be defined as Saturday and Sunday during the same week. Weekend or holiday work will not be considered overtime unless in excess of forty (40) hours worked.
 - i. Be entitled to lunch periods ranging from 30-60 minutes as determined by the City. No payments shall be made for lunch periods.
 - j. In some instances, require additional types of certifications such as First Aid and CPR certification. Temporary employees shall have these certifications prior to applying for such positions. Temporary employees shall maintain and recertify these certifications at their own expense.
3. The Contractor shall accept that the City shall:
- a. Have the right to interview and / or screen all prospective personnel, and to accept or reject any or all based upon the required skills and the background and experience of each individual. A resumé may be required upon request prior to an interview.
 - b. Supervise Contractor's employees. The City shall have direct control over the daily activities of the Contractor's employees.
 - c. Reserve the right to add and / or delete services provided under this contract. If a requirement is deleted, payment to the Contractor will be reduced proportionately to the amount of service reduced in accordance with the proposal price. If

additional services are required from this contract, prices for such additions will be negotiated by the Contractor and the City.

4. The Contractor shall accept a contract provision that any request for fee adjustments must be submitted sixty (60) days prior to the current contract annual anniversary date. Requests for adjustment in cost of labor must be supported by appropriate documentation. If the City agrees to the adjusted fee, the City shall issue written approval of the change in the form of a contract amendment to be executed by both parties. The reasonableness of the request will be determined by comparing the request with the Consumer Price Index or by performing a market survey.



Proposal Response For:
Request for Proposal
RFP NO.: 23-24-047
Temporary Employment Services

Proposal Due By:
April 23, 2024 by 4 PM

Proposed To:
City of Las Cruces
Attn: City Purchasing Section Bid Clerk
Email: bidclerk@las-cruces.org

TECHNICAL PROPOSAL



COGENT Infotech Corporation
Justin Acord, Executive Vice President
HQ: 1035 Boyce Road, Suite 108, Pittsburgh, PA 10281
Email: govt-bids@cogentinfo.com | Phone: (412) 889-7700
Website: www.cogentinfo.com



Table of Contents

Table of Contents 1

RFP Compliance Declaration 2

Cover Letter 3

Technical Proposal Content..... 5

Evaluation Criteria 1 – Technical Approach to the requested services 5

Evaluation Criteria 2 - Qualifications/competence of team members to manage services to be provided 10

Evaluation Criteria 3 - Performance of the firm with previous clients, based upon quality of the work, control of costs, ability to meet schedules or deadlines; and responsiveness to the client. 15

RFP Compliance Declaration



CITY OF LAS CRUCES

RFP COMPLIANCE DECLARATION

RFP TITLE: Temporary Employment Services

RFP NO.: 23-24-047

DUE DATE/TIME: April 23, 2024 / 4:00 p.m.

In compliance with the requirements of this RFP, I, the undersigned, offer and agree to furnish any or all materials and/or services to the City of Las Cruces within the time agreed.

I further certify that this company has not been debarred, suspended, or otherwise made ineligible for participation in Federal Assistance programs under Executive Order 12549 Debarment and Suspension as described in the Federal Rules and Regulations.

Receipt of Addenda Nos.: 1,2 is hereby acknowledged (where none received, place a zero in this space)

Company Name and Address:	
Cogent Infotech Corporation	
1035 Boyce Road, Suite 108	Authorized Signature
Pittsburgh, PA 15241	Justin Acord
	Typed or Printed Name
	Executive Vice President
	Title
	Govt-Bids@cogentinfo.com
	Email Address

Telephone number 412-889-7700 Fax number 412-774-1515

NM Tax & Revenue Dept. CRS # Applied for CRS #

Current NM Secretary of State Business ID # Applied for Business ID #(corporations only)

Current CLC Business Registration # _____ (respondents located in Las Cruces only)

Federal I.D. number 32-0083904 (mandatory for all respondents)

NM Resident Certificate from NM Tax and Revenue Department enclosed ____ Yes ☒ No

**THIS FORM MUST BE COMPLETED AND INCLUDED WITH PROPOSAL
 FAILURE TO INCLUDE WILL SUBJECT RESPONSE TO REJECTION**

Cover Letter

City of Las Cruces
City Purchasing Section Bid Clerk

Date: April 23, 2024

Subject: Cogent Infotech’s proposal to Request for Proposal for Temporary Employment Services.

Cogent Infotech Corporation (“Cogent”) is pleased to submit our proposal for the City of Las Cruces’ Request for Proposal for Temporary Employment Services. As an **ISO 9001; 20000; 27001 Certified, and recognized MBE** certified Firm from National Minority Supplier Development Council (NMSDC), Cogent has a strong understanding of the City’s goals to select the qualified employment agencies who can secure qualified and competent temporary workers promptly and efficiently for the City’s Temporary Employment Services. We are committed to becoming a strategic partner that fulfills and exceeds the expectations outlined in your RFP.

Cogent, with over **20+ years of experience** in the staffing industry, has established itself as a leader in providing comprehensive staffing solutions to various clients, including 160+ public entities. Our mission is to support our clients in achieving their operational objectives by providing highly skilled and vetted temporary employees tailored to meet specific needs. We recognize the critical importance of having the right personnel, especially in public service roles where every position impacts the community's well-being. Our approach is centered on understanding the unique requirements of the City ensuring that all temporary employees supplied not only meet the specified qualifications but also align with the city's values and commitment to service. We have a rigorous selection and vetting process, which includes thorough background checks, skill assessments, and personal interviews to ensure a perfect match between the candidate and the job role. Cogent will have a strong focus on providing the best candidates in the shortest turnaround time to meet the temporary staffing needs of the City.

Cogent possesses extensive expertise in Temporary Employment Services throughout the United States, catering to a wide range of clients with our specialized services. Our established history in this field highlights our robust ability to meet and exceed the distinct needs of diverse organizations. Our in-depth knowledge of the Temporary Employment sector, combined with a dedication to delivering high-quality services, positions Cogent as a leading provider, adept at connecting clients with outstanding executive talent to propel their businesses to new heights. Having significant experience with diversified services, we have developed a very strong bonding with the State of New Mexico through the following contracts/clients:

City of Albuquerque – Temporary Staffing Services	State of New Mexico General Services Department - Temporary Employment Services
---	--

Cogent proposes to develop a customized, seamless solution that enhances your entire procurement process, without sacrificing the core values that have attributed to your success. Because of our unique staffing approach, the City’s will continue to realize significant savings in time, money, and effort with no disruption to business.

Cogent prides itself on its responsive and adaptable service model, which allows us to meet urgent staffing needs efficiently. We are prepared to provide a single point of contact for all staffing requests, ensuring clear communication and swift action to fulfill the City’s requirements. Our team is committed to working closely with the City to ensure seamless integration of our temporary employees into your operations, minimizing disruptions and maximizing productivity. In addition to our commitment to providing high-quality staffing solutions, Cogent is also dedicated to

compliance with all federal, state, and local regulations, including the City's Living Wage Ordinance and non-discrimination policies. We understand the importance of being a responsible partner and employer and are committed to upholding the highest standards of integrity and professionalism.

Cogent affirms that the information and data provided herein are accurate and have been prepared with the utmost diligence and completeness by the undersigned representative. Should you have any questions regarding our offer, please contact me at (412) 889-7700 or via email govt-bids@cogentinfo.com.

Sincerely,



Justin Acord (Executive Vice President)
COGENT Infotech Corporation

Technical Proposal Content

Evaluation Criteria 1 – Technical Approach to the requested services

To address Evaluation Criteria No. 1 below, provide description of the proposed technical approach of all professional, technical and customary services provided. Methods and results of candidate qualification, including pre-employment testing, screening, and / or assessments should be included.

Cogent Response:

OUR METHODOLOGY TO FILL A STAFFING NEED

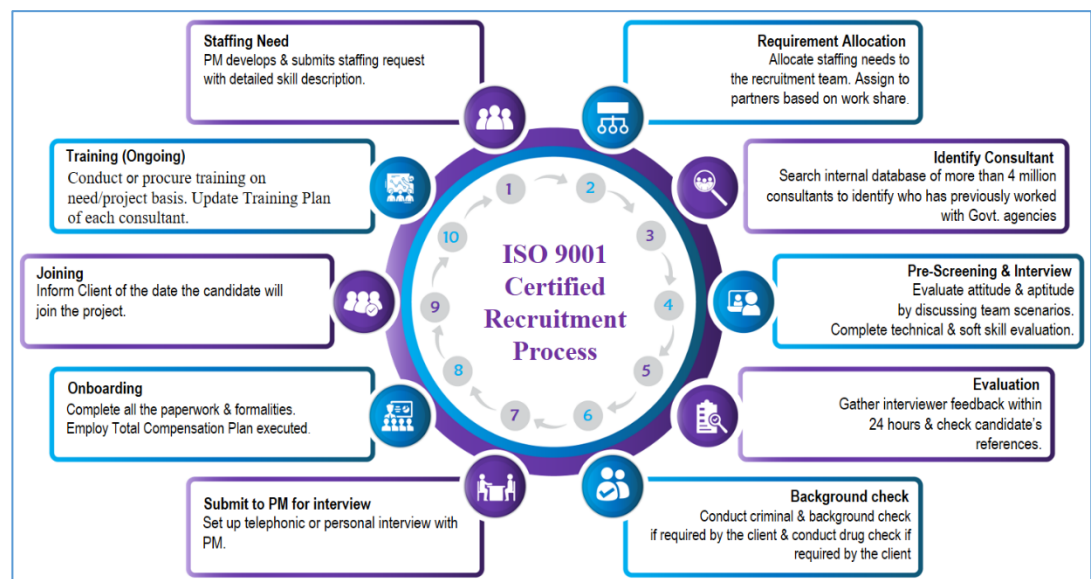
When the City will provide requirements to COGENT's account manager, clarification about the profile will be discussed. The account manager will review the requirements and upload Position Request Response Form into Job Diva Portal (<https://www.jobdiva.com/>). Also, our account manager will allocate the requirement to a particular recruiter who is specialized for that particular skill set. The recruiter finds the best fit resumes from various sources. We initially screen for basic requirements, availability and discuss the overall project opportunity. In our 3 reference checks for each qualified candidate, we evaluate factors like Performance, Attitude, Aptitude and Reason for leaving last assignment. On receiving acceptable responses, details are passed-on to our Resource Manager (RM). RM discusses the projects, tools, technologies/application and skills used, and overall role. After an in-depth screening, we further evaluate all related credentials in which we verify education, relevant certification and work authorization status. After complete verification, a candidate is transferred to the SME. SME evaluates the candidate by providing skill-specific online test and discusses technical environment of the client and informs account details, location and all project related information. SME approved candidate is submitted to the client by the designated Account Manager. Client Manager then interviews the candidate. Once we receive the green flag from the client we perform multiple other checks as requested by the client, which may include but not limited to E-verification, Drug Test, Finger Printing and Background Verification.

OUR RECRUITMENT PROCESS

COGENT understands that every client is unique and has a unique set of goals. Thus, we do not follow a common recruitment approach for all clients. After an exhaustive analysis of a client's requirements by our Account Manager (AM) and the subsequent meeting with the client's Hiring Manager, a well-thought-out recruitment approach has been crafted. Our process is tailor-made for each of our clients to ensure we deliver the finest, best-fit talent.

Our recruitment process kick-starts as soon as our AM receives a requirement from the client.

AM discusses the requirement with the Recruitment Manager (RM) who subsequently creates a skill matrix accordingly. The RM assigns the requisition to our Sourcing Team. Our Sourcing team looks for candidates from a wide range of



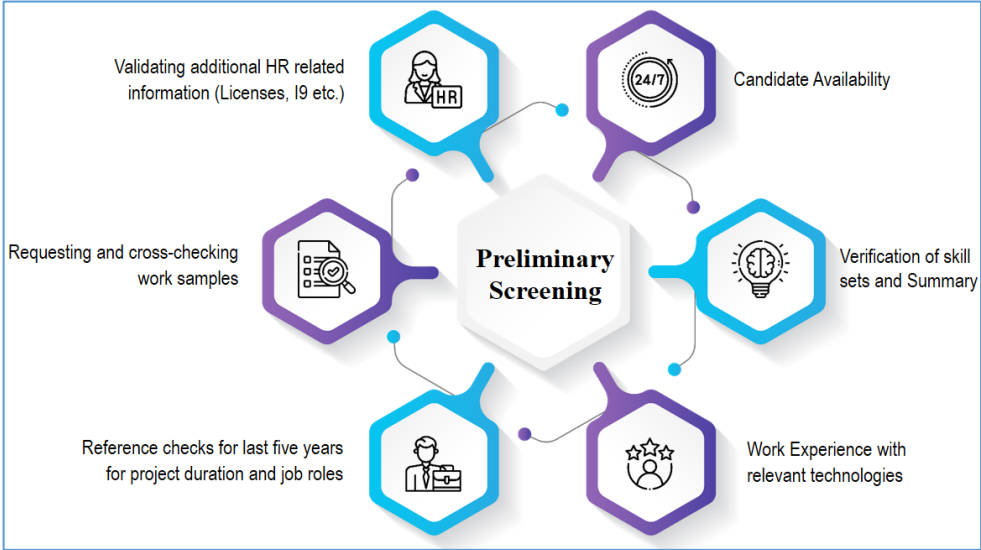
resources utilizing a variety of sourcing techniques. Beside our ever expanding ‘COGENT’s Talent Pool’, we source candidates from job boards, career sites, social media, company websites, networking events, and employee referrals. Our sourcing team continuously submits the best-fit resumes to Recruiters and Recruiter starts preliminary screening. Additionally, HR related information (W2, I-9 etc.) is gathered. Once preliminary screening has been completed, the best-fit candidate details are sent to the RM for in-depth screening. Our RM utilizes his/her strong technical background to conduct a thorough technical screening round with the candidate which includes a detailed discussion of all the candidate’s previous projects and skills & technologies used, type of applications the project entailed, and overall role of the candidate on the project. After the in-depth screening process, our RM verifies the credentials of the candidate including but not limited to: educational qualifications, any/all relevant certifications listed on the resume, employment history and eligibility to work in the US. The minute credentials are verified, the RM runs a reference check which gives insight into the candidate’s performance, attitude, and aptitude with former employers. We also verify the reason for leaving the last assignment.

After the successful verification, RM submits details of qualified candidate to the Subject Matter Expert (SME). SME then speaks with the candidate to further qualify the candidate and inform the account details, location, project information (technical requirements, functional requirements, type of applications, team size, and other relevant technical/functional information the candidate may have questions about.). Every skill critical to the completion of assigned deliverables is identified and assessed in terms of the level of skill required. Only when it’s established that the candidate meets or exceeds the qualification of the position, does the SME approve him/her for submittal to the client. Once we receive the green flag from the client for candidate, we coordinate with the selected candidate for the acceptance, background check (as desired by the client), relocation and project start.

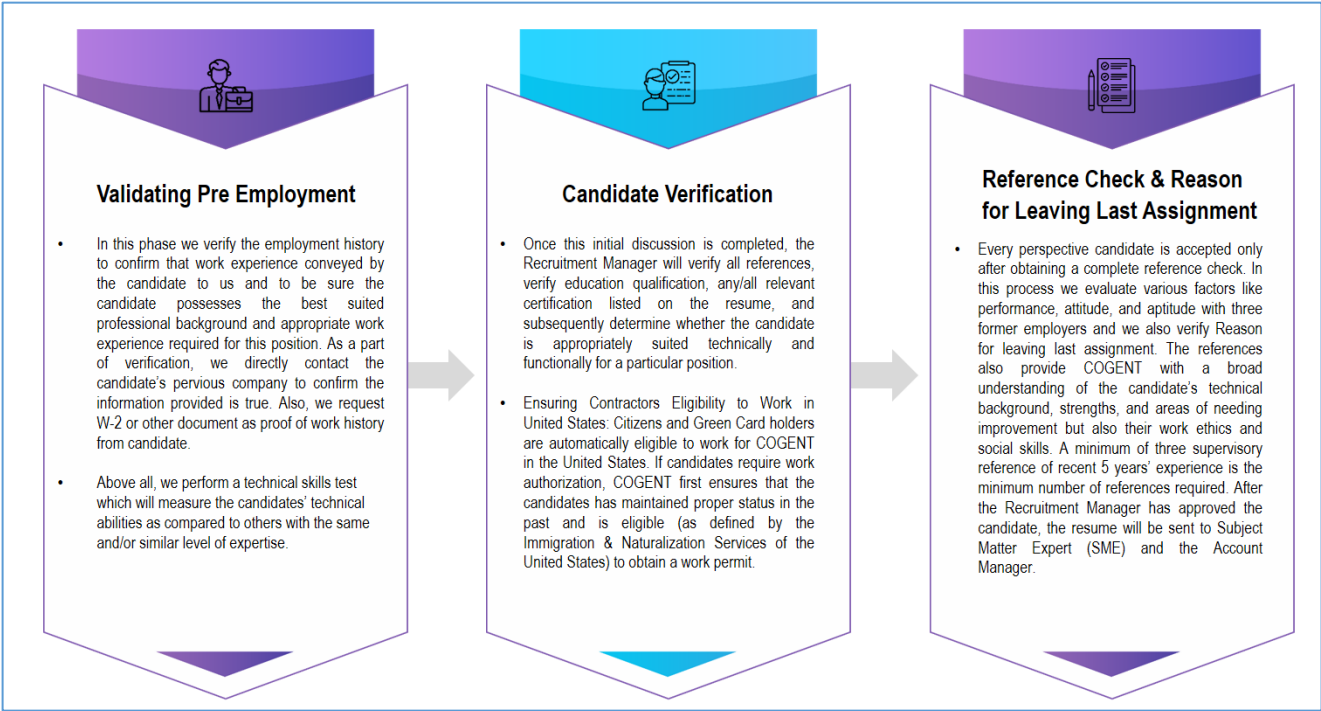
OUR SCREENING PROCEDURE

At COGENT, we use our proven 3-layered testing and screening framework to assess validate candidates’ technical competency. Our process begins with the review of a candidate’s employment application and resume, followed by a telephone interview. We also use candidates’ social networking profile as a tool in the screening process. Provided below is a pictorial description of the steps we take in testing and screening candidates to ensure they possess all the necessary qualifications and skills, and are a good fit for the job profile.

Step 1 - Preliminary Screening



Step 2 - In-Depth Screening



Step 3 - Skill Testing by Subject Matter Expert

A Subject Matter Expert (SME) is assigned to work with a Sales/Account Executive and designated accounts to become as familiar with the account as the Sales/Account Executive and the technical environment of the client. The SME speaks with the candidate to further qualify the candidate and inform them candidate of the account details, location, project information (technical requirements, functional requirements, type of applications, team size, and other relevant technical/functional information the candidate may have questions about.). Every skill critical to the completion of assigned deliverables is identified and assessed in terms of the level of skill required (a scale of 1 to 4 is used where 1=Proficient and 4=Novice) using the below matrix. Only when it's established that the candidate meets or exceeds the qualification of the position, the SME approves him/her for submittal to the client.

Once the candidate has been approved for submittal to the client by the SME, the SME will recommend to the Sales/Account Executive to submit the candidate to the client for a requirement. Our above-mentioned manual process ensures our clients get only the best resources available in the job market. Provided below is required skill and gap plan that is utilized to evaluate each candidate before sending/assigning them to any project.

Required Skills and Skill Gap Plan						
Required Skill	Skill Level Required				Actual Skill Level	Skill Gap Mitigation Plan
	1	2	3	4		
	Proficient	Competent	Learner	Novice		
	☐	☐	☐	☐		

OUR TESTING PROCESS

Specific skills assessment is vital for effective applicant screening. With COGENT's commitment to place the most qualified employees, we have invested in an innovative on-line skills assessment program.

Our assessment program expands our evaluation capabilities. The program evaluates applicants from a "Basic" to an "Expert" level of proficiency and features over 800 validated skills assessments, 500 of which are software tests. The available modules are regularly updated, so our assessment capabilities remain current with technology.

This program gives the power to identify and select the most qualified employees to join our team of exceptional people. The system features assessments for IT, clerical, administrative, call center, industrial, healthcare, financial/accounting, legal, and technical job classifications.

Many assessment systems focus on only one dimension of applicants, such as integrity, skills, or personality. The approach utilized in the program is to measure the strengths and limitations of each applicant based on a variety of key dimensions including personality, thinking ability, prior experience, skill sets, and situational judgment.

SKILL BASED ASSESSMENTS

We check for below mentioned traits while evaluating a candidate based on skills.

- Relevant job experience
- Ability and competency levels
- Skills and ability to perform the tasks
- Specific hard skills needed to perform the job

BEHAVIOURAL ASSESSMENTS

We check for below mentioned traits while evaluating a candidate based on behavior.

- Personality
- Judgement
- Reliability
- Motivation
- Team Orientation
- Customer Focused
- Culture Fit
- Predicting the likelihood of candidate

Customized evaluation groups are also available. COGENT works with each client to determine which assessments are best to administer, based on open positions. We define the minimum passing score for each, ensuring that all temporary employees are the best possible fit for the job. The customized battery of evaluations can then be included as part of the ongoing screening process for the customer.

OUR INTERVIEW PROCESS

COGENT conducts detailed telephone interviews with prospective candidates to gain a full understanding of their skills, experiences and aspirations; if they match client's requirements, we will fully brief them about the role, client and project. Cogent presents pre-screened candidates to client in the format which the client chooses, which can be through online Applicant Tracking System (ATS) or emailed in a certain format. Referring to the previous point, we never submit the resume of an applicant who has not been briefed about the role, client and project. Once client reviews the profiles submitted and selects the candidates, Cogent coordinates the interview process for client. It includes but not limited to arranging telephone/skype, in-person interviews and facilitating remote technical assessment where required. COGENT also proactively coordinate the process of collecting and disseminating post-interview feedback from both candidates and interviewers.

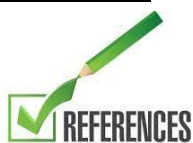
Once we receive green flag from the client we perform multiple other checks as requested by the client, which may include but not limited to E-verification, Drug Test, Finger Printing and Background Verification (i.e. SSN validation, federal criminal, criminal felony & misdemeanor, employee credit, national Sex offender registry & Widescreen Plus). If a candidate has an alias name, we conduct the other 3 checks again under the alias name. We also conduct illegal substance testing in the US for all confirmed candidates.

OUR BACKGROUND CHECK PROCESS

COGENT has a well-defined and documented Reference and Background Check Process. Under this process Qualified Personnel are subjected to a mandatory pre-employment reference and background check. Reference and Background

Checks for Qualified Personnel are conducted by our HR department and results are stored in a secured centralized location on our internal server. Reference and Background checks are conducted before hiring of the employee and are repeated annually. Detailed below our reference and background check:

Reference Check



We will carry out a thorough reference check for every candidate that is submitted for client consideration. **We ask the candidates to provide minimum three (3) positive references of their previous organizations** and our recruitment manager contacts the references to gather insight regarding the candidate. Each candidate's last three (3) places of employment are documented on the application, with salary range (where allowed by law), dates of occupation, and supervisors for reference check.

Background Check



COGENT every consultant is required to provide at least three positive professional references which will be cross-checked for selected candidate, depending upon State requests. Our reference checks process includes steps that must be taken to uncover any drug problems and criminal history. Under this policy, depending upon the State requirement, candidates are subjected to compulsory pre-employment background checks. Following are the important steps followed in this regard:

Background Checks for candidates are conducted for:

- Citizenship or Legal Working Status
- Driving and Vehicle Records
- Criminal, Arrest, Incarceration, and Sex Offender Records
- Drug Tests
- Education & Employment Records
- Financial Information
- Social Security Number

The candidate is notified and is required to sign a consent and authorization form as to the procedures set forth in the Background Check Policy. An independent agency is mandated the task to perform background check on the candidates. The agency after performing the checks provides the results to COGENT. COGENT notifies the client in writing regarding the result of the background checking conducted. The candidates successfully clearing the background check proceed to join the client.

In addition, if the candidate has worked with State in the past, we use to conduct reference check with them to ensure that the candidate performance, professional appearance, working ability and change-readiness. Based upon the feedback of this reference check, candidature of the candidate is processed. For COGENT State contract is the priority and staffing them with the exact matched resources is the key to successful accomplishments of the State's initiatives.

ON-BOARDING PROCESS

Once the negotiation phase is over, we move on with the candidate on boarding process. This involves all the necessary documentation and steps involved in preparing the candidate to commence work as well as ensure that they assimilate well into the client premises on the first day and beyond. On boarding documentation which we take care of are Letter of Offer, Tax File Declaration Form, employee superannuation form etc.

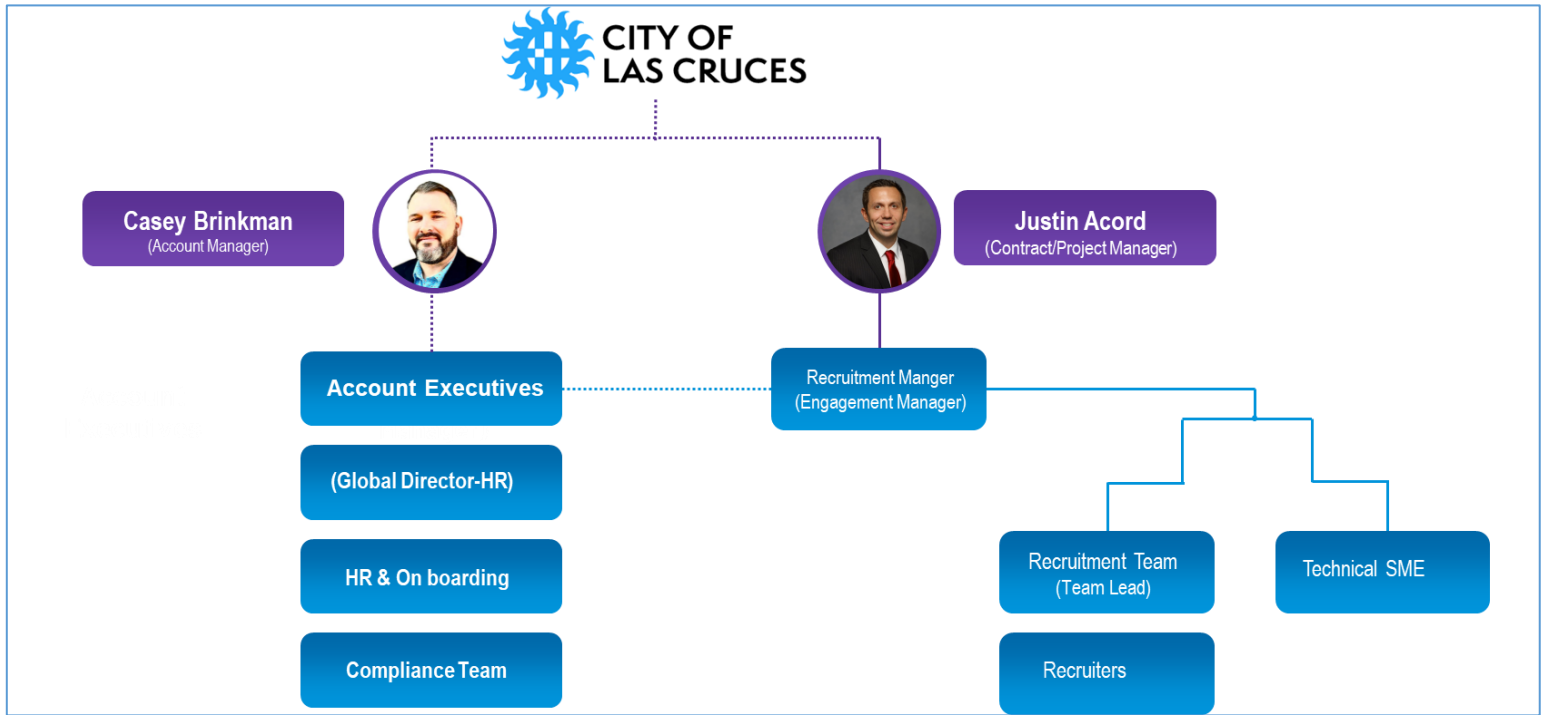
When new staff joins the project, the Account Manager provides an orientation to the project. The orientation discusses the following topics:

- Background of the project.
- Status of the project.
- Specific job duties and expectations.
- Introduction to the staff and consultants.
- Overview of the facility and infrastructure.
- Project processes overview, including time reporting, attendance, and status meetings.
- Review of confidentiality and conflict of interest

Evaluation Criteria 2 - Qualifications/competence of team members to manage services to be provided

To address Evaluation Criteria No. 2 below, provide the names of key personnel who will be assigned to provide the services described herein. For each person listed, a description of experience, areas of competence and percent of time assigned to the project shall be provided.

To manage contracts with the City, we have a highly skilled management team who will be responsible for tracking the City’s contract requirements. The team will be available to deliver qualified staff as per the various project needs within the specified time limits. Our well-trained staff combines speed and experience to find the best possible talent, in the most demanding niche skill area too. Provided table and organization chart below depicts the number of employees we intend to dedicate to serving the CITY’s account and the hierarchy chart of our team to serve the CITY. In this section we have only provided the details of team members who would serve the CITY directly:



Team Cogent will be made up of the following members:

#	Name & Title	Experience	Management Responsibilities	Percent of time assigned to the project
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1.	Name: Justin Acord Role: Contract/Project Manager Position: Executive Vice President	17+ Years of Experience as a Recruitment Manager & Technical Recruiter in Government, Healthcare, Insurance, Banking, Energy, Utilities, and IT industry. - He has successfully led various State of Illinois and other County contracts including but not limited to <i>City of Albuquerque, State of New Mexico General Services, Southern California Regional Rail Authority, Tarrant County, State of Florida, City Colleges of Chicago</i>, and many more.	- Upon contract award and throughout the contract period of performance, Cogent's Executive Vice President, Mr. Justin Acord, along with our Account Management Team, will serve as the interface with the CITY. - He will take care of project deliverable, including monthly reports, - He will be the single point of contact for CITY and will be the liaison between CITY and the Cogent delivery team	100%
2.	Name: Casey Brinkman Role: Key Account Manager Position: Senior Director	21+ years of experience in staffing industry with expertise in Account Management, Operations, Customer Relationship Management & Business Development, our Account Manager has been with Team Cogent since April 2023. - Involved in many contracts which are exact similar to the scope and size of this RFP such as to <i>City of Albuquerque, State of New Mexico General Services, Harbor Department, Kern Health System, Los Angeles Community College District, State Universities Retirement System. IL; Chicago Transit Authority, IL; CITY Colleges of</i>	- Our Account Executive closely work with Team Cogent Program Manager and Recruitment Manager to ensure quality of candidate's selection process, understand the CITY requirements, time to time meeting with onsite consultants. - Work with recruitment manager to ensure quality of candidate's selection process. - Coordinating consultant interviews with CITY. - Resolving difficult situations with Team Cogent Staff working on CITY projects. - Time to time meeting with onsite consultants	100%

		<i>Chicago, IL; Healthcare and Family Services, IL; CITY of Chicago - Department of Human Resources, IL; Harris County, TX; Miami-Dade County, FL; Multnomah County, OR; County of Ramsey, MN; Arlington County, VA; Douglas County School District, CO etc.</i>		
3.	Human Resources	• A highly skilled and results-driven professional with over 20+ years of experience focused on technology, telecom, and US staffing. • Profound experience in Resource management, Candidate tracking, Onboarding, Benefits processing, Orientation, Training, and Paperwork processing.	• Responsible for Cogent employee care, a unique role which resulted in long retention of our consultants • Handling HR, Payroll activities, Candidate onboarding process and take care of employee benefits • Coordination with Finance team for invoices and payments • Tracking of their work schedules and generating the time sheets for payments. • Responsible for all HR/Legal/Contractual & Compliance issues	• 100%
4.	Director – Recruitment & Delivery	• Seasoned recruiting professional with at least 20+ years of experience managing recruitment for public sector entities.	• All recruiters and sourcing specialists will be working under his supervision.	• 100%
5	Recruiters and SMEs	• Prior experience recruiting for public sector entities and more specifically experienced servicing opportunities in the CITY	• Dedicated recruiters whose prime task will be to service CITY requirements.	• 100%
6	Accounts & Finance Manager	• As a seasoned Senior HR Business Partner with over 13 years of experience primarily with engineering/technology teams in multiple	• Monitor the day-to-day financial operations (payroll, invoicing, and other transactions). • Generate invoices per each CITY requirements, ensuring	• 100%

		industries across the United States • Prior experience managing employee work hours and any time off (leave) an employee has recorded. • Hands-on experience in assist supervisors with questions regarding their employee's timecard, modify custom fields such as overtime and meal break designations, creating custom Hyperfinds to view select employees based on a set of requirements • Profound in handling employee's vacation, sick leave, and comp time balances and total hours worked.	all required details are provided on a weekly, semi-monthly, or monthly basis. • Supervise the HR team to ensure timely submission of timesheets to the CITY. • Prepare monthly and quarterly reports as per the CITY's needs. • Ensure accurate generation and delivery of invoices to the CITY. Follow CITY specific format for invoice generation. • Correct invoicing errors as per the CITY requests. • Ensure compliance with accounting policies and regulatory requirements. • Manage various Monthly/Semi-Monthly/Weekly payroll cycles. • Maintain Tracking schedules for invoicing, timesheets, and vendor payments.	
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JUSTIN ACORD, CONTRACT/PROJECT MANAGER "KEY PERSONNEL"	
EDUCATION <i>Bachelor's Degree from West Virginia University</i>	2005
EXPERIENCE COGENT Infotech Corporation <u>Executive Vice President</u>	January 2013 - Present
• Overall responsibility for the success of all sales related activities. • Oversee, manage and ensure success with clients in over 35 different states including Federal Government, State & Local Governments and Fortune 500 companies. • Responsible for delivering solutions and services to C-Level executives, IT Decision Makers, and Procurement/Contracting personnel. • Highly experienced in serving as Account Manager for various State of California clients including <i>State of CA Client County of Santa Clara, CA; San Diego Metropolitan Transit System, CA; Southern California Regional Rail Authority, CA; The San Bernardino County, CA; The County of San Mateo, CA; CalOptima, CA; Alameda-Contra Costa Transit District's, CA; Kern Health System, CA; County of Sacramento, CA; City of Los Angeles, Office of the City Clerk, CA; Riverside Unified School District of Riverside County, CA; University Of California-Irvine, CA</i> . In-depth knowledge of NY laws and regulation in staffing. • Develop account penetration strategies to maximize our success rate with new and existing customers.	

- Experience successfully managing Multi-Million Dollar Transportation /Aviation contracts including: *DFW Airport Authority, Tampa International Airport, Wayne County Airport Authority, Boeing Distribution INC, San Diego Metropolitan Transit System, Metrolink, Community Transit, Central Ohio Transit Authority, Chicago Transit Authority, Florida Department of Transportation, Alameda-Contra Costa Transit District's.*
- Experienced consistently exceeding customer set KPI's on Staff Augmentation contracts.
- Mitigating objections and compliance issues with current clients to resolve any issues.
- Ensuring Sales targets and goals are met, while maximizing company profits.
- Overseeing timeframes and updating clients on projects moving through the research and development process.
- Responsible for responding to RFP's by presenting winning proposals for new client acquisition.
- Responsible for leading the company initiatives in the Public Sector.
- Tasked with marketing our 8(a) Certification to Federal Agencies which led to contracts with several agencies including the Department of Justice, Department of State and the General Services Administration. Tasked with overall Account Management responsibility for State Government contracts including: State of TX, FL, OR and GA.
- Tasked with responding to all relevant RFPs as a Prime.
- Developed partnerships with firms who could add value for our customers enabling us to provide the absolute best solutions. Responded and won direct contracts with the State of Florida and State of Texas to provide IT Consulting Services.

Prior Experience

Client Name	Position Title	Duration
Johnson Marketing Inc.	Outside Sales Representative	December 2005 - June 2006
EDMC	Assistant Director of Admissions	June 2006 - August 2007
COGENT Infotech Corporation	Account Executive	August 2007 - January 2009
COGENT Infotech Corporation	Business Development Manager	January 2009 - January 2013

Casey Brinkman/ Account Manager

SUMMARY

Casey Brinkman is a highly accomplished professional with a successful track record in Direct hire, Recruitment & IT staffing and business development. With over two decades of experience, he has excelled in various leadership roles, consistently driving business growth and client satisfaction.

EDUCATION

Bachelor of Science - BS Mathematical Economics, Massachusetts Institute of Technology

EXPERIENCE

COGENT Infotech Corporation

April 2023 – Present

Senior Director, SLED

- Responsible for the success of the region which will include multiple States and Clients (Revenue Target, Sales Targets, Strategy, Growth of the Accounts, etc.)
- Primary POC in US for major client POC's (Primarily Leadership/Decision Makers and Key Contract POC's)
- Managing a dedicated team on servicing the staffing business at the transactional level along with training, developing, and replacing team members as required.
- Visit clients F2F on an ongoing basis
- Visit/meet key consultants representing Cogent and explore additional synergies/opportunities

- Focused on Relationship Building and ensuring clients are satisfied with Cogent
- Responsible for Cross-Selling/Introducing other Cogent service offerings to existing clients and involving relevant Internal Cogent SMEs in those discussions
- Leading the pursuit of new business for the Region (Combination of: BD, Sales Presentations, Lead Gen, Proposals, etc.)
- Develop and execute marketing/outreach strategies to reach new customers
- Responsible for leading efforts to increase business with existing customers
- Maintain and update all communication in our CRM and submit Sales Reports to Management.
- Create more visibility and awareness of COGENT by attending relevant networking and conference events.

Prior Experience

Client Name	Position Title	Duration
Mastech Digital	Director of Business Development	March 2018 – April 2023
Diskriter	VP of Staffing	November 2014 – March 2018
Excellerent Solutions	Director of Business Development Account	December 2012- November 2014
Black Box Network Services	Business Development Account Manager	January 2006- December 2012
Mckesson	Pharmacy Software Sales	December 2001- January 2006

Evaluation Criteria 3 - Performance of the firm with previous clients, based upon quality of the work, control of costs, ability to meet schedules or deadlines; and responsiveness to the client.

To address Evaluation Criteria No. 3 below, provide the following: Description and name of a minimum of five past contracts similar to the scope herein that have been completed by the firm including the name and telephone number of the contact person for each project.

Following is the partial list of the projects where we have provided Temporary Employment Services where we maintained quality of work, controlled cost and deadlines were met as per the requirements to our clients:

Experience#1	
Job Title	Administrative Assistant-Bilingual
Client / Location / Client Type	Dallas Independent School District / Dallas, TX / Government
Number of Placements	6
Client's Required Experience Level	
Not Specified.	
Client's Requested Skills	
Excellent customer service skills, call center experience with outbound call experience, and data entry experience needed. 50 WPM typing skills, and Bilingual (English/Spanish) is highly preferred.	
Job Description	
Administrative Assistant needed to contact parents regarding their student's devices for school.	

Experience#2	
Job Title	Administrative Assistant / Interviewer
Client / Location / Client Type	New York City Housing Authority / NYC, NY / Government
Number of Placements	1
Client's Required Experience Level	
Not Specified.	
Client's Requested Skills	
Attention to detail. Proficiency in a Microsoft Windows environment, especially, Access and Excel. Effective oral and written communication skills. Excellent interpersonal skills. Ability to work independently with minimal supervision. Proficiency in record keeping. Good organizational skills. Ability to maintain the highly confidential nature of human resources work.	
Job Description	
Administrative Assistant needed to assist Human Resources Employment Division with selecting/screening applicants to fill vacancies. Review applicant paperwork for completeness. Conduct pre-employment interviews and follow-up with candidates as necessary. Maintain all pertinent applicant and interview data in the Human Resources 2021 / 2022 Seasonal Database.	

Experience#3	
Job Title	Administrative Support Assistant
Client / Location / Client Type	Kennesaw State University / Kennesaw, GA / Government
Number of Placements	2
Client's Required Experience Level	
Three (3) years of related administrative, office or clerical experience. Experience providing administrative support for large teams; Previous experience in higher education.	
Client's Requested Skills	
Able to utilize standard office equipment and multi-line telephone system. Able to deal with multiple tasks or projects at one time meeting assigned deadline. Strong Excel Skills: filtering, percentages, formulas, data graphs etc. Excellent interpersonal skills, initiative, teamwork, problem solving, independent judgment, organization, and communication (verbal and written). Excellent time management, project management and presentation skills. Proficient with computer applications and programs associated with the position (i.e. Microsoft Office suite, ServiceNow, etc.). Strong customer service skills and phone and e-mail etiquette. Strong attention to detail and follow up skills.	
Job Description	
Performs standard administrative duties in support of the assigned department, division, unit and/or location as it pertains to IT life-cycle replacement (LCR) and IT equipment office room moves. Serves as an administrative resource for all faculty, staff and guests visiting assigned department, division, unit and/or location and provides assistance as needed. Creates, prepares and proofreads emails, memos, correspondence, reports, and other documents or communications as requested as it pertains to IT life-cycle replacement (LCR) and IT equipment office room moves. Assists with coordinating and scheduling IT life-cycle replacement (LCR) and IT equipment office room moves. Assists with records management including filing, correspondence, analyzing data, tracking and archiving files as it pertains to IT life-cycle replacement (LCR) and IT equipment office room moves.	

Experience#4	
Job Title	Office Assistant
Client / Location / Client Type	New York City Housing Authority / NYC, NY / Government

Number of Placements	1
Client's Required Experience Level	
Not Specified	
Client's Requested Skills	
Excellent organizational, written and oral communication skills. Ability to work in a fast pace environment. Ability to take initiative and follow through on assignments. Detail-oriented and have knowledge of Word and Excel and Access.	
Job Description	
Under the supervision of the Department of Management and Planning will serve in the position of clerical (resident folder team) for the RAD/PACT conversion team. These employees will perform routine clerical/secretarial duties. Task include reviewing resident files, locating resident foundation documents, interacting with resident to obtain relevant documents. Review resident files. Interact with residents. Copying/Scanning. Prepare resident folders.	

Experience#5	
Job Title	Administrative Assistant
Client / Location / Client Type	Tarrant County / Fort Worth, TX / Government
Number of Placements	1
Client's Required Experience Level	
High School diploma or equivalent. Minimum of one (1) year experience in a related field, including data entry experience. Detail and organizational skills required. Customer service experience preferred.	
Client's Requested Skills	
Data Input, and Data Sorting	
Job Description	
Performs PEIRS data input and/or input into other computer databases for PEI funded programs including electronic health records. Provides quality assurance functions PEIRS or other data. May participate in educational or outreach activities. Assists with inventory tracking and office organization. Performs all other duties as assigned.	

Experience#6	
Job Title	Administrative Assistant
Client / Location / Client Type	SUEZ WTS USA / Minnetonka, MN / Government
Number of Placements	2
Client's Required Experience Level	
1-2 years HR experience.	
Client's Requested Skills	
Strong efficiency utilizing Microsoft Office products (Outlook, Word, Excel and PowerPoint). Must have the ability to be discreet and handle confidential information. Strong attention to detail.	
Job Description	
The temporary Administrative Assistant will be directly involved in several projects within the HR department. Attendance Tracking. Rewards submittals. Personnel Filing. Data entry, filing. Light sourcing/recruiting. Meeting scheduling. Disability Leave Tracking. Creating New Hire packets. Setting up New Hire Orientations. Job Postings internal and external. Filing of HR paperwork. Light sourcing/recruiting for production positions. Some introduction phone screening.	

Experience#7	
Job Title	Front office/administrative assistant

Client / Location / Client Type	The School District of Philadelphia / Philadelphia, PA / Government
Number of Placements	1
Client's Required Experience Level	
Candidate has at least one year's experience as front office/administrative assistant.	
Client's Requested Skills	
Ability to enter data into system accurately and timely (we will teach them Scheduler). Discretion/Confidentiality essential to handle records with Personal Health Information. Responsive, organized, detail oriented. Ability to file documents in accordance with Department protocols. Ability to work effectively with a team. Ability to take direction from Team members. Basic computer skills - Team will teach them specific.	
Job Description	
Greet candidates/employees, provide registration paperwork, alert appropriate Team member that they have arrived for their appointment. Cover front desk phones; provide responses to inquiries or direct to appropriate Team member. Enter data into Scheduler to manage appointments for physicals. Enter data into form letters as directed and distribute. Open mail and distribute to appropriate Team member. File documents. General Office support as directed by team.	

Experience#8	
Job Title	Records and Information Assistant
Client / Location / Client Type	New York Power Authority / NYC, NY / Government
Number of Placements	1
Client's Required Experience Level	
Experience with Enterprise Content Management System/Records Management System preferred and Knowledge of Adobe products.	
Client's Requested Skills	
Microsoft Office/Outlook skills, knowledge of Access, and strong Excel skills. Ability to successfully prioritize work on multiple tasks. Good organizational skills with an attention to detail. Ability to work with limited supervision. Ability to use sound judgment. Ability to establish effective relationships with team members. Exceptional customer service and strong interpersonal skills are required. Ability to work in an engineering/utilities, highly regulated environment. Effective written and oral communication skills.	
Job Description	
This role will support the SSM Category Management department in its efforts to ensure compliance by conducting an audit of procurement files to ensure compliance to the requirements of the Digital Warehouse and outside Agencies (NYSDOL, NYSCR, etc.). The successful individuals will assist Category Management with the department audit of the required documentation. Auditing of Procurement files. Audit NYSCR, NYSDOL and NYPA.GOV notification ads. Organize folders. Filing of Adobe Sign Documents where needed. Identify opportunities for process improvements. Index and quality check documents that have been scanned. Handle sensitive and/or confidential documents and information.	

Experience#9	
Job Title	Global Market Development Assistant/Specialist
Client / Location / Client Type	Thermo Fisher / Remote, CA / Commercial
Number of Placements	1
Client's Required Experience Level	

3-5 Years. 6+ years of proven hands-on experience in marketing roles of increasing scope and responsibility in the genomics, molecular biology, or molecular diagnostic arenas preferred. Experience marketing IVD, RUO instruments and products. Digital marketing expertise with proven campaigns in display advertising, search engine marketing, social, video and automation approaches. Experience in developing successful lead generation programs using multi-channel strategies to drive funnel fulfillment.

Client's Requested Skills

Ability to influence and persuade across all levels of the organization and across various geographies. Self-starter and collaborative within project teams, and successful track record working in complex, matrix environments. Exceptional skill managing complex marketing projects with a strong attention to detail. Adept at building and maintain relationships with customers and key opinion leaders. Strong creative intuition on design and messaging that resonates with customers and an ability to learn from previous campaigns to improve on performance. Must be able to manage project scope, budget and schedule to achieve timely completion of project deliverables. Excellent written and oral communication skills.

Job Description

Define and support go-to-market strategy for IVD or RUO instruments and reagents, including customer segmentation and messaging, product/portfolio positioning, creative concept development, and tactic execution. Thoroughly understand customer needs and product use to develop compelling messaging and customer segmentation. Develop and execute global multi-channel integrated marketing plans, including customer segmentation, competitor analysis, business trends, and market opportunities, sales funnels, staging and pacing of tactical programs. Guide the development of copy and creative content for qPCR markets, appropriately positioning products within compliance guidelines, while conveying strong value propositions and clear product differentiation, create and implement appropriate marketing content across multiple channels, including social media, web, video, print, and more. Develop sales force training and customer education material in collaboration with product management, R&D, regional marketing, and commercial teams. Develop and manage a robust lead generation funnel. Coordinate with global functions to ensure consistency with brand profiles and company standards. Collaborate and ensure alignment of marketing plans and sales training materials among Product Management, Regional Market Development, Sales, and other stakeholders.

Following are the references:

Client Name	Washington Health Benefit Exchange
Contact Name	Erin Hamilton
Phone	(360) 688-1562
Brief Description of Services and Cogent's role	Provided various resources such as UAT Analyst, Risk Management Analyst, Software Developer Business Analyst etc. for multiple projects
Date of Performance	Jan 2020 - Present

Client Name	Dallas Housing Authority
Contact Name	Monica Tharp
Phone	(214) 951-8325
Brief Description of Services and Cogent's role	Provided various temporary resources such as Case Management Specialist, Clerks, Maintenance Technicians, Administrative Assistants etc. for various projects
Date of Performance	May 2021 - Present

Client Name	Penns Valley Area School District
Contact Name	Daniel Loht
Phone	(814) 422-2010
Brief Description of Services and Cogent's role	Provided Technology Support Specialist, Technology Help Desk Specialist, etc. for multiple projects
Date of Performance	July 2022 - Present

Client Name	New York City Housing Authority
Contact Name	Patricia Lindo
Phone	(212) 306-2807
Brief Description of Services and Cogent's role	Provided Temporary Staffing services such as Administrative Assistants, Clerks, Receptionists, etc. for multiple projects
Date of Performance	Jan 2022 - Present

Client Name	School District of Philadelphia
Contact Name	Tiffany NG
Phone	215-400-5253
Brief Description of Services and Cogent's role	Provided Office Assistants, Administrative Assistants, Executive Assistants etc. for multiple projects
Date of Performance	Dec 2018 - Present

EXHIBIT B

COST PROPOSAL

Cost Proposal

Category	Hourly Bill Rate
Accountant (Journey Level)	\$ 36.72
Accounting technician	\$ 34.00
Accounting clerk	\$ 28.56
Administrative services support	\$ 35.36
Transcriber	\$ 28.56
Engineer	\$ 68.00
Engineering technician	\$ 38.08
Custodian	\$ 24.48
General laborer	\$ 23.12
Special events staff - security	\$ 31.28
Special events staff - exhibit monitor / oversight	\$ 28.56
Special events staff - registration / attendance coordinator	\$ 25.84
Special events staff - set-up / breakdown personnel	\$ 27.20



CITY OF LAS CRUCES

SERVICE AGREEMENT

23-24-047
Temporary
Employment
Services

THIS AGREEMENT made and entered into on this ____ day of June, 2024 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and Compunnel Software Group, Inc. dba Compunnel, Inc., of 103 Morgan Lane, Suite 102, Plainsboro, NJ, 08536, hereinafter called "CONTRACTOR".

1. PROJECT DESCRIPTION

Temporary employment services to be provided on an as needed basis. Various purchase orders will be issued according to the needs of CITY departments and Joint Power Agreement (JPA) agencies.

2. SCOPE OF SERVICES

In a satisfactory and proper manner, the CONTRACTOR shall perform SERVICES as proposed in response to the CITY'S RFP No. 23-24-047 as set forth in Exhibit A, attached hereto and made a part of this Agreement.

3. APPROPRIATIONS

The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

4. COMPENSATION

The CITY shall compensate CONTRACTOR for the performance of SERVICES under this Agreement an amount as proposed in response to the CITY's RFP No. 23-24-047, plus applicable taxes as set forth in Exhibit B, attached hereto and made part of this Agreement. CONTRACTOR shall perform the SERVICES upon receipt of a purchase order or written Notice to Proceed from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed. CONTRACTOR shall submit invoices weekly or biweekly. CITY shall pay invoices Net 30 days upon receipt of undisputed invoice.

CONTRACTOR is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. CONTRACTOR agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

5. DEVOTION OF ADEQUATE TIME

CONTRACTOR will devote the necessary hours each week to the performance of project that are required by the CITY, and it will serve the CITY, diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE

This Agreement shall become effective on July 1, 2024 for a term of four (4) years through June 30, 2028. CONTRACTOR shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and CONTRACTOR.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall CONTRACTOR be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request CONTRACTOR to perform other extra services not incorporated within the Services set forth in this Agreement. If the CONTRACTOR is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the CITY, CONTRACTOR shall so notify the CITY, of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the CONTRACTOR within five (5) business work days from the date of receipt of CONTRACTOR'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE CONTRACTOR

In the event a condition is identified by the CONTRACTOR which, in the opinion of the CONTRACTOR, changes the services, costs, and/or time required for performance under this Agreement, the CONTRACTOR shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business work days from the date of receipt of CONTRACTOR'S notification.

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of CONTRACTOR, and without the fault or negligence of CONTRACTOR, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. CONTRACTOR shall provide the CITY, with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by CONTRACTOR to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in

accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY, for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to CONTRACTOR.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY, deliver to the CITY, the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

CONTRACTOR will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S, right to recover excessive or illegal payments. CONTRACTOR will retain records for five (5) years after the completion of the project.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY, will be kept confidential and CONTRACTOR will not disclose to any other party, directly or indirectly, without the CITY'S, prior written consent unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the CONTRACTOR shall be the sole property of the CITY, and shall be delivered to the CITY, when requested and at the end of the Agreement.

14. INDEPENDENT CONTRACTOR

CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY, CONTRACTOR, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY, by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR's employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to perform services for other parties; and (ii) CONTRACTOR may perform for its own account other professional services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as otherwise specifically set forth herein, neither CONTRACTOR nor CITY, shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT

CONTRACTOR shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

CONTRACTOR shall obtain and maintain at least the following insurance at its own cost and expense during the life of this Agreement, and shall require Subcontractors, if any, to maintain the same insurance during the life of the subcontracted work:

1. Professional Liability
 - a. \$1,000,000 per occurrence

2. Commercial General Liability Insurance
 - a. \$1,000,000 per occurrence / \$2,000,000 aggregate
 - b. Coverage must include premises and operations, products and completed operations, and personal and advertising injury.
 - c. The City of Las Cruces must be named as an Additional Insured for all coverages listed above on endorsements acceptable to the City.
 - d. Coverage must be primary and non-contributory.
 - e. Coverage must be per project or per location.
 - f. Coverage must be on an occurrence form.
 - g. Subrogation must be waived.
3. Commercial Auto Liability
 - a. \$1,000,000 per occurrence
 - b. Coverage must be for "owned, leased, hired, and non-owned autos" or "any autos."
4. Workers' Compensation and Employers Liability
 - a. Statutory Limits
 - b. Employer liability – \$1,000,000 each accident, \$1,000,000 each employee by disease, \$1,000,000 policy limit
 - c. Subrogation must be waived.

Endorsements for additional insured coverage and waivers of subrogation must be provided as a condition of this Agreement and shall be noted on the certificate.

CONTRACTOR shall furnish the CITY with a certificate(s) of insurance showing CONTRACTOR and Subcontractors, if any, have complied with this Article. The CONTRACTOR shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

CONTRACTOR shall indemnify, defend, and hold harmless the CITY, from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused in whole or in part by, resulting in whole or in part from, or arising in whole or in part out of the negligent acts, errors, or omissions of CONTRACTOR, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

CONTRACTOR shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the CONTRACTOR'S services or any work done pursuant to this Agreement, including anti-discrimination.

20. BREACH

In the event CONTRACTOR breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY, shall give CONTRACTOR written notice of such breach. In the event CONTRACTOR fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy CONTRACTOR'S breach and recover any and all costs and expenses in so doing from CONTRACTOR.

21. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and CONTRACTOR under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

22. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY: City of Las Cruces
 PO Box 20000
 Las Cruces, NM 88004
 ATTENTION: Greg Gonzalez, Buyer I

With Copies to: Purchasing Manager

TO CONTRACTOR: Compunnel Software Group, Inc. dba Compunnel, Inc.
 103 Morgan Lane, Suite 102
 Plainsboro, NJ, 08536
 ATTENTION: Sam Handa, Vice President Business Strategy
 & Operations

23. SCOPE OF AGREEMENT

This Agreement incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof and that all such covenants, agreements, and understandings have been merged into this written agreement. No prior agreement or understanding verbal or otherwise of the parties or their agents shall be valid or enforceable unless embodied in this agreement.

24. SEVERABILITY

The parties agree that each provision of this Agreement is severable and the invalidity or unenforceability of any one or more of the provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

25. CONFLICT OF INTEREST

CONTRACTOR represents and warrants that CONTRACTOR has no business, professional, personal, or other interest, including, but not limited to, the representation of other clients, that would conflict in any manner or degree with the performance of its obligations under this Agreement. If any such actual or potential conflict of interest arises under this Agreement, CONTRACTOR shall immediately inform the CITY in writing of such conflict. If, in the reasonable judgement of the CITY, such conflict poses a conflict to and with the performance of CONTRACTOR'S obligations under this Agreement, or is otherwise a violation of the CITY'S current policy or ordinances, then the CITY may terminate the Agreement immediately upon written notice to CONTRACTOR; such termination of the Agreement shall be effective upon the receipt of such notice by CONTRACTOR.

COMPUNNEL SOFTWARE GROUP,
INC. DBA COMPUNNEL, INC.

CITY OF LAS CRUCES

BY: _____
Sam Handa
Vice President Business
Strategy & Operations

BY: _____
Alicia Hernandez
Purchasing Manager

Date

Date

APPROVED AS TO FORM

City Attorney

EXHIBIT A

SERVICES

A. General Conditions

Temporary services are requested as needed throughout the contract period. Temporary employees will be subject to all applicable City work rules and their amendments. The contract will not guarantee that any specific amount of services will be obtained. Orders will only be placed when the City identifies a need and issues a purchase order or written Notice to Proceed. It shall be the Contractor's responsibility to meet the City's requirements. The contract(s) are non-exclusive, and the City reserves the right to obtain services on the open market to serve the best interest of the City.

B. Specific Conditions

1. The Contractor(s) shall:

- a. Designate a coordinator as a local single point of contact (SPOC), as well as a backup, that will be accessible during normal work hours to receive temporary employment requests, handle and assist in any and all inquiries regarding scheduling, billing, status of orders, availability, contract pricing, contract compliance requirements, and problem solving. Normal work hours for the City are from 8:00am until 5:00pm Monday through Friday, with the exception of designated holidays.
- b. Refer personnel that have successfully undergone applicable background check and drug testing upon request of the city and provide verification that these pre-employment screenings have been successfully completed. Personnel shall be immediately productive, requiring minimal training and orientation.
- c. Be responsible for obtaining and informing and orienting its personnel on all relevant rules, regulations, policies, etc. of the City. Written acknowledgement of receipt of this information by the employee shall be provided to the City.
- d. Be given four (4) business hours and one (1) business day to confirm availability of a temporary employee to fill a request. However, if Contractor is unable to fill the job request, the City may fill the requirement from other qualified sources. City personnel will endeavor to give as much notice as is practical and possible.
- e. Ensure all temporary employees referred to the City have been screened for minimum qualifications required for the position.
- f. Be notified by the City in the event any temporary employee fails to adhere to the City's directions, policies, procedures, security / safety regulations, or demonstrates that they are not qualified to perform the required duties, and the Contractor shall replace the temporary employee within two (2) working days at

no cost to the City (including, but not limited to, training time; background checks; ID badges; drug testing; etc.). This also applies to any temporary employee that leaves for any reason before the assignment is completed. When a temporary employee leaves, at any time, the Contractor shall be responsible for any unreturned keys, ID badges, etc. If such items are not returned to the City within five (5) working days, the City shall send an invoice to the Contractor for the exact replacement cost. The Contractor shall pay this invoice within twenty (20) days.

- g. Agree to compensate employees in accordance with the requirements of the Fair Labor Standards Act (FLSA) as amended, New Mexico State Law and the New Mexico Workers' Compensation Act as amended, and the City's minimum wage ordinance. Additionally, the Contractor must ensure that each temporary employee acknowledges, in writing, their exempt or non-exempt FLSA status, whichever is applicable.
- h. Include provisions for the City to hire the temporary employee without payment of a finder's fee or any other fee, after the temporary employee has completed no less than ninety (90) days of temporary service to the City.
- i. Submit a legible, detailed invoice to the requesting City department and the Disbursements (Accounts Payable) office on a weekly or bi-weekly basis before payment(s) can be made. The City will pay invoices within twenty (20) days. Tax for services must be included in the invoice. At a minimum, the invoice must provide the following information:
 - i. Company name, address and contact information
 - ii. City bill-to name and contact information
 - iii. Name and title of hire, hours worked and hourly rate
 - iv. Dates of service
 - v. Extended price
 - vi. Total amount

Preferably, invoices should be sent via e-mail to disbursements@lascruces.gov.

Invoices can also be mailed to:

City of Las Cruces
Attention: Accounts Payable
PO Box 20000
Las Cruces, NM 88004

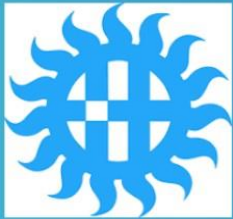
- j. Furnish, upon request by the City, a monthly usage delineating the acquisition activity governed by the contract. The format of the report shall be approved by the City and shall disclose the quantity and dollar value of each contract item by individual department.
2. The Contractor shall provide contracted employees who shall:
- a. Based on position and services to be provided to the City, be subject to various criminal checks, fingerprinting, background checks, and applicable drug testing

upon whose results the City may choose to base its decision to accept an individual for assignment. This option would allow the temporary employee access to areas within the City such as court buildings, and any restricted areas.

- b. Conform in all respects to fire and safety / security regulations while on the City's premises.
 - c. Receive training on preventing discrimination and harassment and have received and acknowledged receipt of the City's Discrimination Policy as provided by the City.
 - d. Be able to read, write, speak, and comprehend the English language in accordance with the minimum requirements of the position description, unless otherwise requested.
 - e. Be dressed appropriately and with the equipment specified by the City as being required to perform work in the service categories covered under this contract. The City requires most field personnel to have safety shoes, at the expense of the temporary employee. The safety shoes must meet American National Standards Institute (ANSI) and Occupational Safety and Health Administration (OSHA) standards.
 - f. Be respectful of all people with whom they interact, including City employees and customers of the City. The City reserves the right to reject any candidate that does not exhibit common courtesy and cordiality towards all individuals with which they may come in contact.
 - g. Limit personal mobile phone calls to emergency calls while on duty.
 - h. Report to an assignment at the time designated by the City. The work week shall be Monday through Friday. Normal business hours are 8:00am to 5:00pm, and occasionally weekends, excluding City holidays. There may be requirements or alternate schedules which require evening, weekend, holiday and overtime work. Weekend work shall be defined as Saturday and Sunday during the same week. Weekend or holiday work will not be considered overtime unless in excess of forty (40) hours worked.
 - i. Be entitled to lunch periods ranging from 30-60 minutes as determined by the City. No payments shall be made for lunch periods.
 - j. In some instances, require additional types of certifications such as First Aid and CPR certification. Temporary employees shall have these certifications prior to applying for such positions. Temporary employees shall maintain and recertify these certifications at their own expense.
3. The Contractor shall accept that the City shall:
- a. Have the right to interview and / or screen all prospective personnel, and to accept or reject any or all based upon the required skills and the background and experience of each individual. A resumé may be required upon request prior to an interview.
 - b. Supervise Contractor's employees. The City shall have direct control over the daily activities of the Contractor's employees.
 - c. Reserve the right to add and / or delete services provided under this contract. If a requirement is deleted, payment to the Contractor will be reduced proportionately to the amount of service reduced in accordance with the proposal price. If

additional services are required from this contract, prices for such additions will be negotiated by the Contractor and the City.

4. The Contractor shall accept a contract provision that any request for fee adjustments must be submitted sixty (60) days prior to the current contract annual anniversary date. Requests for adjustment in cost of labor must be supported by appropriate documentation. If the City agrees to the adjusted fee, the City shall issue written approval of the change in the form of a contract amendment to be executed by both parties. The reasonableness of the request will be determined by comparing the request with the Consumer Price Index or by performing a market survey.



CITY OF LAS CRUCES

Temporary Employment Services

RFP 23-24-047

Due Date: April 23, 2024 / 4:00 p.m



Technical Proposal



Prepared By:

Compunnel Software Group, Inc.
DBA Compunnel, Inc.



Point of Contact:

ASHISH YADAV, PROGRAM MANAGER

609-606-9010 | Email: Govt@compunnel.com

Address: 103 Morgan Lane, Suite 102, Plainsboro, New Jersey, 08536





TABLE OF CONTENTS

TABLE OF CONTENTS..... I

TRANSMITTAL LETTER..... II

RFP COMPLIANCE DECLARATION..... III

TECHNICAL PROPOSAL CONTENT 1

EVALUATION CRITERIA No. 1.....1

Our Project Management Approach.....1

EVALUATION CRITERIA No. 2..... 12

Our Key Personnel..... 12

EVALUATION CRITERIA No. 3..... 14

Past Contracts..... 14



TRANSMITTAL LETTER

Attention: City of Las Cruces
 United States, New Mexico, Dona Ana County
bidclerk@lascruces.gov

04/23/2024

Subject: Response to RFP - 23-24-047 - Temporary Employment Services for the City of Las Cruces.

Compunnel Software Group, Inc., DBA Compunnel, Inc. (referred to as 'Compunnel') is pleased to submit our response to **RFP 23-24-047**, issued by the **City of Las Cruces** to provide **Temporary Employment Services**.

Compunnel is a **NJ-based** Staffing firm certified as **ISO 9001**, with **29 years** of experience providing Temporary Employment Services. We have been providing similar services to various City, Municipalities, Local, State, Government clients and educational clients. Over the years, we have been providing customized staffing services (Contingent Staffing, Contract Staffing, Contract-to-Hire, Full-time Placement, SOW/Project Based Staffing, and Pay-rolling) to diverse industry verticals.

We are **an MBE-certified by NMSDC** and have received many awards and accolades - Inc. **5000 fastest-growing private companies in America**, **largest staffing firms** in the US by SIA, **fastest 50 NJ Business** by NJBIZ, and many others.

After thoroughly reviewing and analyzing the RFP and the addendum, Compunnel understands that the City is soliciting proposals from qualified service providers to provide temporary employment services for administrative support, professional, and general labor personnel. Compunnel is highly committed to providing all the services as requested in this RFP.

Compunnel is currently providing similar services to several clients including but not limited to **City of Santa Fe, City of Silver City, City of Farmington, State of New Mexico, Department of Cultural Affairs - NM, Department of Finance & Administration - NM, State of Texas, City of Chicago, City of Palm Bay**, and many more. Compunnel acknowledges and accepts the addendums, terms and conditions stated in the RFP. We have assigned **Ashish Yadav**, as **Program Manager**, who will serve as an authorized official for this RFP.

Yours sincerely



Ashish Yadav, Program Manager

Compunnel Software Group, Inc. DBA Compunnel, Inc.
 103 Morgan Lane, Suite 102, Plainsboro, New Jersey, 08536
 Phone: 609-606-9010 | Fax: 609-750-0981 E-Mail: govt@compunnel.com

RFP COMPLIANCE DECLARATION



CITY OF LAS CRUCES

RFP COMPLIANCE DECLARATION

RFP TITLE: Temporary Employment Services

RFP NO.: 23-24-047

DUE DATE/TIME: April 23, 2024 / 4:00 p.m.

In compliance with the requirements of this RFP, I, the undersigned, offer and agree to furnish any or all materials and/or services to the City of Las Cruces within the time agreed.

I further certify that this company has not been debarred, suspended, or otherwise made ineligible for participation in Federal Assistance programs under Executive Order 12549 Debarment and Suspension as described in the Federal Rules and Regulations.

Receipt of Addenda Nos.: 2 is hereby acknowledged (where none received, place a zero in this space)

Company Name and Address:
 Compunnel Software Group, Inc.

103 Morgan Lane Suite 102, Plainsboro

New Jersey, 08536

Authorized Signature

Ashish Yadav

Typed or Printed Name

Program Manager

Title

govt@compunnel.com

Email Address

Telephone number 609-606-9010

Fax number 609-750-0981

NM Tax & Revenue Dept. CRS # NA

Current NM Secretary of State Business ID # NA (corporations only)

Current CLC Business Registration # NA (respondents located in Las Cruces only)

Federal I.D. number 58-2137105 (mandatory for all respondents)

NM Resident Certificate from NM Tax and Revenue Department enclosed ☐ Yes ☒ No

**THIS FORM MUST BE COMPLETED AND INCLUDED WITH PROPOSAL
 FAILURE TO INCLUDE WILL SUBJECT RESPONSE TO REJECTION**



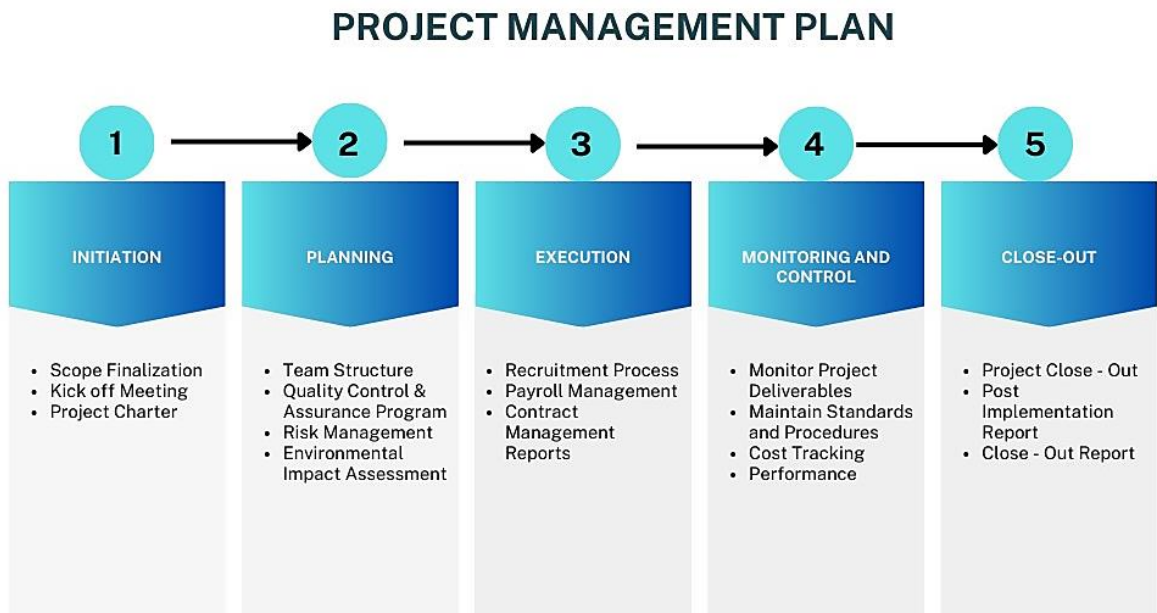
TECHNICAL PROPOSAL CONTENT

EVALUATION CRITERIA No. 1

Our Project Management Approach

Compunnel understands the importance of managing the City’s project in an efficient way to ensure its completion within the stipulated time and estimated budget. Compunnel follows the Program Management Institute (PMI) standards reflected in the PMI Project Management Body of Knowledge (PMBOK) Guide. We deploy our project management team which is familiar with PMBOK standards tailoring our project management process to best fit the needs of the City.

Our project management ensures the collection of proven techniques for proposing, planning, implementing, managing, and evaluating projects, combined with the art of managing people. Our project management of all professional, technical, and customary services for the City will be categorized into the following five main processes, shown in Figure below:



1. Initiation Phase:

Compunnel will consolidate all the activities for a successful project during project initiation, where the focus will be on understanding the goals, scope, priorities, and risks associated with the project. Moreover, our Account Manager will discuss the priorities and risks with the City’s



stakeholders to modify any requirements. Our project team will initiate a Kickoff Meeting with the representatives of the City.

2. Planning Phase

Compunnel will begin project planning once the project is initialized and will provide a dedicated project management team that will closely monitor the planning process for the project. We will create a **Work Breakdown Structure (WBS)** wherein we will break down the project requirements into smaller activities.



We will develop an **Integrated Master Schedule (IMS)** to reflect the interdependencies between tasks and milestones. This will assist our proposed Account Manager and the Project Team to optimize the overall execution strategy of the City's project, coordinate workflows, and assist in the decision-making processes to mitigate risks and resolve challenges on a day-to-day basis.

Compunnel has a **Quality Control Plan** in place which will document all quality-related checkpoints to be passed during and after the management process. Compunnel will implement a **Risk Management Plan (RMP)** for the identification, evaluation, and prioritization of risks. Compunnel will estimate, allocate, and control the project costs of the project by implementing our **Cost Management Plan**. This plan will allow the City to predict future expenses to reduce the chances of budget overrun.

A summary of the Implementation Model for the Temporary Employment Services for the City is provided below:

Phase: 1	
Notice to Proceed	The City awards the contract to Compunnel.
Scope of Work	Compunnel will meet with the City personnel to identify and/or review all contract terms and service level metrics/KPIs of the new contract, including: • Contract terms and conditions. • Our Web-based ATS – StafflinePro. • Job classifications to be serviced, with job descriptions (by location). • Protocols/procedures to address special circumstances that may fall outside the normal scope of work (disaster response) (e.g., provide Compunnel regional and corporate contacts). • Performance measures and goal settings. • Incumbent Transition (if applicable) Procedure and Plan.
Negotiation	Compunnel will work with the City to address any issues not identified in the contract or scope of work.

Compunnel

City of Las Cruces
Temporary Employment Services
RFP# 23-24-047

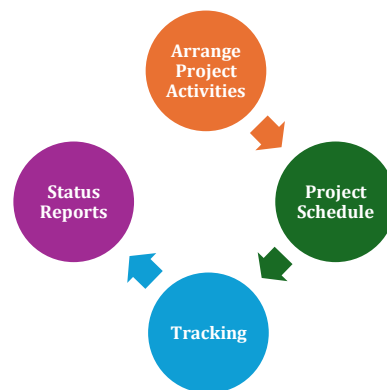
Review Implementation Plan	Compunnel will work with the City to review the proposed implementation plan.						
Develop Implementation Schedule	Compunnel will work with the City to devise an implementation schedule.						
Designate Contract Personnel	Compunnel will designate and identify all staffing personnel (Contractor Account Representative and the Dedicated Account Management Team servicing the City's new contract.						
Develop Quality Control Process	Compunnel and the City will review and modify project-specific quality controls.						
Develop Job Order Process	Compunnel, working with the City, will review and prepare all job order requisition procedures and forms to service the new contract and make any necessary changes. These changes will be inserted into the Compunnel ATS StafflinePro, including: ☞ Identification of personnel authorized to initiate an order for. • Temporary Staffing services. • IS / Web-based platforms / Interfaces (VMS) • Order procedures and forms • Performance evaluation procedures and forms • Electronic transmission guidelines for ordering and reporting (e.g., E-mails, VMS, Web based).						
Design Customized Report, Invoicing, and Payroll Systems	Compunnel will meet with the City review reporting, time-roster and invoicing criteria and formats, as required by the contract and/or scope of work. Compunnel's Special Billing department will be available for consultation and e-billing options will be available.						
Contract Operations Implementation	Compunnel will meet with the City to review all processing systems and controls required to continue servicing the City, including Issue & Escalation Management, special billing and reporting, and insurance/risk management.						
Develop Orientation Web-based Program StafflinePro	Compunnel will work with the City to develop a comprehensive GoToMeeting orientation program and integrate Compunnel's and the City's policies and procedures into a presentation, including: <table border="0"> <tr> <td>• Contract Guidelines</td> <td>• StafflinePro Website</td> </tr> <tr> <td>• Compunnel's policies and procedures</td> <td>• EEO policy</td> </tr> <tr> <td>• Requisition process</td> <td>• Timecard/payroll procedures</td> </tr> </table>	• Contract Guidelines	• StafflinePro Website	• Compunnel's policies and procedures	• EEO policy	• Requisition process	• Timecard/payroll procedures
• Contract Guidelines	• StafflinePro Website						
• Compunnel's policies and procedures	• EEO policy						
• Requisition process	• Timecard/payroll procedures						

Develop Training Syllabus	Compunnel will work with the City to identify training/testing programs that may be required to prepare Compunnel's temporary employees for the City's assignments and transition into City positions. This information will be used to develop Compunnel's new employee e-brochure.
Management Training	Compunnel will implement a comprehensive management training program of all primary and supporting staffing personnel servicing the City account, including: • Key personnel introductions and responsibility profiles. • Contractual requirements. • Performance goals and measurements. • Implementation plan and schedule. • Identification of primary City contacts. • Job order process review. • MIS, payroll, and billing systems review.

3. Execution Phase:

Compunnel will start executing and implementing the proposed plan to achieve the project objectives and every member of our team will conduct their respective assignments within the specified time. Compunnel will start executing its industry best recruitment, background check, onboarding, and payroll management processes.

Compunnel understands the importance of status reports from the City's point of view and ensures timely project status reporting to keep the City informed of all the key developments in the project.



Phase 2	
Job Orders	Compunnel will receive notification of new requests via City's staff augmentation Requests.
Recruitment	Compunnel will continue to coordinate all recruitment activities (e.g., advertising, interviewing, testing,) conducted by Compunnel's network of servicing offices. Compunnel will maintain a pre-qualified pool of personnel in appropriate job categories to respond quickly to job orders and replacement/backup needs.
Screening /Background check of Candidates	Compunnel will conduct, at its own expense, full criminal background checks on all contracted staff and will be sent for approval by City prior to starting work. The background check will be at the national level, extending beyond the State of NM.

Timesheets & Invoices	Compunnel will supply timesheets that correspond with the work time being billed. Time sheets will be signed by the authorized City Hiring Manager and sent as backup when submitting invoices for payment.
Training	Compunnel will conduct temporary employee training at the local servicing offices, as required, to prepare personnel for job duties at various agency job sites. A uniform orientation will be given to all Compunnel employees assigned to the City to ensure consistent hiring practices. A customized e-brochure will be updated for use statewide to insure consistency and quality of service.
Job Order Fulfillment	Compunnel is committed to provide a viable candidate within 48 hours of posting of requirements.
Quality Control: "First Week, First Month, First Quarter"	Compunnel will schedule process review meetings with appropriate City personnel after the first week, first month, and first quarter of operation to review contract administration and order placement/fulfillment processes. Compunnel will address all issues arising from these process review meetings 24*7 , to the full satisfaction of the City.

We will execute our industry best recruitment process to ensure qualified candidates are provided to the City. Our recruitment process is composed of the following ten steps:

OUR RECRUITMENT PROCESS

Step 1- Review Requirement: To correctly understand the City's need for resources, it will be important to thoroughly evaluate all requirements. Understanding of the City's organizational structure, team culture, mandatory and desired skills needed for success in a particular role, project scope, and the competitive landscape will all be essential when assessing a requirement.

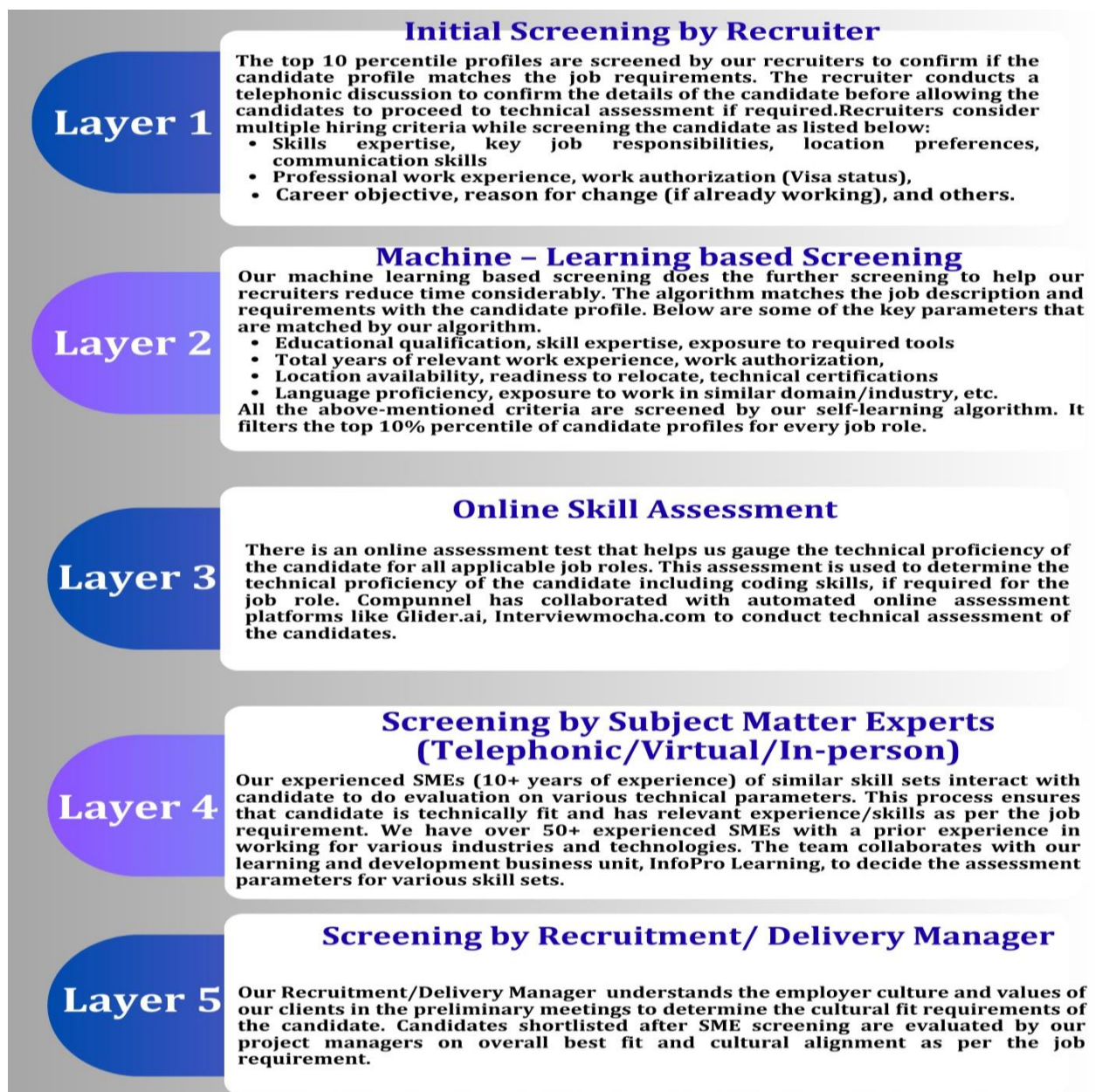
Step 2 - Sourcing: To create a deep, diverse candidate pool for the demand, we will source multiple profiles from our huge and diverse pool of pre-qualified candidate database, hundreds of job/resume portals, and a range of social media outlets. We have a database of 3 million resumes in our advanced ATS StafflinePro. Our recruiters will use the following sources to recruit talent suitable for the City:

• Internal Resume Database of 3 million+ pre-screened candidates	• Local Employment Posting Papers and Websites/ Local Job Fairs
• Community Colleges / Local Colleges/Campus	• Local Career Source and workforce organizations
• Approved Subcontractors	• Employee Referrals

- | | |
|--|--|
| <ul style="list-style-type: none"> • Social Networking Platforms (such as LinkedIn, Facebook, Twitter etc.) | <ul style="list-style-type: none"> • Professional Job Boards (such as Monster, Tech Fetch, Dice, Bullhorn, Beyond, Job Diva, Indeed etc.) |
|--|--|

Step 3 - Initial Screening: Shortlisted candidates will be screened based on skills, years of experience, industry knowledge and other relevant factors. Compunnel will inform temporary employees that they must follow the Code of Conduct required by all City employees.

Step 4 - Technical Screening: Compunnel has a 5 Layers Testing Mechanism in place. To find the candidate profiles that are most compatible. The collection of assessment mechanisms created by Compunnel are mentioned below:



Step 5 - Background Screening Process/Vetting Process:

Compunnel will certify at the time of the initial staffing request from the City, that we will provide staff that can perform the needed tasks at the required skill levels and have been properly screened (employment, background, and drug/alcohol).

We fully understand and comply with the requirement to conduct **pre-employment checks**, including **criminal background checks** and **10-panel drug tests**, for all temporary staff who will be providing services to City.



We will initiate the background check process that involves prior experience employment checks and education history checks for the candidates to ensure the successful placement of the best fit with the City. We will perform the below mentioned background checks:

Background Checks	Detailed Requirements
Professional Licensing and Registration Requirements	Submission of satisfactory evidence of compliance and maintenance of all professional licensing and registration requirements of the job classification under the laws of the State prior to or at the time of reporting for duty at the work site.
Professional Reference Checks	Verification of at least past three projects . References will be of immediate supervisor. The reference of peer or co-workers is not acceptable. Corporate telephone and email ID of reference will be provided.
Employment History	Verification of the most recent seven (7) years of employment history . US employment eligibility confirmed via E-Verify system.
Background Check Reverification	Annually from the date of joining of contract employee.
Social Security Number (SSN) Verification for Resident Check	Validate that the SSN is correct and issued to the corresponding party.
Educational Credentials	Verification of any obtained degrees where degree is required for role and the duration of assignment will exceed two (2) weeks. This also includes verification of any Trainings undertaken by the candidates, resume, references, etc.

Reports	Tuberculosis (TB) clearance, Annual Influenza, Annual physical examination, COVID-19 vaccination, Flu vaccine, CPR certification.
License, Credential Verification	Verification of any professional license or credential where such license or degree is required for the role, including: (a) Validation/Existence of license, and (b) Confirmation that license is in good standing.
10 Panel Drug Screening	Compunnel is committed to providing a healthy, drug-free, and safe work environment for all employees. We run all type of drug and alcohol tests once the candidate is confirmed for a project. This includes testing for common drugs such as marijuana, cocaine, Opioids amphetamines, individual drugs, opiates, benzodiazepines, barbiturates, and phencyclidine. This comprehensive panel ensures that all commonly abused substances are thoroughly screened, maintaining the highest standards of safety and compliance for the workforce serving City. We will conduct random drug testing of employees as well.
Sex Offender Registry Check	Our team conducts verification to ensure that individuals do not appear on the sex offender registry . This is crucial, as personnel may have contact with vulnerable populations.
OFAC Check (Office of Foreign Assets Control)	This check is a screening against the list of individuals and companies sanctioned by the U.S. government for activities such as terrorism, drug trafficking, and other criminal offenses.
Driver License or State-Issued Identification Check	Verification of the authenticity of the driver's license or state-issued identification presented by the candidate

Step 6 - Client Submission: Compunnel will submit the resumes of screened candidates by the preferred delivery method and in the format defined by the City. Compunnel will respond to each requirement during the life of the contract and submit as many candidates as required by the City.

Once the City has reviewed the resumes and identified an interest in interviewing a candidate, Compunnel's Recruitment/Deliver Manager will work to facilitate the interview by contacting the candidates and confirming the interview with both the City and the candidate.

Step 7 - Qualified Candidate: Candidates that proceed to the qualifying step after the City interview will then be ranked according to relevant job-specific criteria to be presented to the City based on best match and alignment with the specific needs of the requirement.

Step 8 - Hiring Decision: The City will be making the final Hiring Decision for the candidates selected in the interview process. Compunnel will then communicate the offer to the candidates.

Step 9 - Onboarding: Our HR and On-boarding team will complete onboarding process of the candidate at City's project within two weeks of their hiring decision. Staffline Pro is the tool we use at Compunnel to the complete onboarding process of the consultant at client project.

Compunnel will make each temporary staffing candidate aware of and comply with the NM state laws during onboarding. Compunnel collects and stores electronic employee data using StafflinePro. This simplifies onboarding through a simple to use error proof interface, database tracking, and payroll management.

Step 10 - Follow-ups: Compunnel will follow up with the City to ensure employees arrived on time for the start of their assignment. In addition, we will perform regularly scheduled follow-ups to check on performance. Also, in the event if temporary staff on assignment cannot report to work, or if temporary staff is not meeting performance expectations, if requested by City, Compunnel will re-staff the position.

Compunnel understands the importance of status reports from the City's point of view and ensures timely project status reporting to keep the City informed of all the key developments in the project. Our project status reports will comprise of high-level information about the project, including recent progress reports, upcoming project plans as well as encountered and anticipated risks and issues. Our Account Manager will be responsible for status reporting and will generate timely reports as scheduled.

Below we have elaborated timeline of a service request that starts when an order is placed to confirmation:

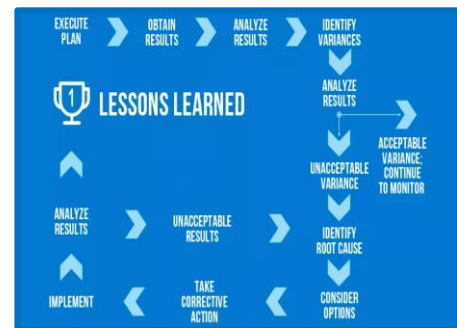
Activity involved	Time
Requirement Gathering, Analysis & Acknowledgment: - Acknowledgement of the request to City. - Analyze the City's staff requisition and write a synopsis of the requisition. - Submit position description and client requirements in our Applicant Tracking System (ATS) tool StafflinePro.	1-2 hours
Sourcing Methodologies: - Assign to Compunnel team lead through our tool. - Check if there is matching skilled candidate available "on the bench". - Identify existing skill sets and candidates within Compunnel database.	2-4 hours

Share job profile to all candidates by posting it on our website and sending a mailer to approved candidates for referrals. Post job to the external job sites (Compunnel website, MedicalJobs.org, Monster.com, CareerBuilder.com, HotJobs.com, Yahoo Hot Jobs, Medzilla Dice).	
Candidate Pre-Screening: - Execute a comprehensive pre-screening that confirms previous experience, motivation, salary, skill level, and potential team fit. Pre-Screening includes online test and internal tools. - Discuss salary requirements and relocation needs with candidates and update in our ATS. - Evaluate attitude and aptitude by discussing team scenarios. - Provide Compunnel overview and explain benefits.	2-4 hours
Skills Testing/Evaluation: - Conduct initial assessment of the candidate's qualifications. - Conduct detailed interviews based on job requirement. - Soft Skills Evaluation. - Evaluate candidate's communication, creativity, analytical thinking, diplomacy, flexibility, change-readiness, problem-solving, leadership, team building, and listening skills.	2-4 hours
Resume Submission and Setting up Client Interview: - Create skill matrix matching required skills with experience of candidates to present consistent skill summary to the City. - Submit resumes with a Skill summary of the selected candidates and references to the City. - Discuss interview schedule with the hiring manager for pre-qualified candidates. - Set face to face or telephone interview depending upon the City requirements.	2-6 hours
Final Background Checks: - Conduct criminal, credit and background check including driving record and sexual offender database search. - Conduct drug check for selected candidates. - Verification of employment, education, certifications, and licenses.	2-6 hours
Hiring decision: - Complete all due diligence before extending an offer to successful candidates. - Extend the offer and share candidate's decision or initial response with hiring managers. - Submit Security Forms to the City.	4-6 hours
Onboarding: - Inform the joining date of the candidate to the City. - Conduct e-Verification. - Candidate joins the project on a specified date.	6-8 hours

Compunnel has a well-defined strategy in place through which we make sure that the client is satisfied with the candidates we place. Compunnel will provide a suitable **replacement candidate** within **24 hours** at no additional cost and if City wants to terminate the candidate's employment within a certain timeframe, usually referred to as a guarantee period, due to reasons beyond the candidate's control (e.g., layoffs, restructuring), then Compunnel will not be charging anything for the first one week.

4. Monitoring and control phase:

Compunnel will provide monitoring and control throughout the project to all the project activities and our team will ensure the successful implementation of initial protocols such as project plan, quality control and assurance program, and the communication plan for the project. Our Account Manager will be responsible for monitoring and controlling by using necessary measures to control the situations, should there be any issues, and ensure the project stays on schedule and within budget.

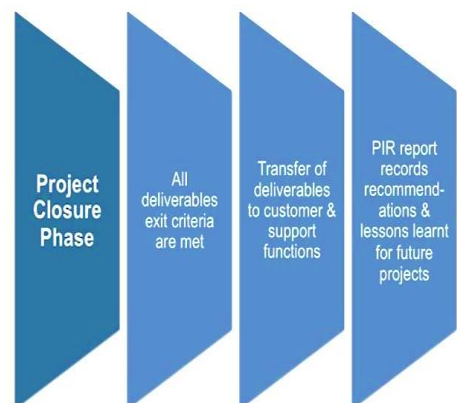


We will continuously monitor project performance against KPIs and milestones. Implement regular performance reviews to assess the effectiveness of project activities. We will conduct periodic environmental compliance checks to ensure adherence to environmental practices and address any deviations promptly and implement corrective actions.

5. Close-Out Phase:

Compunnel will hand over the project access and control to the City upon completion of the project requirements, if required, and our team will ensure that the project deliverables satisfy the acceptance criteria as defined by the City.

We will share Project **close-out documentation** with the City finalizing the project activities completed across all phases of the project and formally closing the project. Our Account Manager will prepare a checklist, and a **Post Implementation Report** to assess the project, ensure efficient completion, derive any lessons learned, and best practices to be applied to future projects.



EVALUATION CRITERIA NO. 2

Our Key Personnel

Compunnel is led by an experienced and visionary management team dedicated to driving the company's growth and success. We will maintain a **Dedicated Account Management Team** of experienced professionals who will work with the City. This team will be available throughout the duration of the entire project.

This team will be led by our **Program Manager, Ashish Yadav**, who will be responsible for overall strategic oversight and management of the City's project. **Mr. Ashish Yadav** acts as a primary contact and **Nitisha Kainthola** as a back-up contact as well as a backup are committed to be available and accessible during normal work hours to receive temporary employment requests, handle and assist in any and all inquiries regarding scheduling, billing, status of orders, availability, contract pricing, contract compliance requirements, and problem solving. Compunnel will assign the following individuals to the City's project:

Name	Role	Percentage of Time Assigned
Ashish Yadav	Program Manager – Primary Contact	100%
Nitisha Kainthola	Account Manager – Backup Contact	100%
Ajay Sharma	Recruitment Manager	100%
Ginu Issac	Finance Manager	100%
Roopali Nair	HR and Onboarding Manager	100%

Ashish Yadav - Program Manager:

Experienced Program Manager with over **15 years** of successful leadership in overseeing large-scale projects, including contract management and procurement support. Proven track record in ensuring projects is completed on time, within budget, and in compliance with all relevant regulations. Ashish will be responsible for overall strategic oversight and management of the City project. He will ensure alignment with project objectives and client expectations, coordination of all project activities, milestones, and deliverables. His role as a Program Manager has involved overseeing the following clients:

- City of Farmington
- City of Silver City
- City of Palm Bay
- State of New Mexico
- Department of Finance & Administration, NM
- Texas Department of Transportation

Nitisha Kainthola - Account Manager:

Dedicated Account Manager with over a **decade of experience** in client relationship management. Proven track record of ensuring client satisfaction and exceeding expectations. Committed to building strong, lasting client relationships, and facilitating effective communication between clients and the project team. She will be responsible for client

relationship management and customer satisfaction. Nitisha will collaborate with internal teams to ensure service delivery meets City's expectations. As Compunnel's Account Manager, Nitisha Kainthola has worked with the following clients:

- Department of Cultural Affairs, NM
- City of Farmington
- City of Silver City
- State of New Mexico
- City of Santa Fe
- Texas Department of Transportation

Ajay Sharma - Recruitment/Delivery Manager:

Results-oriented Recruitment Manager with **11 years** of experience in talent acquisition. Proven track record of identifying, recruiting, and onboarding top talent for complex projects. Adept at streamlining recruitment processes, ensuring efficient staff augmentation, and maintaining strong relationships with candidates. He will be overseeing the delivery of staffing services, ensuring timely and efficient placement, implementing strategies to optimize the recruitment and delivery process. As a Recruitment/Delivery Manager, Ajay Sharma has worked with the following clients:

- City of Santa Fe
- City of Farmington
- Department of Cultural Affairs, NM
- City of Silver City
- City of Santa Clara
- Teachers Retirement System.

Ginu Isaac - Finance Manager:

Ginu has been associated with Compunnel since 2002 and currently manages finance operations across the organization. With industry experience of over **20 years**, he has extensive expertise in various functions of finance including – Corporate Finance, Financial Planning & Analysis, Financial Accounting, Budgeting & Forecasting, and other areas. Ginu will manage financial aspects of the project, including budgeting, financial reporting, and payroll functions. As Compunnel's Finance/Accounts Manager, Ginu Isaac has worked with the following clients:

- City of Santa Fe
- City of Farmington
- State of New Mexico
- City of Phoenix

Roopali Nair - HR Manager:

Dedicated HR On-boarding Manager with a proven track record in streamlining onboarding processes and ensuring a smooth transition for new team members. Over **8 years** of experience in creating efficient and effective HR onboarding programs that enhance employee integration and satisfaction. Experienced Human Resources Executive with a demonstrated history of working in the staffing and recruiting industry. As Compunnel's HR and Onboarding Manager, Roopali Nair has worked with the following clients:

- City of Santa Fe
- City of Farmington
- State of New Mexico
- State Compensation Insurance Fund

EVALUATION CRITERIA No. 3

Compunnel has been delivering services to a wide range of clients, including government agencies, commercial, educational institutions, and more. Here's an overview of five of our client projects, along with their contact details.

Past Contracts

Contract #1	
Client Name	City of Avondale
Services Offered	Compunnel provided temporary workers in the following positions: Administrative Assistants, Administrative Staff Executive, Secretaries, Office Clerks, Transcriber, Custodian, Personnel Assistant, IT Technician, Data Entry Clerks, Facility Maintenance, Research Analyst, Administrative Specialist, Groundskeeper, Graphic Designer, Warehouse workers and Project Manager.
Contact Name	Edith Baltierrez - Assistant Director
Telephone Number	623 333-2029
Contract Period	2019-2023

Contract #2	
Client Name	Teachers Retirement System
Services Offered	Compunnel successfully identified and placed professionals with extensive experience in various positions including but not limited to: Executive Assistant, Accounting Clerk, General maintenance worker, Data Entry Clerk, Office Manager, Certified Public Accountant, Psychologist, Janitor, Warehouse Worker, Software Developer, Human Resources Consultant and Architect.
Contact Name	Sherryl Nelson - HR, Administrative Assistant
Telephone Number	212-612-5426
Contract Period	2018-2023

Contract #3	
Client Name	Pepsi Co
Services Offered	Compunnel provided administrative, industrial, technical, and professional temporary workers in the various positions including but not limited to: Executive Assistant, Customer Service Representative, Certified Public Accountant (CPA), Architect, Nurse Practitioner, Project Manager, Administrative

	Assistant, Data Entry Clerk, Office Support Specialist, Construction Labourer, Food Server, Facility Monitor, Computer Operator, Groundskeeper and Production Worker.
Contact Name	Victoria Lehman - Program Consultant
Telephone Number	(214) 789-7985
Contract Period	2019-2023

Contract #4	
Client Name	Coca Cola
Services Offered	Compunnel provided temporary employment services in various positions including but not limited to: Administrative Assistants, Secretaries, Executive Assistant, Transcriber, Accounting Clerk, Engineering Technician, Data Entry Clerk, Certified Public Accountant, Psychologist, Janitor, Warehouse Worker, Software Developer, Librarian, Warehouse Specialist, Human Resources Consultant and Maintenance Technician.
Contact Name	Tammy Impson - Program Professional Operations
Telephone Number	719-948-2682
Contract Period	2018-2023

Contract #5	
Client Name	Federal Reserve Bank
Services Offered	Compunnel successfully identified and placed professionals with extensive experience in various positions including but not limited to: Administrative Assistant, Project Coordinator, Office Manager, Data Entry Clerk, Secretary, Manufacturing Operator, Material Handler, Marketing Consultant, Transcriber, Certified Public Accountant, Psychologist, Janitor, Warehouse Worker, Equipment Operator, Software Developer, Human Resources Consultant and Architect
Contact Name	Elizabeth Wilson - MSP Coordinator
Telephone Number	704-860-5837
Contract Period	2018-2022

EXHIBIT B

COST PROPOSAL



TABLE OF CONTENTS

TABLE OF CONTENTS I

COST PROPOSAL CONTENT 1

PRICING FOR THE CITY OF LAS CRUCES1



COST PROPOSAL CONTENT

PRICING FOR THE CITY OF LAS CRUCES

Position Title	Wage	Other Direct Labor Costs	Indirect Labor Cost	Mark-Up	Total Costs Per Hour
Accountant	\$35	\$ 3.85	\$ 7.70	133	\$ 46.55
Accounting Technician	\$30	\$ 3.30	\$ 6.60	133	\$ 39.90
Accounting Clerk	\$32	\$ 3.52	\$ 7.04	133	\$ 42.56
Administrative Staff Assistant	\$28	\$ 3.08	\$ 6.16	133	\$ 37.24
Transcriber	\$20	\$ 2.20	\$ 4.40	133	\$ 26.60
Engineering Technician	\$22	\$ 2.42	\$ 4.84	133	\$ 29.26
Custodian	\$27	\$ 2.97	\$ 5.94	133	\$ 35.91
General Labourer	\$18	\$ 1.98	\$ 3.96	133	\$ 23.94
Data Entry Clerk	\$24	\$ 2.64	\$ 5.28	133	\$ 31.92
General Maintenance Worker	\$19	\$ 2.09	\$ 4.18	133	\$ 25.27
General Office Clerk	\$30	\$ 3.30	\$ 6.60	133	\$ 39.90
Personnel Assistant	\$22	\$ 2.42	\$ 4.84	133	\$ 29.26
Receptionist	\$20	\$ 2.20	\$ 4.40	133	\$ 26.60
Secretary	\$22	\$ 2.42	\$ 4.84	133	\$ 29.26
Medical Assistant	\$35	\$ 3.85	\$ 7.70	133	\$ 46.55
Registered Nurse	\$65	\$ 7.15	\$ 14.30	133	\$ 86.45
Librarian	\$25	\$ 2.75	\$ 5.50	133	\$ 33.25
Computer Operator	\$35	\$ 3.85	\$ 7.70	133	\$ 46.55
Computer Programmer	\$55	\$ 6.05	\$ 12.10	133	\$ 73.15
IT Technician	\$45	\$ 4.95	\$ 9.90	133	\$ 59.85

IT Administrator	\$50	\$ 5.50	\$ 11.00	1.33	\$ 66.50
Equipment Operator	\$22	\$ 2.42	\$ 4.84	1.33	\$ 29.26
Material Coordinator	\$26	\$ 2.86	\$ 5.72	1.33	\$ 34.58
Warehouse Specialist	\$27	\$ 2.97	\$ 5.94	1.33	\$ 35.91
Machinist Maintenance	\$25	\$ 2.75	\$ 5.50	1.33	\$ 33.25
Parks and Recreation Aide	\$22	\$ 2.42	\$ 4.84	1.33	\$ 29.26
Waste Maintenance	\$20	\$ 2.20	\$ 4.40	1.33	\$ 26.60
Food Server	\$30	\$ 3.30	\$ 6.60	1.33	\$ 39.90
Customer Service Associate	\$32	\$ 3.52	\$ 7.04	1.33	\$ 42.56
Customer Service Field Representative	\$35	\$ 3.85	\$ 7.70	1.33	\$ 46.55
File Clerk	\$32	\$ 3.52	\$ 7.04	1.33	\$ 42.56
Groundskeeper	\$20	\$ 2.20	\$ 4.40	1.33	\$ 26.60
Administrative Support	\$27	\$ 2.97	\$ 5.94	1.33	\$ 35.91



CITY OF LAS CRUCES

SERVICE AGREEMENT

23-24-047
Temporary
Employment
Services

THIS AGREEMENT made and entered into on this ____ day of June, 2024 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and CathyJon Enterprises, Inc. dba HB Staffing, of 7711 Center Ave. Suite 670, Huntington Beach, CA, 92647, hereinafter called "CONTRACTOR".

1. PROJECT DESCRIPTION

Temporary employment services to be provided on an as needed basis. Various purchase orders will be issued according to the needs of CITY departments and Joint Power Agreement (JPA) agencies.

2. SCOPE OF SERVICES

In a satisfactory and proper manner, the CONTRACTOR shall perform SERVICES as proposed in response to the CITY'S RFP No. 23-24-047 as set forth in Exhibit A, attached hereto and made a part of this Agreement.

3. APPROPRIATIONS

The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

4. COMPENSATION

The CITY shall compensate CONTRACTOR for the performance of SERVICES under this Agreement an amount as proposed in response to the CITY's RFP No. 23-24-047, plus applicable taxes as set forth in Exhibit B, attached hereto and made part of this Agreement. CONTRACTOR shall perform the SERVICES upon receipt of a purchase order or written Notice to Proceed from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed. CONTRACTOR shall submit invoices weekly or biweekly. CITY shall pay invoices Net 30 days upon receipt of undisputed invoice.

CONTRACTOR is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. CONTRACTOR agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

5. DEVOTION OF ADEQUATE TIME

CONTRACTOR will devote the necessary hours each week to the performance of project that are required by the CITY, and it will serve the CITY, diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE

This Agreement shall become effective on July 1, 2024 for a term of four (4) years through June 30, 2028. CONTRACTOR shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and CONTRACTOR.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall CONTRACTOR be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request CONTRACTOR to perform other extra services not incorporated within the Services set forth in this Agreement. If the CONTRACTOR is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the CITY, CONTRACTOR shall so notify the CITY, of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the CONTRACTOR within five (5) business work days from the date of receipt of CONTRACTOR'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE CONTRACTOR

In the event a condition is identified by the CONTRACTOR which, in the opinion of the CONTRACTOR, changes the services, costs, and/or time required for performance under this Agreement, the CONTRACTOR shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business work days from the date of receipt of CONTRACTOR'S notification.

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of CONTRACTOR, and without the fault or negligence of CONTRACTOR, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. CONTRACTOR shall provide the CITY, with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by CONTRACTOR to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in

accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY, for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to CONTRACTOR.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY, deliver to the CITY, the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

CONTRACTOR will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S, right to recover excessive or illegal payments. CONTRACTOR will retain records for five (5) years after the completion of the project.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY, will be kept confidential and CONTRACTOR will not disclose to any other party, directly or indirectly, without the CITY'S, prior written consent unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the CONTRACTOR shall be the sole property of the CITY, and shall be delivered to the CITY, when requested and at the end of the Agreement.

14. INDEPENDENT CONTRACTOR

CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY, CONTRACTOR, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY, by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR's employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to perform services for other parties; and (ii) CONTRACTOR may perform for its own account other professional services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as otherwise specifically set forth herein, neither CONTRACTOR nor CITY, shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT

CONTRACTOR shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

CONTRACTOR shall obtain and maintain at least the following insurance at its own cost and expense during the life of this Agreement, and shall require Subcontractors, if any, to maintain the same insurance during the life of the subcontracted work:

1. Professional Liability
 - a. \$1,000,000 per occurrence

2. Commercial General Liability Insurance
 - a. \$1,000,000 per occurrence / \$2,000,000 aggregate
 - b. Coverage must include premises and operations, products and completed operations, and personal and advertising injury.
 - c. The City of Las Cruces must be named as an Additional Insured for all coverages listed above on endorsements acceptable to the City.
 - d. Coverage must be primary and non-contributory.
 - e. Coverage must be per project or per location.
 - f. Coverage must be on an occurrence form.
 - g. Subrogation must be waived.
3. Commercial Auto Liability
 - a. \$1,000,000 per occurrence
 - b. Coverage must be for "owned, leased, hired, and non-owned autos" or "any autos."
4. Workers' Compensation and Employers Liability
 - a. Statutory Limits
 - b. Employer liability – \$1,000,000 each accident, \$1,000,000 each employee by disease, \$1,000,000 policy limit
 - c. Subrogation must be waived.

Endorsements for additional insured coverage and waivers of subrogation must be provided as a condition of this Agreement and shall be noted on the certificate.

CONTRACTOR shall furnish the CITY with a certificate(s) of insurance showing CONTRACTOR and Subcontractors, if any, have complied with this Article. The CONTRACTOR shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

CONTRACTOR shall indemnify, defend, and hold harmless the CITY, from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused in whole or in part by, resulting in whole or in part from, or arising in whole or in part out of the negligent acts, errors, or omissions of CONTRACTOR, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

CONTRACTOR shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the CONTRACTOR'S services or any work done pursuant to this Agreement, including anti-discrimination.

20. BREACH

In the event CONTRACTOR breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY, shall give CONTRACTOR written notice of such breach. In the event CONTRACTOR fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy CONTRACTOR'S breach and recover any and all costs and expenses in so doing from CONTRACTOR.

21. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and CONTRACTOR under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

22. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY: City of Las Cruces
 PO Box 20000
 Las Cruces, NM 88004
 ATTENTION: Greg Gonzalez, Buyer I

With Copies to: Purchasing Manager

TO CONTRACTOR: CathyJon Enterprises, Inc. dba HB Staffing
 7711 Center Ave, Suite 670
 Huntington Beach, CA 92647
 ATTENTION: Jonathan Davis, Vice President

23. SCOPE OF AGREEMENT

This Agreement incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof and that all such covenants, agreements, and understandings have been merged into this written agreement. No prior agreement or understanding verbal or otherwise of the parties or their agents shall be valid or enforceable unless embodied in this agreement.

24. SEVERABILITY

The parties agree that each provision of this Agreement is severable and the invalidity or unenforceability of any one or more of the provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

25. CONFLICT OF INTEREST

CONTRACTOR represents and warrants that CONTRACTOR has no business, professional, personal, or other interest, including, but not limited to, the representation of other clients, that would conflict in any manner or degree with the performance of its obligations under this Agreement. If any such actual or potential conflict of interest arises under this Agreement, CONTRACTOR shall immediately inform the CITY in writing of such conflict. If, in the reasonable judgement of the CITY, such conflict poses a conflict to and with the performance of CONTRACTOR'S obligations under this Agreement, or is otherwise a violation of the CITY'S current policy or ordinances, then the CITY may terminate the Agreement immediately upon written notice to CONTRACTOR; such termination of the Agreement shall be effective upon the receipt of such notice by CONTRACTOR.

CATHYJON ENTERPRISES, INC.
DBA HB STAFFING

CITY OF LAS CRUCES

BY: _____
Jonathan Davis
Vice President

BY: _____
Alicia Hernandez
Purchasing Manager

Date

Date

APPROVED AS TO FORM

City Attorney

EXHIBIT A

SERVICES

A. General Conditions

Temporary services are requested as needed throughout the contract period. Temporary employees will be subject to all applicable City work rules and their amendments. The contract will not guarantee that any specific amount of services will be obtained. Orders will only be placed when the City identifies a need and issues a purchase order or written Notice to Proceed. It shall be the Contractor's responsibility to meet the City's requirements. The contract(s) are non-exclusive, and the City reserves the right to obtain services on the open market to serve the best interest of the City.

B. Specific Conditions

1. The Contractor(s) shall:

- a. Designate a coordinator as a local single point of contact (SPOC), as well as a backup, that will be accessible during normal work hours to receive temporary employment requests, handle and assist in any and all inquiries regarding scheduling, billing, status of orders, availability, contract pricing, contract compliance requirements, and problem solving. Normal work hours for the City are from 8:00am until 5:00pm Monday through Friday, with the exception of designated holidays.
- b. Refer personnel that have successfully undergone applicable background check and drug testing upon request of the city and provide verification that these pre-employment screenings have been successfully completed. Personnel shall be immediately productive, requiring minimal training and orientation.
- c. Be responsible for obtaining and informing and orienting its personnel on all relevant rules, regulations, policies, etc. of the City. Written acknowledgement of receipt of this information by the employee shall be provided to the City.
- d. Be given four (4) business hours and one (1) business day to confirm availability of a temporary employee to fill a request. However, if Contractor is unable to fill the job request, the City may fill the requirement from other qualified sources. City personnel will endeavor to give as much notice as is practical and possible.
- e. Ensure all temporary employees referred to the City have been screened for minimum qualifications required for the position.
- f. Be notified by the City in the event any temporary employee fails to adhere to the City's directions, policies, procedures, security / safety regulations, or demonstrates that they are not qualified to perform the required duties, and the Contractor shall replace the temporary employee within two (2) working days at

no cost to the City (including, but not limited to, training time; background checks; ID badges; drug testing; etc.). This also applies to any temporary employee that leaves for any reason before the assignment is completed. When a temporary employee leaves, at any time, the Contractor shall be responsible for any unreturned keys, ID badges, etc. If such items are not returned to the City within five (5) working days, the City shall send an invoice to the Contractor for the exact replacement cost. The Contractor shall pay this invoice within twenty (20) days.

- g. Agree to compensate employees in accordance with the requirements of the Fair Labor Standards Act (FLSA) as amended, New Mexico State Law and the New Mexico Workers' Compensation Act as amended, and the City's minimum wage ordinance. Additionally, the Contractor must ensure that each temporary employee acknowledges, in writing, their exempt or non-exempt FLSA status, whichever is applicable.
- h. Include provisions for the City to hire the temporary employee without payment of a finder's fee or any other fee, after the temporary employee has completed no less than ninety (90) days of temporary service to the City.
- i. Submit a legible, detailed invoice to the requesting City department and the Disbursements (Accounts Payable) office on a weekly or bi-weekly basis before payment(s) can be made. The City will pay invoices within twenty (20) days. Tax for services must be included in the invoice. At a minimum, the invoice must provide the following information:
 - i. Company name, address and contact information
 - ii. City bill-to name and contact information
 - iii. Name and title of hire, hours worked and hourly rate
 - iv. Dates of service
 - v. Extended price
 - vi. Total amount

Preferably, invoices should be sent via e-mail to disbursements@lascruces.gov.

Invoices can also be mailed to:

City of Las Cruces
Attention: Accounts Payable
PO Box 20000
Las Cruces, NM 88004

- j. Furnish, upon request by the City, a monthly usage delineating the acquisition activity governed by the contract. The format of the report shall be approved by the City and shall disclose the quantity and dollar value of each contract item by individual department.
2. The Contractor shall provide contracted employees who shall:
- a. Based on position and services to be provided to the City, be subject to various criminal checks, fingerprinting, background checks, and applicable drug testing

- upon whose results the City may choose to base its decision to accept an individual for assignment. This option would allow the temporary employee access to areas within the City such as court buildings, and any restricted areas.
- b. Conform in all respects to fire and safety / security regulations while on the City's premises.
 - c. Receive training on preventing discrimination and harassment and have received and acknowledged receipt of the City's Discrimination Policy as provided by the City.
 - d. Be able to read, write, speak, and comprehend the English language in accordance with the minimum requirements of the position description, unless otherwise requested.
 - e. Be dressed appropriately and with the equipment specified by the City as being required to perform work in the service categories covered under this contract. The City requires most field personnel to have safety shoes, at the expense of the temporary employee. The safety shoes must meet American National Standards Institute (ANSI) and Occupational Safety and Health Administration (OSHA) standards.
 - f. Be respectful of all people with whom they interact, including City employees and customers of the City. The City reserves the right to reject any candidate that does not exhibit common courtesy and cordiality towards all individuals with which they may come in contact.
 - g. Limit personal mobile phone calls to emergency calls while on duty.
 - h. Report to an assignment at the time designated by the City. The work week shall be Monday through Friday. Normal business hours are 8:00am to 5:00pm, and occasionally weekends, excluding City holidays. There may be requirements or alternate schedules which require evening, weekend, holiday and overtime work. Weekend work shall be defined as Saturday and Sunday during the same week. Weekend or holiday work will not be considered overtime unless in excess of forty (40) hours worked.
 - i. Be entitled to lunch periods ranging from 30-60 minutes as determined by the City. No payments shall be made for lunch periods.
 - j. In some instances, require additional types of certifications such as First Aid and CPR certification. Temporary employees shall have these certifications prior to applying for such positions. Temporary employees shall maintain and recertify these certifications at their own expense.
3. The Contractor shall accept that the City shall:
- a. Have the right to interview and / or screen all prospective personnel, and to accept or reject any or all based upon the required skills and the background and experience of each individual. A resumé may be required upon request prior to an interview.
 - b. Supervise Contractor's employees. The City shall have direct control over the daily activities of the Contractor's employees.
 - c. Reserve the right to add and / or delete services provided under this contract. If a requirement is deleted, payment to the Contractor will be reduced proportionately to the amount of service reduced in accordance with the proposal price. If

additional services are required from this contract, prices for such additions will be negotiated by the Contractor and the City.

4. The Contractor shall accept a contract provision that any request for fee adjustments must be submitted sixty (60) days prior to the current contract annual anniversary date. Requests for adjustment in cost of labor must be supported by appropriate documentation. If the City agrees to the adjusted fee, the City shall issue written approval of the change in the form of a contract amendment to be executed by both parties. The reasonableness of the request will be determined by comparing the request with the Consumer Price Index or by performing a market survey.



City of Las Cruces

Temporary Employment Services

RFP #23-24-047

A. TECHNICAL PROPOSAL

PREPARED BY CATHYJON ENTERPRISES, INC. DBA HB STAFFING

Due Date: April 23, 2024

SUBMITTED BY:

Megan Ignacio, General Manager

7711 Center Ave, Suite 670, Huntington Beach, CA 92647

Email: mignacio@hbstaffing.com • Direct Number: (657) 660-4116

Fax: (650) 241-1385 • Office Number: (714) 960-2800

EXCEPTIONAL SERVICE, EXCEPTIONAL PEOPLE.

 (714) 960-2800

 www.hbstaffing.com

 7711 Center Ave, Suite 670
Huntington Beach, CA 92647



RFP COMPLIANCE DECLARATION

RFP TITLE: Temporary Employment Services
RFP NO.: 23-24-047
DUE DATE/TIME: April 23, 2024 / 4:00 p.m.

In compliance with the requirements of this RFP, I, the undersigned, offer and agree to furnish any or all materials and/or services to the City of Las Cruces within the time agreed.

I further certify that this company has not been debarred, suspended, or otherwise made ineligible for participation in Federal Assistance programs under Executive Order 12549 Debarment and Suspension as described in the Federal Rules and Regulations.

Receipt of Addenda Nos.: 1 & 2 is hereby acknowledged (where none received, place a zero in this space)

Company Name and Address:	
CathyJon Enterprises, Inc. DBA HB Staffing	
7711 Center Ave, Suite 670	Authorized Signature
Huntington Beach, CA 92647	Megan Ignacio
	Typed or Printed Name
	General Manager
	Title
	mignacio@hbstaffing.com
	Email Address

Telephone number (714) 960-2800 Fax number (650) 241-1385

NM Tax & Revenue Dept. CRS # N/A

Current NM Secretary of State Business ID # N/A (corporations only)

Current CLC Business Registration # N/A (respondents located in Las Cruces only)

Federal I.D. number 33-0907010 (mandatory for all respondents)

NM Resident Certificate from NM Tax and Revenue Department enclosed Yes ☒ No ☐

THIS FORM MUST BE COMPLETED AND INCLUDED WITH PROPOSAL
FAILURE TO INCLUDE WILL SUBJECT RESPONSE TO REJECTION



Cover Letter

April 23, 2024

RFP #23-24-047
City of Las Cruces
700 N Main
Las Cruces, NM 88001

Subject: Response to RFP #23-24-047: Temporary Employment Services

To Whom It May Concern,

Thank you for the opportunity to provide the City of Las Cruces ("the City") with a customized proposal outlining our detailed service capabilities in response to RFP #23-24-047 for Temporary Employment Services upon request to support for specialty areas that will include, but are not limited to, Administrative Support, Professional, and General Labor.

We will demonstrate in our proposal why CathyJon Enterprises, Inc. DBA HB Staffing (a subsidiary of Array Corporation) can offer the best value and quality service while providing temporary personnel in conformance with contract requirements. HB Staffing is highly qualified to provide Temporary Employment Services and has ample experience with numerous cities, counties, districts, local authorities, and federal organizations. **As a Minority-Owned Business**, we are confident that our extensive experience within the specific classifications requested, financial capability, and quality staffing performance throughout the past twenty-four (24) years will prove us to be a qualified bidder for the City. Our delivery of reliable service will ensure good faith, quality performance on this contract.

HB Staffing will complement the City's goals by offering the following assets:

- **Public Agency Specialty** — More than 70% of our business is dedicated to serving public agencies; we currently have nearly 50 public agency contracts. We are attuned to successfully meeting the unique needs of our government clients, which can include the following: working with both centralized and decentralized agencies; providing specialized reporting; observing temporary employee assignment hour limits; accommodating alternative work schedules; and adhering to hiring rules with public pension participants. Our current public agency clients include: 14 cities; 10 counties; and over 20 authorities, districts, and educational institutions. Below are some of the agencies we serve:

A. Cities: City of Tucson (AZ), City of Glendale (AZ), City of Yuma (AZ), Huntington Beach, Newport Beach, Anaheim, Irvine, Santa Ana, Murrieta,



California City, Moreno Valley, West Hollywood, Redwood City, Park City (UT), Redmond (WA), and Encinitas.

- B. Counties:** San Diego, Los Angeles, Orange, Riverside, Placer, Monterey, San Bernardino, and Frederick (MD).
- C. Districts:** Midway City Sanitary District, Orange County Sanitation District, Metropolitan Water District, North County Transit District, and South Coast Air Quality Management District.
- D. Authorities:** **Albuquerque Housing Authority (NM)**, San Diego County Water Authority, Housing Authority of the County of San Bernardino, San Bernardino County Transportation Authority, and Southern California Regional Rail Authority.

- **Twenty-Four (24) Years of Recruiting Acumen Throughout 15 States** — Our experience enables us to find and place qualified candidates quickly. We have proven time and again that we can bring our recruiting methodology to markets where we have a limited candidate pool and supply a highly qualified group of candidates that exceed our client's expectations.
- **Re-Award Success** — HB Staffing's "re-award" success indicates that clients trust us to perform week after week, including the County of San Diego (awarded in 2017, re-awarded in 2022); City of West Hollywood (awarded in 2019, re-awarded 2023), County of Orange (awarded in 2011, re-awarded in 2016 & 2023), the City of Anaheim (awarded in 2015, re-awarded in 2020 & 2023), the City of Newport Beach (awarded in 2015, re-awarded in 2020), the City of Santa Ana (awarded in 2018, re-awarded in 2023), the San Diego County Water Authority (awarded in 2016, re-awarded in 2019); and Omnitrans (awarded in 2015, re-awarded in 2020).

HB Staffing's proposer and primary contact person during the proposal process is Megan Ignacio, General Manager. She can be reached via phone at (657) 660-4116, email at mignacio@hbstaffing.com, or fax at (657) 660-4116 from our corporate address of 7711 Center Avenue, Suite 670, Huntington Beach, CA 92647.

There are no events foreseen that could impede our ability to fulfill this contract. HB Staffing will not work with subcontractors on this contract, and we do not have any arrangements, formal or informal, with any other party that might interfere with our ability to provide independent and unbiased advice and assistance under this RFP. In addition, HB Staffing is a financially stable C-Corporation, with a strong positive cash flow. We have not defaulted on any of our contracts. HB Staffing stands ready to deliver an exceptional experience as we accommodate the City's requirements and requests.

I, Megan Ignacio, certify that I am authorized to legally bind CathyJon Enterprises, Inc. DBA HB Staffing, to a contract resulting from RFP #23-24-047 Temporary Employment Services and that this proposal, with the total fixed price contained therein, shall remain firm for a period of one hundred eighty days (180) after the proposal closing date. I acknowledge all addenda.

04/23/24

Signature:

Megan Ignacio, General Manager

Date



Table of Contents

RFP Compliance Declaration	2
Cover Letter	3
Table of Contents	5
Technical Approach	6
Recruitment	7
Interviewing and Qualifying	8
Background Checks	10
Drug & Alcohol Testing	10
Education Verification	12
Skills Assessments	12
Onboarding	12
Key Personnel	13
Past Performance	17



Technical Approach

HB Staffing has been hired by numerous public, federal, and commercial agencies **across 15 states**. Our approach has been perfected over our many years of experience, and we are confident that we will succeed in supplying highly vetted and qualified candidates for the City's temporary staffing needs.

HB Staffing strives to **uphold recruiting best practices**, ensuring that temporary employees we present are custom-matched to the City's job requirements based on a qualification appraisal, performance evaluations, employer references, and a successful track record on similar assignments. Ideally, HB Staffing will designate a qualified temporary employee acceptable to the City's hiring manager within one to two business days. If there is an **urgent service request**, we have the capability to place vetted and available candidates within a four-hour time frame.

As an Equal Opportunity Employer, HB Staffing strives to attract a diverse talent pool by casting a wide net in our recruiting efforts in order to draw interest from candidates of all backgrounds. We actively engage in recruitment outreach through ethnic community agencies, churches, LGBTQ organizations, and diverse publications and job boards, among others, because HB Staffing and its clients benefit from the innovative and exceptional talent that comes from an inclusive hiring process. Additionally, we write job descriptions that are clear, meaningful, inclusive, and informative; establish an equitable interview process by asking the same questions of all candidates and applying a consistent rating system across the board; and ensure that our positions have equitable pay/wages assigned.

At HB Staffing, we place a strong emphasis on having a candidate pool that reflects the diversity of the communities in which we operate alongside a broad spectrum of skills among our applicants. For years, we have consistently been recognized as one of the top 100 Diversity Staffing Suppliers in America by Staffing Industry Analysts. Diversity, inclusion, and equity are central to our recruitment, hiring, engagement, promotion, and other employment practices.

HB Staffing is also accustomed to providing multilingual temporary staffing to multiple public agency clients. Most notably, during the 2020 election cycle, we were asked to provide bilingual speakers in 17 different languages to the Los Angeles County Registrar-Recorder/County Clerk. The LA County RR/CC appreciated our out-of-the-box recruitment methods; our outreach to churches and community organizations helped us fill every single job order for bilingual speakers.



Our goal is to facilitate the smooth transition of appropriately screened and credentialed temporary employees into your workplaces. Our project plan is conducted via the following processes:

Recruitment

1. **Recruitment Kick-Off Meeting** — Immediately upon contract award, we will recommend a post-award **'kick-off' meeting** to facilitate a mutual understanding of goals, protocols, timelines, and lines of communication. Once a mutual understanding is established, we create a recruitment plan, which includes ***anticipating*** the City's needs and executing a recruitment strategy crafted to identify and onboard highly qualified candidates relevant to the City's requirements.
2. **Recruitment Campaign** — Our Project Manager (PM) will implement the **recruitment plan** based on information from the kick-off meeting, the City's job category descriptions, and the scope of work. We will, on a daily basis, recruit and attract relevant qualified personnel that can meet City-centered job-related work experience, skills, stability, location, and education prerequisites. We stay connected to the job force in and around the City, utilizing local job developers to assist in recruiting potential candidates throughout the life of the contract.
3. **Sourcing Candidates** — HB Staffing recruiters will conduct an **initial search within our database of over 8,000 vetted candidates and employees**. Our search efforts are enhanced by utilizing key talent portals such as Indeed, ZipRecruiter, and Craigslist, in addition to posting job offerings on our website and social media sites (Facebook and LinkedIn). We will expand search efforts using cutting-edge technological tools (i.e., Hiretual) to quickly and accurately source talent through key talent portals. We coordinate multiple internal assets to achieve the best results for our clients:
 - a. **National Marketing Team** — Our parent company, Array, complements HB Staffing's customized staffing approach by utilizing sophisticated tools with an extensive national reach. The Marketing Team curates ad language specific to the needs of our clients and casts a wide net with the ads it posts.
 - b. **Internal HB Staffing Recruitment** — HB Staffing recruiters not only vet candidates referred by the marketing teams, but they compile them into a pool of viable candidates based on the City's job needs and requirements.
4. **Talent Sourcing Other External Resources** — We will also source community resources weekly, targeting colleges, non-profit organizations, trade groups, online communities, job boards, job fairs, and community and local charity events.



5. Pre-Screening Interviews — HB Staffing recruiters will schedule and conduct pre-screening interviews to determine qualifications, interest, and availability. In addition, recruiters will determine the fit and relevance to the City's needs when determining the applicant's availability.

6. Applicant Tracking — When a candidate is new to our system, our Recruiters will onboard them into our database.

Interviewing and Qualifying

1. Gut Rubric — HB Staffing uses a “**Quantum Gut Evaluation Rubric**” to assess a candidate's skills, aptitudes, mindset, and expertise. Our recruitment team builds a comprehensive and thorough Quantum Gut Rubric based on the details of the job description and the preferred skills and aptitudes of the hiring manager. The following is a sample of a Quantum Gut Evaluation Rubric that is designed to measure both the hard and soft skills of a Receptionist I candidate:

The Quantum Gut - Video Explanation				Quantum Gut Evaluation Average	#DIV/0!	#DIV/0!
Hiring Rubric: Receptionist Role				Date of Interaction		
Instructions: (ungroup to read detailed instructions)				Interaction Type		
https://njid-araycorp.com				Evaluator	Name	Name
Priority	Category	Competency (SAME)	Questions		Evaluatee	Evaluatee 1
Role Overview						
		Receptionist I				
		Job Purpose	perform clerical tasks, usually within an office setting to support daily operations			
		Key Performance Indicators	360 Degree Reputation, Attendance, Punctuality			
			NOTE: Once you're done with the interview, come back here and evaluate the person as a whole? 1-5 on our scale.			
	Introduction	Integration of All	Introduce yourself. Introduce the company and role as needed. Engage in the niceties of getting to know someone, then ask if there are any questions they have for you before you start. "I've reviewed your resume, but it's always helpful to hear a person's career and life journey from them. Can you tell me about your background and what interests you about this role and our company?"			
	Morale	Potential	What are you looking for in your next position? What other opportunities are you looking at? If this opportunity didn't work out, what is next on your list? What questions do you have for me about our Career Value Proposition and what a career is like here?			
	Minimum Requirements					
		General Physical Ability	Consider the general physical requirements of the role and evaluate whether or not the candidate seems able to meet those requirements.			
		General Cognitive Ability	Based on your Conversation, simply judge your view of their universal aptitudes. An amalgamation of Learning Velocity, Intellectual Agility, EQ-Interpersonal Savvy, Grit			
	Work Context (Job Description)					
	Skill	Customer Service Methods	What do you think is most important in customer service? What are common mistakes you see customer service people make? ROLE PLAY!!!			
	Skill	Tech Savvy	What online resources do you use to help you do your job? How do you keep your technology skills current? How would you explain (a relevant technology) to someone with limited tech skills?			
	Skill	Oral Communication	Find something technical or specific about their background that they should really know about. Ask them to explain it to you in a way that a 5th grader would understand.			
	Skill	Written/Email Etiquette	I am a team leader in my company and have to communicate via email to several employees frequently. What is the appropriate protocol to cc another individual in an email?			
	Skill	Active Listening	How have you responded to verbal instructions from a supervisor in a previous job position? How have you handled a situation involving miscommunication in the workplace? How have you handled a situation involving miscommunication in the workplace?			
	Soft Skills & Aptitudes					
	Skill	Interpersonal Skill	Tell me about a time when you had to work with a coworker you did not like or trust. When you've started a new job, how did you build relationships?			
	Skill	Problem Solving	What's a hard problem that you've solved and how did you solve it?			
	Aptitude	Team-Oriented	Tell me about your experience working on teams.			
	Aptitude	Be a Great Teammate	One of our Work Philosophies is that all employees should strive to "Be a Great Teammate". Give me some examples of ways that you work that make you a great teammate. How do you help you teammates to be a great teammate.			
	Aptitude	Organization	How do you prioritize your work? What are some organizational methods you feel are effective? How do you ensure you meet important deadlines? Can you describe a time when you had to complete multiple projects at once?			



2. Interviewing — The finest available candidates undergo a rigorous vetting process designed to assess each work history and performance on the job. Our Recruitment Team uses **the Gut Rubric** to ask the same questions of each candidate to **minimize bias** in our interview process. Applicants participate in a thorough behavioral interview whereby they are asked to describe past behavior and accomplishments in order to determine whether they are suitable for a position with the City. In interviewing potential candidates, we understand that we need to find people who have both the hard and soft skills to perform the job successfully. **We match hard skills with those technology/software skills that contribute to successful placements.** Skill assessments and references, along with credential verifications, are what we seek. We would expect to see the following qualities in a candidate to evidence good communication skills and the ability to work in a team environment:

- a. Demonstrates listening skills
- b. Demonstrates an ability to work with others of all types and persuasions
- c. A person with a “one for all, and all for one” approach
- d. A person who takes ownership of their responsibilities adopts the timelines relevant to the outcomes desired
- e. A person who is empathetic
- f. A person who is conscientious and takes an ethical approach to working with others and assigned projects
- g. A person who is able and willing to ask questions and implement recommendations readily
- h. Can solve problems effectively
- i. Have good people and customer service/support skills

3. Skills Assessments — Applicants who pass pre-screening will complete an online application and various skills assessments tailored to each position through PreValuate. With many assessments to choose from, should the City require a specific or elevated software proficiency, HB Staffing is more than willing to offer that assessment at no charge to the City. Test results, interview notes, credentials, and references are entered into our Ultra-Staff *EDGE* database.

4. Submitting Candidates — Once our candidates have been fully screened by our recruiters, we will send resumes of the best-fit candidates to the City. We will ensure that, if the City wishes to conduct an interview, we will coordinate and prepare all the candidate(s) for the interview. Our process is to identify 3-7 plausible candidates for each position that we are given the privilege to fill. While only one will be hired, the resumes and contact information of the remaining prospects are added to the



database as immediate consideration for future vacancies. Should the City be faced with another vacancy, a potential backfill becomes immediately available.

Background Checks

We conduct a comprehensive background investigation based on the City's job-centric screening criteria. We use Checkr, which provides a full background check for each county our temporary employee has lived in, ensuring zero felonies, sex offense charges, and misdemeanors within seven (7) years from the City's date of an assignment request. We can provide for in- and out-of-state criminal background verifications. We will accommodate the background check parameters set by the City and ensure that our placements meet the same guidelines as other applicants who apply separately for advertised positions with the City. We would not charge the City for background check costs.

We have listed below the background screening and drug testing procedures we have in place. We would not charge the City for these services; these are part of our employee onboarding and quality assurance processes. As a Service Provider to the City, we understand that all employees will be background checked and passed prior to the commencement of an assignment.

- 1. Pre-Employment Background Check:** HB Staffing carefully assesses our employees whom we submit to clients through face-to-face interviews, reference checking (supervisors and/or HR), and background checking. We will verify employee criminal backgrounds using an industry leader background checking service. Personnel provided to the client are background searched using local law enforcement/court data and national background search (felony, misdemeanor, terrorist, sex offender, and social security). Depending on client needs, we offer educational, credit checks, and national/international security background checking.
- 2. Post-Employment Background Check:** We utilize multiple security protocols, such as candidate/employee signed agreements regarding job site safety, client confidentiality, and security practices. We provide recurrent related messaging on the employee web portal, which supports and/or integrates with client practices such as client ID badges and their various onsite security methodologies.

Drug & Alcohol Testing

HB Staffing will provide drug testing if required or requested by the City. We use Concentra as the primary vendor to administer drug screens to applicants. The results of these tests are posted on a dashboard that is accessible by HB Staffing's recruitment team.



Pursuant to applicable state and federal laws, HB Staffing requires testing under the following circumstances:

- 1. Pre-Employment Drug Testing:** As permitted by law, after a conditional offer of employment is made, HB Staffing may require a candidate for employment to submit to a drug and alcohol screen. Any conditional offer of employment made by HB Staffing shall be subject to and contingent upon the successful completion of a drug and alcohol screen, where applicable.
- 2. Post-Accident Drug Testing:** Subject to applicable State and Federal law, HB Staffing will require employees injured on the job to submit to a drug and alcohol test to confirm that the accident or injury was not caused by the use of alcohol or illegal controlled substances.
- 3. Reasonable Suspicion Drug Testing:** As permitted by law, HB Staffing may require employees to submit to a drug and/or alcohol test when behavior or impairment on the job creates reasonable suspicion of use.
- 4. Follow-Up Testing:** If and when an employee is referred to an employee assistance program or to rehabilitation as a result of a violation of this policy, HB Staffing may conduct follow-up testing for a two-year period following the completion of the program.

Upon request, we will also conduct 5-10 panel drug testing:

- 1. 5-Panel Drug Screening:** Includes screening for five (5) categories of drugs, including Marijuana (THC), Cocaine, Amphetamines, Phencyclidine (PCP), and Opiates.
- 2. 10-Panel Drug Screening:** Includes screening for ten (10) categories of drugs, including Marijuana (THC), Cocaine, Amphetamines, Phencyclidine (PCP), Opiates, Barbiturates, Benzodiazepines, Methadone, Oxycodone, and Methamphetamine.

As permitted by law, any applicant who refuses to submit to a drug/alcohol test under this policy may be denied employment and/or assignment to specific clients of HB Staffing that require such testing. Any employee who refuses to submit to a drug and/or alcohol test under this policy may be subject to disciplinary action up to and including termination of employment.

Refusal to be tested for drugs or alcohol will be treated the same as a positive test result.



Education Verification

As requested, we will conduct a complimentary education/credential screening covering the past ten (10) years (from age eighteen on) through **Assurant**, a feature of our Ultra-Staff Edge software system, in order to view/order official documentation such as original school transcripts. We acknowledge that foreign degrees or core coursework required that was earned outside of the U.S. must be evaluated for equivalency to that of an accredited U.S. college or university by an agency certified to perform such services in order for the foreign education to be accepted as qualifying. Upon request, we will provide results from these screenings to the nickname prior to the start of an assignment.

Skills Assessments

The finest available candidates undergo a rigorous vetting process designed to assess each candidate's skills and abilities. To assess skills and job competencies relevant to potential the nickname job duties, we will utilize PreValuate software, with over 1,328 testing titles in various languages - including assessments for Microsoft Suite and Oracle/PeopleSoft. Whenever the nickname requires a specific or elevated software proficiency, we can offer that assessment. With many assessments to choose from, should the nickname require a specific or elevated software proficiency, HB Staffing is more than willing to **offer that assessment at no charge to the nickname**. Test results, interview notes, credentials, and references are entered into our Ultra-Staff EDGE database.

Onboarding

- 1. Efficient Forms** — The HB Staffing Recruitment Team uses **Efficient Forms**, a cloud-based employee application, paperless onboarding, and compliance software solution. This is state-specific and customizable to ensure that all required onboarding and candidate requirements are completed per the City's guidelines. All employees complete State and Federal Tax forms, Company Policies, I-9, and E-Verify through this system.
- 2. Background Checks** — HB Staffing conducts a comprehensive background using **Checkr**, which provides a full background check for each county our temporary employee has lived in: ensuring zero felonies, sex offense charges, and misdemeanors within seven (7) years from the date of an assignment request. If the City requires, HB Staffing can conduct drug testing, reference checks, DMV driving record, and educational checks.



3. Job Start Confirmation to Employee — HB Staffing Recruitment Team will send a job start confirmation that includes the employee handbook, job expectations, and a customized orientation. Customized content is fine-tuned with the City to include:

- a. The City's policies and procedures
- b. Workplace Practices and Expectations: During this mandatory orientation, we ensure that the temporary employee understands the expectations of the City and HB Staffing. We do not allow tardiness, absences, or unsuitable behavior at work.
- c. Work Essentials: employee dress code, work hours, address and layout of the work location, code of ethics, payroll and timecard procedures, and security policies
- d. End of assignment overview (including the use and return of the City's property)
- e. Issues other than those listed above

4. Job Start Confirmation to the City — HB Staffing Recruitment Team will send candidate confirmation and job start confirmation to the City.

Key Personnel

The following is HB Staffing's key staff that will serve Las Cruces. **The amount of time dedicated by each key team member to a project varies and is dependent upon several factors.** At HB Staffing, we understand the importance of tailoring our resources and time commitments to meet the unique requirements of each client engagement. Our team members, with their diverse skill sets and expertise, are prepared to allocate the necessary time and effort to ensure project success. We prioritize open communication and collaboration with our clients to understand their expectations and deliver results within the agreed-upon timelines. By taking a flexible approach and considering individual project dynamics, we ensure that our team members dedicate the appropriate amount of time to meet and exceed client expectations.

Our key team members providing the services and ongoing support are as follows:

- **Megan Ignacio, General Manager** — Megan will be the primary point of contact who shall coordinate the recruiting, account management, and operations teams to meet and exceed the City's needs successfully.
- **Cristia Kish, Government Account Manager** — Cristia serves as a liaison for our public agency clients to ensure contract compliance and overall client satisfaction.



- **Paige McAllister, Director of Recruitment** — Paige will assign recruiting tasks to her team members and ensure that job orders are filled with qualified candidates promptly.
- **Heather Robertson, Talent Engagement Manager** — Heather will engage regularly with our temporary employees and provide ongoing coaching and training opportunities.
- **Alex Rendon, Operations Payroll Specialist** — Alex manages all daily operations for Public and Commercial clients: payroll, billing, and contract compliance.

Megan Ignacio, General Manager

Role with the City: Megan brings extensive public agency knowledge to her role as General Manager. Her prior experience in the operations and recruitment departments at HB Staffing has given her the global knowledge necessary for ensuring overall contract compliance. Megan shall be present at the kickoff meeting and is always available to clients to discuss any issues they may have.

Years with HB Staffing: 6 years and 5 months

Qualifications: In addition to experience serving HB Staffing as General Manager, Megan spent one (1) year at HB Staffing as HR Operations Coordinator in our Operations and Management department and two (2) years as our Public Agency Account Manager overseeing all our government accounts. Her perspective on projects is two-fold, stemming from her comprehensive understanding of the operations side and her adeptness in meeting the recruitment needs on the client side. Megan oversees the whole company and is tasked with overseeing daily business activities, improving overall business functions, training heads of departments, managing budgets, developing strategic plans, creating policies, and communicating business goals.

Experience: Megan used to oversee all the recruiters at HB Staffing and now oversees the whole company, so she has experience with **all** our past and current projects. Megan is the project manager on county contracts, including the County of Los Angeles, Orange, and San Diego; city contracts, including, the West Hollywood, Redwood City, and Moreno Valley; as well as district and authority contracts.

Education & Credentials: With a Bachelor of Science in Human Resources from California State University, Long Beach, Megan also earned her Certified Staffing Professional (CSP) certification from the American Staffing Association.

Cristia Kish, Government Account Manager

Role with the City: As the Account Manager for all of HB Staffing's public agency clients, Cristia shall serve as the **primary point of contact** for the City. She shall accept and acknowledge job orders, coordinate with our Director of Recruiting to fill positions and ensure our Operations team fulfills reporting and invoicing requirements. Cristia



would address any questions or concerns the City has and will coordinate regular quality assurance meetings with the City.

Years with HB Staffing: 2 years and 7 months

Qualifications: Prior to joining the HB Staffing team as Government Account Manager, Cristia worked for four (4) years as an Account Manager and Recruiter for Experis and has another four (4) years as Resource Manager and Resource Development Manager. Cristia's job as Government Account Manager is to serve as the liaison between HB Staffing and our clients. Her core priority is addressing customers' needs and concerns as quickly and effectively as possible. Cristia works in lockstep with Megan and Paige to ensure that the contract is being followed and that our client's goals are met.

Experience: Cristia is the account manager for **all** of HB Staffing's Public Agency clients. She has extensive experience managing county contracts, including San Diego, Los Angeles, and Orange, and city contracts, including West Hollywood, Moreno Valley, Anaheim, and Newport Beach.

Education & Credentials: Cristia has a Bachelor of Science in Business focusing on HR Administration.

Paige McAllister, Director of Recruiting

Role with the City: Paige shall work with the recruiting team to source and vet qualified candidates for the City in a timely manner. She will ensure that key information is relayed to HB Staffing employees about their job duties, the City's policies and procedures, and their work schedules.

Years with HB Staffing: 4 years

Qualifications: Before her current role, Paige began as a Recruiting Assistant and rose through the ranks to Recruiter/Account Manager to Recruiting Manager/Account Manager, and finally to Director of Recruiting. Paige oversees all the recruiters at HB Staffing. She will be the primary contact for job orders by phone, email, or fax, handling the details involved in understanding each order, along with distribution.

Experience: Paige is the project manager on contracts including the City of Moreno Valley, Housing Authority of San Bernardino County, City of Murrieta, San Bernardino County Transit Authority, County of Riverside, and County of San Diego.

Education & Credentials: Paige is currently completing her Associate degree in Business Administration from San Bernardino Valley College.

Heather Robertson, Talent Engagement Manager

Role with the City: Heather shall offer our temporary employees services from pre-hire to post-hire, ensuring a great employee/client experience while identifying redeployment and employee selection opportunities.

Years with HB Staffing: 3 years



Qualifications: Heather brings over 15 years of customer service and management experience to her job as Talent Engagement Manager. She is responsible for developing talent by assisting them with acquiring skills when necessary and coaching them in their career paths. Prior to her current role, she worked as an account manager and recruiter at HB Staffing. Before that, she worked for years as a Manager of a pharmacy and at a retail store.

Experience: Heather has extensive experience working with HB Staffing clients in recruiting qualified candidates, as well as managing the overall relationship. She builds excellent rapport with employees to ensure career growth for them, as well as a positive experience for our clients. Heather has extensive experience working with our commercial clients, including California Boiler, California Faucets, Harnisch, Hyatt Regency, and BJ's Restaurant. She also has experience with public agency clients, including the State of Maryland, the City of West Hollywood, the Port of Long Beach, and more.

Alex Rendon, Payroll Specialist

Role with the City: Alex will handle all operations-related questions, including submission of timesheets, reporting, and invoices.

Years with HB Staffing: 1 year and 9 months

Qualifications: Prior to working at HB Staffing, Alex worked for four (4) years as a Tech Consultant, Recruiter, and HR Specialist. Alex first joined the HB Staffing team as a recruiter before being promoted to the role of Payroll Specialist. His experience working on the recruitment team has allowed him to excel in the Operations department with the knowledge he has of the front-office processes. Through this two-fold understanding of both operations and recruitment, he has shown himself to be a tremendous asset to our team by maintaining an A-level professional service to applicants, candidates, employees, clients, and vendors by phone, email, or face-to-face. Alex is responsible for payroll, weekly invoicing, and handling accounts receivable activities; he also supervises and executes AR and Collections functions for public agency accounts. Alex has hands in every department, ensuring that everything is running smoothly and efficiently within HB Staffing.

Experience: Manage all daily client operations: payroll, billing, and contract compliance. Alex has experience with every single HB Staffing client. This experience includes the County of San Diego, the Board of Election Commissioners for the City of Chicago, the City of West Hollywood, and more.

Education & Credentials: Alex has a Bachelor of Arts in Psychology from the University of California, Riverside. Alex also has a CTE Certificate in Human Resource Management from Cerritos College.



Past Performance

HB Staffing is a public agency specialist. We currently have contracts with nearly 50 public agencies across the country; 14 of our clients are cities. We understand that the needs of each agency are unique, and we have the flexibility and depth of knowledge to respond accordingly. We bring in the experienced staff necessary to ensure that each client relationship receives maximum support.

Our experience includes, but is not limited to:

- Working with centralized and decentralized agencies;
- Assisting clients in ensuring that temporary employee assignment hour limits are followed;
- Adhering to hiring rules related to former employees and/or public pension participants;
- Working with dozens of departments within a single agency;
- Staffing a wide range of job classifications;
- Providing customized reporting and invoicing according to the timing and specifications of each individual client; and
- Engaging in high-volume recruitment to successfully meet agency needs.

Our **core classification specialties** are administration/office, accounting, professional (i.e., legal, insurance, HR), engineering & IT, manufacturing and assembly, special projects & events, reception/data entry, and customer service & retail.

In 2023, these were primarily the job categories we placed:

- **Office/Clerical/Administrative** — 1000+
- **Professional Services** — 120+
- **General Labor** — 200

Our recruitment team focuses on providing exceptional customer service across the United States to counties, cities, authorities, districts, and federal departments, which include:

1. **Albuquerque Housing Authority (NM)** (since 2024) — providing accounting, administrative, professional, housing, maintenance, and warehouse
2. **City of Tucson (AZ)** (since 2021) — providing staffing support that includes administrative, clerical, accounting, human resource, labor, and customer service positions.



3. **City of Glendale (AZ)** (since 2022) — providing staffing support for their Water, Human Resources, Community Services, and Budget/Finance departments, which includes administrative, accountant clerical, data entry & access coordinator, HR, service worker operations, cashier, general laborer, heavy equipment operator, and heavy equipment mechanic.
4. **City of Yuma (AZ)** (since 2022) — providing general laborers to the Public Works Department.
5. **Arizona State University (AZ)** (since 2023) — providing temporary staffing, temp-to-hire, and direct placement.
6. **County of Frederick (MD)** (since 2022) — providing administrative/clerical, IT, animal shelter services
7. **Counties** such as **County of San Diego** (since 2017), **County of Orange** (since 2011), **County of Los Angeles Registrar - Recorder / County Clerk** (since 2019), **County of Riverside, ROV** (since 2019), **County of San Diego ROV** (since 2020), **County of Monterey** (since 2021), **County of San Bernardino ROV** (since 2021), **County of Placer** (since 2022), **County of Napa** (since 2022), and **County of Yolo** (since 2022), among others — providing services including administrative, clerical, data entry, warehouse/general labor, stock clerks, accounting/finance, medical unit clerks, patient services representatives, investigative aides, and technical IT support services, in addition to other support personnel, including election support.
8. **Cities** such as **Huntington Beach** (since 2010), **Newport Beach** (since 2015), **Anaheim** (since 2016), **Irvine** (since 2018), **Santa Ana** (since 2018), **Murrieta** (since 2018), **California City** (since 2018), **Moreno Valley** (since 2019), **West Hollywood** (since 2020), **Redwood City** (since 2020), **Park City (UT)** (since 2020), **Redmond (WA)** (since 2020), **Encinitas** (2021), and **Board of Election Commissioners for the City of Chicago (IL)** (since 2022), among others — providing services including general and multilingual clerical, supervisory clerical, maintenance, utility workers, labor, accounting/finance, customer service, permit technicians, and IT personnel as well as payroll and direct hire services.



Reference #1: City of West Hollywood, CA (Prime)	
Contact: Jenny Lu, HR Analyst Phone: (323) 848-6824; Email: jlu@weho.org	Contract Period: Temporary Staffing Contract- Oct. 2019 – June 2023; Re-awarded June 2023 – June 2026, with options; Accounting Specific Contract- Nov. 2021-Nov. 2026
Services: Temporary Staffing Contract: Supplier of Admin Specialists, Accounting Finance/ Specialist, Network Admin, Admin Analyst, Maintenance Tech, & Code Compliance Officer. Accounting Specific Contract: Supplier of accounting techs, accounting finance/ specialist, accounting coordinator, finance & insurance coordinator, accountant, senior accountant, compensation & benefits analyst, senior financial management analyst, accounting manager, and revenue manager.	
Reference #2: City of Anaheim, CA (Prime)	
Services: Supplier of clerical, admin, accounting, customer service, & housing personnel	Contract Period: Dec. 2016 – Dec. 2019; Re-awarded Jan. 2020 – Dec. 2023; Re-awarded Jan. 2024 – Dec. 2025 with a 3-year option
Contact: Luz Flores, Principal Human Resources Analyst Phone: (714) 765-4572; Email: lflores@anaheim.net	
Reference #3: City of Santa Ana (Prime)	
Services: Supplier of clerical & admin personnel	Contract Period: June 2018 - June 2023; Re-awarded July 2023 – June 2026, with 2 one-year options
Contact: Cindi Sangenito, Executive HR Secretary Phone: (714) 647-5374; Email: csangenito@santa-ana.org	
Reference #4: County of San Diego (SOLE)	
Contract Period: Feb. 2017 – Feb 2019, with three (3) 1-year option years. Re-awarded contract in Aug. 2022 – July 31, 2024, with three (3) 1-year option years.	Description of Services: Sole supplier for account clerk, associate accountant, staff accountant, office assistant, secretary, executive secretary, custodian, and stock clerk.
Contact: Kathleen Murphy Phone: (858) 505-6551; Email: kathleen.murphy@sdcounty.ca.gov	Contact: Brandy Winterbottom-Whitney, Deputy Director, HR Phone: (858) 505-6324; Email: Brandy.Winterbottom-Whitney@sdcounty.ca.gov



Reference #5: City of Tucson, AZ	
Description of Services: General office workers, maintenance workers	Contract Period: Sept. 22, 2021 to Sept. 21, 2022 with 4 one-year options
Contact Name and Title: Ladd Lyons, Contract Officer Phone: (520) 837-4113; Email: ladd.lyons@tucsonaz.gov	

EXHIBIT B

COST PROPOSAL



B. Cost Proposal Content

The cost proposal will not be used in the evaluation of the RFP; it will be used as a basis for negotiating a contract. The cost proposal must be submitted in a separate sealed envelope and contain the following:

1. Direct costs
2. Indirect costs (All costs are included in our overall markup)
3. Hourly billing rate per position / job class offered.
4. Any other proposed costs that may be incurred by the City.

Labor Category	Hourly Rate		Markup Rate	Bill Rate	
				Includes Drug Screening and Background Check	
Accountant (Journey Level)	\$22.00	\$29.00	1.43	\$31.46	\$41.47
Accounting Technician	\$19.50	\$23.00	1.43	\$27.89	\$32.89
Accounting Clerk	\$16.00	\$18.00	1.43	\$22.88	\$25.74
Administrative Services Support	\$17.00	\$20.00	1.43	\$24.31	\$28.60
Transcriber	\$16.00	\$19.00	1.43	\$22.88	\$27.17
Engineer	\$30.00	\$55.00	1.43	\$42.90	\$78.65
Engineering Technician	\$22.00	\$32.00	1.43	\$31.46	\$45.76
Custodian	\$15.00	\$18.00	1.58	\$23.70	\$28.44
General Laborer	\$15.00	\$21.00	1.58	\$23.70	\$33.18
Special Events Staff - Security	No Bid	No Bid	No Bid	No Bid	No Bid
Special Events Staff - Exhibit Monitor/Oversight	No Bid	No Bid	No Bid	No Bid	No Bid
Special Events Staff - Registration/Attendance Coordinator	No Bid	No Bid	No Bid	No Bid	No Bid
Special Events Staff - Set up/Breakdown	No Bid	No Bid	No Bid	No Bid	No Bid
ALL other Clerical/Administrative positions	\$15.00	\$30.00	1.43	\$21.45	\$42.90
ALL other Light Industrial positions	\$15.00	\$25.00	1.58	\$23.70	\$39.50



CITY OF LAS CRUCES

SERVICE AGREEMENT

23-24-047
Temporary
Employment
Services

THIS AGREEMENT made and entered into on this ____ day of June, 2024 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and ITSQuest, Inc, of 532 N. Telshor Blvd., Suite C, Las Cruces, NM, 88011, hereinafter called "CONTRACTOR".

1. PROJECT DESCRIPTION

Temporary employment services to be provided on an as needed basis. Various purchase orders will be issued according to the needs of CITY departments and Joint Power Agreement (JPA) agencies.

2. SCOPE OF SERVICES

In a satisfactory and proper manner, the CONTRACTOR shall perform SERVICES as proposed in response to the CITY'S RFP No. 23-24-047 as set forth in Exhibit A, attached hereto and made a part of this Agreement.

3. APPROPRIATIONS

The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

4. COMPENSATION

The CITY shall compensate CONTRACTOR for the performance of SERVICES under this Agreement an amount as proposed in response to the CITY's RFP No. 23-24-047, plus applicable taxes as set forth in Exhibit B, attached hereto and made part of this Agreement. CONTRACTOR shall perform the SERVICES upon receipt of a purchase order or written Notice to Proceed from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed. CONTRACTOR shall submit invoices weekly or biweekly. CITY shall pay invoices Net 30 days upon receipt of undisputed invoice.

CONTRACTOR is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. CONTRACTOR agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

5. DEVOTION OF ADEQUATE TIME

CONTRACTOR will devote the necessary hours each week to the performance of project that are required by the CITY, and it will serve the CITY, diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE

This Agreement shall become effective on July 1, 2024 for a term of four (4) years through June 30, 2028. CONTRACTOR shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and CONTRACTOR.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall CONTRACTOR be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request CONTRACTOR to perform other extra services not incorporated within the Services set forth in this Agreement. If the CONTRACTOR is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the CITY, CONTRACTOR shall so notify the CITY, of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the CONTRACTOR within five (5) business work days from the date of receipt of CONTRACTOR'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE CONTRACTOR

In the event a condition is identified by the CONTRACTOR which, in the opinion of the CONTRACTOR, changes the services, costs, and/or time required for performance under this Agreement, the CONTRACTOR shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business work days from the date of receipt of CONTRACTOR'S notification.

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of CONTRACTOR, and without the fault or negligence of CONTRACTOR, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. CONTRACTOR shall provide the CITY, with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by CONTRACTOR to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in

accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY, for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to CONTRACTOR.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY, deliver to the CITY, the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

CONTRACTOR will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S, right to recover excessive or illegal payments. CONTRACTOR will retain records for five (5) years after the completion of the project.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY, will be kept confidential and CONTRACTOR will not disclose to any other party, directly or indirectly, without the CITY'S, prior written consent unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the CONTRACTOR shall be the sole property of the CITY, and shall be delivered to the CITY, when requested and at the end of the Agreement.

14. INDEPENDENT CONTRACTOR

CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY, CONTRACTOR, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY, by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR's employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to perform services for other parties; and (ii) CONTRACTOR may perform for its own account other professional services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as otherwise specifically set forth herein, neither CONTRACTOR nor CITY, shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT

CONTRACTOR shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

CONTRACTOR shall obtain and maintain at least the following insurance at its own cost and expense during the life of this Agreement, and shall require Subcontractors, if any, to maintain the same insurance during the life of the subcontracted work:

1. Professional Liability
 - a. \$1,000,000 per occurrence

2. Commercial General Liability Insurance
 - a. \$1,000,000 per occurrence / \$2,000,000 aggregate
 - b. Coverage must include premises and operations, products and completed operations, and personal and advertising injury.
 - c. The City of Las Cruces must be named as an Additional Insured for all coverages listed above on endorsements acceptable to the City.
 - d. Coverage must be primary and non-contributory.
 - e. Coverage must be per project or per location.
 - f. Coverage must be on an occurrence form.
 - g. Subrogation must be waived.
3. Commercial Auto Liability
 - a. \$1,000,000 per occurrence
 - b. Coverage must be for "owned, leased, hired, and non-owned autos" or "any autos."
4. Workers' Compensation and Employers Liability
 - a. Statutory Limits
 - b. Employer liability – \$1,000,000 each accident, \$1,000,000 each employee by disease, \$1,000,000 policy limit
 - c. Subrogation must be waived.

Endorsements for additional insured coverage and waivers of subrogation must be provided as a condition of this Agreement and shall be noted on the certificate.

CONTRACTOR shall furnish the CITY with a certificate(s) of insurance showing CONTRACTOR and Subcontractors, if any, have complied with this Article. The CONTRACTOR shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

CONTRACTOR shall indemnify, defend, and hold harmless the CITY, from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused in whole or in part by, resulting in whole or in part from, or arising in whole or in part out of the negligent acts, errors, or omissions of CONTRACTOR, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

CONTRACTOR shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the CONTRACTOR'S services or any work done pursuant to this Agreement, including anti-discrimination.

20. BREACH

In the event CONTRACTOR breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY, shall give CONTRACTOR written notice of such breach. In the event CONTRACTOR fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy CONTRACTOR'S breach and recover any and all costs and expenses in so doing from CONTRACTOR.

21. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and CONTRACTOR under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

22. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY: City of Las Cruces
 PO Box 20000
 Las Cruces, NM 88004
 ATTENTION: Greg Gonzalez, Buyer I

With Copies to: Purchasing Manager

TO CONTRACTOR: ITSQuest, Inc.
 532 N. Telshor Blvd., Suite. C
 Las Cruces, NM 88011
 ATTENTION: Carol Everly, Vice President

23. SCOPE OF AGREEMENT

This Agreement incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof and that all such covenants, agreements, and understandings have been merged into this written agreement. No prior agreement or understanding verbal or otherwise of the parties or their agents shall be valid or enforceable unless embodied in this agreement.

24. SEVERABILITY

The parties agree that each provision of this Agreement is severable and the invalidity or unenforceability of any one or more of the provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

25. CONFLICT OF INTEREST

CONTRACTOR represents and warrants that CONTRACTOR has no business, professional, personal, or other interest, including, but not limited to, the representation of other clients, that would conflict in any manner or degree with the performance of its obligations under this Agreement. If any such actual or potential conflict of interest arises under this Agreement, CONTRACTOR shall immediately inform the CITY in writing of such conflict. If, in the reasonable judgement of the CITY, such conflict poses a conflict to and with the performance of CONTRACTOR'S obligations under this Agreement, or is otherwise a violation of the CITY'S current policy or ordinances, then the CITY may terminate the Agreement immediately upon written notice to CONTRACTOR; such termination of the Agreement shall be effective upon the receipt of such notice by CONTRACTOR.

ITSQUEST, INC.

CITY OF LAS CRUCES

BY: _____
Carol Everly
Vice President

BY: _____
Alicia Hernandez
Purchasing Manager

Date

Date

APPROVED AS TO FORM

City Attorney

EXHIBIT A

SERVICES

A. General Conditions

Temporary services are requested as needed throughout the contract period. Temporary employees will be subject to all applicable City work rules and their amendments. The contract will not guarantee that any specific amount of services will be obtained. Orders will only be placed when the City identifies a need and issues a purchase order or written Notice to Proceed. It shall be the Contractor's responsibility to meet the City's requirements. The contract(s) are non-exclusive, and the City reserves the right to obtain services on the open market to serve the best interest of the City.

B. Specific Conditions

1. The Contractor(s) shall:

- a. Designate a coordinator as a local single point of contact (SPOC), as well as a backup, that will be accessible during normal work hours to receive temporary employment requests, handle and assist in any and all inquiries regarding scheduling, billing, status of orders, availability, contract pricing, contract compliance requirements, and problem solving. Normal work hours for the City are from 8:00am until 5:00pm Monday through Friday, with the exception of designated holidays.
- b. Refer personnel that have successfully undergone applicable background check and drug testing upon request of the city and provide verification that these pre-employment screenings have been successfully completed. Personnel shall be immediately productive, requiring minimal training and orientation.
- c. Be responsible for obtaining and informing and orienting its personnel on all relevant rules, regulations, policies, etc. of the City. Written acknowledgement of receipt of this information by the employee shall be provided to the City.
- d. Be given four (4) business hours and one (1) business day to confirm availability of a temporary employee to fill a request. However, if Contractor is unable to fill the job request, the City may fill the requirement from other qualified sources. City personnel will endeavor to give as much notice as is practical and possible.
- e. Ensure all temporary employees referred to the City have been screened for minimum qualifications required for the position.
- f. Be notified by the City in the event any temporary employee fails to adhere to the City's directions, policies, procedures, security / safety regulations, or demonstrates that they are not qualified to perform the required duties, and the Contractor shall replace the temporary employee within two (2) working days at

no cost to the City (including, but not limited to, training time; background checks; ID badges; drug testing; etc.). This also applies to any temporary employee that leaves for any reason before the assignment is completed. When a temporary employee leaves, at any time, the Contractor shall be responsible for any unreturned keys, ID badges, etc. If such items are not returned to the City within five (5) working days, the City shall send an invoice to the Contractor for the exact replacement cost. The Contractor shall pay this invoice within twenty (20) days.

- g. Agree to compensate employees in accordance with the requirements of the Fair Labor Standards Act (FLSA) as amended, New Mexico State Law and the New Mexico Workers' Compensation Act as amended, and the City's minimum wage ordinance. Additionally, the Contractor must ensure that each temporary employee acknowledges, in writing, their exempt or non-exempt FLSA status, whichever is applicable.
- h. Include provisions for the City to hire the temporary employee without payment of a finder's fee or any other fee, after the temporary employee has completed no less than ninety (90) days of temporary service to the City.
- i. Submit a legible, detailed invoice to the requesting City department and the Disbursements (Accounts Payable) office on a weekly or bi-weekly basis before payment(s) can be made. The City will pay invoices within twenty (20) days. Tax for services must be included in the invoice. At a minimum, the invoice must provide the following information:
 - i. Company name, address and contact information
 - ii. City bill-to name and contact information
 - iii. Name and title of hire, hours worked and hourly rate
 - iv. Dates of service
 - v. Extended price
 - vi. Total amount

Preferably, invoices should be sent via e-mail to disbursements@lascruces.gov.

Invoices can also be mailed to:

City of Las Cruces
Attention: Accounts Payable
PO Box 20000
Las Cruces, NM 88004

- j. Furnish, upon request by the City, a monthly usage delineating the acquisition activity governed by the contract. The format of the report shall be approved by the City and shall disclose the quantity and dollar value of each contract item by individual department.
2. The Contractor shall provide contracted employees who shall:
- a. Based on position and services to be provided to the City, be subject to various criminal checks, fingerprinting, background checks, and applicable drug testing

upon whose results the City may choose to base its decision to accept an individual for assignment. This option would allow the temporary employee access to areas within the City such as court buildings, and any restricted areas.

- b. Conform in all respects to fire and safety / security regulations while on the City's premises.
 - c. Receive training on preventing discrimination and harassment and have received and acknowledged receipt of the City's Discrimination Policy as provided by the City.
 - d. Be able to read, write, speak, and comprehend the English language in accordance with the minimum requirements of the position description, unless otherwise requested.
 - e. Be dressed appropriately and with the equipment specified by the City as being required to perform work in the service categories covered under this contract. The City requires most field personnel to have safety shoes, at the expense of the temporary employee. The safety shoes must meet American National Standards Institute (ANSI) and Occupational Safety and Health Administration (OSHA) standards.
 - f. Be respectful of all people with whom they interact, including City employees and customers of the City. The City reserves the right to reject any candidate that does not exhibit common courtesy and cordiality towards all individuals with which they may come in contact.
 - g. Limit personal mobile phone calls to emergency calls while on duty.
 - h. Report to an assignment at the time designated by the City. The work week shall be Monday through Friday. Normal business hours are 8:00am to 5:00pm, and occasionally weekends, excluding City holidays. There may be requirements or alternate schedules which require evening, weekend, holiday and overtime work. Weekend work shall be defined as Saturday and Sunday during the same week. Weekend or holiday work will not be considered overtime unless in excess of forty (40) hours worked.
 - i. Be entitled to lunch periods ranging from 30-60 minutes as determined by the City. No payments shall be made for lunch periods.
 - j. In some instances, require additional types of certifications such as First Aid and CPR certification. Temporary employees shall have these certifications prior to applying for such positions. Temporary employees shall maintain and recertify these certifications at their own expense.
3. The Contractor shall accept that the City shall:
- a. Have the right to interview and / or screen all prospective personnel, and to accept or reject any or all based upon the required skills and the background and experience of each individual. A resumé may be required upon request prior to an interview.
 - b. Supervise Contractor's employees. The City shall have direct control over the daily activities of the Contractor's employees.
 - c. Reserve the right to add and / or delete services provided under this contract. If a requirement is deleted, payment to the Contractor will be reduced proportionately to the amount of service reduced in accordance with the proposal price. If

additional services are required from this contract, prices for such additions will be negotiated by the Contractor and the City.

4. The Contractor shall accept a contract provision that any request for fee adjustments must be submitted sixty (60) days prior to the current contract annual anniversary date. Requests for adjustment in cost of labor must be supported by appropriate documentation. If the City agrees to the adjusted fee, the City shall issue written approval of the change in the form of a contract amendment to be executed by both parties. The reasonableness of the request will be determined by comparing the request with the Consumer Price Index or by performing a market survey.

Presented to:



Technical Proposal

Proposal For:

RFP NO: 23-24-047
Temporary Employment Services
DUE: April 23, 2024 at 4:00 P.M. MST

Protecting Employers One Process At A Time

Respectfully Submitted By:



532 N. Telshor Blvd., Ste. C • Las Cruces, New Mexico 88011 • Phone 575.541.0020

www.ITSQuest.com

Carol Everly, Vice President • everlyc@itsquest.com



RFP COMPLIANCE DECLARATION

RFP TITLE: Temporary Employment Services

RFP NO.: 23-24-047

DUE DATE/TIME: April 23, 2024 / 4:00 p.m.

In compliance with the requirements of this RFP, I, the undersigned, offer and agree to furnish any or all materials and/or services to the City of Las Cruces within the time agreed.

I further certify that this company has not been debarred, suspended, or otherwise made ineligible for participation in Federal Assistance programs under Executive Order 12549 Debarment and Suspension as described in the Federal Rules and Regulations.

Receipt of Addenda Nos.: 2 is hereby acknowledged (where none received, place a zero in this space)

Company Name and Address:	
ITSQuest, Inc.	
532 N. Telshor Blvd., Ste. C	Authorized Signature
Las Cruces, NM 88011	Carol Everly
	Typed or Printed Name
	Vice President
	Title
	everlyc@itsquest.com
	Email Address

Telephone number 575-541-0020 Fax number 866-246-4936

NM Tax & Revenue Dept. CRS # 02-249375-00-1

Current NM Secretary of State Business ID # 1690049 (corporations only)

Current CLC Business Registration # 3348 (respondents located in Las Cruces only)

Federal I.D. number 85-0422324 (mandatory for all respondents)

NM Resident Certificate from NM Tax and Revenue Department enclosed ☒ Yes ☐ No

THIS FORM MUST BE COMPLETED AND INCLUDED WITH PROPOSAL
FAILURE TO INCLUDE WILL SUBJECT RESPONSE TO REJECTION

Table of Contents

Cover Sheet.....	1
Signed Compliance Declaration.....	2
Table of Contents.....	3
Technical Proposal.....	4
Company Profile.....	4
Project Management Approach.....	5
Employee Assessment.....	6
Applicant Employment Process.....	6
Recruiting.....	6
Screening.....	7
Background Checks.....	8
Drug Testing.....	8
Skills Testing.....	9
Safety.....	9
Accident Procedures.....	9
Training.....	10
Orientation of Employees.....	10
Replacing Employees.....	11
Response Time.....	11
Employee Retention, Recognition Programs and Benefits.....	11
Performance Evaluations.....	12
Risk and Safety Assessment.....	13
Quality Assurance.....	13
Execution.....	14
Technology, Cyber Security and Confidentiality.....	14
Timesheet and Invoice Process.....	14
Team Qualifications.....	15
Proven Performance.....	16
Attachments.....	19
Sample Invoice.....	20
NM Resident Business Certificate.....	21
City of Las Cruces Business License.....	22
Certificate of Insurance.....	23
Transmittal Letter.....	37

In accordance with the City of Las Cruces' RFP No. 23-24-047 for Temporary Employment Services, Scope, ITSQuest respectfully submits the following response:

I. Technical Proposal

ITSQuest, Inc. agrees to the General Conditions outlined in section III.A as well as the specific Conditions outlined in section III.B a-l. ITSQuest will agree to the City of Las Cruces' Service Agreement requirements and conditions.

Company Profile

ITSQuest is a woman-owned small business, regional, employment solutions company operating successfully since 1994 in New Mexico. We have maintained a local office with a successful history in Las Cruces and the surrounding areas since 2001. As such, we believe the City of Las Cruces would best be served by a Las Cruces-based employment company that shares the same values, the same concerns, and most importantly, the *same community*.

The company is a recognized leader in designing and providing staffing solutions, testing programs, training programs, and outsourced human resources services to its wide variety of satisfied and successful clients. ITSQuest manages recruitment, employee relations, testing, training, personnel records, payroll records, workers' compensation claims administration, and unemployment cost management for 12 ITSQuest staffing locations and 5,000 entry-level, supervisory, and executive-level employees annually in New Mexico and Texas.

The ITSQuest team of trained professionals consistently provides timely, strategic partnership support that clients use to operate effectively and efficiently.

The ITSQuest team is comprised of certified individuals:

- Senior Professional in Human Resources, SPHR
- Professional in Human Resources, PHR
- Society of Human Resources Management Certified Professional, SHRM-CP
- Certified Staffing Professional, CSP™
- Master of Business Administration, MBA
- Juris Doctorates, JD
- OSHA Authorized Trainers, CSHO, SSH
- Certified Accident Investigator
- Bachelor of Science in Nursing, BSN
- Certified Public Accountant, CPA
- Emergency Response Trainer

These certifications set our company apart from the competition by enhancing our competency and knowledge of labor and employment law.

The ITSQuest Las Cruces office staff will support the City of Las Cruces in recruiting, assessing and orientating assigned employees, as well as payroll processing and records management.

Combined, they have 35 years of experience in data/records management and compliance. ITSQuest designates Blanca Martinez as our local single point of contact (SPOC) and Crystal Valenzuela as a back-up. Both employees will be accessible during normal work hours from 8 a.m. to 5 p.m. and on-call as needed to receive any requests from the City. All management employees are assigned a cell phone and a representative is on call every day and on weekends. The City will be provided a list of our contact names, cell phone numbers, and emergency notification procedures in case of a workers' compensation accident or urgent need.

Project Management Approach

ITSQuest focuses our processes on being a risk and safety leader in the staffing industry and emphasizes accurate assessment of applicants and work environments. These procedures ensure clients are being professionally served in all aspects of safety and workplace risk. We do not believe in a 'one-size-fits-all' approach when it comes to staffing; each client and each position must be thoroughly assessed for a true understanding of the client's needs and requirements.

ITSQuest is recognized by the American Staffing Association (ASA) as being a leader in the staffing industry with consistent assessment and placement. ITSQuest continues constant oversight and evaluation to the adherence of the highest staffing principles. By using ITSQuest, the City is guaranteed all procedures are followed consistently and thoroughly. Our standards have led to decreased turnover rates, decreased on-the-job accidents and incidents at client locations, reduced loss time accidents, reduced absenteeism, increased production and higher retention rates. An increased benefit to the reduced on-the-job accidents is a reduction in damage to City property. This allows the City to concentrate on the tasks at hand instead of questionable staffing levels and practices.

ITSQuest's Project Management Approach centers around:

- A. Employee Assessment**
- B. Response Time**
- C. Employee Retention, Recognition Programs and Benefits**
- D. Client Reporting**
- E. Performance Evaluations**
- F. Risk and Safety Assessments**
- G. Quality Assurance**
- H. Technology, Cyber Security and Confidentiality**
- I. Timesheets and Invoice Process**

Our corporate culture dictates we consistently provide additional value to the client operations by maintaining key elements and unique benefits.

ITSQuest's project approach contains the following key elements:

- Work closely with the City's designated representatives to ensure prompt and adequate response to requested requirements.
- Identify and recruit qualified candidates with job skills required by the City's request through our intensive and comprehensive assessment and screening process.

- Maintain personnel that shall be available within four business hours and one business day. Employees will be immediately productive, requiring minimal training and orientation.
- Identify and maintain qualified, competent, and tested inventory of candidates that may be supplied to the City upon request, including employees with required certifications (paid by employee).
- Maintain close analysis of work site environments, supervisor expectations, and quality control of all processes relating to assigned employees and the City requirements, including insurance coverage specified in the RFP. COI included in the Attachment section.
- Maintain consistent contact with the supervisors who have direct control over the daily activities of ITSQuest employees.
- Maintain management staff that exemplify the successful trends in the staffing industry and participate in active roles in professional organizations.

A. Employee Assessment

1.0 Applicant Employment Process

Employees will complete an online application located on the ITSQuest website at www.ITSQuest.com. A notification of background requirement, FCRA, and drug screening is on the initial screen. The employee will then sign an Applicant Profile report which contains the information they entered, along with our company policies they will be expected to follow, and any required regulatory paperwork such as the I-9 and W-4 forms. Once all paperwork has been completed, it is scanned into our secure database in PDF format. Most documents are electronically signed and immediately are secure in the database.

Employees can complete the application from their home computer, any other computer with an internet connection or their phones. In addition, ITSQuest has computer centers that are accessible to all applicants and located in all branch offices.

2.0 Recruiting

ITSQuest's recruiting process begins by identifying the City's needs and then formulating a sustainable plan that will maximize time, energy and resources in recruiting qualified candidates. Our trained team identifies the best methods to attract qualified applicants. The company's priority is to attract the top talent to fill our clients' job orders. This is obtained by developing and practicing the following recruiting strategies:

- Create eye-catching posts that reflect the skill sets and generate applications
- Develop a clear employer/company brand
- Consistent and constant recruiting of frequently required job positions
- Keep an accurate tracking system
- Utilize social media
- Explore niche job boards and college boards/job fairs
- Post classified advertising in local and regional publications
- State unemployed assistance departments
- Local and regional job fairs

- Internet job posting and bulletin boards
- Offer an employee referral bonus to current employees
- Recruit in our daily lives throughout the community we serve
- Conduct behavioral-based interviews

Upon receiving a job order, we will initially do a search in our internal database to capture the candidates who are already screened and meet the skill sets required. ITSQuest consistently maintains a large database of qualified candidates. Calls are made to ensure the availability of the candidate and to give information on the position.

Simultaneously, we will post the position onto our website, Google, Facebook and other social media platforms. Social media recruitment with the Company includes a variety of platforms such as Facebook, Instagram, LinkedIn, Pinterest, Twitter, and Google. By focusing on applicants where they are, we have improved our online presence and increased our applicant pool.

Job boards on Facebook allow us to connect with applicants in Las Cruces by being a member of and posting jobs to their Las Cruces job seeker groups. We focus our efforts to specific locations, zip codes, and specified demographics to recruit ideal applicants.

The recruiters will make outgoing calls to other sources, including the New Mexico Workforce Connection database candidates, Career Builder, Indeed, etc. Each candidate obtained from whatever recruiting source will be screened to ensure they meet hiring requirements of the City of Las Cruces and ITSQuest, including applicable background checks and drug testing.

Each candidate's skills set, experience, behavioral-based interview, work history verifications and other screening items will be assessed before any job offer is made or submitted to our client to interview to ensure the top talent is presented. This ensures the employees will be productive and require minimal training upon starting the assignment.

When a timeline is established, we will immediately develop: (1) interview needs and methods, (2) appropriate testing to be administered, and (3) screening that targets key areas of knowledge, skills and employment background. This adds valuable benefits to the recruiting process by ensuring only qualified candidates are considered for the remainder of the process. The City has the right to interview each candidate and make a selection decision.

3.0 Screening

Every ITSQuest assigned employee is professionally screened and evaluated before a hiring determination is made. ITSQuest will honor the City's requirement for placements that employees meet the City's requirement of being able to read, write, speak and comprehend the English language in accordance with the minimum requirements of the position, unless otherwise specified. Below is an overview of our screening and assessment criteria.

It is a requirement for every ITSQuest applicant to:

- Have a current telephone number or message number
- Have a reliable way to get to work
- Have reliable childcare, if applicable

- Have verifiable work experience with gaps explained
- Pass a criminal background check based on the position
- Pass a drug test analysis
- Have valid I-9 identification

ITSQuest recruiters must verify at least two favorable work references from two separate companies prior to placement of an assignable employee, as well as verify licenses and skills disclosed during the application process. All information is recorded in our employment files within our computer system.

3.1 Criminal / Driving Background Checks

ITSQuest performs background checks on all assigned employees as part of the screening process. The background checks administered include county, city and state criminal background verifications, as well as social security verification, address verification and Sexual Offender Registry Search. We obtain national background checks on candidates who have lived in other states. If an assigned employee will be driving, we perform a MVR background of the state of the driver's license. All background checks are performed prior to placement and again upon reactivation if the employee leaves a job assignment and returns later. Temporary employees who drive City vehicles will have a valid driver's license check completed prior to placement.

ITSQuest staff are trained to analyze and read the background checks. Our internal policy mandates the staff obtain a second review by the CEO or President on any background check with negative information or any uncertainty. ITSQuest uses two vendors for background checks, including Asurint and Sterling. ITSQuest will provide verification of completed pre-employment screening to the City. An example of the background check is available upon request.

3.2 Drug Testing

Each applicant must consent to and sign a drug test policy prior to placement. This policy allows our company the right to administer a drug test prior to placement, randomly, with reasonable suspicion, and in certain types of workplace accidents or near miss events. The drug tests are five panel screens administered in the ITSQuest office and no charge is made to the client. Drug tests will be completed within five days prior placement. ITSQuest's five panel in-house test screens for:

1. Cocaine
2. Amphetamines
3. Methamphetamine
4. Marijuana
5. Opiates/Morphine

The screens also test for temperature and sample impairment (use of a non-urine substance in an attempt to alter the test results). ITSQuest will perform DOT drug tests through third party administrators and the client has the option to request a ten-panel test. Once a candidate satisfies the drug screen policy, we will consider the candidate for placement.

Alcohol testing is available upon request if alcohol use on a job site is suspected. This may be accompanied by a modest charge for client requested tests.

4.0 Skills Testing

All non-light industrial candidates are tested for claimed skills as disclosed in their application or interview process. The company uses a customized evaluation and training software system. Specific tests will be administered to comply with the specific skill sets as determined via the City's request. The clerical testing database includes, but not limited to, typing, grammar, basic offices skills, proofreading, software testing, customer service, etc.

Light industrial candidates can be tested in basic math, safety procedures (HAZCOM, lifting, lockout-tagout, material handling, personal protective equipment, and forklift certification) and in their ability to categorize items alphabetically. In addition, we will administer specific tests requested by the City. A list of available tests is available for review upon request.

4.1 Safety

ITSQuest has a strict safety guideline policy that promotes a safe work environment. We have a full-time risk and safety manager available for questions and comments related to facility safety. We will require our employees to attend safety training and adhere to the safety standards of the City. Our company uses safety videos and materials covering a wide range of job classifications and workplace settings, including discrimination and harassment.

ITSQuest has a deep bench of well-trained team members who will be utilized as needed or requested by the City. Our team members are trained in Human Resources, Manufacturing Technology, Technical Recruiting, Safety Planning, Workers' Compensation Issues, Training and Quality Assurance Systems, Quality Control and Statistical Quality Control and OSHA Standards.

ITSQuest utilizes the support of a commonly owned supporting entity, Imperium Risk, Inc., a risk and safety management company. The support of Imperium Risk includes consulting and training in compliance with OSHA and ANSI standards. The research support and practical hands on experience of Imperium Risk improves the risk and safety assessments of ITSQuest and indirectly benefits our client's needs without additional costs.

4.2 Accident Procedures

Despite diligent efforts to prevent accidents, in the event one occurs, we immediately begin the claims control process by investigating the accident and appropriately caring for the employee. Clients and employees benefit from our corporate nurse who is available 24 hours a day to handle accidents. Your company will be provided a list of our contact names, cell phone numbers, and emergency notification procedures in case of a workers' compensation accident. ITSQuest management employees are assigned a cell phone and a representative is on call every day and on weekends. All ITSQuest management have been trained extensively on how to handle claims of all types including work related injuries.

Investigations consist of site inspection and documentation early in the claim process through reports from the claimant, witnesses and supervisors. ITSQuest’s Substance Abuse Program requires quantitative drug screening for certain accident claimants or those contributing to an accident. Injured employees are guided through the health care maze in a supportive and cost-effective manner with diligent effort given in returning the employee to meaningful work through ITSQuest’s Modified Duty Program. All work-related claims are reviewed by the ITSQuest corporate nurse for reasonable and necessary health care.

5.0 Training

ITSQuest will provide training for assigned employees based on the type of position they will be assigned to. Our training programs include, but are not limited to:

- | | |
|---|---|
| <ul style="list-style-type: none">• Eye & Hearing Protection• PPE• Pallet Jack Safety• Dolly Usage• Ladder Safety• Hazardous Communication• Blood Borne Pathogens• Cut and Burn Prevention | <ul style="list-style-type: none">• Slips, Trip, and Falls• Fall Protection• Back Injury Prevention• Delivery Driver Safety• Hand and Finger Injury Prevention• High-Pressure Water Blaster Safety |
|---|---|

6.0 Orientation of Employees

Key workplace conduct information presented enthusiastically and repeatedly in various media to accommodate employee varied learning styles ensures ITSQuest employees assigned to the City are prepared to work successfully. The information is customized for each job title.

Employment policies of the City and ITSQuest, workplace conduct, when to report to work and schedule expectations (including lunch time), pay rate and exempt/non-exempt status, customer service and courtesy, City of Las Cruces discrimination and harassment policy, City of Las Cruces Safety/Security regulations and general helpful information are presented during the employee orientation in multiple ways to satisfy individual employee learning and retention. Talking points are customized to reflect the most important challenges of each position. Each employee views a 15-minute video related to clerical or light industrial workplace readiness concepts. Each employee is also asked to limit personal phone calls to emergency calls while on duty.

An Employee Safety and Conduct Guideline addressing Time and Attendance, Workplace Attire (including safety shoes that meet ANSI and OSHA standards and other PPE), Communication, and 30 other topics related to workplace readiness is reviewed during employee orientation. The information is not random; it is tailored to emphasize the most important concepts for the employee’s particular assignment. ITSQuest visits the City sites and talks with supervisors to understand the specific needs and challenges. This information is communicated to the employee.

A formalized process of signing off acknowledging the above key information is used to ensure work readiness and includes a verbal review between the employee and the ITSQuest

Employment Consultant. The employee is provided time to ask questions. Written documentation is provided for the employee as well as in the employee's file. A copy will also be sent to the City.

7.0 Replacing Employees

When it is necessary to replace a temporary employee, ITSQuest will keep a pool of available employees who will be on call to fill positions as soon as we learn of the need. Again, we will strive to fill the job position as quickly as possible or within four hours of notification with no additional cost. ITSQuest will gather any City items from the employee and return them to the City within five days.

B. Response Time

When a job (work) order is placed with ITSQuest it will be evaluated and then assigned to an Employment Consultant to complete. The Employment Consultant will contact the City's requestor within two hours of initial order placed. Depending on the City's requirements and skill level of an applicant, we will strive to fill the job position within four business hours and one business day of notification. Typically, an ITSQuest Employment Consultant can fill most positions within four hours of notification. Historically, ITSQuest has a successful track record in maintaining timeliness and consistency in filling assignments.

C. Employee Retention, Recognition Programs and Benefits

Holiday Pay - ITSQuest employees may qualify for Standard Holiday Pay (average hours worked, maximum of 8 hours) if the employee fulfills all the following:

- Work and be paid for 960 hours in the 26-week period prior to the holiday
- Work at least 30 hours in the week prior to the holiday
- Must work the scheduled day before and the day after the designated holiday

Eligible holidays include: Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and New Year's Day. If the client pays the holiday or the employee works the holiday, the employee will not receive a second paid day from ITSQuest.

Health Benefit Options - ITSQuest offers two health benefit options. The first plan is a Minimum Essential Coverage (MEC) Plan, which covers a multitude of preventative and wellness services including: blood pressure screening, cholesterol screening, depression screening, diabetes screening, immunizations, and many others. The second plan is called MEC Heavy. It is a self-funded, fully insured plan.

ITSQuest also offers separate dental and vision plans for our employees.

Plans are group plans, and any participating employee may transfer their coverage under certain conditions, including COBRA. We offer a payroll deduction plan for any employee wishing to participate in the health benefits. The insurance plan summary is available upon request.

Sick Leave Act of New Mexico - ITSQuest offers New Mexico employees sick leave in accordance with the Healthy Workplace Act. All employees are notified they are required to contact their assignment supervisor and ITSQuest branch representative immediately if they are going to be absent or late for an assignment. In accordance with the act, and upon eligibility, ITSQuest, Inc ensures assigned employees of the following:

They have the right to earn sick leave.

- For every 30 hours worked they accrue 1 hour of available sick leave or .0334 hours earned for every 1 hour worked.
- From your date of hire they are allowed to use 64 of your accrued hours within a 12-month timeframe.
- Sick leave will be paid on the same pay day as regular hours and at regular rate of pay.
- Use of sick leave is reserved for the injury, diagnosis, and preventative care of you or a family members physical or mental health, meetings and appointments for such care related to your child, and for absences related to domestic abuse, assault, and stalking.
- Documentation will be required for absences of two or more consecutive days.
- ITSQuest and its representatives will not retaliate for use of sick leave.
- Employees have the right to file a complaint should ITSQuest deny use of sick leave or retaliate for the use of sick time.

Referral Bonuses - ITSQuest assigned employees are encouraged to refer family and friends seeking employment to register with our company. In order to encourage this, we offer a \$25.00 “Referral Bonus” to all assigned employees. To receive a bonus, the applicant must list the name of who referred them as the source of referral on their application. They must also work a total of 40 hours within a 30 day time frame. There is no limit on the number of referrals the employee can refer. Clients are not billed for the referral bonuses paid to assigned employees.

The same benefits apply to both full time and part time employees if they qualify. The qualification is based on hours worked.

D. Performance Evaluations

Evaluations are performed at specific intervals to ensure our employees are meeting the City’s expectations. We want to ensure employees are meeting goals and objectives that increase overall productivity and bring value by maintaining the following practices:

- Arrival Call: ITSQuest contacts the employee on the first day of a new assignment to ensure timely arrival.
- One Week Follow-Up: ITSQuest’s representative will communicate with the City one week after a new employee has started to verify the City’s level of satisfaction regarding that employee.
- 30-Day Evaluation: Approximately 30 days into each assignment, our representative will discuss with the City supervisor to evaluate the employee’s performance.
- Informal Evaluations: ITSQuest representatives frequently interact with the employees they place during an assignment through paycheck delivery, phone calls, or site visits.

Performing evaluations at specific intervals ensures our employees will meet the City's expectations and address any short falls.

E. Risk and Safety Assessment

As part of our deep commitment to risk and safety, we seek to provide a safe work environment for our employees as well as yours. We will provide the best possible service to the City by establishing a partnership with the following benefits:

- **Intimate Knowledge of Your Facilities**
We conduct a thorough site inspection before we assign any of our employees to your facility. We use this information to provide you with the best possible workforce.
- **Talent Matching**
Based on our site inspections, the City's job descriptions and required skill sets, we develop an acute understanding to determine who to place.
- **Lower Turnover**
Because of the comprehensive screening and filtering processes, we employ higher quality workers and have lower turnover rates than general industry averages.
- **Less Downtime and Increased Productivity**
We take all the necessary steps to ensure assigned employees are properly trained and qualified to work at your facility.
- **Preservation of Your Safety Record**
OSHA recordkeeping regulations dictate all reportable incidents taking place at your facility are documented on your OSHA 300 Log. As your screening partner, we promote safety awareness and ensure proper training to minimize recordable incidents. We are available to work with department supervisors on any safety concerns.
- **Client-Specific Orientation**
When we identify a worker who fits your personnel needs, we customize our orientation processes to accurately reflect the work environments at the City job sites. We will rely on you to provide site-specific training and join us in documentation.

F. Quality Assurance

ITSQuest will perform quality assurance procedures to identify the City's specific required forms and protocol, reporting documentation and timeframe, staffing short falls, safety concerns and to assist in generating a corrective action plan.

ITSQuest policy states if an employee is not performing to the City's standards and we are notified within the first four hours, no charge is applied. ITSQuest will notify the City if any temporary employee fails to adhere to the City's directions, policies, procedures, security/safety regulations or demonstrates they are not qualified to perform required duties. ITSQuest agrees to replace employees in this case within two days. ITSQuest takes the responsibility and will gather items, including badges, keys, etc. from assigned employees who leave, and return the items to the City within five (5) working days as per the specific conditions in "item g" of the RFP.

ITSQuest acknowledges and agrees that should the City wish to hire an individual onto the City

payroll who has been filling the temporary position for no less than ninety (90) days, neither the individual nor the City will be required to pay a finder's fee. ITSQuest does not consent to transferring an employee to another staffing company's payroll.

The company internally audits all payroll and billing cycles on a weekly basis to determine errors and omissions as soon as possible. Our Quality Assurance Program (QAP) is a useful and effective training tool developed internally to ensure the client is receiving correct payroll and billing information.

G. Execution

The corporate culture of ITSQuest is based upon execution. It is our belief our company employs a more comprehensive and detailed assessment process analyzing the work-fit of each assigned employee placed at your work site. Our company developed checks and balances to eliminate undesirable applicants from employment by ITSQuest.

It is important to select a staffing partner that believes in performing in a manner that benefits all participants in the employment process, including the assigned employee as well as the contractor and especially our client. ITSQuest understands the needs and requirements of each of our clients and builds our placement strategy around that criteria.

H. Technology, Cyber Security and Confidentiality

We are passionate about keeping our employees' and our clients' information safe and secure; therefore, we have ensured all sensitive data is kept electronically and every one of our users has a unique username, password, and access capability. We have invested in highly sophisticated software for client information, recruiting, onboarding, performance evaluations, employee tracking, payroll, management, etc. A managed service provider oversees our technology.

No paper is kept. Once documents are scanned into our system, the paper is destroyed by a company that is certified by The National Association for Information Destruction, which ensures all procedures surpass strict security guidelines. Electronic documents are protected and shielded. Access to confidential and highly confidential classifications of documents is allowed based on the need to know.

I. Timesheets and Invoice Process

Each employee will complete an ITSQuest timesheet weekly. The timesheets are completed electronically through our Avionte software portal. Once the employee submits their hours worked, an email is sent to the supervisor for review and approval. ITSQuest compensates in accordance with the requirements of the FLSA, New Mexico State Law and the City's minimum wage ordinance. A sample electronic timesheet is in the Attachments.

Our invoices are generated at the end of our payroll process. ITSQuest has the capability to submit invoices to the City in any format, including by location, department, job or supervisor. Invoices

will be emailed to disbursements@lascruces.gov and coded with any information requested. We can also provide any weekly, monthly, or quarterly reports.

ITSQuest acknowledges and agrees normal payment terms for the City will be Net 20 days. The City understands unpaid accounts will be considered default after sixty days after an approved invoice is issued. A service charge of 1.5 percent may be accrued on unpaid invoices on a monthly basis. A sample invoice is included in the Attachments.

II. Team Qualifications

Key Personnel assigned to City of Las Cruces

ITSQuest's staff has over 100 years of combined experience in account management, recruiting, regulatory compliance, and risk management that will be essential to successfully provide services to the City of Las Cruces' contract.

Carol Everly, PHR, SHRM-CP, CPC

Vice President and Area Manager

Carol Everly has been working with ITSQuest for 19 years and has comprehensive human resources, sales, marketing and management, and human resources consulting experience. In her experience, Carol has over 15 years of recruiting, vetting, on-boarding and training applicants, candidates and employees. Carol, also, has developed information policies, job duties/descriptions, working conditions and wages for public and private clients. She directly oversees personnel in eight of our offices.

Blanca Martinez

Employment Consultant, Single Point of Contact (SPOC) – Las Cruces

Blanca Martinez has worked with the City of Las Cruces throughout her career with ITSQuest for over ten years, since April 2013. Blanca deals with both clients and employees in Las Cruces on a daily basis, including extensive recruiting, on-boarding of new employees, payroll, assessment of employees and serving our clients. She performs the day-to-day operations and accountability regarding all aspects of employee intake and placement. Blanca is also responsible for all functions of the payroll completed at the branch level and tracking invoicing for our Las Cruces area government clients.

Crystal Valenzuela

Marketing Manager – Las Cruces

Crystal Valenzuela joined ITSQuest four years ago and is the marketing manager for Las Cruces. She is responsible for developing and maintaining a customer base using a strategic marketing plan to better serve our customers' staffing needs. As such, she is responsible for negotiating and preparing contracts, assessing candidates and risk. She maintains complete records of business transactions, as well as daily activities and visits client sites to ensure client satisfaction and employee compliance.

Rosa Torres

Employment Consultant – Las Cruces

Rosa Torres has been working in the recruiting field for several years with the ITSQuest team in Las Cruces. She is responsible for recruiting, assessing and orienting assigned employees. She is well-versed in payroll processing, records management, interviewing and human resources documentation. She works closely with employees and clients and works diligently in following processes to fulfill client orders.

III. Proven Performance

ITSQuest's Accomplishments

From the time we receive an order, through the time the order is completed, our processes are what set us apart from our competition. Our five references are listed in the next section. Because of our commitment and thoroughness, we earned the following contracts:

Cooperative Educational Services Award. Cooperative Educational Services (CES), New Mexico, awarded ITSQuest Contract Number 2021-28-C113-ALL for temporary employment and recruitment services related to clerical, administrative, light industrial, substitute teachers, nurses, custodial, maintenance, cooks, and professional skilled staffing. ITSQuest offers CES members and participants comprehensive staffing for a wide variety of placements and excellent Human Resource products and services. The company lists over 90 job descriptions and placement positions. ITSQuest staffs many schools, cities, and municipalities through the CES contract. Our awards from CES are attached.

GSA Schedule. ITSQuest holds a GSA schedule. It is Contract Number GS-02F-006CA (Schedule 736) by the General Services Administration to provide Temporary Administrative and Professional Staffing Services, and it is available to all governmental entities throughout the State of New Mexico. We are the only firm in southern New Mexico that holds this designation.

New Mexico Pricing Agreement. ITSQuest holds one of the few pricing agreements, Contract Number 00-00000-19-00040 with the State of New Mexico, and we are the only staffing firm in southern New Mexico with this agreement.

Education Service Center – Region 19 Award. Education Service Center, TX, also known as Allied States Cooperative, awarded ITSQuest Contract number 22-7448 for Temporary Services. ITSQuest offers Region 19 members/participants staffing for a variety of placements.

ITSQuest's References

ITSQuest staffs various clients and projects ranging from several hundred assigned employees to just a few directed from our local branch offices or with on-site staff management. The company serves clients working in light industrial, clerical, medical classifications, hospitality and food service, professional technical and law enforcement officer trainees.

ITSQuest provides temporary personnel to several municipalities, counties and government contracts, and maintains an excellent relationship with them, including the City of Las Cruces,

State of New Mexico, City of Roswell, City of Lubbock, Farmington Municipal Schools, City of Portales, Cooperative Educational Services (CES), Bernalillo County, and Eddy County.

City of Las Cruces

ITSQuest is currently servicing a contract from the City of Las Cruces, New Mexico, to provide Temporary Staffing Services, and has been successfully staffing positions since December 2004. ITSQuest provides temporary and temp-to-hire employees throughout many City departments, including, Parks & Recreation, Utilities, Housing Authority, Police Department, Roadrunner Transit, City Clerk, Customer Service throughout various departments, Traffic Control, Butterfield Transfer Department, Accounting & Finance, Assistant City Manager's Office, Library, City Manager's Office, Commercial Waste Department, Facilities Department, Human Resources, Legal Department, Public Services Department, Contracts Administration, Purchasing Department, and Risk Management Department.

City of Lubbock

ITSQuest began providing the City of Lubbock with temporary personnel in 2007, and we have maintained an excellent relationship with the City. The City has performed audits on our files for the last three years and has found that our procedures and documentation were complete and thorough. Positions we have filled over the years have been in the following areas: Civic Center, Health Department, Parks and Recreation, Accounting, Environmental Health, Human Resources, Parks and Recreation, Public Works, Purchasing, Risk Management, Senior Citizen Center, Silent Wings Museum, Solid Waste, Storm Water Management, Switch Board, Water Engineering, West Texas Regional Disposal, Information Technology, Utilities, and the Street Department.

City of Lubbock
Sofia Ramos, Human Resources-Employee Relations
1625 13th Street
Lubbock, Texas 79457
806-775-2318
Sramos@mylubbock.us

City of Roswell

ITSQuest has been providing staffing services to the City of Roswell, New Mexico, since 1999. Positions include: Customer Service, Administrative Assistant, Maintenance, Law Enforcement, Office Manager, Receptionist, Data Entry Clerk, Custodian, Janitor, Water Department Laborer, Bookkeeper, Hostess, Dispatcher, Landscaper, Clerical Assistant, and Welder. Departments include: City Sanitation, Municipal Court, Bus Station, Mayor's Office, City Manager's Office, Convention Center, HR Director's Office, and Police Station.

City of Roswell, New Mexico
Renee Trujillo, Human Resources Manager
425 North Richardson
Roswell, New Mexico 88201
575-637-6242
r.trujillo@roswell-nm.gov

Cooperative Educational Services

Cooperative Educational Services (CES), New Mexico, awarded ITSQuest the contract for temporary labor services related to teachers, nurses, custodial, maintenance, cooks, administrative support and professional staffing. ITSQuest offers CES members and participants comprehensive staffing for a wide variety of placements and excellent Human Resource products and services. The company lists over ninety job descriptions and placement positions. ITSQuest staffs many cities and municipalities through the CES contract.

Cooperative Education Services
Robin Strauser, Associate Director
10601 Research Rd., SE
Albuquerque, New Mexico 87123
505-344-5470
Robin@ces.org

City of Portales

The City of Portales, New Mexico, started an open-ended contract with ITSQuest in February 2014 for professional temporary and temporary-to-hire services. In a four-month period ITSQuest staffed The City of Portales with over 50 employees. ITSQuest has provided Lifeguards, Information Technology Professionals, Clerical, Solid Waste, Water Department Workers, Water Treatment Plant Workers, Recreation Center Aides, and Parks and Wildlife employees to the City.

City of Portales, New Mexico
Jo McVey, Infrastructure Project Administrator
1028 W. Community Way
Portales, NM 88130
575-356-6662
JMcvvey@portalesnm.gov

State of New Mexico

In the second quarter of 2016, ITSQuest was awarded a contract from the New Mexico Department of Transportation to help staff ports of entry throughout the state. The initial order was for roughly 40 positions across the state. Within a year, the contract was extended and expanded to include other positions, including supervisory positions. Along with the ports of entry, ITSQuest staffs many other departments throughout the State of New Mexico.

State of New Mexico Department of Transportation
Franklin Garcia, Bureau Chief
1120 Cerillos Road
Santa Fe, New Mexico 87504
505-827-3200
Franklin.garcia@state.nm.us

Attachments

Proposal For:

RFP No: 23-24-047
Temporary Employment Services
Due: April 23, 2024 at 4:00 p.m. MST

INVOICE

ITSQuest, Inc.
 4505 82nd St., Ste. 3
 Lubbock, TX 79424

Branch Name Company # Invoice # Invoice Date
 ITSQuest-Las Cruces #08 12345 123456 ?/??/????

Company Billed: **Name**
 Address
 Week of (runs from Monday to Sunday)

Week End Date	Employee Name	Bill Hours	Bill Rate	Bill Amount
??/??/????	Name	Job Title		
	[PO #:if any]	Type of Hours	#ofhours rate	\$0.00
		Total This Week Worked:		\$0.00

Subtotal	\$0.00
Invoice Adjustment	
Plus Sales Tax	\$0.00
	\$0.00

Thank You for your business!!

Sales Taxable Amount of **\$0.00**

Invoice Number	Account Number	Company Name	Payment Due Date	Amount Due	Please Enter Amount Paid
123456		Company Name	Due On Receipt	\$0.00	

MAIL PAYMENTS TO
 ITSQuest, Inc.
 4505 82nd St., Ste 3
 Lubbock, TX 79424

Electronic Remittance Address:
 City Bank Texas
 611 University
 P.O. Box 5060
 Lubbock, TX 79408
 ABA Routing Number: 111301737
 Account Number: 30270822
 Account Name: itsQuest, Inc.

PLEASE MAKE CHECKS PAYABLE TO:
 ITSQuest, Inc.

STATE OF NEW MEXICO

TAXATION AND REVENUE DEPARTMENT

RESIDENT BUSINESS CERTIFICATE

Issued to: **ITSQUEST, INC.**

DBA: **ITSQUEST, INC.**
4505 82ND ST STE 3
LUBBOCK, TX 79424-3219

Expires: **05-Nov-2024**

Certificate Number:

L0252076976



Stephanie Schardin Clarke
Cabinet Secretary

THIS CERTIFICATE IS NOT TRANSFERABLE



CITY OF LAS CRUCES
P.O. BOX 20000
LAS CRUCES, NEW MEXICO 88004

2019 - 04

Type
BUSINESS REGISTRATION

Number
3348

Issue Date
03/01/2018

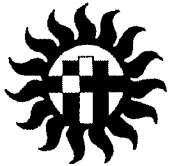
Expires
04/30/2019

**** NOTICE ****

This license becomes null & void if ownership, business name or address is changed. Licensee must apply within 10 days of such changes for transfer. Fees may apply. All applicable building & zoning regulations pertaining to business location must be followed.

Business Name: **ITSQUEST, INC**
1990 E LOHMAN AVE A
LAS CRUCES NM 88001

***** POST THIS CERTIFICATE IN A CONSPICUOUS PLACE *****



CITY OF LAS CRUCES
P.O. BOX 20000
LAS CRUCES, NEW MEXICO 88004

2019 - 04

**Certificate
Receipt**

Type
BUSINESS REGISTRATION

License Number
3348

Fee Paid
35.00

Issue Date
03/01/2018

Expiration Date
04/30/2019

**** NOTICE ****

This license becomes null & void if ownership, business name or address is changed. Licensee must apply within 10 days of such changes for transfer. Fees may apply. All applicable building & zoning regulations pertaining to business location must be followed.

Business Name: **ITSQUEST INC**
4505 82ND ST STE 3
LUBBOCK, TX 79424

***** NOTIFY CITY OF LAS CRUCES IMMEDIATELY IF THIS BUSINESS LOCATION CLOSSES *****

***** KEEP THIS COPY FOR YOUR RECORDS *****

**** ITSQuest has maintained an office in Las Cruces since 2001. When we moved from our Lohmann location in 2020, we didn't receive license update requests and only recently realized we were not holding a current business license. We requested an updated certificate from the State of NM to reflect the Las Cruces address. Upon receipt via US mail, we will promptly pay the past and current business license fees and schedule the required inspection.



April 23, 2024

City of Las Cruces
PO Box 20000
Las Cruces, NM 88004

RE: RFP 23-24-047 for Temporary Employment Services

To whom it may concern:

ITSQuest, Inc., is pleased to submit an offer in response to the referenced Temporary Employment Services Request for Proposal (“RFP”). ITSQuest has been providing experienced and reliable staffing professionals to municipalities and businesses throughout Texas and New Mexico since 1994. Our services include expertise in the areas of candidate assessment, screening, interviewing, background checks, and drug screening for all employees. We pride ourselves in the quality of service we provide to our clients, employees, and the community.

The intention of this RFP is to award a Temporary Employment Services contract for a term of four years. We have reviewed the contents within the RFP to assess the requirements, and we have determined that they are entirely within the levels of our experience and completely within the realm of our capabilities. The attached proposal outlines the required information by the City of Las Cruces describing our proactive and risk-management approach to staffing.

ITSQuest has a long-term partnership, since 2005, with the City of Las Cruces and have been working closely with multiple departments, delivering outstanding services. ITSQuest looks forward to a continuing partnership with the City of Las Cruces and pledge our commitment for staffing excellence in addressing all temporary employment services requirements addressed in the RFP.

If you have any questions or require additional information, please feel free to contact me by phone or email.

Sincerely,

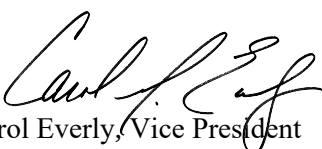

Carol Everly, Vice President
everlyc@itsquest.com

EXHIBIT B

COST PROPOSAL

Direct Labor Costs (Statutory and Fringe)	19.25%
OverHead Costs	12.75%
General and Administrative Costs	4.75%
Profit Range	7.15%

City of Las Cruces Pricing (RFP 23-24-047)																	
Occupation Title	Wage Range Low*	Wage Range High*	Mark Up	Direct Labor Cost Low	Direct Labor Cost High	Direct Payroll Low	Direct Payroll High	Overhead Low	Overhead High	General and Admin Low	General and Admin High	Total Indirect Low	Total Indirect High	Profit Low	Profit High	Cost Per Hour Range	Cost Per Hour Range
Accountant	\$18.00	\$40.00	1.439	3.47	7.70	21.47	47.70	2.30	5.10	0.86	1.90	3.15	7.00	1.29	2.86	\$ 25.90	\$ 57.56
Accounting Clerk	\$13.00	\$18.00	1.439	2.50	3.47	15.50	21.47	1.66	2.30	0.62	0.86	2.28	3.15	0.93	1.29	\$ 18.71	\$ 25.90
Accounting Technician/Bookkeeper	\$15.00	\$20.00	1.439	2.89	3.85	17.89	23.85	1.91	2.55	0.71	0.95	2.63	3.50	1.07	1.43	\$ 21.59	\$ 28.78
Administrative Services Support	\$13.65	\$20.00	1.439	2.63	3.85	16.28	23.85	1.74	2.55	0.65	0.95	2.39	3.50	0.98	1.43	\$ 19.64	\$ 28.78
Animal Care Technician	\$12.36	\$16.00	1.439	2.38	3.08	14.74	19.08	1.58	2.04	0.59	0.76	2.16	2.80	0.88	1.14	\$ 17.79	\$ 23.02
Aquatic Instructor	\$14.00	\$18.00	1.439	2.70	3.47	16.70	21.47	1.79	2.30	0.67	0.86	2.45	3.15	1.00	1.29	\$ 20.15	\$ 25.90
Assistant Curator	\$12.36	\$17.00	1.439	2.38	3.27	14.74	20.27	1.58	2.17	0.59	0.81	2.16	2.98	0.88	1.22	\$ 17.79	\$ 24.46
Cashier	\$13.50	\$16.00	1.439	2.60	3.08	16.10	19.08	1.72	2.04	0.64	0.76	2.36	2.80	0.97	1.14	\$ 19.43	\$ 23.02
Code Enforcement Officer	\$17.95	\$20.00	1.439	3.46	3.85	21.41	23.85	2.29	2.55	0.85	0.95	3.14	3.50	1.28	1.43	\$ 25.83	\$ 28.78
Computer Operator I	\$12.36	\$17.00	1.439	2.38	3.27	14.74	20.27	1.58	2.17	0.59	0.81	2.16	2.98	0.88	1.22	\$ 17.79	\$ 24.46
Computer Operator II	\$13.00	\$18.00	1.439	2.50	3.47	15.50	21.47	1.66	2.30	0.62	0.86	2.28	3.15	0.93	1.29	\$ 18.71	\$ 25.90
Computer Operator III	\$14.00	\$19.00	1.439	2.70	3.66	16.70	22.66	1.79	2.42	0.67	0.90	2.45	3.33	1.00	1.36	\$ 20.15	\$ 27.34
Computer Programmer I	\$20.65	\$25.00	1.439	3.98	4.81	24.63	29.81	2.63	3.19	0.98	1.19	3.61	4.38	1.48	1.79	\$ 29.72	\$ 35.98
Computer Programmer II	\$21.75	\$27.00	1.439	4.19	5.20	25.94	32.20	2.77	3.44	1.03	1.28	3.81	4.73	1.56	1.93	\$ 31.30	\$ 38.85
Computer Programmer III	\$22.80	\$30.00	1.439	4.39	5.78	27.19	35.78	2.91	3.83	1.08	1.43	3.99	5.25	1.63	2.15	\$ 32.81	\$ 43.17
Cook	\$12.36	\$16.00	1.439	2.38	3.08	14.74	19.08	1.58	2.04	0.59	0.76	2.16	2.80	0.88	1.14	\$ 17.79	\$ 23.02
Custodian	\$12.36	\$17.00	1.439	2.38	3.27	14.74	20.27	1.58	2.17	0.59	0.81	2.16	2.98	0.88	1.22	\$ 17.79	\$ 24.46
Customer Service Field Representative	\$13.70	\$18.00	1.439	2.64	3.47	16.34	21.47	1.75	2.30	0.65	0.86	2.40	3.15	0.98	1.29	\$ 19.71	\$ 25.90
Customer Service Representative	\$12.36	\$16.00	1.439	2.38	3.08	14.74	19.08	1.58	2.04	0.59	0.76	2.16	2.80	0.88	1.14	\$ 17.79	\$ 23.02
Data Entry Clerk I	\$12.50	\$16.00	1.439	2.41	3.08	14.91	19.08	1.59	2.04	0.59	0.76	2.19	2.80	0.89	1.14	\$ 17.99	\$ 23.02
Data Entry Clerk II	\$13.00	\$16.50	1.439	2.50	3.18	15.50	19.68	1.66	2.10	0.62	0.78	2.28	2.89	0.93	1.18	\$ 18.71	\$ 23.74
Dishwasher	\$12.36	\$16.00	1.439	2.38	3.08	14.74	19.08	1.58	2.04	0.59	0.76	2.16	2.80	0.88	1.14	\$ 17.79	\$ 23.02
Engineer	\$22.75	\$40.00	1.439	4.38	7.70	27.13	47.70	2.90	5.10	1.08	1.90	3.98	7.00	1.63	2.86	\$ 32.74	\$ 57.56
Engineering Technician	\$16.00	\$25.00	1.439	3.08	4.81	19.08	29.81	2.04	3.19	0.76	1.19	2.80	4.38	1.14	1.79	\$ 23.02	\$ 35.98
Equipment Operator I	\$12.65	\$17.00	1.439	2.44	3.27	15.09	20.27	1.61	2.17	0.60	0.81	2.21	2.98	0.90	1.22	\$ 18.20	\$ 24.46
Equipment Operator II	\$14.50	\$18.50	1.439	2.79	3.56	17.29	22.06	1.85	2.36	0.69	0.88	2.54	3.24	1.04	1.32	\$ 20.87	\$ 26.62
Equipment Operator III	\$23.75	\$28.00	1.439	4.57	5.39	28.32	33.39	3.03	3.57	1.13	1.33	4.16	4.90	1.70	2.00	\$ 34.18	\$ 40.29
Facility Monitor	\$12.36	\$16.00	1.439	2.38	3.08	14.74	19.08	1.58	2.04	0.59	0.76	2.16	2.80	0.88	1.14	\$ 17.79	\$ 23.02
File Clerk I	\$12.36	\$16.00	1.439	2.38	3.08	14.74	19.08	1.58	2.04	0.59	0.76	2.16	2.80	0.88	1.14	\$ 17.79	\$ 23.02
File Clerk II	\$12.50	\$16.50	1.439	2.41	3.18	14.91	19.68	1.59	2.10	0.59	0.78	2.19	2.89	0.89	1.18	\$ 17.99	\$ 23.74
Food Server Worker	\$12.50	\$16.00	1.439	2.41	3.08	14.91	19.08	1.59	2.04	0.59	0.76	2.19	2.80	0.89	1.14	\$ 17.99	\$ 23.02
Forklift Operator	\$12.50	\$17.00	1.439	2.41	3.27	14.91	20.27	1.59	2.17	0.59	0.81	2.19	2.98	0.89	1.22	\$ 17.99	\$ 24.46
General Labor Water Resources	\$12.50	\$16.50	1.439	2.41	3.18	14.91	19.68	1.59	2.10	0.59	0.78	2.19	2.89	0.89	1.18	\$ 17.99	\$ 23.74
General Laborer	\$12.36	\$17.00	1.439	2.38	3.27	14.74	20.27	1.58	2.17	0.59	0.81	2.16	2.98	0.88	1.22	\$ 17.79	\$ 24.46
General Maintenance (Parks & Rec)	\$12.50	\$16.50	1.439	2.41	3.18	14.91	19.68	1.59	2.10	0.59	0.78	2.19	2.89	0.89	1.18	\$ 17.99	\$ 23.74
General Maintenance Worker	\$12.50	\$17.00	1.439	2.41	3.27	14.91	20.27	1.59	2.17	0.59	0.81	2.19	2.98	0.89	1.22	\$ 17.99	\$ 24.46
General Office Clerk I	\$12.36	\$17.00	1.439	2.38	3.27	14.74	20.27	1.58	2.17	0.59	0.81	2.16	2.98	0.88	1.22	\$ 17.79	\$ 24.46
General Office Clerk II	\$12.50	\$17.00	1.439	2.41	3.27	14.91	20.27	1.59	2.17	0.59	0.81	2.19	2.98	0.89	1.22	\$ 17.99	\$ 24.46

IT Administrative Assistant	\$14.75	\$20.00	1.439	2.84	3.85	17.59	23.85	1.88	2.55	0.70	0.95	2.58	3.50	1.05	1.43	\$ 21.23	\$ 28.78
IT Technician	\$16.00	\$22.00	1.439	3.08	4.24	19.08	26.24	2.04	2.81	0.76	1.05	2.80	3.85	1.14	1.57	\$ 23.02	\$ 31.66
Lab Technician	\$13.00	\$18.00	1.439	2.50	3.47	15.50	21.47	1.66	2.30	0.62	0.86	2.28	3.15	0.93	1.29	\$ 18.71	\$ 25.90
Landscaping/Groundskeeper	\$12.50	\$16.50	1.439	2.41	3.18	14.91	19.68	1.59	2.10	0.59	0.78	2.19	2.89	0.89	1.18	\$ 17.99	\$ 23.74
Librarian	\$13.00	\$25.00	1.439	2.50	4.81	15.50	29.81	1.66	3.19	0.62	1.19	2.28	4.38	0.93	1.79	\$ 18.71	\$ 35.98
Librarian Aide/Clerk	\$12.36	\$18.00	1.439	2.38	3.47	14.74	21.47	1.58	2.30	0.59	0.86	2.16	3.15	0.88	1.29	\$ 17.79	\$ 25.90
Licensed Practical Nurse I	\$16.00	\$28.00	1.439	3.08	5.39	19.08	33.39	2.04	3.57	0.76	1.33	2.80	4.90	1.14	2.00	\$ 23.02	\$ 40.29
Lifeguard	\$12.36	\$16.00	1.439	2.38	3.08	14.74	19.08	1.58	2.04	0.59	0.76	2.16	2.80	0.88	1.14	\$ 17.79	\$ 23.02
Machine Maintenance Mechanic	\$15.50	\$20.00	1.439	2.98	3.85	18.48	23.85	1.98	2.55	0.74	0.95	2.71	3.50	1.11	1.43	\$ 22.30	\$ 28.78
Maintenance Technician	\$13.50	\$18.00	1.439	2.60	3.47	16.10	21.47	1.72	2.30	0.64	0.86	2.36	3.15	0.97	1.29	\$ 19.43	\$ 25.90
Material Handler	\$12.50	\$17.00	1.439	2.41	3.27	14.91	20.27	1.59	2.17	0.59	0.81	2.19	2.98	0.89	1.22	\$ 17.99	\$ 24.46
Medical Assistant	\$12.36	\$18.00	1.439	2.38	3.47	14.74	21.47	1.58	2.30	0.59	0.86	2.16	3.15	0.88	1.29	\$ 17.79	\$ 25.90
Office Assistant	\$12.50	\$17.00	1.439	2.41	3.27	14.91	20.27	1.59	2.17	0.59	0.81	2.19	2.98	0.89	1.22	\$ 17.99	\$ 24.46
Parks and Recreation Aide	\$12.00	\$16.00	1.439	2.31	3.08	14.31	19.08	1.53	2.04	0.57	0.76	2.10	2.80	0.86	1.14	\$ 17.27	\$ 23.02
Pool Maintenance	\$12.36	\$16.00	1.439	2.38	3.08	14.74	19.08	1.58	2.04	0.59	0.76	2.16	2.80	0.88	1.14	\$ 17.79	\$ 23.02
Receptionist	\$12.36	\$17.00	1.439	2.38	3.27	14.74	20.27	1.58	2.17	0.59	0.81	2.16	2.98	0.88	1.22	\$ 17.79	\$ 24.46
Secretary I	\$12.50	\$17.50	1.439	2.41	3.37	14.91	20.87	1.59	2.23	0.59	0.83	2.19	3.06	0.89	1.25	\$ 17.99	\$ 25.18
Secretary II	\$13.00	\$18.50	1.439	2.50	3.56	15.50	22.06	1.66	2.36	0.62	0.88	2.28	3.24	0.93	1.32	\$ 18.71	\$ 26.62
Shipping/Receiving Clerk	\$12.60	\$18.00	1.439	2.43	3.47	15.03	21.47	1.61	2.30	0.60	0.86	2.21	3.15	0.90	1.29	\$ 18.13	\$ 25.90
Special Events Staff - Exhibit Monitor	\$12.36	\$16.00	1.439	2.38	3.08	14.74	19.08	1.58	2.04	0.59	0.76	2.16	2.80	0.88	1.14	\$ 17.79	\$ 23.02
Special Events Staff - Registration	\$12.36	\$16.00	1.439	2.38	3.08	14.74	19.08	1.58	2.04	0.59	0.76	2.16	2.80	0.88	1.14	\$ 17.79	\$ 23.02
Special Events Staff - Security	\$12.36	\$17.00	1.439	2.38	3.27	14.74	20.27	1.58	2.17	0.59	0.81	2.16	2.98	0.88	1.22	\$ 17.79	\$ 24.46
Special Events Staff - Set up/Breakdown	\$12.36	\$16.00	1.439	2.38	3.08	14.74	19.08	1.58	2.04	0.59	0.76	2.16	2.80	0.88	1.14	\$ 17.79	\$ 23.02
Sr. Office Assistant	\$13.00	\$18.00	1.439	2.50	3.47	15.50	21.47	1.66	2.30	0.62	0.86	2.28	3.15	0.93	1.29	\$ 18.71	\$ 25.90
Uncertified Cadets	\$15.00	\$25.00	1.439	2.89	4.81	17.89	29.81	1.91	3.19	0.71	1.19	2.63	4.38	1.07	1.79	\$ 21.59	\$ 35.98
Warehouse Specialist	\$12.50	\$18.00	1.439	2.41	3.47	14.91	21.47	1.59	2.30	0.59	0.86	2.19	3.15	0.89	1.29	\$ 17.99	\$ 25.90
Waste Maintenance	\$12.50	\$17.00	1.439	2.41	3.27	14.91	20.27	1.59	2.17	0.59	0.81	2.19	2.98	0.89	1.22	\$ 17.99	\$ 24.46
Youth Program Specialist	\$13.00	\$17.50	1.439	2.50	3.37	15.50	20.87	1.66	2.23	0.62	0.83	2.28	3.06	0.93	1.25	\$ 18.71	\$ 25.18

* The City of Las Cruces will determine the final wage rate offer to employee selected. The awarded mark-up rate of 43.9% will be used to calculate the bill rate within the ranges. Clerical or light industrial positions not listed will reflect the 43.9% mark up. ITSQuest acknowledges any fee adjustments must be submitted sixty (60) days prior to the current contract annual anniversary with supporting documentation.



CITY OF LAS CRUCES

SERVICE AGREEMENT

23-24-047
Temporary
Employment
Services

THIS AGREEMENT made and entered into on this ____ day of June, 2024 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and Manpower US, Inc., of 580 N. Telshor, Las Cruces, NM, 88011, hereinafter called "CONTRACTOR".

1. PROJECT DESCRIPTION

Temporary employment services to be provided on an as needed basis. Various purchase orders will be issued according to the needs of CITY departments and Joint Power Agreement (JPA) agencies.

2. SCOPE OF SERVICES

In a satisfactory and proper manner, the CONTRACTOR shall perform SERVICES as proposed in response to the CITY'S RFP No. 23-24-047 as set forth in Exhibit A, attached hereto and made a part of this Agreement.

3. APPROPRIATIONS

The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

4. COMPENSATION

The CITY shall compensate CONTRACTOR for the performance of SERVICES under this Agreement an amount as proposed in response to the CITY's RFP No. 23-24-047, plus applicable taxes as set forth in Exhibit B, attached hereto and made part of this Agreement. CONTRACTOR shall perform the SERVICES upon receipt of a purchase order or written Notice to Proceed from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed. CONTRACTOR shall submit invoices weekly or biweekly. CITY shall pay invoices Net 30 days upon receipt of undisputed invoice.

CONTRACTOR is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. CONTRACTOR agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

5. DEVOTION OF ADEQUATE TIME

CONTRACTOR will devote the necessary hours each week to the performance of project that are required by the CITY, and it will serve the CITY, diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE

This Agreement shall become effective on July 1, 2024 for a term of four (4) years through June 30, 2028. CONTRACTOR shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and CONTRACTOR.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall CONTRACTOR be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request CONTRACTOR to perform other extra services not incorporated within the Services set forth in this Agreement. If the CONTRACTOR is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the CITY, CONTRACTOR shall so notify the CITY, of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the CONTRACTOR within five (5) business work days from the date of receipt of CONTRACTOR'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE CONTRACTOR

In the event a condition is identified by the CONTRACTOR which, in the opinion of the CONTRACTOR, changes the services, costs, and/or time required for performance under this Agreement, the CONTRACTOR shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business work days from the date of receipt of CONTRACTOR'S notification.

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of CONTRACTOR, and without the fault or negligence of CONTRACTOR, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. CONTRACTOR shall provide the CITY, with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by CONTRACTOR to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in

accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY, for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to CONTRACTOR.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY, deliver to the CITY, the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

CONTRACTOR will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S, right to recover excessive or illegal payments. CONTRACTOR will retain records for five (5) years after the completion of the project.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY, will be kept confidential and CONTRACTOR will not disclose to any other party, directly or indirectly, without the CITY'S, prior written consent unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the CONTRACTOR shall be the sole property of the CITY, and shall be delivered to the CITY, when requested and at the end of the Agreement.

14. INDEPENDENT CONTRACTOR

CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY, CONTRACTOR, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY, by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR's employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to perform services for other parties; and (ii) CONTRACTOR may perform for its own account other professional services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as otherwise specifically set forth herein, neither CONTRACTOR nor CITY, shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT

CONTRACTOR shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

CONTRACTOR shall obtain and maintain at least the following insurance at its own cost and expense during the life of this Agreement, and shall require Subcontractors, if any, to maintain the same insurance during the life of the subcontracted work:

1. Professional Liability
 - a. \$1,000,000 per occurrence

2. Commercial General Liability Insurance
 - a. \$1,000,000 per occurrence / \$2,000,000 aggregate
 - b. Coverage must include premises and operations, products and completed operations, and personal and advertising injury.
 - c. The City of Las Cruces must be named as an Additional Insured for all coverages listed above on endorsements acceptable to the City.
 - d. Coverage must be primary and non-contributory.
 - e. Coverage must be per project or per location.
 - f. Coverage must be on an occurrence form.
 - g. Subrogation must be waived.
3. Commercial Auto Liability
 - a. \$1,000,000 per occurrence
 - b. Coverage must be for "owned, leased, hired, and non-owned autos" or "any autos."
4. Workers' Compensation and Employers Liability
 - a. Statutory Limits
 - b. Employer liability – \$1,000,000 each accident, \$1,000,000 each employee by disease, \$1,000,000 policy limit
 - c. Subrogation must be waived.

Endorsements for additional insured coverage and waivers of subrogation must be provided as a condition of this Agreement and shall be noted on the certificate.

CONTRACTOR shall furnish the CITY with a certificate(s) of insurance showing CONTRACTOR and Subcontractors, if any, have complied with this Article. The CONTRACTOR shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

CONTRACTOR shall indemnify, defend, and hold harmless the CITY, from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused in whole or in part by, resulting in whole or in part from, or arising in whole or in part out of the negligent acts, errors, or omissions of CONTRACTOR, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

CONTRACTOR shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the CONTRACTOR'S services or any work done pursuant to this Agreement, including anti-discrimination.

20. BREACH

In the event CONTRACTOR breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY, shall give CONTRACTOR written notice of such breach. In the event CONTRACTOR fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy CONTRACTOR'S breach and recover any and all costs and expenses in so doing from CONTRACTOR.

21. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and CONTRACTOR under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

22. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY: City of Las Cruces
 PO Box 20000
 Las Cruces, NM 88004
 ATTENTION: Greg Gonzalez, Buyer I

With Copies to: Purchasing Manager

TO CONTRACTOR: Manpower US, Inc.
 580 N. Telshor
 Las Cruces, NM 88011
 ATTENTION: Shaun Fracassi, Vice President West

23. SCOPE OF AGREEMENT

This Agreement incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof and that all such covenants, agreements, and understandings have been merged into this written agreement. No prior agreement or understanding verbal or otherwise of the parties or their agents shall be valid or enforceable unless embodied in this agreement.

24. SEVERABILITY

The parties agree that each provision of this Agreement is severable and the invalidity or unenforceability of any one or more of the provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

25. CONFLICT OF INTEREST

CONTRACTOR represents and warrants that CONTRACTOR has no business, professional, personal, or other interest, including, but not limited to, the representation of other clients, that would conflict in any manner or degree with the performance of its obligations under this Agreement. If any such actual or potential conflict of interest arises under this Agreement, CONTRACTOR shall immediately inform the CITY in writing of such conflict. If, in the reasonable judgement of the CITY, such conflict poses a conflict to and with the performance of CONTRACTOR'S obligations under this Agreement, or is otherwise a violation of the CITY'S current policy or ordinances, then the CITY may terminate the Agreement immediately upon written notice to CONTRACTOR; such termination of the Agreement shall be effective upon the receipt of such notice by CONTRACTOR.

MANPOWER US, INC.

CITY OF LAS CRUCES

BY: _____
Shaun Fracassi
Vice President West

BY: _____
Alicia Hernandez
Purchasing Manager

Date

Date

APPROVED AS TO FORM

City Attorney

EXHIBIT A

SERVICES

A. General Conditions

Temporary services are requested as needed throughout the contract period. Temporary employees will be subject to all applicable City work rules and their amendments. The contract will not guarantee that any specific amount of services will be obtained. Orders will only be placed when the City identifies a need and issues a purchase order or written Notice to Proceed. It shall be the Contractor's responsibility to meet the City's requirements. The contract(s) are non-exclusive, and the City reserves the right to obtain services on the open market to serve the best interest of the City.

B. Specific Conditions

1. The Contractor(s) shall:

- a. Designate a coordinator as a local single point of contact (SPOC), as well as a backup, that will be accessible during normal work hours to receive temporary employment requests, handle and assist in any and all inquiries regarding scheduling, billing, status of orders, availability, contract pricing, contract compliance requirements, and problem solving. Normal work hours for the City are from 8:00am until 5:00pm Monday through Friday, with the exception of designated holidays.
- b. Refer personnel that have successfully undergone applicable background check and drug testing upon request of the city and provide verification that these pre-employment screenings have been successfully completed. Personnel shall be immediately productive, requiring minimal training and orientation.
- c. Be responsible for obtaining and informing and orienting its personnel on all relevant rules, regulations, policies, etc. of the City. Written acknowledgement of receipt of this information by the employee shall be provided to the City.
- d. Be given four (4) business hours and one (1) business day to confirm availability of a temporary employee to fill a request. However, if Contractor is unable to fill the job request, the City may fill the requirement from other qualified sources. City personnel will endeavor to give as much notice as is practical and possible.
- e. Ensure all temporary employees referred to the City have been screened for minimum qualifications required for the position.
- f. Be notified by the City in the event any temporary employee fails to adhere to the City's directions, policies, procedures, security / safety regulations, or demonstrates that they are not qualified to perform the required duties, and the Contractor shall replace the temporary employee within two (2) working days at

no cost to the City (including, but not limited to, training time; background checks; ID badges; drug testing; etc.). This also applies to any temporary employee that leaves for any reason before the assignment is completed. When a temporary employee leaves, at any time, the Contractor shall be responsible for any unreturned keys, ID badges, etc. If such items are not returned to the City within five (5) working days, the City shall send an invoice to the Contractor for the exact replacement cost. The Contractor shall pay this invoice within twenty (20) days.

- g. Agree to compensate employees in accordance with the requirements of the Fair Labor Standards Act (FLSA) as amended, New Mexico State Law and the New Mexico Workers' Compensation Act as amended, and the City's minimum wage ordinance. Additionally, the Contractor must ensure that each temporary employee acknowledges, in writing, their exempt or non-exempt FLSA status, whichever is applicable.
- h. Include provisions for the City to hire the temporary employee without payment of a finder's fee or any other fee, after the temporary employee has completed no less than ninety (90) days of temporary service to the City.
- i. Submit a legible, detailed invoice to the requesting City department and the Disbursements (Accounts Payable) office on a weekly or bi-weekly basis before payment(s) can be made. The City will pay invoices within twenty (20) days. Tax for services must be included in the invoice. At a minimum, the invoice must provide the following information:
 - i. Company name, address and contact information
 - ii. City bill-to name and contact information
 - iii. Name and title of hire, hours worked and hourly rate
 - iv. Dates of service
 - v. Extended price
 - vi. Total amount

Preferably, invoices should be sent via e-mail to disbursements@lascruces.gov.

Invoices can also be mailed to:

City of Las Cruces
Attention: Accounts Payable
PO Box 20000
Las Cruces, NM 88004

- j. Furnish, upon request by the City, a monthly usage delineating the acquisition activity governed by the contract. The format of the report shall be approved by the City and shall disclose the quantity and dollar value of each contract item by individual department.
2. The Contractor shall provide contracted employees who shall:
- a. Based on position and services to be provided to the City, be subject to various criminal checks, fingerprinting, background checks, and applicable drug testing

upon whose results the City may choose to base its decision to accept an individual for assignment. This option would allow the temporary employee access to areas within the City such as court buildings, and any restricted areas.

- b. Conform in all respects to fire and safety / security regulations while on the City's premises.
 - c. Receive training on preventing discrimination and harassment and have received and acknowledged receipt of the City's Discrimination Policy as provided by the City.
 - d. Be able to read, write, speak, and comprehend the English language in accordance with the minimum requirements of the position description, unless otherwise requested.
 - e. Be dressed appropriately and with the equipment specified by the City as being required to perform work in the service categories covered under this contract. The City requires most field personnel to have safety shoes, at the expense of the temporary employee. The safety shoes must meet American National Standards Institute (ANSI) and Occupational Safety and Health Administration (OSHA) standards.
 - f. Be respectful of all people with whom they interact, including City employees and customers of the City. The City reserves the right to reject any candidate that does not exhibit common courtesy and cordiality towards all individuals with which they may come in contact.
 - g. Limit personal mobile phone calls to emergency calls while on duty.
 - h. Report to an assignment at the time designated by the City. The work week shall be Monday through Friday. Normal business hours are 8:00am to 5:00pm, and occasionally weekends, excluding City holidays. There may be requirements or alternate schedules which require evening, weekend, holiday and overtime work. Weekend work shall be defined as Saturday and Sunday during the same week. Weekend or holiday work will not be considered overtime unless in excess of forty (40) hours worked.
 - i. Be entitled to lunch periods ranging from 30-60 minutes as determined by the City. No payments shall be made for lunch periods.
 - j. In some instances, require additional types of certifications such as First Aid and CPR certification. Temporary employees shall have these certifications prior to applying for such positions. Temporary employees shall maintain and recertify these certifications at their own expense.
3. The Contractor shall accept that the City shall:
- a. Have the right to interview and / or screen all prospective personnel, and to accept or reject any or all based upon the required skills and the background and experience of each individual. A resumé may be required upon request prior to an interview.
 - b. Supervise Contractor's employees. The City shall have direct control over the daily activities of the Contractor's employees.
 - c. Reserve the right to add and / or delete services provided under this contract. If a requirement is deleted, payment to the Contractor will be reduced proportionately to the amount of service reduced in accordance with the proposal price. If

additional services are required from this contract, prices for such additions will be negotiated by the Contractor and the City.

4. The Contractor shall accept a contract provision that any request for fee adjustments must be submitted sixty (60) days prior to the current contract annual anniversary date. Requests for adjustment in cost of labor must be supported by appropriate documentation. If the City agrees to the adjusted fee, the City shall issue written approval of the change in the form of a contract amendment to be executed by both parties. The reasonableness of the request will be determined by comparing the request with the Consumer Price Index or by performing a market survey.

Prepared for City of Las Cruces

April 23, 2024

Temporary Employment Services RFP No. 23-24-047 Technical Proposal



Agenda Item #7.1.

Manpower US Inc.
580 N. Telshor
Las Cruces, NM 88011

April 23, 2024

City of Las Cruces
City Purchasing Section Bid Clerk
bidclerk@las-cruces.org



RE: City of Las Cruces - RFP No. 23-24-047 Temporary Employment Services

Dear Bid Clerk,

Thank you for inviting us to submit this proposal for Temporary Employment Services for the City of Las Cruces (the City). Manpower built this proposal around your specific requirements. We welcome the opportunity to discuss our proposed team, experience, and approach as the City moves forward in this selection process.

Manpower's proprietary service delivery model allows us to match the best candidate to your requisitions. This model sets us apart and allows us to excel by providing our clients with productive workers and our associates with work that matches their skills, interests, and abilities. It allows us to gather parallel information from the client and the candidate. This results in an accurate match between associate characteristics and client requirements and allows us to predict on-the-job success. Our consultative approach and knowing what is important to attract candidates allows us to target and recruit the candidates that the City requires.

When you need flexibility that matches demand and more predictability in your workforce, we connect you with skilled, local talent when you need them the most. A flexible staffing solution with Manpower means you benefit from an ongoing extension of your operations built from our access to local talent and customized through our direct and ongoing relationship with your team and our workers. Our services include Permanent Hiring, Flexible Staffing, Project Staffing, and Onsite Management. We specialize in Office, Call Center, Professional, Light Industrial, and Industrial positions.

As a reputable agency with a local presence in the Las Cruces area since the mid-1960s, we are committed to efficiently and effectively meeting your staffing needs.

- **Local Office Establishment:** Our established office in Las Cruces positions us to serve the City seamlessly. We understand the importance of proximity and accessibility, ensuring prompt responses to inquiries and requests.
- **Dedicated Coordinators:** Manpower proposes designating a local single point of contact (SPOC) and a backup coordinator. These professionals will be accessible during normal work hours (8:00 am to 5:00 pm, Monday through Friday) to handle employment requests, address inquiries, and assist with scheduling, billing, contract compliance, and problem-solving.
- **Pre-Employment Screening and Productivity:** Our temporary associates will have successfully completed applicable background checks and drug testing required for a specific position. They are immediately productive, requiring minimal training and orientation. We prioritize competence and reliability.

Agenda Item #7.1.

- **Orientation on City Policies:** Manpower takes responsibility for informing and orienting our personnel on all relevant City rules, regulations, and policies. Written acknowledgments of receipt will be provided to ensure compliance.
- **Prompt Availability Confirmation:** Upon receiving a job request, we commit to confirming a temporary employee's availability within four (4) business hours and one (1) business day. Should we be unable to fulfill a request, we respect the City's prerogative to explore other qualified sources.
- **Screening for Minimum Qualifications:** We ensure that all temporary employees referred to the City meet the minimum qualifications required for their positions. Quality assurance is our priority.
- **Swift Replacement for Non-Compliance:** In the event of non-compliance by a temporary employee—whether related to directions, policies, or safety regulations—we pledge to replace them within two (2) working days.

Manpower appreciates the opportunity to contribute to the City's workforce. Our credentials and references are enclosed. We look forward to discussing how our partnership can enhance your operations.

Thank you for considering Manpower as your trusted staffing solution.

Sincerely,

Sherri Rials

Sherri Rials
Market Principal
West Texas/New Mexico Market
O: 575-522-6028 Ext. 2
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Table of Contents

RFP COMPLIANCE DECLARATION 5

TECHNICAL APPROACH..... 6

 SERVICE DELIVERY METHODOLOGY 6

 RECRUITING 6

 COMPLIANCE & PRE-SCREENING PROCESS..... 7

 MANPOWER CANDIDATE INTERVIEW 8

 Background Checks 8

 Additional Services 9

 Drug Screening 9

 Reference Check and E-Verify Approach 10

 MANPOWER CANDIDATE ASSESSMENTS 10

 Administrative Screening and Assessments..... 10

 Ultradex® Light Industrial Assessments 11

 Additional Skilled Trades Assessments 11

 CLIENT CANDIDATE INTERVIEW 12

 CANDIDATE ONBOARDING 12

 Peoplenet Timekeeping Overview 12

 Safety Training 13

 Associate Benefits 14

 CANDIDATE DIFFERENTIATORS 14

 Manpower MyPath Overview 15

 Experience 16

 Assessment..... 16

 Education 16

 Momentum through Guidance and Coaching 16

KEY PERSONNEL 17

PAST CONTRACTS/EXPERIENCE..... 18

 State and Local Government Experience..... 18

APPENDIX 20

 ACORD CERTIFICATE OF LIABILITY INSURANCE – CERTIFICATE HOLDER - CITY OF LAS CRUCES 21

 SAMPLE INVOICE 32

 STATE OF NEW MEXICO TAXATION AND REVENUE DEPARTMENT REGISTRATION CERTIFICATE 33

 STATE OF NEW MEXICO CERTIFICATE OF GOOD STANDING AND COMPLIANCE 34

 CITY OF LAS CRUCES BUSINESS REGISTRATION 35

RFP COMPLIANCE DECLARATION



CITY OF LAS CRUCES

RFP COMPLIANCE DECLARATION

RFP TITLE: Temporary Employment Services

RFP NO.: 23-24-047

DUE DATE/TIME: April 23, 2024 / 4:00 p.m.

In compliance with the requirements of this RFP, I, the undersigned, offer and agree to furnish any or all materials and/or services to the City of Las Cruces within the time agreed.

I further certify that this company has not been debarred, suspended, or otherwise made ineligible for participation in Federal Assistance programs under Executive Order 12549 Debarment and Suspension as described in the Federal Rules and Regulations.

Receipt of Addenda Nos.: 1 & 2 is hereby acknowledged (where none received, place a zero in this space)

Company Name and Address:	<u>Shaun M. Fracassi</u>
<u>Manpower US Inc.</u>	Authorized Signature
<u>580 Telshor</u>	Shaun Fracassi
<u>Las Cruces, NM 88011</u>	Typed or Printed Name
	VP, Growth Markets & Strategic Initiatives
	Title
	shaun.fracassi@manpower.com
	Email Address

Telephone number 575-522-6028 Fax number none

NM Tax & Revenue Dept. CRS # 02-296822-00-0

Current NM Secretary of State Business ID # 1767696 (corporations only)

Current CLC Business Registration # 4069-23 (respondents located in Las Cruces only)

Federal I.D. number 39-1838586 (mandatory for all respondents)

NM Resident Certificate from NM Tax and Revenue Department enclosed ☒ Yes ☐ No

THIS FORM MUST BE COMPLETED AND INCLUDED WITH PROPOSAL
FAILURE TO INCLUDE WILL SUBJECT RESPONSE TO REJECTION

TECHNICAL APPROACH

SERVICE DELIVERY METHODOLOGY

Our service delivery model is designed to match the best candidates with the City's requirements based on issued purchase orders. This approach allows us to provide skilled and productive workers that match their interests and abilities. By gathering parallel information about both the candidates and the City, we can accurately match the characteristics of the associates with the City's requirements, which predicts on-the-job success. We also follow up with our associates and the City to ensure that our service meets their expectations.

The Manpower service delivery model consists of the following processes:

- **Interview:** Our structured interview gathers work-related information about each applicant to uncover the broadest range of work they can do. We match applicants to various positions based on their preferences, aptitudes, and skills.
- **Assessments:** During the intake process, we verify an applicant's skills and knowledge through various assessments. These assessments predict success on the job and help reveal aptitudes and abilities that the applicant might not have realized they possess.
- **Training:** We offer our associates a variety of training opportunities, including safety and quality training. Training is also available to associates who want to expand their skills or improve weaknesses identified through testing.
- **Client Assignment:** Our job order aid program gathers skill-related information to match the most qualified associate based on the client's requirements.
- **Work Environment:** Manpower's work environment summary helps gather information about the client worksite to provide well-prepared associates who can become productive quickly. It also allows us to verify that a client worksite is a safe place for our associates.
- **Quality Performance:** We are committed to providing employment services of the highest possible quality to our clients and associates through successfully implementing this service delivery model. Consistently measuring satisfaction and performance with our clients and associates helps confirm that we follow the fundamental, proven processes.

This streamlined approach guarantees the right match and high performance, reflecting our dedication to quality and efficiency.

RECRUITING

Manpower will define, document, and use a specific integrated recruiting plan to support the City's hiring requirements. Staffing needs can change rapidly, and Manpower's flexible recruitment model allows us to support various needs. From targeted, local recruiting techniques to technology-enhanced recruiting, our wide-ranging strategies help identify the best candidate pools. We also

Agenda Item #7.1.

maintain available candidates in our proprietary database, and we will partner with you to further anticipate skills and usage patterns.

Additionally, Manpower is committed to upholding diversity and inclusion across our global operations. We've tailored programs to help our clients build workforces that mirror the diverse communities they serve. Our mission is to foster a culture of respect, acceptance, and inclusion, and we're dedicated to combating racism and promoting equality within our company and the broader community.

Our channel approach to recruiting top talent incorporating all levels of recruitment simultaneously:



COMPLIANCE & PRE-SCREENING PROCESS

Manpower’s standard pre-screen process validates a candidate’s interest, availability, and skill to meet the needs of the positions we are filling.



MANPOWER CANDIDATE INTERVIEW

Our Compliance & Screening Process features a crucial initial candidate interview. This step is key for matching the right candidates to positions by gathering information on their backgrounds, skills, and goals. We focus on understanding the candidate's employment needs, verifying their work experience and skills, and gauging their fit for contingent roles with Manpower.

The interview can be conducted over the phone or via video, making the selection process more efficient and flexible. This method allows us to assess candidates fairly, asking relevant questions and accurately recording their responses. The outcomes of these interviews guide us in further evaluating the candidate's abilities through assessments.

For specific needs, we offer tailored interviews to identify candidates with the desired behaviors and competencies. This approach aims to find candidates who will thrive in their roles, leading to higher productivity, satisfaction, reduced turnover, and longer tenure.

Background Checks

Manpower has teamed with several background screening firms to meet virtually any screening requirement and can match the background check requirements the City uses to screen your permanent hires. We are happy to share our significant savings by giving you access to our negotiated rates.

The most common background checks Manpower conducts are:

- **Review of criminal conviction history**—seven- and ten-year searches, including county, state, and federal regions.
- **Drug screening**—our standard drug screen is a six-panel, oral fluid test conducted in the Manpower office. The six-panel oral fluid test can detect the following substances: cocaine, morphine (opiates), amphetamines, methamphetamines, PCP, and THC (marijuana). This oral fluid test is our standard process for drug screening.

Additional checks we can perform include the following:

- **Review of motor vehicle records**—we can examine an applicant's state driving history to determine that individual's driver's license status. This review reveals any driving violations, convictions, or accidents for the timeframe available from a state's repository. Some access fees may apply.
- **Employment history verification**—the routine check is a formal, documented, in-depth analysis of our associates' work history. This review includes interviews with former employers to validate

Agenda Item #7.1.

information such as dates of employment, position, salary, responsibilities, reason for leaving, eligibility for rehire.

- **Educational record verification**—for educational information, including degrees and attendance dates at an educational institution. We also can verify the status of any claimed credential or professional license.
- **National credit file check**—through the largest credit bureau in the country, we access a full credit report. This includes information such as payment histories, bankruptcy proceedings, collection accounts, and civil litigation records.
- **National criminal record file**—at the county, state, or federal level, we can check applicants for any convictions of both felony and related misdemeanor convictions. This includes a verification of the applicant's social security number.
- **Supplementary database search**—database of historical background checks that include other sources such as State Department of Corrections Records. Not acceptable as a standalone search.
- **Sexual offender search**—national sexual offender registry investigation

We are confident that we can meet your requirements if any background checks or reviews that we have not included in this summary that the City performs as part of your standard screening process.

Additional Services

Manpower can also offer the following additional screening-related services:

- **Fingerprinting, Physical exams, OFAC search, OIG/GSA search**

Drug Screening

Manpower does drug testing on our candidates only when required by the City. To ensure uniformity, all candidates for your positions that require drug testing should complete the same type of drug testing. Details on specific methods of drug testing are as follows:

- **Oral Fluids**—oral fluid (saliva) tests measure for drugs currently in the system. They are generally conducted in Manpower offices and usually have results within fifteen minutes. The oral six—and ten-panel drug tests are the most common and Manpower's preferred drug testing method.
- **Six-panel**—our standard drug screen when drug screenings are requested. This test can detect cocaine, morphine (opiates), amphetamines, methamphetamines, PCP, and THC (marijuana). We can adjust drug tests to meet your requirements on substances you need to be detected. The oral fluid test is our standard process for drug screening unless prohibited by state law.
- **Ten-panel**—a more comprehensive ten-panel oral fluid test. Additional substances tested and those tested in the six-panel test include barbiturates, benzodiazepine, methadone, and propoxyphene.

Agenda Item #7.1.

- **Urine**—Manpower can also test our associates with a five-panel or ten-panel urine test if the City needs more extensive testing. This test can detect amphetamines, cocaine, cannabinoids (marijuana), opiates (morphine), phencyclidine (PCP), barbiturates, benzodiazepines, methadone, methaqualone, and propoxyphene. Our urine-based drug testing is done through Sterling and their partners (LabCorp, Quest, and Concentra) by trained collectors in a clinical setting.

Reference Check and E-Verify Approach

In addition to any City-required background checks, we conduct the following:

- Employment verification—every employee's work authorization is verified with a photo ID, and the social security number is run through the Department of Homeland Security E-Verify software.
- Work history verification—we check an applicant's work references by contacting former employers. For legal reasons, the applicant's written consent for the release of this information is obtained.

We will develop and implement an onboarding checklist for use in the Manpower branch for your needs. The recruiter will document completion in our front office system. Candidates will not be sent to begin work until the appropriate background checks and drug screens have been completed and the results confirm that a candidate has been cleared. Our branch will perform monthly audits of all procedures and client programs to ensure compliance.

MANPOWER CANDIDATE ASSESSMENTS

Interview results help us determine which of the candidate's capabilities to evaluate with our various assessments. Our validated skill assessments then guide us in determining how well a candidate knows a specific skill. This thorough process results in smart and accurate placement decisions. A complete understanding of the client assignment allows us to administer the proper assessment(s) to candidates. Confirming a candidate's skills before we make the placement decision is a core part of our success. The more we know about the assignment, the better we can use the powerful assessment tools at our disposal. Manpower offers a host of skill assessments for candidates interested in administration, light industrial, and industrial positions. Snapshots of the various assessments are provided below.

Administrative Screening and Assessments

The validated skill assessments we administer to candidates for administrative assignments guide us in determining how well a candidate knows a specific skill. This results in smart and accurate placement decisions. A complete understanding of the assignment at the City allows us to administer the proper assessment(s) to candidates. Confirming a candidate's skills before we make the placement decision is a core part of our success. The more we know about the work our associates

Agenda Item #7.1.

will encounter when on assignment, the better we can use the powerful assessment tools at our disposal. A sample test result document can be found in the *Appendix*.

Manpower offers a host of skill assessments for candidates interested in administrative positions.

Test	Description
SURESKILL®	These assessments measure a candidate's proficiency in a software package. The tests cover software suites, including Access, Excel, Word, PowerPoint, and Windows. The software packages include activities related to word processing, presentation graphics, database, and spreadsheet functions.
AccountCheck®	This comprehensive accounting skills assessment ensures that the individuals we have placed in finance-related positions are qualified and can produce results on the first day of an assignment. It evaluates the candidate's ability to analyze and record business transactions, calculate percentages, interpret invoice information, and make decisions regarding bank reconciliation, such as updating the general ledger.

Ultradex® Light Industrial Assessments

For light industrial positions, Manpower’s proprietary battery of assessments, Ultradex, uncovers a candidate’s ability to perform well in a demanding, high-energy setting. These tests measure a candidate’s skills, aptitude, and ability to perform job-related tasks such as assembly machine operation, packaging, and inspection. No other staffing company offers a comparable comprehensive assessment tool.

Ultradex consists of a suite of seven tests that measure competencies relevant to manufacturing and production environments, such as:

- Desire to do quality work
- Attention to detail
- Ability to follow verbal and written instructions
- Speed and dexterity (for gross and fine motor skills)
- Skills and abilities in performing job tasks related to assembly, machine operation, packaging, and inspection

Additional Skilled Trades Assessments

Through our partnership with SHL, a leading provider of selection and psychometric testing tools, we can also offer an additional host of assessments to gauge visual estimation, mechanical/spatial skills, and thinking skills.

CLIENT CANDIDATE INTERVIEW

A high-touch candidate experience characterizes our screening process. Once the candidate has completed the pre-qualification process and we confirm that the candidate is also a good fit with the City’s culture, Manpower will arrange the candidate’s interview with the City’s hiring manager if required.

CANDIDATE ONBOARDING

Manpower’s candidate onboarding process includes:

• Manpower Employment Agreement • Manpower Policies and Procedures • W2 • I-9 (E-Verify) • Safety Training – General safety, Haz-Com, Lifting, Forklift	• Client-Specific Requirements and Orientation – Drug Screen – Background Check Verification – City’s Discrimination Policy as provided by the City – City’s Dress Code – Conformity of fire and safety/security regulations on the City’s premises – Mobile Phone Usage while on duty – Assignment-specific instructions
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Manpower agrees to compensate employees in accordance with the requirements of the Fair Labor Standards Act (FLSA) as amended, New Mexico State Law and the New Mexico Workers’ Compensation Act as amended, and the City’s minimum wage ordinance. Manpower will also ensure that each temporary associate acknowledges, in writing, their exempt or non-exempt FLSA status, whichever is applicable.

Peoplenet Timekeeping Overview

Manpower uses Peoplenet, a time capture tool developed explicitly for the staffing industry to track and manage time worked by Manpower associates. Each week, Manpower processes more than 30,000 time slips via Peoplenet with favorable results. Time can be captured and approved via a web-based portal.

Our flexible time capture solutions allow you to choose the option that best meets your needs.

Peoplenet Web Time Entry

Ideal for associates with web or without access via computer, tablet or smart phone and can enter own time.



- Web access and auto time entry/approval reminders for associates and clients
- Simple one-time registration
- Associate enters time via website or toll-free number from anywhere at any time during the week
- Can enter time for all assignments on the same screen

Agenda Item #7.1.

Peoplenet has provided industry-leading systems to capture and streamline the flow of critical workforce information for over twenty years. Key benefits of the solution include the following:

- **Ease of use and accuracy**—Multiple time entries and simple approval options drive efficient and accurate payroll and invoicing. The system generates automatic emails and SMS notifications when time or approvals are missing to expedite processing.
- **Visibility**—Peoplenet gives managers complete visibility into timeclock and attendance data.
- **Reporting and control**—Along with the time entry options, Peoplenet offers multiple reporting capabilities. Depending on the solution chosen, these could include schedule access to timecards, headcount, and expenses.
- **Integration technology**—Various time capture options can push current workforce information to a cloud-based management console. There is no software to install or maintain.
- **Convenient support**—Peoplenet supports associates and client managers, ensuring they get the most from the tool.

Additionally, Peoplenet stores data for seven years, has a state-of-the-art disaster recovery plan to provide 99% system uptime, and is SAE 16 compliant. Peoplenet is the right solution for the City.

Some items of note with this system:

- With web time entry, associates can record and submit their hours through the web—from a PC, mobile device, or entering their hours by using a toll-free phone line.
- Peoplenet gives your supervisors a convenient, secure way to approve hours and expenses.
- Web time provides the same approval options that associates have for time entry. The supervisor will receive an email every Monday reminding them to approve time. They simply click a link to access the timesheets for their associates. The associate does not need a user ID or password.
- Web time entry offers historical timesheet reporting.

Safety Training

Workplace Evaluation

One of the first steps we take before placing an employee on assignment at your facility comes in the form of a thorough evaluation and review of all the City's-mandated safety policies. A better understanding of your work environment results in the best match possible. A member of our local service team will request a tour of your site periodically. Through this tour, we learn firsthand about your safety training, equipment safeguards, and about necessary personal protective equipment our temporary employees may be required to wear. Our staff communicates this and other important safety information to our temporary employees before they begin an assignment.

Employee Safety Orientation

From the workplace evaluation findings, we build a customized orientation process to engrain our employees with your safety rules and prepare them to contribute towards a safe and hazard-free work environment. At the very least, each new Manpower employee is provided access to our PowerYOU training platform, which offers safety courses that are interactive, easy to follow, and include tests. Employees also watch a how to lift training video at the time of application. The workplace evaluation findings further guide us to build a comprehensive approach to address specific safety issues and scenarios related to your work environment.

Associate Benefits

BENEFIT	DESCRIPTION
Medical	Associate, Associate plus one, or Family
Dental	Associate, Associate plus one, or Family
Short Term Disability	Associate only
Holidays	6 Days
401(k)	Associates can contribute from 1% to 50% of pay; many investment choices.
Life and AD&D	\$25,000 with option for additional spousal or dependent coverage
Employee Assistance Program	Associates and their dependents enrolled in our medical plans
Fitness Center Discount Program	\$25/month membership to over 10,000 fitness centers nationwide
On-demand App for Stress, Anxiety, & Depression	Associates and their dependents enrolled in our medical plans

CANDIDATE DIFFERENTIATORS

Like other staffing companies, we have the knowledge to recruit, assess, and train associates for our clients. The Manpower difference lies in our comprehensive training and education path that effectively prepares our workers to work safely and hones the skills they need to be successful. Coupled with Manpower’s intake process and thorough understanding of your working environment, we select motivated people with the skills, commitment, aptitude, and personality to succeed in their assignments.

Retaining Top Talent with Rewards & Recognition

Based on The American Staffing Association's benchmark findings, Manpower's turnover is significantly lower than the industry average.

MyPath Medals

- Associate recognition for exceptional performance through digital badges
- Associates feel more valued and satisfied at work
- Drives productivity and performance

powerYOU

Provide associates resources to develop their skills and support career development

- Customized training courses
- Pre- and post-training assessments
- Preparation courses for certification exams
- Opportunity to chat with mentors / experts

Competitive Compensation Package & Non-Wage Incentives

- Comprehensive wages and regular wage analysis
- Recognition programs
- Training and career advancement opportunities

Referral Bonus Program

- Rewards associates for referring outstanding people
- New hires referred by current employees tend to perform better and stay with organization longer
- Expands our pool of quality talent

Circle of Excellence

- Performance-related rewards
- Demonstrates appreciation
- Award recipients receive gift cards

Net Promoter System (NPS)

- World-class insights to improve associate loyalty, satisfaction, and engagement
- Measures loyalty and experience

Associate Support & Coaching

- Career mentoring and development
- Weekly touch points; regular follow up
- [TextUs](#)

And More!



Manpower MyPath Overview

Simply finding talented employees isn't enough; it's crucial to retain and motivate them as well. Reduced turnover boosts productivity and satisfaction. Manpower's MyPath program supports this by offering upskilling, personalized guidance, and resources to help associates grow and achieve their goals.

MyPath delivers better talent, unique attraction, and retention.



Experience

We connect individuals to the right jobs and companies to keep them employed and ready for their next career move. We open doors to the first job and the next job.

Assessment

Performance, preferences, skills, and work-readiness assessments help candidates explore and understand their strengths and opportunities.

Education

Skill development for our associates meets the needs of current and future in-demand jobs and ensures they stay relevant:

- **College Tuition Program**—Eligible, actively assigned Manpower associates can pursue an Associate’s or Bachelor’s degree at no cost*
- **PowerYOU**—A training platform providing actively assigned Manpower associates with access to thousands of online courses at no cost.
- **Manpower Acceleration Program**—Condensed training programs provide associates with new skills for in-demand jobs, maintaining value while meeting clients’ talent needs.
- **GED Path**—Manpower is investing in associates by providing an opportunity to eligible associates with a no-cost option to obtain a GED. Eligible associates can access online GED preparation classes, assessments, support counselors, and testing vouchers at no cost.

Momentum through Guidance and Coaching

Manpower knows that retaining top talent takes recognition. We reward and recognize associates in various ways to drive higher levels of employee satisfaction and engagement, leading to lower turnover and a stronger pool of quality talent for Manpower clients. With MyPath Medals, clients can recognize associates

for their exceptional performance. Our associate referral bonus program rewards associates for referring outstanding people to us. Lastly, we use the Net Promoter System (NPS) to measure loyalty and experience.

Circle of Excellence

- Rewards associates for a job well done
- Demonstrates appreciation to those who work with us
- Award recipients select a gift card from 350+ retailers, restaurants, travel, and entertainment vendors

MyPath Medals

- Gives clients a way to recognize associates for exceptional performance through digital badges
- Leads to individuals feeling more valued and satisfied at work
- Ultimately drives productivity and performance

Associate Referral Bonus Program*

- Rewards associates for referring outstanding people
- New hires referred by current employees tend to perform better and stay with organization longer
- Expands our pool of quality talent

* program availability varies by office location

Net Promoter System (NPS)

- World-class insights to improve associate loyalty, satisfaction, and engagement.
- Measures loyalty and experience through rigorous feedback gathering, analysis, and constant attention to actions of clients, candidates, and employees

KEY PERSONNEL

Manpower has been operating since 1948 and has had an office in Las Cruces for over 50 years. Our office is located at 580 N. Telshor and we are open from Monday to Friday, 8 am to 5 pm. Our dedicated service staff is available after hours and on weekends and can be reached via cell phone for coverage. Our team has 88 years of combined experience in recruiting and service delivery, and we are committed to providing you with the best possible service.

TEAM MEMBER	EXPERIENCE
Sherri Rials West TX/NM Market Principal	• 27 Years Recruiting Experience • Region Safety Champion • 100% Service Delivery • Escalation, Billing, and Contract Requirements
Marisol Espinosa Sr. Recruiter	• 16 Years of Recruiting Experience • Market Safety Champion • 100% Dedicated Recruiter • Single Point of Contact (SPOC) for Staffing needs at the City
Justine Medina Sr. Recruiter	• 8 Years Recruiting Experience • 100% Dedicated Recruiter • Backup to SPOC, Marisol Espinosa
Jonathan Williams Market Delivery Lead	• 8 Years Recruiting and Onsite Management Experience • 100% Dedicated Manager for Service Delivery
Connie Dominguez Recruiter	• 15 Years Recruiting Experience • 100% Dedicated Recruiter
Claudia Leal Recruiter	• 14 Years Recruiting Experience • 100% Dedicated Recruiter

PAST CONTRACTS/EXPERIENCE

CLIENT	CONTACT INFORMATION	CONTRACT DESCRIPTION
University of California Los Angeles	Sandra Chang, Commodity Manager Strategic Sourcing Schang@finance.ucla.edu	Temporary Staffing Services All campuses, Law clerk, Paralegal, Collections, Accounts Payables, Admissions, Billing, Purchasing, Forklift
City of Milwaukee, WI	Vanessa Armstrong, HR Administrator Vaarmst@milwaukee.gov	Staffing Services, Summer Youth Internship
City of Mankato, MN	Melissa Weston, HR Mweston@mankatomn.gov Shelia Huber, HR Shuber@mankatomn.gov	Staffing Services, Events, Parking Attendants, Arena, Parks & Recreation, Clerical, L-Industrial
Careersource Central Florida	Leo Alvarez Lalvarez@careersourcecf.com	Staffing Services Youth, Adult, Summer Youth Internship, Sourced Hires, Special Projects
Sacramento Housing & Redevelopment Agency	Tracy Knighton, AWI-CH HR Program Manager Tknighton@shra.org	Staffing Services Clerical, Call Center, Housing Techs
Becton Dickinson	Rogelio Chacon, Sr. HR Manager rogelio.chacon@bd.com	Staffing Services, Clerical, L-Industrial, FL, Quality, Warehouse, Assembly/Production
Sensient	Keegan Blank, Plant Manager Keegan.blank@sensient.com	Staffing Services, L-Industrial, FL, Quality/Inspection, Warehouse, Production

State and Local Government Experience

Our staffing brands, Manpower and Experis, provide staffing and other contingent workforce solutions to state and local government agencies across the US, filling thousands of project positions. This experience ranges from filling clerical, administrative, and professional positions to managing information technology projects. We have hundreds of county and city contracts with over \$140 million in local government spend. Over the past year, ManpowerGroup held over 120 City-level contracts, over seventy-five county-level contracts, and twenty-seven state contracts, totaling over \$31 million in local government spending. Some of our state-level contracts include Arizona, Montana, Utah, Oregon, Kansas, Florida, Wisconsin, South Carolina, New York, and California.

Agenda Item #7.1.

At the local level, a sampling of county and municipal agencies that we support includes the following:

- Benton County, AZ
- Mesa, AZ
- Sacramento City/County, CA
- San Joaquin County, CA
- Fresno County, CA
- Denver City/County, CO
- Hillsborough County, FL
- Broward County, FL
- Jacksonville, FL
- Atlanta, GA
- Cobb County, GA
- Boise, ID
- Detroit, MI
- Isabella County, MI
- Traverse City, MI
- Charlotte, NC
- Raleigh, NC
- Marion County, NC
- New York, NY
- Columbus, OH
- Tulsa, OK
- Portland, OR
- Easton, PA
- Warren County, PA
- Houston, TX
- Austin, TX
- San Antonio, TX
- Alexandria, VA
- Richmond, VA
- Outagamie County, WI
- Appleton, WI
- Madison, WI
- Milwaukee, WI

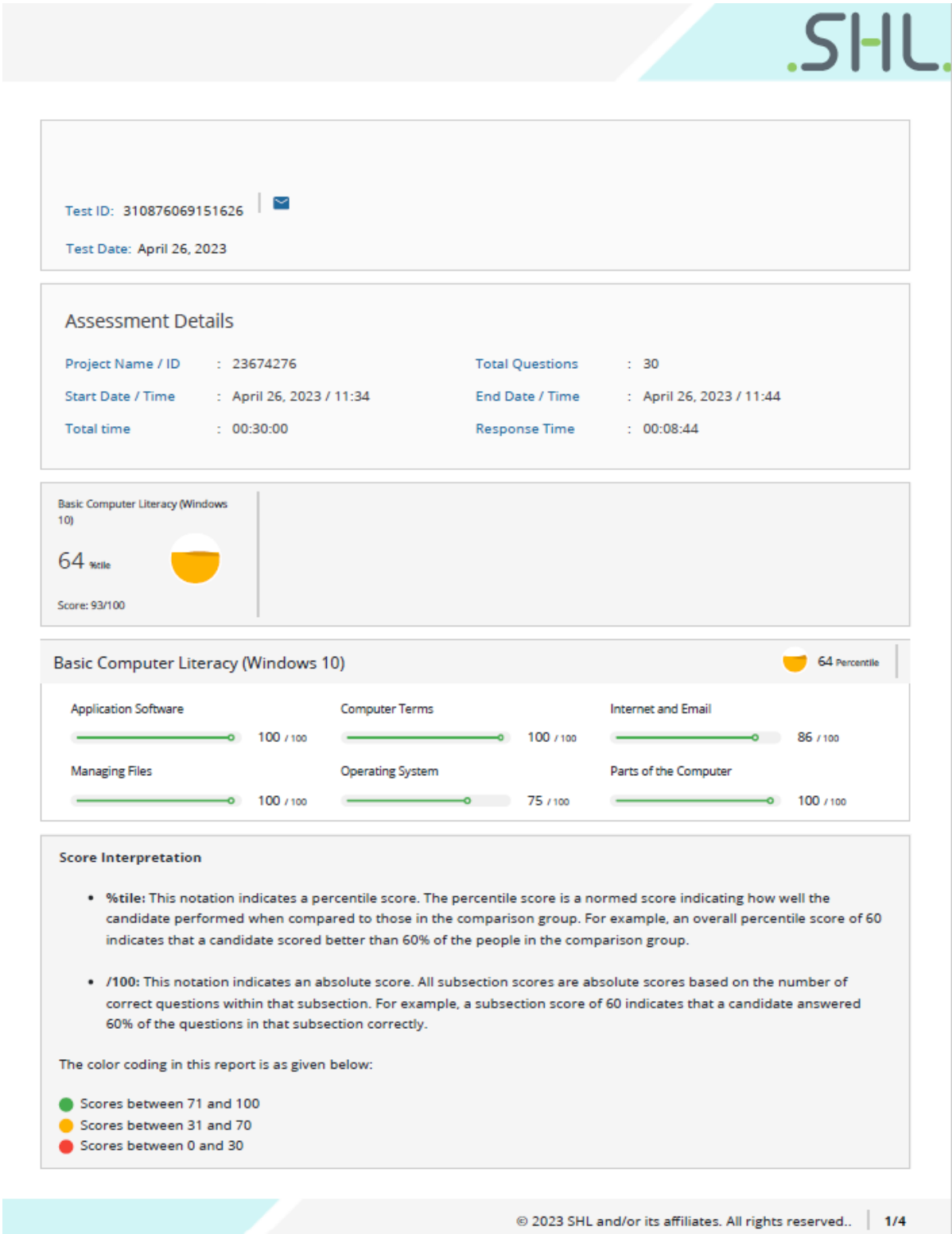
Our extensive experience in managing workforce solutions for public agencies across the country has given us a deep understanding of the diverse cultural elements, compliance requirements, reporting mandates, and cost-related objectives that these agencies demand. However, we also reside and operate within the local community. Our local presence enables us to comprehend the challenges faced by our clients and tailor our solutions to meet these challenges effectively. Our local presence has a positive impact on the economy of the communities we support by providing employment opportunities to qualified individuals and reducing the burden on government support services. We have designed our recruiting process to attract and retain skilled individuals who can add value to your agency from the very first day, all through a single point of contact.

APPENDIX

- Sample Assessment Results
 - Computer Literacy
 - Excel
- Acord Certificate of Insurance – Certificate Holder - City of Las Cruces
- Sample Invoice
- State of New Mexico Taxation and Revenue Department Registration Certificate
- State of New Mexico Certificate of Good Standing and Compliance
- City of Las Cruces Business Registration License

SAMPLE ASSESSMENT RESULTS

Computer Literacy





1 | Detailed Response

Basic Computer Literacy (Windows 10)				 64 Percentile
Detailed Score Report				
Q#	Result	Job Skill	Skill Level	Time
1	Correct	Application Software	Basic	00:00:20
2	Correct	Operating System	Basic	00:00:05
3	Correct	Application Software	Basic	00:00:21
4	Correct	Application Software	Basic	00:00:08
5	Correct	Managing Files	Basic	00:00:07
6	Correct	Internet and Email	Intermediate	00:00:19
7	Correct	Internet and Email	Basic	00:00:10
8	Correct	Internet and Email	Basic	00:00:11
9	Correct	Managing Files	Basic	00:00:13
10	Correct	Operating System	Basic	00:00:25
11	Correct	Managing Files	Basic	00:00:08
12	Correct	Managing Files	Basic	00:00:12
13	Incorrect	Internet and Email	Intermediate	00:00:21
14	Correct	Managing Files	Basic	00:00:13
15	Correct	Managing Files	Basic	00:00:15
16	Correct	Internet and Email	Basic	00:00:13
17	Correct	Computer Terms	Basic	00:00:28
18	Correct	Parts of the Computer	Basic	00:00:14

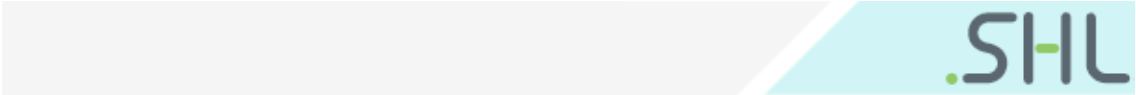


19	Incorrect	Operating System	Basic	00:00:08
20	Correct	Operating System	Basic	00:00:13
21	Correct	Internet and Email	Basic	00:00:22
22	Correct	Computer Terms	Intermediate	00:00:17
23	Correct	Parts of the Computer	Intermediate	00:00:35
24	Correct	Computer Terms	Intermediate	00:00:21
25	Correct	Computer Terms	Intermediate	00:00:06
26	Correct	Application Software	Advanced	00:00:17
27	Correct	Managing Files	Basic	00:00:43
28	Correct	Internet and Email	Basic	00:00:30
29	Correct	Parts of the Computer	Basic	00:00:24
30	Correct	Managing Files	Basic	00:00:25

Analysis by Skill			
Level	Number of Questions	Number Correct	Total Percentage
Basic	20	19	95%
Intermediate	9	8	89%
Advanced	1	1	100%
Total	30	28	93%

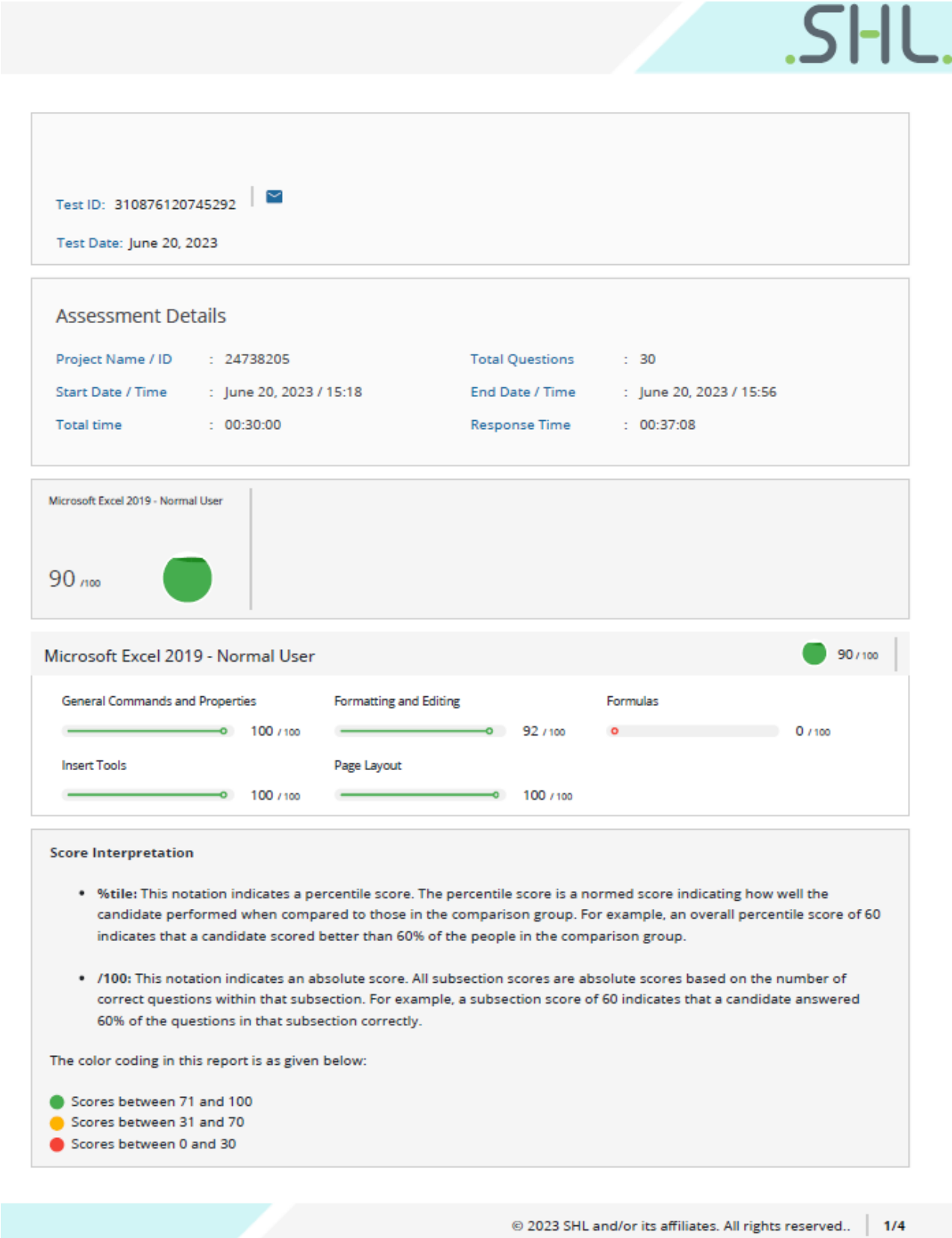
Analysis by Job Skill			
Topic	Number of Questions	Number Correct	Total Percentage
Application Software	4	4	100%
Operating System	4	3	75%

Agenda Item #7.1.



Managing Files	8	8	100%
Internet and Email	7	6	86%
Computer Terms	4	4	100%
Parts of the Computer	3	3	100%

Excel





1 | Detailed Response

Microsoft Excel 2019 - Normal User					90 / 100
Detailed Score Report					
Q#	Status	Task	Topic	Level	Time
1	Correct	Open a Workbook	General Commands and Properties	Basic	00:00:18
2	Correct	Insert a Row	Formatting and Editing	Basic	00:00:43
3	Correct	Font Style	Formatting and Editing	Basic	00:00:19
4	Correct	Font Size	Formatting and Editing	Basic	00:00:07
5	Correct	Format Cells as Currency	Formatting and Editing	Basic	00:00:50
6	Incorrect	SUM Function	Formulas	Intermediate	00:01:29
7	Correct	Copy	Formatting and Editing	Basic	00:00:09
8	Correct	Paste a Function	Formatting and Editing	Basic	00:00:18
9	Correct	Save	General Commands and Properties	Basic	00:00:14
10	Correct	Text Alignment	Formatting and Editing	Basic	00:00:24
11	Correct	Selecting Cells	General Commands and Properties	Basic	00:00:17
12	Correct	Borders	Formatting and Editing	Intermediate	00:00:33
13	Correct	Renaming a Worksheet	General Commands and Properties	Basic	00:00:35
14	Correct	Insert Column	Formatting and Editing	Basic	00:00:16
15	Incorrect	Use AVERAGE Function	Formulas	Advanced	00:00:23
16	Correct	Column Width	Formatting and Editing	Intermediate	00:00:59
17	Correct	Insert Chart	Insert Tools	Intermediate	00:00:59
18	Correct	Chart Styles	Insert Tools	Basic	00:01:14

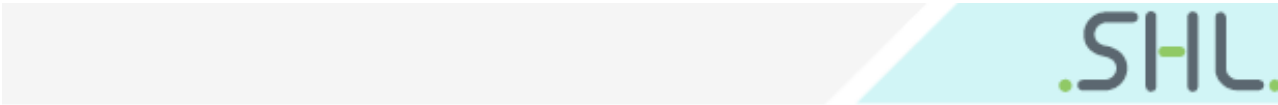


19	Incorrect	Text Wrap	Formatting and Editing	Intermediate	00:01:08
20	Correct	Insert Worksheet	General Commands and Properties	Basic	00:00:09
21	Correct	Merge and Center Cells	Formatting and Editing	Advanced	00:02:26
22	Correct	Sort	Formatting and Editing	Intermediate	00:00:59
23	Correct	Margins	Page Layout	Basic	00:02:08
24	Correct	Page Orientation	Page Layout	Basic	00:00:24
25	Correct	Header/Footer	Insert Tools	Intermediate	00:01:39
26	Correct	Spell Check	General Commands and Properties	Basic	00:02:51
27	Correct	Print Centered on Page	Page Layout	Advanced	00:03:10
28	Correct	Create PivotTable	Insert Tools	Advanced	00:06:16
29	Correct	Print Scaling	Page Layout	Intermediate	00:03:01
30	Correct	Print Worksheet	General Commands and Properties	Basic	00:02:50

Question Level Statistics			
Level	Number of Questions	Number Correct	Total Percentage
Basic	18	18	100%
Intermediate	8	6	75%
Advanced	4	3	75%
Total	30	27	90%

Question Topic Statistics			
Topic	Number of Questions	Number Correct	Total Percentage
General Commands and Properties	7	7	100%
Formatting and Editing	13	12	92%

Agenda Item #7.1.



Formulas	2	0	0%
Insert Tools	4	4	100%
Page Layout	4	4	100%

SAMPLE INVOICE


Manpower

To insure proper credit to your account, please detach and return this stub with remittance.

Invoice

Invoice Number 38618250

Total Amount Due \$ 1,353.81

Invoice Date 03/31/24

Terms Net 30 Days

Due Date 04/30/24

Customer Number 07201328

Manpower BU 43400

Vendor Federal ID# 30-1836586

DO213084

434

COPY

DEBORAH HURST
CITY OF LAS CRUCES
680 N. MOTEL BLVD
LAS CRUCES NM 88004

Remit To:
MANPOWER
21271 NETWORK PLACE
CHICAGO IL 60673-1212


Manpower

To insure proper credit to your account, please detach and return this stub with remittance.

Invoice

Invoice Number 38618250

Total Amount Due \$ 1,353.81

Invoice Date 03/31/24

Terms Net 30 Days

Due Date 04/30/24

Customer Number 07201328

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DEBORAH HURST
CITY OF LAS CRUCES
680 N. MOTEL BLVD
LAS CRUCES NM 88004

Remit To:
MANPOWER
21271 NETWORK PLACE
CHICAGO IL 60673-1212

disbursements@las-cruces.org,Dhurst@las-cruces.org

Purchase Order Number: PO# 24200400

Employee Name/ Service Type	Week Ending	Description	Type	Hours	Rate	Pre-Tax Amount	Sales Tax Code	Sales Tax Amount	Extended Amount
ONTIVEROS, REYES M	03/31/24	METER MECHANIC PO# 24200400	REGULAR	32.00	39.15	1,252.80	320130170	101.01	1,353.81

Sales Tax Summary

Code	Tax Jurisdiction	Percent	Tax Amount
320000000	NEW MEXICO	4.875	61.08
320130000	DONA ANA	1.250	15.66
320130170	LAS CRUCES	1.937	24.27

Regular Hours	OT Hours	Other Hours	Total Hours	Invoice Base	Sales Tax	Total Amount Due
32.00			32.00	\$ 1,252.80	\$ 101.01	\$ 1,353.81

If you have any questions please contact:
MANPOWER AR QUESTIONS 866 906-6687
ar.questions@manpowergroup.com

Thank you for choosing Manpower

Page 1 of 1

STATE OF NEW MEXICO TAXATION AND REVENUE DEPARTMENT
REGISTRATION CERTIFICATE



Audit & Compliance Division
Albuquerque District

Michelle Lujan Grisham
Governor

Stephanie Schardin Clarke
Cabinet Secretary

CORP TAX
MANPOWER US INC
100 W MANPOWER PL
MILWAUKEE, WI 53212-4030

July 4, 2021
NM Business Tax ID:
02-298822-00-0
Letter ID: L1984648624

STATE OF NEW MEXICO TAXATION AND REVENUE DEPARTMENT
REGISTRATION CERTIFICATE

Date ID Issued	IDENTIFICATION NUMBER	Business Start Date
01-Jan-1996	02298822000-GRT	01-Jan-1996
Business Location		Business End Date
580 N TELSHOR BLVD		
City and State	Zip Code	
LAS CRUCES, NM	88011-8223	
Taxpayer Name	Taxpayer Type	
MANPOWER US INC	Corporation	
Firm Name	Filing Frequency	
MANPOWER US INC	Monthly	
Mailing Address		
100 W MANPOWER PL		
City and State	Zip Code	
MILWAUKEE, WI	53212-4030	

This Registration Certificate is issued pursuant to Section 7-1-12 NMSA 1978 for Gross Receipts, County Gross Receipts, and Municipal Gross Receipts Taxes. This copy must be displayed conspicuously in the place of business. Any purchaser of the registrants business is subject to certain requirements under Section 7-1-61 NMSA 1978.

Cabinet Secretary
By

Any inquiries concerning your Identification Number should be addressed to the Audit & Compliance Division, P.O. Box 630, Santa Fe, New Mexico 87504-0630

THIS CERTIFICATE IS NOT TRANSFERABLE

STATE OF NEW MEXICO TAXATION AND REVENUE DEPARTMENT
REGISTRATION CERTIFICATE

Date ID Issued	IDENTIFICATION NUMBER	Business Start Date
01-Jan-1996	02298822000-GRT	01-Jan-1996
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MANPOWER US INC	Monthly	
Mailing Address		
100 W MANPOWER PL		
City and State	Zip Code	
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THIS CERTIFICATE IS NOT TRANSFERABLE

atL04 v40

10977213440397

STATE OF NEW MEXICO CERTIFICATE OF GOOD STANDING AND COMPLIANCE



STATE OF NEW MEXICO
MAGGIE TOULOUSE OLIVER
SECRETARY OF STATE

Certificate of Good Standing and Compliance

IT IS HEREBY CERTIFIED THAT:

MANPOWER US INC.
1767896

the above named entity, a Corporation authorized under the laws of Delaware, is duly authorized to transact business in New Mexico as a Foreign Profit Corporation, under the

Business Corporation Act **53-17-1 to 53-17-20 NMSA 1978**

having filed its Application for Authority on December 21, 1995, and Certificate of Authority issued as of said date.

It is further certified that the fees due to the Office of the Secretary of State which have been assessed against the above named entity have been paid to date and the entity is in good standing and duly authorized to transact business as its existence has not been revoked in New Mexico. This certificate is not to be construed as an endorsement, recommendation, or notice of approval of the entity's financial condition or business activities and practices.

Certificate Issued: **April 18, 2024**

In testimony whereof, the Office of the Secretary of State has caused this certificate to be signed on this day in the City of Santa Fe, and the seal of said office to be affixed hereto.



Maggie Toulouse Oliver
Maggie Toulouse Oliver
Secretary of State

Certificate Validation #10088323

A certificate issued electronically from the New Mexico Secretary of State's office is immediately valid and effective. The validity of a certificate may be established by viewing the **Certificate Validation** option on the Business Filing System at <https://portal.sos.state.nm.us/bfs/online> and following the instructions displayed under **Certificate Validation**.

CITY OF LAS CRUCES BUSINESS REGISTRATION



CITY OF LAS CRUCES
P.O. BOX 20000
LAS CRUCES, NEW MEXICO 88004

2024 - 9

Type
Business Registration License -
BUSINESS SERVICE

Number
4069-23-
Issue Date
01/23/2024
Expires
9/29/2024

**** NOTICE ****

This license becomes null & void if ownership, business name or address is changed. Licensee must apply within 10 days of such changes for transfer, Fees may apply. All applicable building & zoning regulations pertaining to business location must be followed.

Business Name: Manpower US Inc
580 N TELSHOR Blvd
Las Cruces,

***** POST THIS CERTIFICATE IN A CONSPICUOUS PLACE*****

EXHIBIT B

COST PROPOSAL

Preferred Pricing for City of Las Cruces

Titles *Manpower will require written job descriptions with all requirements	Pay Rate Range	Bill Rate Range	Mark-up% <u>Includes</u> Drug Screen & Background Check
Accountant (Journey Level)	20.00 – 50.00	26.80 – 67.00	34%
Accounting Technician	15.00 – 30.00	20.10 – 40.20	34%
Accounting Clerk	15.00 – 30.00	20.10 – 40.20	34%
Administrative Services Support	15.00 – 40.00	20.10 – 53.60	34%
Transcriber	15.00 – 30.00	20.10 – 40.20	34%
Engineer	25.00 – 100.00	33.50 – 134.00	34%
Engineering Technician	17.00 – 40.00	22.78 – 53.60	34%
Custodian – Light Ind.	12.79 – 25.00	17.39 – 34.00	36%
General Labor - Light Industrial	13.00 – 25.00	17.68 – 34.00	36%
Special Event Staff - Clerical	15.00 – 25.00	20.10 – 33.50	34%
Special Event Staff - Light Industrial	13.00 – 25.00	17.68 – 34.00	36%
Special Event Staff - Industrial	13.00 – 25.00	18.20 – 35.00	40%
ALL other Clerical/Administrative positions	15.00 – 50.00	20.10 – 67.00	Bill & Pay Rate determined by job description & requirements 34%
ALL other Light Industrial positions Example: No heavy lifting, No driving	13.00 – 30.00	17.68 – 40.80	Bill & Pay Rate determined by job description & requirements 36%
ALL other <u>Industrial</u> positions Examples: Fork-lift, Labor, Grounds, Heavy lifting, Driving (No CDL) *Higher rate due to risk of injury, Workers Compensation coverage, and driving	13.00 – 30.00	18.20 – 42.00	Bill & Pay Rate determined by job description & requirements 40%

Pricing Assumptions

Our pricing proposal applies to the positions and the locations reflecting the information specified by the City of Las Cruces in the RFP. Should the City of Las Cruces add other positions or locations, we reserve the right to revisit our proposed pricing. Our bill rates include all deductions required by state and federal legislation, including employer's contributions for FICA taxes, providing unemployment and workers' compensation, liability insurance, and fidelity bonding, as well as all other deductions and benefits paid to our associates.

Before Manpower assigns an associate or consultant, we evaluate the specific job description and work environment to properly classify the appropriate worker's compensation code. In our experience providing clerical, industrial, and professional workers to our clients, we have discovered that this analysis is truly one of the most important steps in the evaluation process.

Additionally, we cover all administrative charges related to payroll, including the preparation of W-2 forms at the end of the year. Our price is based upon weekly invoicing delivered via email, payment terms of Net 30, and a check or electronic funds transfer (EFT) method of payment. Alternate payment methods may impact the price and require mutual agreement between the City of Las Cruces and Manpower.

Manpower will include provisions for the City to hire the temporary employee without the payment of a finder's fee or any other fee after the temporary employee has completed no less than ninety (90) days of temporary service to the City.

Manpower reserves the right to modify the rates set forth in proportion to any legislatively mandated or imposed by an agency of the state or federal government, new or increased cost, which may be required by federal, state, or local law such as FICA, FUTA, state unemployment tax, and the Patient Protection and Affordable Care Act. The modification commences upon the effective date of such new or increased cost. Changes include any new or increased cost associated with the passage of a federal or state law mandating any wage increase or benefits for associates.



CITY OF LAS CRUCES

SERVICE AGREEMENT

23-24-047
Temporary
Employment
Services

THIS AGREEMENT made and entered into on this ____ day of June, 2024 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and RS Employment Services, LLC dba RedCap Staffing, of 1206 E. Lohman Ave., Las Cruces, NM, 88001, hereinafter called "CONTRACTOR".

1. PROJECT DESCRIPTION

Temporary employment services to be provided on an as needed basis. Various purchase orders will be issued according to the needs of CITY departments and Joint Power Agreement (JPA) agencies.

2. SCOPE OF SERVICES

In a satisfactory and proper manner, the CONTRACTOR shall perform SERVICES as proposed in response to the CITY'S RFP No. 23-24-047 as set forth in Exhibit A, attached hereto and made a part of this Agreement.

3. APPROPRIATIONS

The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

4. COMPENSATION

The CITY shall compensate CONTRACTOR for the performance of SERVICES under this Agreement an amount as proposed in response to the CITY's RFP No. 23-24-047, plus applicable taxes as set forth in Exhibit B, attached hereto and made part of this Agreement. CONTRACTOR shall perform the SERVICES upon receipt of a purchase order or written Notice to Proceed from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed. CONTRACTOR shall submit invoices weekly or biweekly. CITY shall pay invoices Net 30 days upon receipt of undisputed invoice.

CONTRACTOR is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. CONTRACTOR agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

5. DEVOTION OF ADEQUATE TIME

CONTRACTOR will devote the necessary hours each week to the performance of project that are required by the CITY, and it will serve the CITY, diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE

This Agreement shall become effective on July 1, 2024 for a term of four (4) years through June 30, 2028. CONTRACTOR shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and CONTRACTOR.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall CONTRACTOR be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request CONTRACTOR to perform other extra services not incorporated within the Services set forth in this Agreement. If the CONTRACTOR is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the CITY, CONTRACTOR shall so notify the CITY, of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the CONTRACTOR within five (5) business work days from the date of receipt of CONTRACTOR'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE CONTRACTOR

In the event a condition is identified by the CONTRACTOR which, in the opinion of the CONTRACTOR, changes the services, costs, and/or time required for performance under this Agreement, the CONTRACTOR shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business work days from the date of receipt of CONTRACTOR'S notification.

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of CONTRACTOR, and without the fault or negligence of CONTRACTOR, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. CONTRACTOR shall provide the CITY, with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by CONTRACTOR to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in

accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY, for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to CONTRACTOR.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY, deliver to the CITY, the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

CONTRACTOR will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S, right to recover excessive or illegal payments. CONTRACTOR will retain records for five (5) years after the completion of the project.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY, will be kept confidential and CONTRACTOR will not disclose to any other party, directly or indirectly, without the CITY'S, prior written consent unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the CONTRACTOR shall be the sole property of the CITY, and shall be delivered to the CITY, when requested and at the end of the Agreement.

14. INDEPENDENT CONTRACTOR

CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY, CONTRACTOR, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY, by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR's employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to perform services for other parties; and (ii) CONTRACTOR may perform for its own account other professional services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as otherwise specifically set forth herein, neither CONTRACTOR nor CITY, shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT

CONTRACTOR shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

CONTRACTOR shall obtain and maintain at least the following insurance at its own cost and expense during the life of this Agreement, and shall require Subcontractors, if any, to maintain the same insurance during the life of the subcontracted work:

1. Professional Liability
 - a. \$1,000,000 per occurrence

2. Commercial General Liability Insurance
 - a. \$1,000,000 per occurrence / \$2,000,000 aggregate
 - b. Coverage must include premises and operations, products and completed operations, and personal and advertising injury.
 - c. The City of Las Cruces must be named as an Additional Insured for all coverages listed above on endorsements acceptable to the City.
 - d. Coverage must be primary and non-contributory.
 - e. Coverage must be per project or per location.
 - f. Coverage must be on an occurrence form.
 - g. Subrogation must be waived.
3. Commercial Auto Liability
 - a. \$1,000,000 per occurrence
 - b. Coverage must be for “owned, leased, hired, and non-owned autos” or “any autos.”
4. Workers’ Compensation and Employers Liability
 - a. Statutory Limits
 - b. Employer liability – \$1,000,000 each accident, \$1,000,000 each employee by disease, \$1,000,000 policy limit
 - c. Subrogation must be waived.

Endorsements for additional insured coverage and waivers of subrogation must be provided as a condition of this Agreement and shall be noted on the certificate.

CONTRACTOR shall furnish the CITY with a certificate(s) of insurance showing CONTRACTOR and Subcontractors, if any, have complied with this Article. The CONTRACTOR shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

CONTRACTOR shall indemnify, defend, and hold harmless the CITY, from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused in whole or in part by, resulting in whole or in part from, or arising in whole or in part out of the negligent acts, errors, or omissions of CONTRACTOR, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

CONTRACTOR shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the CONTRACTOR’S services or any work done pursuant to this Agreement, including anti-discrimination.

20. BREACH

In the event CONTRACTOR breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY, shall give CONTRACTOR written notice of such breach. In the event CONTRACTOR fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy CONTRACTOR'S breach and recover any and all costs and expenses in so doing from CONTRACTOR.

21. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and CONTRACTOR under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

22. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY: City of Las Cruces
 PO Box 20000
 Las Cruces, NM 88004
 ATTENTION: Greg Gonzalez, Buyer I

With Copies to: Purchasing Manager

TO CONTRACTOR: RS Employment Services, LLC dba RedCap Staffing
 1206 E. Lohman Ave.
 Las Cruces, NM 88001
 ATTENTION: Steve Elsey, President

23. SCOPE OF AGREEMENT

This Agreement incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof and that all such covenants, agreements, and understandings have been merged into this written agreement. No prior agreement or understanding verbal or otherwise of the parties or their agents shall be valid or enforceable unless embodied in this agreement.

24. SEVERABILITY

The parties agree that each provision of this Agreement is severable and the invalidity or unenforceability of any one or more of the provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

25. CONFLICT OF INTEREST

CONTRACTOR represents and warrants that CONTRACTOR has no business, professional, personal, or other interest, including, but not limited to, the representation of other clients, that would conflict in any manner or degree with the performance of its obligations under this Agreement. If any such actual or potential conflict of interest arises under this Agreement, CONTRACTOR shall immediately inform the CITY in writing of such conflict. If, in the reasonable judgement of the CITY, such conflict poses a conflict to and with the performance of CONTRACTOR'S obligations under this Agreement, or is otherwise a violation of the CITY'S current policy or ordinances, then the CITY may terminate the Agreement immediately upon written notice to CONTRACTOR; such termination of the Agreement shall be effective upon the receipt of such notice by CONTRACTOR.

RS EMPLOYMENT SERVICES, LLC
DBA REDCAP STAFFING

CITY OF LAS CRUCES

BY: _____
Steve Elsey
President

BY: _____
Alicia Hernandez
Purchasing Manager

Date

Date

APPROVED AS TO FORM

City Attorney

EXHIBIT A

SERVICES

A. General Conditions

Temporary services are requested as needed throughout the contract period. Temporary employees will be subject to all applicable City work rules and their amendments. The contract will not guarantee that any specific amount of services will be obtained. Orders will only be placed when the City identifies a need and issues a purchase order or written Notice to Proceed. It shall be the Contractor's responsibility to meet the City's requirements. The contract(s) are non-exclusive, and the City reserves the right to obtain services on the open market to serve the best interest of the City.

B. Specific Conditions

1. The Contractor(s) shall:

- a. Designate a coordinator as a local single point of contact (SPOC), as well as a backup, that will be accessible during normal work hours to receive temporary employment requests, handle and assist in any and all inquiries regarding scheduling, billing, status of orders, availability, contract pricing, contract compliance requirements, and problem solving. Normal work hours for the City are from 8:00am until 5:00pm Monday through Friday, with the exception of designated holidays.
- b. Refer personnel that have successfully undergone applicable background check and drug testing upon request of the city and provide verification that these pre-employment screenings have been successfully completed. Personnel shall be immediately productive, requiring minimal training and orientation.
- c. Be responsible for obtaining and informing and orienting its personnel on all relevant rules, regulations, policies, etc. of the City. Written acknowledgement of receipt of this information by the employee shall be provided to the City.
- d. Be given four (4) business hours and one (1) business day to confirm availability of a temporary employee to fill a request. However, if Contractor is unable to fill the job request, the City may fill the requirement from other qualified sources. City personnel will endeavor to give as much notice as is practical and possible.
- e. Ensure all temporary employees referred to the City have been screened for minimum qualifications required for the position.
- f. Be notified by the City in the event any temporary employee fails to adhere to the City's directions, policies, procedures, security / safety regulations, or demonstrates that they are not qualified to perform the required duties, and the Contractor shall replace the temporary employee within two (2) working days at

no cost to the City (including, but not limited to, training time; background checks; ID badges; drug testing; etc.). This also applies to any temporary employee that leaves for any reason before the assignment is completed. When a temporary employee leaves, at any time, the Contractor shall be responsible for any unreturned keys, ID badges, etc. If such items are not returned to the City within five (5) working days, the City shall send an invoice to the Contractor for the exact replacement cost. The Contractor shall pay this invoice within twenty (20) days.

- g. Agree to compensate employees in accordance with the requirements of the Fair Labor Standards Act (FLSA) as amended, New Mexico State Law and the New Mexico Workers' Compensation Act as amended, and the City's minimum wage ordinance. Additionally, the Contractor must ensure that each temporary employee acknowledges, in writing, their exempt or non-exempt FLSA status, whichever is applicable.
- h. Include provisions for the City to hire the temporary employee without payment of a finder's fee or any other fee, after the temporary employee has completed no less than ninety (90) days of temporary service to the City.
- i. Submit a legible, detailed invoice to the requesting City department and the Disbursements (Accounts Payable) office on a weekly or bi-weekly basis before payment(s) can be made. The City will pay invoices within twenty (20) days. Tax for services must be included in the invoice. At a minimum, the invoice must provide the following information:
 - i. Company name, address and contact information
 - ii. City bill-to name and contact information
 - iii. Name and title of hire, hours worked and hourly rate
 - iv. Dates of service
 - v. Extended price
 - vi. Total amount

Preferably, invoices should be sent via e-mail to disbursements@lascruces.gov.

Invoices can also be mailed to:

City of Las Cruces
Attention: Accounts Payable
PO Box 20000
Las Cruces, NM 88004

- j. Furnish, upon request by the City, a monthly usage delineating the acquisition activity governed by the contract. The format of the report shall be approved by the City and shall disclose the quantity and dollar value of each contract item by individual department.
2. The Contractor shall provide contracted employees who shall:
- a. Based on position and services to be provided to the City, be subject to various criminal checks, fingerprinting, background checks, and applicable drug testing

upon whose results the City may choose to base its decision to accept an individual for assignment. This option would allow the temporary employee access to areas within the City such as court buildings, and any restricted areas.

- b. Conform in all respects to fire and safety / security regulations while on the City's premises.
 - c. Receive training on preventing discrimination and harassment and have received and acknowledged receipt of the City's Discrimination Policy as provided by the City.
 - d. Be able to read, write, speak, and comprehend the English language in accordance with the minimum requirements of the position description, unless otherwise requested.
 - e. Be dressed appropriately and with the equipment specified by the City as being required to perform work in the service categories covered under this contract. The City requires most field personnel to have safety shoes, at the expense of the temporary employee. The safety shoes must meet American National Standards Institute (ANSI) and Occupational Safety and Health Administration (OSHA) standards.
 - f. Be respectful of all people with whom they interact, including City employees and customers of the City. The City reserves the right to reject any candidate that does not exhibit common courtesy and cordiality towards all individuals with which they may come in contact.
 - g. Limit personal mobile phone calls to emergency calls while on duty.
 - h. Report to an assignment at the time designated by the City. The work week shall be Monday through Friday. Normal business hours are 8:00am to 5:00pm, and occasionally weekends, excluding City holidays. There may be requirements or alternate schedules which require evening, weekend, holiday and overtime work. Weekend work shall be defined as Saturday and Sunday during the same week. Weekend or holiday work will not be considered overtime unless in excess of forty (40) hours worked.
 - i. Be entitled to lunch periods ranging from 30-60 minutes as determined by the City. No payments shall be made for lunch periods.
 - j. In some instances, require additional types of certifications such as First Aid and CPR certification. Temporary employees shall have these certifications prior to applying for such positions. Temporary employees shall maintain and recertify these certifications at their own expense.
3. The Contractor shall accept that the City shall:
- a. Have the right to interview and / or screen all prospective personnel, and to accept or reject any or all based upon the required skills and the background and experience of each individual. A resumé may be required upon request prior to an interview.
 - b. Supervise Contractor's employees. The City shall have direct control over the daily activities of the Contractor's employees.
 - c. Reserve the right to add and / or delete services provided under this contract. If a requirement is deleted, payment to the Contractor will be reduced proportionately to the amount of service reduced in accordance with the proposal price. If

additional services are required from this contract, prices for such additions will be negotiated by the Contractor and the City.

4. The Contractor shall accept a contract provision that any request for fee adjustments must be submitted sixty (60) days prior to the current contract annual anniversary date. Requests for adjustment in cost of labor must be supported by appropriate documentation. If the City agrees to the adjusted fee, the City shall issue written approval of the change in the form of a contract amendment to be executed by both parties. The reasonableness of the request will be determined by comparing the request with the Consumer Price Index or by performing a market survey.

City of Las Cruces

Temporary Employment Services

RFP Number: 23-24-047

Submission From: RS Employment Services LLC DBA RedCap Staffing



Key Contacts

Jeremie Elsey
District Manager, New Mexico
txcorp@redcapstaffing.com
(915) 269-8965

Monica Diaz
Branch Manager, Las Cruces
lc@redcapstaffing.com
(575) 222-4166

Business Address

RedCap Staffing, 1206 E. Lohman Ave, Las Cruces, NM 88001, (575) 222-4166



Table of Contents

Cover Page.....1

Table of Contents.....2

Cover Letter.....3

RFP Compliance Declaration Page.....4

Technical Proposal Content5

Evaluation Criteria No. 1.....5

Evaluation Criteria No. 1 cont6

Evaluation Criteria No. 27

Capabilities Statement.....8

Evaluation Criteria No. 3.....9

Business Registration License.....10

Tax & Revenue Registration Certificate.....11

W912

Certificates of Insurance.....13

Certificates of Insurance.....14

April 23, 2024

Brittany Treadway

btreadway@lascruces.gov

Purchasing Specialist

Subject: Proposal for RFP #23-24-047 – Temporary Employment Services

Dear Brittany,

RedCap Staffing would be honored to continue its partnership with The City of Las Cruces through this proposal. Since 2017 RedCap Staffing has stood by to serve The City in a variety of capacities and we remain committed to providing high levels of customer service and service delivery if given another opportunity. In this time frame we have proven ourselves to be a reliable partner and have had the opportunity to serve various departments within the city including the Water Services Department, Energy Management Program, Gas Section, Public Works Department & The Solid Waste Section.

The City of Las Cruces can count on Redcap Staffing to supplement their existing workforce to meet fluctuating production requirements or quickly grow their workforce to handle seasonal spikes in workload. With a range of workforce solutions, RedCap Staffing can help The City of Las Cruces reduce fixed costs, increase operational efficiency, and improve productivity by ensuring they have the “right size” workforce.

Sincerely



Jeremie Elsey

District Manager, New Mexico

txcorp@redcapstaffing.com

(915) 269-8965



RFP COMPLIANCE DECLARATION

RFP TITLE: Temporary Employment Services

RFP NO.: 23-24-047

DUE DATE/TIME: April 23, 2024 / 4:00 p.m.

In compliance with the requirements of this RFP, I, the undersigned, offer and agree to furnish any or all materials and/or services to the City of Las Cruces within the time agreed.

I further certify that this company has not been debarred, suspended, or otherwise made ineligible for participation in Federal Assistance programs under Executive Order 12549 Debarment and Suspension as described in the Federal Rules and Regulations.

Receipt of Addenda Nos.: 2 is hereby acknowledged (where none received, place a zero in this space)

Company Name and Address:	
RS Employment Services LLC	Authorized Signature
DBA RedCap Staffing	Jeremie Elsey
1206 E Lohman Ave	Typed or Printed Name
Las Cruces, NM 88001	District Manager
	Title
	txcorp@redcapstaffing.com
	Email Address

Telephone number (575) 222-4166 Fax number (575) 526-1699

NM Tax & Revenue Dept. CRS # 03-382078-00-3

Current NM Secretary of State Business ID # 5428688 (corporations only)

Current CLC Business Registration # 17323-21 (respondents located in Las Cruces only)

Federal I.D. number 82-1742049 (mandatory for all respondents)

NM Resident Certificate from NM Tax and Revenue Department enclosed ☒ Yes ☐ No

THIS FORM MUST BE COMPLETED AND INCLUDED WITH PROPOSAL
FAILURE TO INCLUDE WILL SUBJECT RESPONSE TO REJECTION



Technical Proposal Content

Since our founding in the City of Las Cruces, NM in 2017, RedCap Staffing has become a trusted temporary staffing company known for integrity, competence, and execution. RedCap Staffing has a positive reputation in the industry because of our commitment to safety and the highest standards of ethical behavior. Ethics and compliance form the foundation of our business activities and are at the forefront of every business decision we make and every action we take.

RedCap Staffing customers count on us to supplement their existing workforce to meet fluctuating production requirements. With a range of workforce solutions for businesses large and small, we help our clients reduce fixed costs, increase operational efficiency, and improve productivity by ensuring they have the right size workforce.

Evaluation Criteria No. 1

Why you should choose RedCap Staffing...

To remain competitive and to grow your business, you need a competent workforce and a partner that knows your industry. At RedCap Staffing, we offer a range of specialized services and provide creative solutions to improve your productivity and drive growth.

RedCap Staffing - Offers general labor staffing solutions for many different types of roles, including on-demand, project-based and temp-to-hire workers. If you're looking for general labor staffing solutions, look no further than RedCap Staffing. We specialize in quick and reliable on-demand labor and highly skilled workers. We support a wide range of industries, including construction, manufacturing and logistics, retail, and hospitality. Whether you need one worker dispatched or require a coordinated effort to fill hundreds of openings, RedCap Staffing can put your workforce within reach.

RedCap Skilled Trades - When you need more than general labor staffing, RedCap Skilled Trades gives you access to specialized labor — people with the training, skills and certification needed to take on skilled roles in a variety of settings. With the combined power of RedCap Staffing and RedCap Skilled Trades, you can connect with general and skilled workers in virtually every industry. When you combine RedCap Staffing's expert general labor staffing solutions with RedCap Skilled Trades' ability to deliver quality tradespeople, you'll find that our proven solutions are the best option for contractors and subcontractors looking to find qualified construction workers quickly. This means we will recruit, screen and dispatch the right employees with the right skills, at the right time all to get the job done on time, every time.

RedCap Energy takes pride in providing best-in-class solar construction services for community, commercial and utility-scale projects. We are driven by our mission to meet the nation's energy demands while building a more sustainable future. We partner with energy contractors to support construction projects across the country. Drawing on our industry expertise, we have successfully supported the timely completion many solar projects throughout New Mexico and West Texas.

RedCap Staffing is also leading the industry in workplace safety. Safe workers and safe job sites are at the core of everything we do. Providing access to industry leading safety training and safe



worksites goes hand and hand. We have partnered with the GotSafety 2.0 training platform to provide access to over 1300+ safety lessons that RedCap Staffing employees can view right from their phones. Employees can sign off, view safety documents, and fill out safety/inspection forms all in one place. Owners & HR Managers can track employee login, training completion, and documentation in a central location.

RedCap Staffing Process...

Our best match dispatch philosophy puts the needs of the customer first in every engagement. When we meet our clients, we seek to understand the complexities of their operation and the type of culture they hope to achieve as well as their goals and vision. This information will be recorded in the customer profile and be used to guide dispatch decisions.

Our facilities are open from 6:00 am – 6:00 pm Monday through Saturday. Because we encourage our workforce to present themselves every day when they are looking for a job, we frequently have packed lobbies with candidates applying for a long list of new roles. We maintain an employment database of over 24,000 candidates in the Las Cruces metro area. On-demand requests for help will be satisfied within 1 – 2 hours and requests for skilled roles will be satisfied within 3 – 7 days. Same-day replacements are available for all low – medium skilled roles.

During the first 3 days of all new assignments, RedCap staffing will confirm attendance with each placement. RedCap Staffing will also seek to learn and mirror the attendance expectations of The City of Las Cruces so that we may communicate these expectations to new and returning employees

RedCap Staffing recruitment process is individualized and specific to each position. We will filter candidates by skill, verify references, and conduct progressive interviews to match our employees to the skills our clients are seeking. If our clients want to see resumes first and conduct interviews, we have this built into the process.

Each of our skilled trades recruitment lines of business is assigned a specific recruiter and meaningful follow-up is initiated at the point of sale. A team of recruiters then matches these individuals to the open assignments listed on our recruitment board using resumes, reference checks, 1st interview & 2nd Interview procedure.

RedCap Staffing continues to support our customer and employees after we have dispatched or assigned a candidate to a specific role. After an assignment has been made, we perform an initial quality check via telephone, to ensure the worker has arrived on time and is meeting our customers expectation. At the point of arrival, each employee is covered by our 4-hour quality guarantee. If someone isn't meeting your expectations within the first 4 hours, send them back and a replacement will be sent free of charge. After initial contact has been made to verify attendance, additional checks will be performed when applicants are asked not to return.

RedCap Staffing continues to support our clients and employees. We perform routine and random site visits to verify attendance and to ensure the highest safety standards. Site evaluation forms will be used to record present safety awareness and execution and to provide documentation to support RedCap Staffing safety compliance.



Evaluation Criteria No. 2

Steve Elsey is the President of RedCap Staffing, responsible for leading the profitable growth of the organization while maintaining the values and standard of service that have been foundational to the company's success. Steve has played a crucial role in expanding the agency's reach across multiple states, including Texas, New Mexico, Louisiana, Maine, New Hampshire & Florida. Steve's highest priority is developing leaders throughout the organization who share our passion, vision, and commitment. Steve has an undergraduate degree from Park University and has held several leadership positions in his 25 years in the staffing industry.

Away from the office Steve is active in the community supporting people with Down Syndrome through his volunteer work at Gigi's Playhouse. Gigi's playhouse is an achievement center for individuals with Down Syndrome which provides free therapeutic and educational services to Individuals with Down Syndrome.

Deanne Elsey, Vice President of Human Resources, is an effective executive with a proven record of creating and executing winning strategies. Deanne earned her degree in Multidisciplinary Studies from the University of Texas at El Paso before launching her staffing career. Her motivational leadership style is based on a model of Stretching, Connecting, and Supporting. She is passionate about stretching teams beyond what they can see is possible, connecting them to knowledgeable experts and resources, and supporting them with encouragement, feedback, and coaching.

Deanne is also an active Volunteer at Gigi's Playhouse engaged in numerous efforts to launch new programs and fundraisers to through the years.

Jeremie Elsey, Vice President, is a sales and management professional with 15 years of Staffing & Recruiting experience. Jeremie has spent the last 10 years focused on growth, opening new markets across the US. He has proven to be an effective leader skilled in development and oversight of high-performing, multi-disciplined and quality-oriented teams. Jeremie is highly skilled in streamlining operations and improving output through continuous process improvement and cross-functional collaboration and is responsible for service delivery throughout the New Mexico and Texas regions.

Monica Diaz has been an integral part of RedCap Staffing's success story, serving in a variety of roles. Monica started with the company on-site recruiter during operation Allies Welcome at the Dona Ana Range Complex and Holloman Air Force Base. Monica was then selected to lead the on-site team where she performed exceptionally well. Monica has since been promoted again and is now the Branch Manager in Las Cruces and oversees all sales and recruiting personnel in the southern New Mexico market.



RedCap Staffing
TXCorp@RedCapStaffing.com

O: (866) 650-JOBS (5627)
C: (915) 269-8965

El Paso, TX	Waco, TX
Lubbock, TX	Las Cruces, NM
Midland, TX	Albuquerque, NM
Abilene, TX	Baton Rouge, LA
Amarillo, TX	New Orleans, LA

NAICS Codes:
561311 – Employee Recruitment Services
561312 – Executive Search Services
561320 – Temporary Help Services

UNSPSC Codes:
80111600 – Temporary Personnel Services
80111601 – Temporary Clerical & Administrative Assistance

NIGP Commodity Codes:
961 – 30 – 23 – Employment Agency Services for the Hiring of Personnel
961 – 30 – 65 – Employment Agency Services

Service Industries
Manufacturing
Industrial/Warehouse
Hospitality & Events
Construction & Skilled Trades
Facility Maintenance
Janitorial & Custodial
Disaster Response
Administrative & Clerical

Capabilities Statement

When you need temporary staffing services, for one day, one project, one season or one year, talk to us!

We have the largest network of pre-qualified candidates in each market that we serve. We help our customers find temporary, temp to hire, and direct hires through a streamlined hiring process. And you get them quickly – we can dispatch the same day, often within hours.

Our process is designed for efficiency, but it is also accurate and focused on safety. RedCap Staffing offers state-of-the-art safety training that is accessible to our employees and clients on demand, from nearly any device, for any situation. We are passionate about ensuring our employees receive the precise training you require so they are prepared to work safely and productively on the job.

Areas of Expertise	Unique Capabilities
- Labor On-Demand provides access to quality labor near you in as little as one hour - Skilled Trades recruitment puts Skilled tradespeople on your project with one call - Direct Hire Recruitment allows you to quickly scale your workforce with no long term commitments	- E-Verify Compliance - State, Local & Federal Background checks - Sex Offender Registry Checks - Employment Verifications - Access to over 100,000 candidates in our labor pool 4 hour quality guarantee

Our Commitment to Service Excellence

“We deliver the number of workers requested, when and where they are requested, ready, willing & able to perform their duties. “

Past Government Performance





Evaluation Criteria No. 3

RedCap Staffing Reference List

1. City of Las Cruces

Water Services Department - Vince Castillo & Rosa Ochoa - (575)

528-3722 Energy Management Program - Lucio Garcia - (575) 528-3505

Utilities Department Gas Section - Pete Duran - (575) 528-3632

Management of Information Systems - Courtney Granite - (575)

528-3402 Public Works Department Streets Section - John Mendes -

(575) 541-2595 Solid Waste Section - Phillip Glasson - (575) 528-3632

2. Las Cruces Convention Center

Las Cruces Convention Center - Greg Wagner - (575) 526-0112

3. FXI

FXI Santa Theresa - Patricia Guzman - (254) 716-2735

4. Texas Tech University

Jones AT&T Stadium - Leslie & Jesse - (806) 834-0731 & (806)

778-9827

5. Bradburry Stamm

Roadrunner Site - Renee Pineda - (915) 867-4530



CITY OF LAS CRUCES
P.O. BOX 20000
LAS CRUCES, NEW MEXICO 88004

2024 - 7

Type
Business Registration License -
SERVICE

Number
17323-21
Issue Date
03/28/2024
Expires
7/29/2024

**** NOTICE ****

This license becomes null & void if ownership, business name or address is changed. Licensee must apply within 10 days of such changes for transfer. Fees may apply. All applicable building & zoning regulations pertaining to business location must be followed.

Business Name: REDCAP STAFFING 3000
1206 E LOHMAN AVE
Las Cruces, NM

*** POST THIS CERTIFICATE IN A CONSPICUOUS PLACE***



Audit & Compliance Division
Albuquerque District

Michelle Lujan Grisham
Governor

Stephanie Schardin Clarke
Cabinet Secretary

REDCAP STAFFING
PO BOX 7850
GAINESVILLE, GA 30504-0136

February 10, 2023
NM Business Tax ID:
03-382078-00-3
Letter ID: L0274523248

STATE OF NEW MEXICO TAXATION AND REVENUE DEPARTMENT
REGISTRATION CERTIFICATE

Date ID Issued 01-Jul-2017	IDENTIFICATION NUMBER 03382078003-GRT	Business Start Date 01-Jul-2017
Business Location 1206 E LOHMAN AVE		Business End Date
City and State LAS CRUCES, NM		Zip Code 88001-3265
Taxpayer Name RS EMPLOYMENT SERVICES LLC		Taxpayer Type LLC
Firm Name REDCAP STAFFING		Filing Frequency Monthly
Mailing Address PO BOX 7850		
City and State GAINESVILLE, GA		Zip Code 30504-0136

Form Revised 02/2003

This Registration Certificate is issued pursuant to Section 7-1-12 NMSA 1978 for Gross Receipts, County Gross Receipts, and Municipal Gross Receipts Taxes. This copy must be displayed conspicuously in the place of business. Any purchaser of the registrants business is subject to certain requirements under Section 7-1-61 NMSA 1978.

Cabinet Secretary

By 

Any inquiries concerning your Identification Number should be addressed to the Audit & Compliance Division, P.O. Box 630, Santa Fe, New Mexico 87504-0630

THIS CERTIFICATE IS NOT TRANSFERABLE

STATE OF NEW MEXICO TAXATION AND REVENUE DEPARTMENT
REGISTRATION CERTIFICATE

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Firm Name REDCAP STAFFING		Filing Frequency Monthly
Mailing Address PO BOX 7850		
City and State GAINESVILLE, GA		Zip Code 30504-0136

Form Revised 02/2003

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Cabinet Secretary

By 

Any inquiries concerning your Identification Number should be addressed to the Audit & Compliance Division, P.O. Box 630, Santa Fe, New Mexico 87504-0630

THIS CERTIFICATE IS NOT TRANSFERABLE

EXHIBIT B

COST PROPOSAL



RFP - Temporary Employment Services

RFP #23-24-047

Cost Proposal Content

Submission from:

RedCap Staffing

1206 E Lohman Ave,

Las Cruces, NM 88001

Job Category	Mark Up Rate ▼ Pay Rate ►	\$13.00	\$14.00	\$15.00	\$16.00	\$17.00	\$20.00	\$30.00
Clerical & Administrative	1.35	\$17.55	\$18.90	\$20.25	\$21.60	\$22.95	\$27.00	\$40.50
<i>Data Entry, Filing, Reception & Secretarial</i>								
Professional Staff	1.35	\$17.55	\$18.90	\$20.25	\$21.60	\$22.95	\$27.00	\$40.50
<i>Executives, Accounting, Engineers & Human Resource Professionals</i>								
Light Labor	1.45	\$18.85	\$20.30	\$21.75	\$23.20	\$24.65	\$29.00	\$43.50
<i>Janitorial, Litter Clean-up, Light Maintenance & Simple Assembly</i>								
Heavy Labor	1.5	\$19.50	\$21.00	\$22.50	\$24.00	\$25.50	\$30.00	\$45.00
<i>Heavy Lifting not to exceed 100 pounds, Construction & Set-up of sound/light equipment</i>								
Service Staff	1.45	\$18.85	\$20.30	\$21.75	\$23.20	\$24.65	\$29.00	\$43.50
<i>General Labor, Warehouse, Maintenance & Custodial</i>								
Information Technology	1.35	\$17.55	\$18.90	\$20.25	\$21.60	\$22.95	\$27.00	\$40.50
<i>Helpdesk, Web Developers, Engineers, Security Specialists & Analysts</i>								
Special Services	1.44	\$18.72	\$20.16	\$21.60	\$23.04	\$24.48	\$28.80	\$43.20
<i>Attendants, Concessions, Food Service, Hospitality</i>								
Skilled Trades Staff	1.45	\$18.85	\$20.30	\$21.75	\$23.20	\$24.65	\$29.00	\$43.50
<i>HVAC Technicians, Plumbers, Electricians & Carpenters</i>								



CITY OF LAS CRUCES

SERVICE AGREEMENT

23-24-047
Temporary
Employment
Services

THIS AGREEMENT made and entered into on this ____ day of June, 2024 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and Sparrow Company, LLC, of 100 Executive Center Blvd., Suite C, El Paso, TX, 79902, hereinafter called "CONTRACTOR".

1. PROJECT DESCRIPTION

Temporary employment services to be provided on an as needed basis. Various purchase orders will be issued according to the needs of CITY departments and Joint Power Agreement (JPA) agencies.

2. SCOPE OF SERVICES

In a satisfactory and proper manner, the CONTRACTOR shall perform SERVICES as proposed in response to the CITY'S RFP No. 23-24-047 as set forth in Exhibit A, attached hereto and made a part of this Agreement.

3. APPROPRIATIONS

The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

4. COMPENSATION

The CITY shall compensate CONTRACTOR for the performance of SERVICES under this Agreement an amount as proposed in response to the CITY'S RFP No. 23-24-047, plus applicable taxes as set forth in Exhibit B, attached hereto and made part of this Agreement. CONTRACTOR shall perform the SERVICES upon receipt of a purchase order or written Notice to Proceed from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed. CONTRACTOR shall submit invoices weekly or biweekly. CITY shall pay invoices Net 30 days upon receipt of undisputed invoice.

CONTRACTOR is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. CONTRACTOR agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

5. DEVOTION OF ADEQUATE TIME

CONTRACTOR will devote the necessary hours each week to the performance of project that are required by the CITY, and it will serve the CITY, diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE

This Agreement shall become effective on July 1, 2024 for a term of four (4) years through June 30, 2028. CONTRACTOR shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and CONTRACTOR.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall CONTRACTOR be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request CONTRACTOR to perform other extra services not incorporated within the Services set forth in this Agreement. If the CONTRACTOR is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the CITY, CONTRACTOR shall so notify the CITY, of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the CONTRACTOR within five (5) business work days from the date of receipt of CONTRACTOR'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE CONTRACTOR

In the event a condition is identified by the CONTRACTOR which, in the opinion of the CONTRACTOR, changes the services, costs, and/or time required for performance under this Agreement, the CONTRACTOR shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business work days from the date of receipt of CONTRACTOR'S notification.

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of CONTRACTOR, and without the fault or negligence of CONTRACTOR, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. CONTRACTOR shall provide the CITY, with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by CONTRACTOR to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in

accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY, for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to CONTRACTOR.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY, deliver to the CITY, the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

CONTRACTOR will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S, right to recover excessive or illegal payments. CONTRACTOR will retain records for five (5) years after the completion of the project.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY, will be kept confidential and CONTRACTOR will not disclose to any other party, directly or indirectly, without the CITY'S, prior written consent unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the CONTRACTOR shall be the sole property of the CITY, and shall be delivered to the CITY, when requested and at the end of the Agreement.

14. INDEPENDENT CONTRACTOR

CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY, CONTRACTOR, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY, by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR's employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to perform services for other parties; and (ii) CONTRACTOR may perform for its own account other professional services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as otherwise specifically set forth herein, neither CONTRACTOR nor CITY, shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT

CONTRACTOR shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

CONTRACTOR shall obtain and maintain at least the following insurance at its own cost and expense during the life of this Agreement, and shall require Subcontractors, if any, to maintain the same insurance during the life of the subcontracted work:

1. Professional Liability
 - a. \$1,000,000 per occurrence

2. Commercial General Liability Insurance
 - a. \$1,000,000 per occurrence / \$2,000,000 aggregate
 - b. Coverage must include premises and operations, products and completed operations, and personal and advertising injury.
 - c. The City of Las Cruces must be named as an Additional Insured for all coverages listed above on endorsements acceptable to the City.
 - d. Coverage must be primary and non-contributory.
 - e. Coverage must be per project or per location.
 - f. Coverage must be on an occurrence form.
 - g. Subrogation must be waived.
3. Commercial Auto Liability
 - a. \$1,000,000 per occurrence
 - b. Coverage must be for "owned, leased, hired, and non-owned autos" or "any autos."
4. Workers' Compensation and Employers Liability
 - a. Statutory Limits
 - b. Employer liability – \$1,000,000 each accident, \$1,000,000 each employee by disease, \$1,000,000 policy limit
 - c. Subrogation must be waived.

Endorsements for additional insured coverage and waivers of subrogation must be provided as a condition of this Agreement and shall be noted on the certificate.

CONTRACTOR shall furnish the CITY with a certificate(s) of insurance showing CONTRACTOR and Subcontractors, if any, have complied with this Article. The CONTRACTOR shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

CONTRACTOR shall indemnify, defend, and hold harmless the CITY, from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused in whole or in part by, resulting in whole or in part from, or arising in whole or in part out of the negligent acts, errors, or omissions of CONTRACTOR, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

CONTRACTOR shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the CONTRACTOR'S services or any work done pursuant to this Agreement, including anti-discrimination.

20. BREACH

In the event CONTRACTOR breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY, shall give CONTRACTOR written notice of such breach. In the event CONTRACTOR fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy CONTRACTOR'S breach and recover any and all costs and expenses in so doing from CONTRACTOR.

21. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and CONTRACTOR under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

22. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY: City of Las Cruces
 PO Box 20000
 Las Cruces, NM 88004
 ATTENTION: Greg Gonzalez, Buyer I

With Copies to: Purchasing Manager

TO CONTRACTOR: Sparrow Company, LLC
 100 Executive Center Blvd., Suite C
 El Paso, TX 79902
 ATTENTION: David Fishman, CEO

23. SCOPE OF AGREEMENT

This Agreement incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof and that all such covenants, agreements, and understandings have been merged into this written agreement. No prior agreement or understanding verbal or otherwise of the parties or their agents shall be valid or enforceable unless embodied in this agreement.

24. SEVERABILITY

The parties agree that each provision of this Agreement is severable and the invalidity or unenforceability of any one or more of the provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

25. CONFLICT OF INTEREST

CONTRACTOR represents and warrants that CONTRACTOR has no business, professional, personal, or other interest, including, but not limited to, the representation of other clients, that would conflict in any manner or degree with the performance of its obligations under this Agreement. If any such actual or potential conflict of interest arises under this Agreement, CONTRACTOR shall immediately inform the CITY in writing of such conflict. If, in the reasonable judgement of the CITY, such conflict poses a conflict to and with the performance of CONTRACTOR'S obligations under this Agreement, or is otherwise a violation of the CITY'S current policy or ordinances, then the CITY may terminate the Agreement immediately upon written notice to CONTRACTOR; such termination of the Agreement shall be effective upon the receipt of such notice by CONTRACTOR.

SPARROW COMPANY, LLC

CITY OF LAS CRUCES

BY: _____
David Fishman
CEO

BY: _____
Alicia Hernandez
Purchasing Manager

Date

Date

APPROVED AS TO FORM

City Attorney

EXHIBIT A

SERVICES

A. General Conditions

Temporary services are requested as needed throughout the contract period. Temporary employees will be subject to all applicable City work rules and their amendments. The contract will not guarantee that any specific amount of services will be obtained. Orders will only be placed when the City identifies a need and issues a purchase order or written Notice to Proceed. It shall be the Contractor's responsibility to meet the City's requirements. The contract(s) are non-exclusive, and the City reserves the right to obtain services on the open market to serve the best interest of the City.

B. Specific Conditions

1. The Contractor(s) shall:

- a. Designate a coordinator as a local single point of contact (SPOC), as well as a backup, that will be accessible during normal work hours to receive temporary employment requests, handle and assist in any and all inquiries regarding scheduling, billing, status of orders, availability, contract pricing, contract compliance requirements, and problem solving. Normal work hours for the City are from 8:00am until 5:00pm Monday through Friday, with the exception of designated holidays.
- b. Refer personnel that have successfully undergone applicable background check and drug testing upon request of the city and provide verification that these pre-employment screenings have been successfully completed. Personnel shall be immediately productive, requiring minimal training and orientation.
- c. Be responsible for obtaining and informing and orienting its personnel on all relevant rules, regulations, policies, etc. of the City. Written acknowledgement of receipt of this information by the employee shall be provided to the City.
- d. Be given four (4) business hours and one (1) business day to confirm availability of a temporary employee to fill a request. However, if Contractor is unable to fill the job request, the City may fill the requirement from other qualified sources. City personnel will endeavor to give as much notice as is practical and possible.
- e. Ensure all temporary employees referred to the City have been screened for minimum qualifications required for the position.
- f. Be notified by the City in the event any temporary employee fails to adhere to the City's directions, policies, procedures, security / safety regulations, or demonstrates that they are not qualified to perform the required duties, and the Contractor shall replace the temporary employee within two (2) working days at

no cost to the City (including, but not limited to, training time; background checks; ID badges; drug testing; etc.). This also applies to any temporary employee that leaves for any reason before the assignment is completed. When a temporary employee leaves, at any time, the Contractor shall be responsible for any unreturned keys, ID badges, etc. If such items are not returned to the City within five (5) working days, the City shall send an invoice to the Contractor for the exact replacement cost. The Contractor shall pay this invoice within twenty (20) days.

- g. Agree to compensate employees in accordance with the requirements of the Fair Labor Standards Act (FLSA) as amended, New Mexico State Law and the New Mexico Workers' Compensation Act as amended, and the City's minimum wage ordinance. Additionally, the Contractor must ensure that each temporary employee acknowledges, in writing, their exempt or non-exempt FLSA status, whichever is applicable.
- h. Include provisions for the City to hire the temporary employee without payment of a finder's fee or any other fee, after the temporary employee has completed no less than ninety (90) days of temporary service to the City.
- i. Submit a legible, detailed invoice to the requesting City department and the Disbursements (Accounts Payable) office on a weekly or bi-weekly basis before payment(s) can be made. The City will pay invoices within twenty (20) days. Tax for services must be included in the invoice. At a minimum, the invoice must provide the following information:
 - i. Company name, address and contact information
 - ii. City bill-to name and contact information
 - iii. Name and title of hire, hours worked and hourly rate
 - iv. Dates of service
 - v. Extended price
 - vi. Total amount

Preferably, invoices should be sent via e-mail to disbursements@lascruces.gov.

Invoices can also be mailed to:

City of Las Cruces
Attention: Accounts Payable
PO Box 20000
Las Cruces, NM 88004

- j. Furnish, upon request by the City, a monthly usage delineating the acquisition activity governed by the contract. The format of the report shall be approved by the City and shall disclose the quantity and dollar value of each contract item by individual department.
2. The Contractor shall provide contracted employees who shall:
- a. Based on position and services to be provided to the City, be subject to various criminal checks, fingerprinting, background checks, and applicable drug testing

- upon whose results the City may choose to base its decision to accept an individual for assignment. This option would allow the temporary employee access to areas within the City such as court buildings, and any restricted areas.
- b. Conform in all respects to fire and safety / security regulations while on the City's premises.
 - c. Receive training on preventing discrimination and harassment and have received and acknowledged receipt of the City's Discrimination Policy as provided by the City.
 - d. Be able to read, write, speak, and comprehend the English language in accordance with the minimum requirements of the position description, unless otherwise requested.
 - e. Be dressed appropriately and with the equipment specified by the City as being required to perform work in the service categories covered under this contract. The City requires most field personnel to have safety shoes, at the expense of the temporary employee. The safety shoes must meet American National Standards Institute (ANSI) and Occupational Safety and Health Administration (OSHA) standards.
 - f. Be respectful of all people with whom they interact, including City employees and customers of the City. The City reserves the right to reject any candidate that does not exhibit common courtesy and cordiality towards all individuals with which they may come in contact.
 - g. Limit personal mobile phone calls to emergency calls while on duty.
 - h. Report to an assignment at the time designated by the City. The work week shall be Monday through Friday. Normal business hours are 8:00am to 5:00pm, and occasionally weekends, excluding City holidays. There may be requirements or alternate schedules which require evening, weekend, holiday and overtime work. Weekend work shall be defined as Saturday and Sunday during the same week. Weekend or holiday work will not be considered overtime unless in excess of forty (40) hours worked.
 - i. Be entitled to lunch periods ranging from 30-60 minutes as determined by the City. No payments shall be made for lunch periods.
 - j. In some instances, require additional types of certifications such as First Aid and CPR certification. Temporary employees shall have these certifications prior to applying for such positions. Temporary employees shall maintain and recertify these certifications at their own expense.
3. The Contractor shall accept that the City shall:
- a. Have the right to interview and / or screen all prospective personnel, and to accept or reject any or all based upon the required skills and the background and experience of each individual. A resumé may be required upon request prior to an interview.
 - b. Supervise Contractor's employees. The City shall have direct control over the daily activities of the Contractor's employees.
 - c. Reserve the right to add and / or delete services provided under this contract. If a requirement is deleted, payment to the Contractor will be reduced proportionately to the amount of service reduced in accordance with the proposal price. If

additional services are required from this contract, prices for such additions will be negotiated by the Contractor and the City.

4. The Contractor shall accept a contract provision that any request for fee adjustments must be submitted sixty (60) days prior to the current contract annual anniversary date. Requests for adjustment in cost of labor must be supported by appropriate documentation. If the City agrees to the adjusted fee, the City shall issue written approval of the change in the form of a contract amendment to be executed by both parties. The reasonableness of the request will be determined by comparing the request with the Consumer Price Index or by performing a market survey.

Sparrow Company LLC is a binational executive search and staffing company headquartered in El Paso, Texas, serving the El Paso and Las Cruces region. Our CEO, David Fishman, brings 30 professional years of executive and temporary recruiting experience. This experience in collaboration with the combined 50 years of recruiting experience of the team of professionals that represent Sparrow Company LLC will give the City of Las Cruces the experience and resources it seeks. Our trademark is – “Shaping Business with Top Talent™”.

Sparrow Company LLC is a Service-Disabled Veteran Owned Small Business (SDVOSB) founded in 2009 and actively recruiting and serving our clients’ staffing needs now for 15 years. To add perspective to our experience, in 2023 alone, we had a total revenue of \$2.9 million in combination with our staffing division. Sparrow Company LLC is here to serve your current and future needs for talent for decades to come.

Our proposal is direct and to the point. We will address the three areas that the City of Las Cruces outline in the RFP 23-24-047 Temporary Employment Services for evaluation.

Project Approach Narrative

We propose a recruitment strategy that will be multi-pronged and comprehensive. The temporary employment positions can serve critical positions within the City of Las Cruces’ daily operations and ensure that the City’s goals and objectives are met and exceed expectations.

Sparrow Company LLC will aim high to identify talented and experienced Candidates that meet the high expectations of the City of Las Cruces. Working collaboratively with each department’s hiring managers to build a productive relationship facilitating the search process.

Our professional recruitment methodology is a structured approach to attracting, sourcing, evaluating, and hiring the best candidates for the job. It involves a series of steps that help to identify the required competencies and qualifications for the position, as well as the most effective ways to reach potential candidates and assess their suitability for the role.

Technical Approach Narrative

Here are our most comprehensive steps in our professional recruitment methodology assisted by technology and artificial intelligence:

1. **Job analysis and description:** The first step in any successful recruitment is to define the position requirements, qualifications, responsibilities, and competencies. We would begin with the City of Las Cruces’ Human Resources Department or hiring manager to seek input from key stakeholders to ensure that the job description accurately reflects the needs of the City of Las Cruces
2. **Advertise the position.** Upon the finalization of the job description, we will begin
 - **Sourcing:** Identify potential candidates through job boards (LinkedIn, InDeed, etc.), social media, (Instagram, Twitter, etc.) employee referrals and other channels.

3. **Screening:** Evaluate resumes, cover letters, and applications to create a shortlist of candidates based on their qualifications, skills, and experience. We will use Crelate, an applicant tracking software to provide rigorous screening and evaluation processes to discern the top candidates.
4. **Interviews:** Conduct initial phone or video interviews to assess candidates' fit with the job and the City of Las Cruces. We will then work closely with City of Las Cruces and Purchasing Department to facilitate the interview process including scheduling interviews, coordinating logistics and preparing interview questions. We will also provide guidance as to best practices for conducting effective interviews and assessing the candidates' qualifications. The City of Las Cruces will reserve the right to interview and have the hiring authority to select candidate(s) best suited for the position(s).
5. **Assessments:** Use pre-employment assessments, tests, and exercise to evaluate candidates; competencies, cognitive abilities, and job-related skills.
6. **Reference and background checks:** Verify candidates' education, work history and other relevant information, as well as contact references to gain insights into their past performance and character.
7. **Selection:** With advisement from the hiring manager choose the best candidate based on the evaluation results and fitness for the position. Once the interview process is complete and a candidate selected, we will work with City of Las Cruces assisting in the negotiation of the terms of employment.
8. **Onboarding:** Welcome and orient the new hire to all the relevant rules, regulations, and policies of the City as provided by the City of Las Cruces. Written acknowledgement by the temporary employee will be provided to the City. This will include the limited use of mobile devices for emergency calls only during assignment.

The response time for filling orders will be within 4 hours and 1 business day of receiving the job order from City of Las Cruces. If in the event an extension is required, the hiring authority will be contacted to request this extension.

A service guarantee is provided for late arrivals and absences to include that the City of Las Cruces is not billed for the candidate. If a candidate is a no call no show, City of Las Cruces will be notified, and a replacement candidate will be sought immediately.

A negotiated contract with the City of Las Cruces would include a provision for the City to hire any temporary employee without payment of a "Finder's Fee" after the temporary has completed no less than ninety (90) calendar days or 480 hours of temporary service to the City

If notified by the City of Las Cruces that a temporary employee fails to adhere to the City's directions, policies, procedures, security / safety regulations or in any way demonstrates that the temporary employee is not qualified to perform the required duties Sparrow Company LLC will replace the temporary employee in two (2) working days at no cost to the City.



100 Executive Center Blvd, Ste C
El Paso, Texas 79902
915.455.2850

<https://sparrowsearch.com>

Our monitoring system is our candidate payroll system which is iSolve People Cloud. Candidates will be required to track their hours daily either by entering them on a desktop or a personal handheld device. Hours will be tracked by our payroll department on a weekly basis. Hours will be sent to candidate's immediate supervisor for approval on Monday morning.

Sparrow Company will be responsible for maintaining payroll taxes, insurance requirements and any other benefits for temporary employees as mandated by local, state and/or federal requirements.

Sparrow Company will be prepared to take on employees from the present pool of temporary employees. All candidates interested in signing up with Sparrow Company will need to complete an application with Sparrow Company for candidate registration.

Sparrow Company maintains a 98% National Council on Compensation Insurance (NCCI) rating.

Upon a negotiated contract, Sparrow Company LLC will provide documentation of all required insurance policies as outlined in the RFP 23-24-047 Temporary Employment Services.



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El Paso, Texas 79902
915.455.2850

<https://sparrowsearch.com>

Key Personnel

Levi Herrera, Staffing Manager, will be responsible for the City of Las Cruces account management. Mr. Herrera will be the Single Point of Contact (SPOC) for the City of Las Cruces.

Levi Herrera has over 12 years' experience in the staffing industry. He has been a Sparrow Company team member since January of 2021 where he has been responsible for daily operations of the staffing department and client satisfaction. He oversees a budget of over \$1.5 million in temporary payroll. He is versed in industry standards and has a keen sense of a candidate's fitness for the position.

Samaritana Martinez, Staffing Coordinator, is responsible for supporting the Staffing Manager. She has 5 years of experience in the staffing industry. She has been a team member at the Sparrow Company LLC since April of 2019. She has served as Staffing Coordinator since 2021. Ms. Martinez will serve as backup to the SPOC.

Eduardo Macias, General Manager, is responsible for timecard management and payroll processing of Sparrow Company LLC's temporary employees. He has been a team member for 10 plus years. Supporting the many areas of the Sparrow Company. As one of Sparrow Company LLC most tenured employees he provides a deep continuity for Sparrow Company with his industry knowledge. Mr. Macias will additionally serve as backup for the SPOC.

Ultimately, David Fishman, CEO and owner is always available to give valuable input. Mr. Fishman, with more than 30 years of experience in direct placements and temporary staffing, is a go-to person for industry knowledge in the mechanics of temporary staffing and customer service.

As you can see from the above personnel descriptions, Sparrow Company LLC has a very low turnover rate for recruiters and service representatives. Throughout Sparrow Company LLC, the average tenure is 3 plus years or longer. We believe this to show the stability of Sparrow as a company and its commitment to both clients and staff.

References

RFP 23-24-047 Temporary Employment Services delineates a requirement for five (5) references.

Sparrow Company LLC submits the following:

1. Judy Cisneros
Rio Grande Council of Governments – Non-Profit Organization
El Paso, TX
judyc@riocog.org
(915) 533-0998
Roles filled – AAA Technician, Accounting Tech, Fiscal Coordinator, Receptionist
2. Andy Moore
Border International – Heavy Duty Truck Sales, Repair, and Maintenance
Las Cruces, NM
Andy.Moore@borderint.com
(575) 541-4259 – Andy.Moore@borderint.com
Roles filled – Receptionist, Accountant, Accounting Assistant, Accounts Payable, Accounts Receivable
3. JoAnna Morales
Rocky Mountain Mortgage – Home Mortgage Lender
El Paso, TX
Jmorales_30@rmmc.com
(915) 594-3245
Roles filled – Investor Relations Clerk, Loan Collector, Receptionist, Data Entry Clerk
4. Madison Fox
CalPortland – Cement Manufacturing
Las Vegas, NV
mfox@calportland.com
(702) 953-7555
Roles filled – Senior Accountant, Recruiter, Human Resources Administrator, Technical Support Analyst
5. Iris Plascencia
Cemex – Cement Manufacturing
Ontario, CA
Iris.plascencia@cemex.com
(909) 730-0593
Roles filled – Dispatcher, Logistics, Office Clerk, Payroll Coordinator, Filing Clerk, Administrative Assistant, Safety Assistant, Weighmaster



CAPABILITY STATEMENT

Sparrow Company's recruiters offer over 40 years of combined experience in finding the right people for both your positions and your organization. Sparrow Company LLC is a service-disabled veteran owned small business who will partner with you for your staffing solutions. We know that a candidate must have the skills and experience to fulfill job requirements and be a good fit for your organization's culture.

CORE COMPETENCIES

Staffing Services:

- Temporary Staffing
- RPO (Recruitment Process Outsource)
- Staffing for a single position to an entire team
- Executive Search & Nationwide Placements

Industries:

- Executive & C-Suite Roles
- Manufacturing
- Human Resources
- Financial
- Administrative

PERFORMANCE CAPABILITIES

Sparrow Company LLC provides complete staffing solutions designed from our experienced staff's deep expertise across vast industries. Founded by David Fishman in 2009 and full incorporated in Mexico as Sparrmx Servicios de Mexico in 2013. Sparrow Company has an adaptive, scalable business with processes and systems designed to enable successful staffing.

Work with both Government and Private companies to ensure productivity, financial and human resources requirements are filled

TYPES OF POSITIONS FILLED

For Multi-National Companies

- Chief Economist
- Country Manager
- Sr Treasury position
- IT Auditor
- Sr. Financial Analyst

Within the United States

- Chief Information Officer
- VP Supply Chain
- Controller

COMPANY SNAPSHOT

Name	Sparrow Company LLC
UEI	LRFWHKSM76U3
CAGE	8CF30
DUNS	95-8631694
SIZE	Small
NAICS	Primary: 561311 Employment Placement Agency Secondary: 541611 Administrative Management and General Management Consulting Services

CERTIFICATIONS



**Approved Vendor of ESC Region 19
Allied States Cooperative**

AFFILIATIONS:

California Staffing Professionals
El Paso Chamber of Commerce



COMPANY DIFFERENTIATORS

Our portfolio includes a variety of Tier Suppliers, OEMs as well as NYSE Publicly Traded Multi-Nationals, Private Equity, Privately Held, and Foreign Companies (operating in the U.S., Mexico, Switzerland, Germany, and other countries throughout the Americas, Asia, and Europe).

- We know the industrial market – earned with 40+years combined experience.
- We have the resources to find the candidate you want.
- Whatever your organization needs, we deliver.
- Our guarantee ensures it. Our pride in our work and our dedication to our clients demands it.
- Expertise in manufacturing and supply chain
- Use of technology and artificial intelligence in search
- Short- and Long-Term labor shortage solutions

CLIENT LIST – REFERENCES

A list of our clients and references are available upon request



Your Executive Search and Staffing Talent Connection

- Temporary staffing
- C-Suite positions
- Engineers
- Supervisors
- Directors
- Plant Managers

Services

Your executive search and staffing needs differ in unique ways. We offer personalized services with four choices to meet your requirements

Temporary & Contract Staffing (United States)

For companies that see fluctuations in their business demands, knowing when to invest in hiring is challenging. Hiring talents on a temporary or contract basis allows for your organization to meet deadlines, but once demand slows not being left with the overhead costs of an over-staffed team

Contingency Assignments (United States, Mexico and Internationally)

Contingency assignments do not require a retainer. Giving you the most flexibility.
You only pay after the candidate is selected and begins work

Retainer Assignments

Work with us exclusively or for a specific job opening.
You pay a retainer to secure the agreement, offering you all the advantages of Exclusive Agreements without the long-term commitment

Exclusive Agreements

Work with an assigned recruiter for all your placement needs, thus building a strong relationship quickly. Having one source for all your placement needs simplifies the hiring process and ensures a candidate who fits your company culture and the needs of the position.
You are also eligible for recruitment discounts.

Locally Headquartered
El Paso Chamber of Commerce, Hire El Paso First Program and ESC Region 19 Allied States Cooperative
100 Executive Center Blvd, Suite C
El Paso, Texas 79902
915.455.2850 or Levi Herrera 915.271.4750
<https://sparrowsearch.com>

EXHIBIT B

COST PROPOSAL



Sparrow Company LLC is a binational executive search and staffing company headquartered in El Paso, Texas, serving the El Paso and Las Cruces region. Our CEO, David Fishman, brings 30 professional years of executive and temporary recruiting experience. This experience in collaboration with the combined 50 years of recruiting experience of the team of professionals that represent Sparrow Company LLC will give the City of Las Cruces the experience and resources it seeks. Our trademark is – “Shaping Business with Top Talent™”.

Sparrow Company LLC is a Service-Disabled Veteran Owned Small Business (SDVOSB) founded in 2009 and actively recruiting and serving our clients’ staffing needs now for 15 years. To add perspective to our experience, in 2023 alone, we had a total revenue of \$2.9 million in combination with our staffing division. Sparrow Company LLC is here to serve your current and future needs for talent for decades to come.

COST PROPOSAL

The cost for temporary services is generally a fixed markup on the hourly position's cost. The minimum wage in the City of Las Cruces is \$12.36 per hour. A candidate’s hourly rate is normally based on experience, education, and priority to fill a position vs availability of candidate pool. It is also worth noting, that in the Nation’s and Local’s market there is historically low unemployment figures which leads to a competitive market for talent.

With this competitive market in mind, we are submitting a range of hourly pay rates as well as a range of hourly bill rates. Listed below are a sample of the positions we could fill.

Position	Range of Hourly Pay Rate	Range of Hourly Bill Rates
Accounting		
Accounting Clerk	\$12.36 to 18.00 per hour	\$17.55 to \$25.56 per hour
Accounts Receivable Clerk	\$12.36 to 18.00 per hour	\$17.55 to \$25.56 per hour
Accounts Payable Clerk	\$12.36 to 18.00 per hour	\$17.55 to \$25.56 per hour
Collections	\$12.36 to 18.00 per hour	\$17.55 to \$25.56 per hour
Bookkeeper	\$18.00 to \$25.00 per hour	\$25.56 to \$35.50 per hour
Staff Accountant	\$18.00 to \$25.00 per hour	\$25.56 to \$35.50 per hour
Senior Accountant	\$33.50 to \$42.00 per hour	\$47.57 to \$59.84 per hour
Financial Analyst	\$33.50 to \$42.00 per hour	\$47.57 to \$59.84 per hour
Accounting Manager	\$30.00 to \$40.00 per hour	\$42.60 to \$56.80 per hour
Purchasing		
Purchasing Clerk	\$12.36 to \$18.00 per hour	\$17.55 to \$25.56 per hour
Office Administration		
Office Clerk	\$12.36 to 18.00 per hour	\$17.55 to \$25.56 per hour
Mail Clerk	\$12.36 to 18.00 per hour	\$17.55 to \$25.56 per hour
File Clerk	\$12.36 to 18.00 per hour	\$17.55 to \$25.56 per hour



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<https://sparrowsearch.com>

Office Administration		
Data Entry Clerk	\$12.36 to 18.00 per hour	\$17.55 to \$25.56 per hour
Office Support	\$12.36 to 18.00 per hour	\$17.55 to \$25.56 per hour
Receptionist	\$12.36 to 18.00 per hour	\$17.55 to \$25.56 per hour
Administrative Assistant	\$18.00 to \$25.00 per hour	\$25.56 to \$35.50 per hour
Administrator	\$25.00 to \$32.00 per hour	\$35.50 to \$45.44 per hour
Office Manager	\$33.50 to \$42.00 per hour	\$47.57 to \$59.84 per hour
Human Resources		
Human Resources Generalists	\$25.00 to \$38.00 per hour	\$35.50 to \$53.96 per hour
Human Resources Manager	\$32.00 to \$40.00 per hour	\$45.44 to \$56.80 per hour
Logistics		
Shipping and Receiving Clerk	\$12.36 to \$18.00 per hour	\$17.55 to \$25.56 per hour
Parts Clerk	\$12.36 to \$18.00 per hour	\$17.55 to \$25.56 per hour
Inventory Clerk	\$12.36 to \$18.00 per hour	\$17.55 to \$25.56 per hour

Sparrow Company LLC is open to working with each hiring manager's requirements and quoting a position more accurately based on the position's requirements. Sparrow Company LLC can fill more titles than the cost proposal listing, and we will work with each hiring manager to accommodate their needs.



CITY OF LAS CRUCES

SERVICE AGREEMENT

23-24-047
Temporary
Employment
Services

THIS AGREEMENT made and entered into on this ____ day of June, 2024 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and Think Beyond, Inc., of 3013 Durango Hills Dr., Leander, TX, 78641, hereinafter called "CONTRACTOR".

1. PROJECT DESCRIPTION

Temporary employment services to be provided on an as needed basis. Various purchase orders will be issued according to the needs of CITY departments and Joint Power Agreement (JPA) agencies.

2. SCOPE OF SERVICES

In a satisfactory and proper manner, the CONTRACTOR shall perform SERVICES as proposed in response to the CITY'S RFP No. 23-24-047 as set forth in Exhibit A, attached hereto and made a part of this Agreement.

3. APPROPRIATIONS

The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

4. COMPENSATION

The CITY shall compensate CONTRACTOR for the performance of SERVICES under this Agreement an amount as proposed in response to the CITY's RFP No. 23-24-047, plus applicable taxes as set forth in Exhibit B, attached hereto and made part of this Agreement. CONTRACTOR shall perform the SERVICES upon receipt of a purchase order or written Notice to Proceed from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed. CONTRACTOR shall submit invoices weekly or biweekly. CITY shall pay invoices Net 30 days upon receipt of undisputed invoice.

CONTRACTOR is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. CONTRACTOR agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

5. DEVOTION OF ADEQUATE TIME

CONTRACTOR will devote the necessary hours each week to the performance of project that are required by the CITY, and it will serve the CITY, diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE

This Agreement shall become effective on July 1, 2024 for a term of four (4) years through June 30, 2028. CONTRACTOR shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and CONTRACTOR.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall CONTRACTOR be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request CONTRACTOR to perform other extra services not incorporated within the Services set forth in this Agreement. If the CONTRACTOR is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the CITY, CONTRACTOR shall so notify the CITY, of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the CONTRACTOR within five (5) business work days from the date of receipt of CONTRACTOR'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE CONTRACTOR

In the event a condition is identified by the CONTRACTOR which, in the opinion of the CONTRACTOR, changes the services, costs, and/or time required for performance under this Agreement, the CONTRACTOR shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business work days from the date of receipt of CONTRACTOR'S notification.

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of CONTRACTOR, and without the fault or negligence of CONTRACTOR, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. CONTRACTOR shall provide the CITY, with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by CONTRACTOR to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in

accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY, for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to CONTRACTOR.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY, deliver to the CITY, the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

CONTRACTOR will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S, right to recover excessive or illegal payments. CONTRACTOR will retain records for five (5) years after the completion of the project.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY, will be kept confidential and CONTRACTOR will not disclose to any other party, directly or indirectly, without the CITY'S, prior written consent unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the CONTRACTOR shall be the sole property of the CITY, and shall be delivered to the CITY, when requested and at the end of the Agreement.

14. INDEPENDENT CONTRACTOR

CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY, CONTRACTOR, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY, by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR's employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to perform services for other parties; and (ii) CONTRACTOR may perform for its own account other professional services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as otherwise specifically set forth herein, neither CONTRACTOR nor CITY, shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT

CONTRACTOR shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

CONTRACTOR shall obtain and maintain at least the following insurance at its own cost and expense during the life of this Agreement, and shall require Subcontractors, if any, to maintain the same insurance during the life of the subcontracted work:

1. Professional Liability
 - a. \$1,000,000 per occurrence

2. Commercial General Liability Insurance
 - a. \$1,000,000 per occurrence / \$2,000,000 aggregate
 - b. Coverage must include premises and operations, products and completed operations, and personal and advertising injury.
 - c. The City of Las Cruces must be named as an Additional Insured for all coverages listed above on endorsements acceptable to the City.
 - d. Coverage must be primary and non-contributory.
 - e. Coverage must be per project or per location.
 - f. Coverage must be on an occurrence form.
 - g. Subrogation must be waived.
3. Commercial Auto Liability
 - a. \$1,000,000 per occurrence
 - b. Coverage must be for “owned, leased, hired, and non-owned autos” or “any autos.”
4. Workers’ Compensation and Employers Liability
 - a. Statutory Limits
 - b. Employer liability – \$1,000,000 each accident, \$1,000,000 each employee by disease, \$1,000,000 policy limit
 - c. Subrogation must be waived.

Endorsements for additional insured coverage and waivers of subrogation must be provided as a condition of this Agreement and shall be noted on the certificate.

CONTRACTOR shall furnish the CITY with a certificate(s) of insurance showing CONTRACTOR and Subcontractors, if any, have complied with this Article. The CONTRACTOR shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

CONTRACTOR shall indemnify, defend, and hold harmless the CITY, from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused in whole or in part by, resulting in whole or in part from, or arising in whole or in part out of the negligent acts, errors, or omissions of CONTRACTOR, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

CONTRACTOR shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the CONTRACTOR’S services or any work done pursuant to this Agreement, including anti-discrimination.

20. BREACH

In the event CONTRACTOR breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY, shall give CONTRACTOR written notice of such breach. In the event CONTRACTOR fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy CONTRACTOR'S breach and recover any and all costs and expenses in so doing from CONTRACTOR.

21. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and CONTRACTOR under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

22. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY: City of Las Cruces
 PO Box 20000
 Las Cruces, NM 88004
 ATTENTION: Greg Gonzalez, Buyer I

With Copies to: Purchasing Manager

TO CONTRACTOR: Think Beyond, Inc.
 3013 Durango Hills Dr.
 Leander, TX 78641
 ATTENTION: Anuj Malhotra, President

23. SCOPE OF AGREEMENT

This Agreement incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof and that all such covenants, agreements, and understandings have been merged into this written agreement. No prior agreement or understanding verbal or otherwise of the parties or their agents shall be valid or enforceable unless embodied in this agreement.

24. SEVERABILITY

The parties agree that each provision of this Agreement is severable and the invalidity or unenforceability of any one or more of the provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

25. CONFLICT OF INTEREST

CONTRACTOR represents and warrants that CONTRACTOR has no business, professional, personal, or other interest, including, but not limited to, the representation of other clients, that would conflict in any manner or degree with the performance of its obligations under this Agreement. If any such actual or potential conflict of interest arises under this Agreement, CONTRACTOR shall immediately inform the CITY in writing of such conflict. If, in the reasonable judgement of the CITY, such conflict poses a conflict to and with the performance of CONTRACTOR'S obligations under this Agreement, or is otherwise a violation of the CITY'S current policy or ordinances, then the CITY may terminate the Agreement immediately upon written notice to CONTRACTOR; such termination of the Agreement shall be effective upon the receipt of such notice by CONTRACTOR.

THINK BEYOND, INC.

CITY OF LAS CRUCES

BY: _____
Anuj Malhotra
President

BY: _____
Alicia Hernandez
Purchasing Manager

Date

Date

APPROVED AS TO FORM

City Attorney

EXHIBIT A

SERVICES

A. General Conditions

Temporary services are requested as needed throughout the contract period. Temporary employees will be subject to all applicable City work rules and their amendments. The contract will not guarantee that any specific amount of services will be obtained. Orders will only be placed when the City identifies a need and issues a purchase order or written Notice to Proceed. It shall be the Contractor's responsibility to meet the City's requirements. The contract(s) are non-exclusive, and the City reserves the right to obtain services on the open market to serve the best interest of the City.

B. Specific Conditions

1. The Contractor(s) shall:

- a. Designate a coordinator as a local single point of contact (SPOC), as well as a backup, that will be accessible during normal work hours to receive temporary employment requests, handle and assist in any and all inquiries regarding scheduling, billing, status of orders, availability, contract pricing, contract compliance requirements, and problem solving. Normal work hours for the City are from 8:00am until 5:00pm Monday through Friday, with the exception of designated holidays.
- b. Refer personnel that have successfully undergone applicable background check and drug testing upon request of the city and provide verification that these pre-employment screenings have been successfully completed. Personnel shall be immediately productive, requiring minimal training and orientation.
- c. Be responsible for obtaining and informing and orienting its personnel on all relevant rules, regulations, policies, etc. of the City. Written acknowledgement of receipt of this information by the employee shall be provided to the City.
- d. Be given four (4) business hours and one (1) business day to confirm availability of a temporary employee to fill a request. However, if Contractor is unable to fill the job request, the City may fill the requirement from other qualified sources. City personnel will endeavor to give as much notice as is practical and possible.
- e. Ensure all temporary employees referred to the City have been screened for minimum qualifications required for the position.
- f. Be notified by the City in the event any temporary employee fails to adhere to the City's directions, policies, procedures, security / safety regulations, or demonstrates that they are not qualified to perform the required duties, and the Contractor shall replace the temporary employee within two (2) working days at

no cost to the City (including, but not limited to, training time; background checks; ID badges; drug testing; etc.). This also applies to any temporary employee that leaves for any reason before the assignment is completed. When a temporary employee leaves, at any time, the Contractor shall be responsible for any unreturned keys, ID badges, etc. If such items are not returned to the City within five (5) working days, the City shall send an invoice to the Contractor for the exact replacement cost. The Contractor shall pay this invoice within twenty (20) days.

- g. Agree to compensate employees in accordance with the requirements of the Fair Labor Standards Act (FLSA) as amended, New Mexico State Law and the New Mexico Workers' Compensation Act as amended, and the City's minimum wage ordinance. Additionally, the Contractor must ensure that each temporary employee acknowledges, in writing, their exempt or non-exempt FLSA status, whichever is applicable.
- h. Include provisions for the City to hire the temporary employee without payment of a finder's fee or any other fee, after the temporary employee has completed no less than ninety (90) days of temporary service to the City.
- i. Submit a legible, detailed invoice to the requesting City department and the Disbursements (Accounts Payable) office on a weekly or bi-weekly basis before payment(s) can be made. The City will pay invoices within twenty (20) days. Tax for services must be included in the invoice. At a minimum, the invoice must provide the following information:
 - i. Company name, address and contact information
 - ii. City bill-to name and contact information
 - iii. Name and title of hire, hours worked and hourly rate
 - iv. Dates of service
 - v. Extended price
 - vi. Total amount

Preferably, invoices should be sent via e-mail to disbursements@lascruces.gov.

Invoices can also be mailed to:

City of Las Cruces
Attention: Accounts Payable
PO Box 20000
Las Cruces, NM 88004

- j. Furnish, upon request by the City, a monthly usage delineating the acquisition activity governed by the contract. The format of the report shall be approved by the City and shall disclose the quantity and dollar value of each contract item by individual department.
2. The Contractor shall provide contracted employees who shall:
- a. Based on position and services to be provided to the City, be subject to various criminal checks, fingerprinting, background checks, and applicable drug testing

upon whose results the City may choose to base its decision to accept an individual for assignment. This option would allow the temporary employee access to areas within the City such as court buildings, and any restricted areas.

- b. Conform in all respects to fire and safety / security regulations while on the City's premises.
 - c. Receive training on preventing discrimination and harassment and have received and acknowledged receipt of the City's Discrimination Policy as provided by the City.
 - d. Be able to read, write, speak, and comprehend the English language in accordance with the minimum requirements of the position description, unless otherwise requested.
 - e. Be dressed appropriately and with the equipment specified by the City as being required to perform work in the service categories covered under this contract. The City requires most field personnel to have safety shoes, at the expense of the temporary employee. The safety shoes must meet American National Standards Institute (ANSI) and Occupational Safety and Health Administration (OSHA) standards.
 - f. Be respectful of all people with whom they interact, including City employees and customers of the City. The City reserves the right to reject any candidate that does not exhibit common courtesy and cordiality towards all individuals with which they may come in contact.
 - g. Limit personal mobile phone calls to emergency calls while on duty.
 - h. Report to an assignment at the time designated by the City. The work week shall be Monday through Friday. Normal business hours are 8:00am to 5:00pm, and occasionally weekends, excluding City holidays. There may be requirements or alternate schedules which require evening, weekend, holiday and overtime work. Weekend work shall be defined as Saturday and Sunday during the same week. Weekend or holiday work will not be considered overtime unless in excess of forty (40) hours worked.
 - i. Be entitled to lunch periods ranging from 30-60 minutes as determined by the City. No payments shall be made for lunch periods.
 - j. In some instances, require additional types of certifications such as First Aid and CPR certification. Temporary employees shall have these certifications prior to applying for such positions. Temporary employees shall maintain and recertify these certifications at their own expense.
3. The Contractor shall accept that the City shall:
- a. Have the right to interview and / or screen all prospective personnel, and to accept or reject any or all based upon the required skills and the background and experience of each individual. A resumé may be required upon request prior to an interview.
 - b. Supervise Contractor's employees. The City shall have direct control over the daily activities of the Contractor's employees.
 - c. Reserve the right to add and / or delete services provided under this contract. If a requirement is deleted, payment to the Contractor will be reduced proportionately to the amount of service reduced in accordance with the proposal price. If

additional services are required from this contract, prices for such additions will be negotiated by the Contractor and the City.

4. The Contractor shall accept a contract provision that any request for fee adjustments must be submitted sixty (60) days prior to the current contract annual anniversary date. Requests for adjustment in cost of labor must be supported by appropriate documentation. If the City agrees to the adjusted fee, the City shall issue written approval of the change in the form of a contract amendment to be executed by both parties. The reasonableness of the request will be determined by comparing the request with the Consumer Price Index or by performing a market survey.

Response to RFP# 23-24-047

Temporary Employment Services

by

**THINK BEYOND INC
3013 DURANGO HILLS DR, LEANDER, TX 78641**



**Contact: Anuj Malhotra
Title: President
email: amalhotra@thethinkbeyond.com
Phone: 614-209-8028
Response Valid until: 5/31/2024**



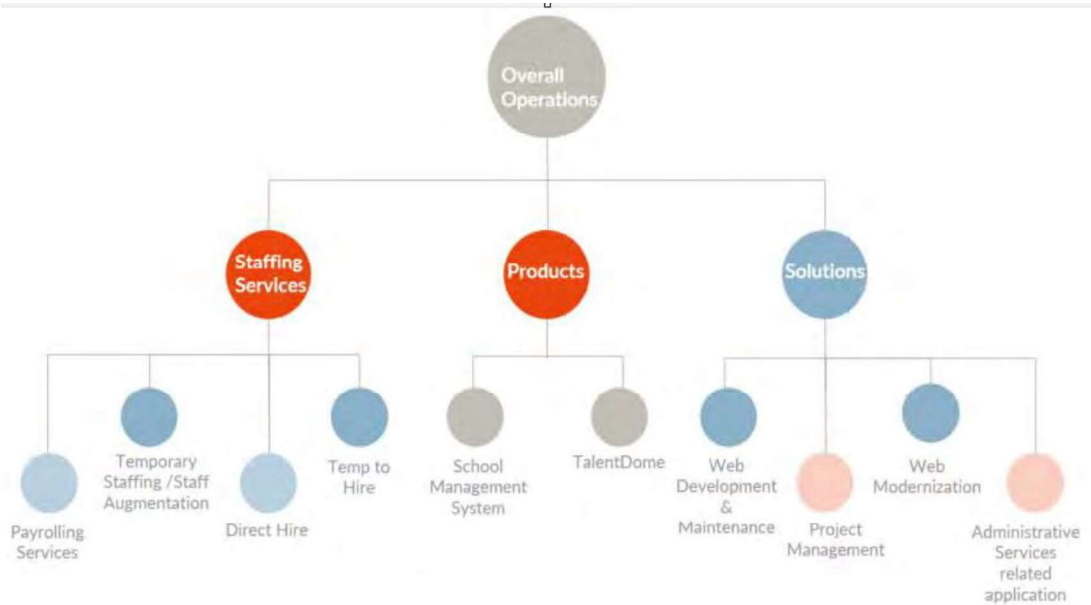
Vendor Profile

Company’s name: THINK BEYOND INC.
Address: 3013 Durango Hills Dr, Leander, TX 78641
Contact Name: Anuj Malhotra (614-209-8028)
Facsimile number: 737-231-7514
Email: amalhotra@amalhotra@thethinkbeyond.com
IN BUSINESS: Since 2008
WEB PAGE: <https://www.thethinkbeyond.com>

Operations in New Mexico:
1209 MOUNTAIN ROAD PL
NE, STE H
ALBUQUERQUE, NM 87110

Why Think Beyond Inc?

Think Beyond Inc. has 15+ years of immense experience in providing **Staffing Services** to various government and commercial clients. Think Beyond has been servicing customers across various verticals such as IT, Education, Engineering, Transportation, Healthcare, Housing, Pharmaceuticals, Telecom and Government sectors for many years and has developed unparalleled competencies across these verticals to provide trained professional resources equipped with the right knowledge and skills to deliver high-quality solutions. We have a business presence in 42 states across the nation and have been successfully serving the clients with a high level of customer satisfaction.





Think Beyond's Value-Adds and Key Differentiators set us apart from our competitors.

- **Experienced and dedicated Account Management Team:** Think Beyond's Account Management Team will work diligently with the Client to identify the contract needs and to provide the best resources. Our Account Management team possess 20+ years of collective experience in managing contracts.
- **Recruitment Team:** We have a team of 220+ Recruiters and Quality Analysts who are having more than 10 years of experience working on similar Positions. Our recruiters can provide resources for both short and long-term assignments. Additionally, Think Beyond has a team of CCWP certified Staff and highly qualified recruiters and Subject Matter Experts with relevant certifications which could be an added advantage while screening and choosing the best professional for your task order needs.
- **Robust Screening and Selection process:** We have selective screening, testing, selection procedure, and methodology ensuring that only the best of the consultants are hired to meet our client's needs and provide cost-effective solutions to the most challenging staffing needs to meet up to our customers' satisfaction. We not only emphasize the functional capability of temps, but we also place a great deal of importance on soft skills such as communication and interpersonal skills and the employee's ability to adapt to the cultural mosaic of the work environment. To accomplish this goal, we focus on acquiring as many local candidates as possible. Our philosophy is to understand the customer's environment and goals. Through our orientation process, we mentor our Temporary Employees by providing a clear understanding of customer expectations and their culture. We not only identify the most qualified resource for the job on hand but also match the best fit candidate for the requirement from a technical and cultural perspective.
- **Automated tools and technologies:** Think Beyond use automated tools that enable us to automate and manage the entire recruitment lifecycle from sourcing, applicant tracking, contract employee management, social recruiting, employer branding, candidate assessment and engagement, employee referrals, talent identification, evaluation, and engagement till on-boarding.



- **Diversity & Inclusion:** We celebrate diversity, equality, and foster inclusion through strategic community partnerships.
- **Employee Care Program:** Acquiring and retaining high-quality talent is critical for us to ensure the successful delivery of services. To achieve this, **Think Beyond** has proven Retention policies comprising of employee rewards programs, performance bonuses, project completion bonuses, Retention bonuses, comprehensive individual and family benefits, training plans, and employee development programs. Our Employee Care Program helps us attract and maintain a qualified and stable workforce, resulting in a retention rate of 97%.
- **Pre-vetted Resume Database:** **Think Beyond** has a strong database of candidates who could help us to fill the urgent requirements of the participating entities in the shortest turnaround time possible. The Bench Capability of Think Beyond helps the clients to hire prescreened consultants saving time in lengthy screening procedures. We have a strong pool of 100,000+ prescreened candidates which helps us in providing resumes within 12-24 Hours and placing the candidate within 3-5 days. Our Recruitment team has access to 2 million resumes through Ceipal, Bullhorn, and TalentDome.
- **Veteran Hiring:** ThinkBeyond is a proud proponent of veteran hiring. We undertake veteran hiring initiatives to general employment avenues for our veterans and military spouses every year. We are building a solution for transitioning returning veterans to the workforce. ThinkBeyond Inc. was recognized by the USDOL as a HIRE Vets Medallion Award recipient for our commitment to recruiting Veterans. We're proud to support Veterans and their career goals. Moreover, we have multiple alliances with organizations focused on helping Veterans and their spouses to find civilian jobs. We also leverage "Collaboration with Reboot" - A dedicated Veteran Hiring app that helps Veterans find the perfect job after a thorough psychometric analysis. We also have a dedicated team of recruiters that specialize in Veteran Hiring and participate in career fairs and events organized for veterans.
- **Bench Strength:** ThinkBeyond has been serving similar needs of our clients for the past many years, which gives us the ability to provide qualified resources within 24- 48 Hours. We have a strong



bench of candidates who could help us to meet the urgent requirements in the Shortest Turnaround Time possible.

ThinkBeyond's Recruitment Methodology:

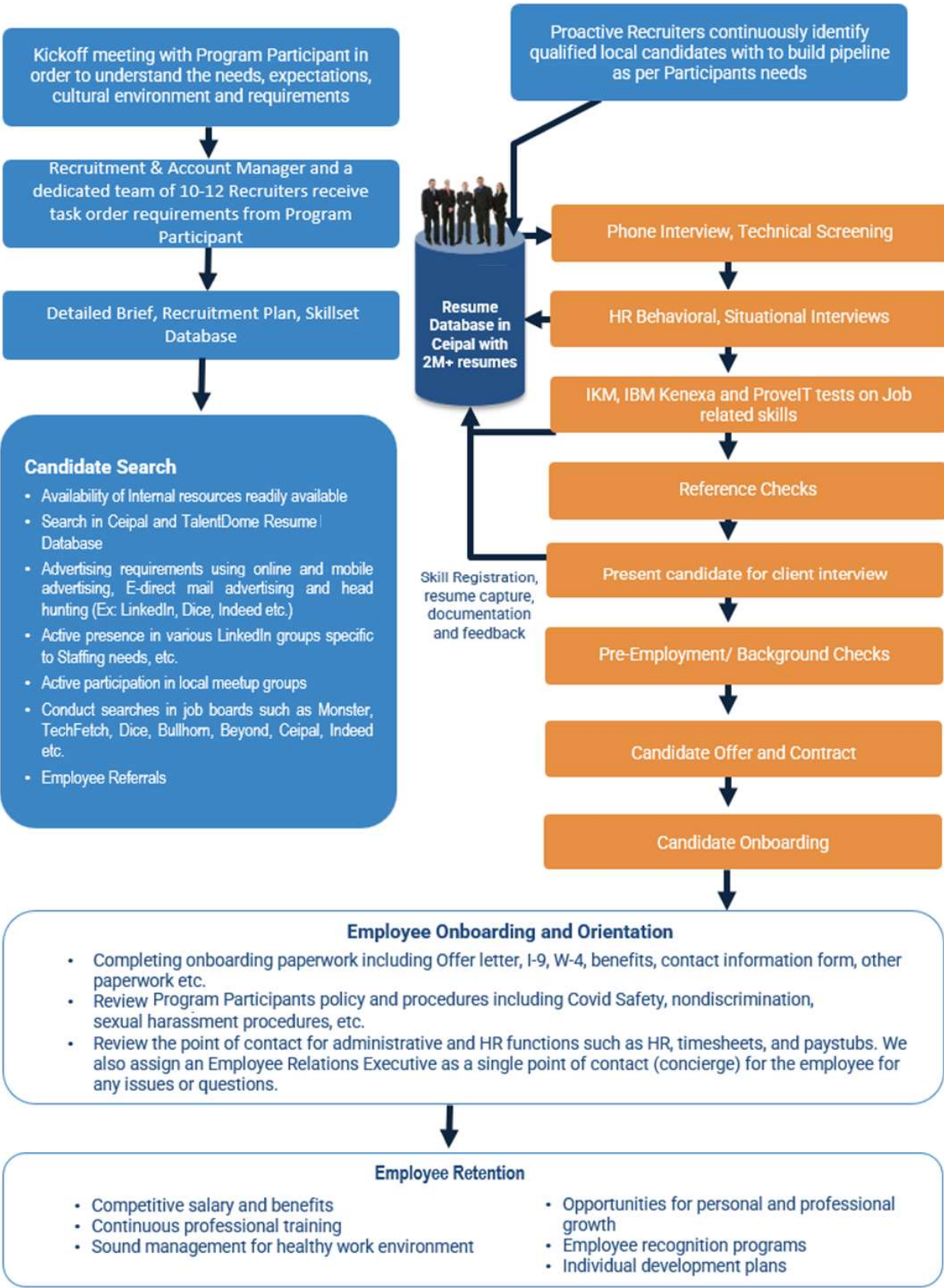
We use automation tools to manage the entire employee lifecycle right from recruitment management (Once we are awarded contract, we will assign dedicated passive recruiters' team who will start building pipeline of local candidates), application tracking, employee management, social recruiting, candidate assessment, talent identification, engagement, onboarding, employee performance, and client feedback.

ThinkBeyond uses our proven recruiting methodology to conduct our outreach to identify and recruit candidates.

Our recruiters conduct the following screening procedures process to ensure that the resource is a perfect match for the Procuring Agency's employment history:

- Technical Screening through SMEs
- Skill Tests
- HR round of screening
- Reference Checks
- Verification through background verification companies

Technical Screening through SMEs: To ensure the quality of the candidate, our domain expert recruiters short-list qualified resumes by matching the Skill Matrix developed for the specific roles. To shortlist potential candidates, our recruiters evaluate each candidate, and they go through a thorough interview process; with job position specific questionnaire; their relevant experience, review of the candidate's work history, aptitude and behavioral skills, application and resume, and competency tests appropriate for the job role.





During the interview, our SMEs assess interpersonal skills, communication skills, teamwork skills, and job knowledge. Our SMEs generally ask work related and specific multiple-choice questions to evaluate technical or professional expertise and knowledge required for specific job.

At the next stage, the SMEs conduct the second level of resume screening and candidate assessment with the help of questionnaires, 3rd party testing tools depending on the skillset and level of experience. These SMEs have 15+ years average experience on an average and check the competency of the qualifying candidate. Table 6 shows what our SMEs evaluate in each qualified candidate.

Candidate Evaluation Form			
Client Name:			
Location:			
Job Title:			
Rating:	1 – Average skills	2 – Good skills	3 – Excellent skills
Client's Mandatory Qualifications (MQ)		Meets MQ (Yes/No)	If Yes, Rate Skill Level (1/2/3)
1.			
2.			
3. (add lines if required)			
Client's Desired Qualifications (DQ)		Meets DQ (Yes/No)	If Yes, Rate Skill Level (1/2/3)
1.			
2. (add lines if required)			
Candidate Evaluation Criteria	Yes/No	Evaluator Comments	
Does the candidate have relevant experience?			
Does the candidate have required years of experience?			
Are there any gaps in job duration?			
Are the resume credentials correct?			
Is the candidate local?			
If not local, is the candidate ready to relocate?			
Does the candidate have experience with applications/technologies/tools/ machines/etc. involved in the project?			
Has the candidate cleared the Technical Questionnaire Assessment?			
Did the candidate understand the job description?			
Is candidate ready for in-person interview?			
Did at least two ex-employers provide positive references?			
Recommend to Client? (Y/N)			
Add to Talent Pool? (Y/N)			
Addition Comments (if any)			



Skills Assessment: We use ExpertRating (www.expertratinginc.com) as our skill assessment tool to test the technical knowledge of the candidates:

ThinkBeyond use automated tools that enable us to automate and manage the entire recruitment lifecycle from sourcing, applicant tracking, contract employee management, social recruiting, employer branding, candidate assessment and engagement, employee referrals, talent identification, evaluation, and engagement till on-boarding.

HR Round of Screening: This round of screening helps to understand whether the resource is committed to accepting the opportunity with the client and checks communication skills. We would make sure that the following expectations are communicated to the resource:

- Compensation
- Duration of the project
- Location and travel(if any) requirements
- Onsite/offsite
- Dress code (if any)
- Work Hours (as required by the County)

The HR Manager also conducts Cultural Fit Assessment of the candidates where the HR Manager asks a series of questions to ensure the candidate is suitable for the Procuring Agency's requirements. We ensure that our proposed candidates, in addition to the required job skills and qualifications, exhibit the best fit within the client's culture.

When interviewing a prospective employee, we will look for who align with the Procuring Agency's mission. Employees who are candidates satisfied and happy with the environment are more productive in their work environments and feel invested in the long-term success of the assignment.

Hiring people who are not a good cultural fit could cause friction within the team and create a negative work environment. These factors further impact employee productivity and performance.



During the kick-off meeting with the Procuring Agency, our HR Team will assess, identify, define and articulate the Procuring Agency's culture –its values, goals, and practices – and then our team will weave this understanding into the hiring process.

Based on our understanding of the Procuring Agency's work culture, our team will draft a questionnaire to conduct the Cultural Fit Assessment of the candidates. Figure provides examples of such questions.

Cultural Fit Assessment Questionnaire:

- *What is the single most important factor that must be present in your work environment for you to be successfully and happily employed?*
- *What are the positive aspects of your current job and work environment, or the last position you held before coming to this interview?*
- *Describe the management style that will bring forth your best work and efforts.*
- *What is your preferred work style? Do you prefer working alone or as part of a team? What percentage of your time would you allocate to each, given a choice?*
- *Tell us about an occasion when you believe that you delighted a customer, either an internal or an external customer.*

Reference Checks: We carry out a thorough reference check of candidates and present them to clients only after receiving positive feedback from all references. Figure below shows the standard Professional Reference check form that we use for our clients unless the client has any other specific requirements or restrictions.



Professional Reference Check Form

Candidate's Name: _____
 Organization: _____
 Reference Name: _____
 Reference Title: _____ Relationship to Candidate: _____
 Phone/Email: _____ Date: _____
 Dates of Employment: From _____ To _____

What was the nature of the candidate's job?

Reason for Leaving: ☐ Voluntary ☐ Involuntary

Explanation:

Please rank the candidate based on the following areas:

Responds to Supervision	Poor	Fair	Good	Excellent	N/A
Attendance/Punctuality	Poor	Fair	Good	Excellent	N/A
Dependability	Poor	Fair	Good	Excellent	N/A
Assumes Responsibility	Poor	Fair	Good	Excellent	N/A
Follows Instructions	Poor	Fair	Good	Excellent	N/A
Quality of Work	Poor	Fair	Good	Excellent	N/A
Quantity of Work	Poor	Fair	Good	Excellent	N/A

Were there any disciplinary actions? Please explain:

Were there any performance issues? Please explain:

If given the opportunity, would you re-employ this individual? ☐ Yes ☐ No

Any Additional Comments?

Pre-Screen Employment/Background Checks/ Drug Screening:

Think Beyond performs a criminal record check, motor vehicle check (if applicable), verification of education, verification of employment experience, history, or expertise of the Contractor's employees in a manner consistent with applicable law and the Agreement, and as deemed necessary by the



County to protect the trust, safety, and security of the public and agents and employees of the County. We conduct complete background checks of candidates before their joining. Depending on the client’s requirements, the background checks are completed at the time of candidate submission or before the resource starts at the client site.

We use reputable background agencies such as A-Check, Hire Right, LexisNexis, Good Hire, First Advantage, talent Wise, PreCheck, and Crimcheck.com to conduct complete background checks of candidates. Depending on the Client’s requirements, the background checks will be completed at the time of candidate submission or before the resource starts at the client site.

	Multi-panel Drug Screening		Previous Employment Verification/Reference Checks
	E-Verify Check		Social Security Number Validation
	Education and Credential Verification		Credit History Check
	Criminal Background Checks and Fingerprint Checks		Motor Vehicle Records Check/License Verification



Consultant Qualifications and Expertise:

- 1. Key Personal Role:** Executive Contact and Contract Manager
Name: Anuj Malhotra **Years of Experience:** 21 yrs.

Education: Masters from West Virginia University Institute of Technology, WV, USA.

Summary Qualifications
• 17+ Years of Client Management and Business Development experience directing/supervising large contract vehicles of the State, Local, Federal and Private Sector. • Extensive experience providing account management for Contingent Staffing Services contracts with various state and local agencies such as New York Power Authority, New York City Housing Authority, NYCERS, Rural Health Network of South Central New York (RHNSCNY), MTA, MTA Capital Construction, Long Island Rail Road and Metro North Rail Road, State of Washington, State of Maryland, State of Oklahoma, State of Colorado, State of California, State of Texas, State of North Carolina, State of South Carolina, Community Transit - City of Everett, Port of Seattle, Washington Health Benefit Exchange (WAHBE), Valley Transit, King County Procurement & Payables Section, Washington State Department of Licensing, Lone Star College, Austin Community College (ACC) District, Los Angeles County Office of Education etc. • Excellent technical and interpersonal skills. 1. Account Management 2. Sales Management 3. Business Management 4. Contract Negotiations 5. Contingent Staffing 6. Strategic Planning 7. National Sales Development 8. C-level Client Relations



Core Competencies	
• Service Level Metrics • Service Desk • Incident & Problem Management • Performance Management • Continuous Improvement processes • Vendor Management	• Client Satisfaction • Change Management • Contract Governance • P&L Management • Self-directed Team Building • Field Service Management

Chronological Order Work History	
Think Beyond Inc. Contract/Account Manager	June 2008 - Present
• Manage government sector clients for their Staffing and Project Management needs. • Work collaboratively with clients to monitor performance and project delivery, manage risk, answer questions, escalations, and provide the resolution of issues. • Spearhead mitigation of any performance issues that may arise. • Help with government agencies technology solutions and services, respond to RFPs, and develop penetration and growth plans. • Define appropriate sales tactics and forecasting, build and plan relationships with vendors and distributors. • Apply dynamic leadership talents toward training, coaching, and managing sales associates. • Actively attend tradeshow and job fairs to establish and expand the network of candidates and clients. • Manage Fortune 500 clients. • Develop and maintain strategic relationships with clients and the management to fulfill client expectations and increase revenue. • Interact daily with project managers, resource managers, and procurement	



NetJets Inc	June 2004 - June 2006
Project Manager	
• Create detailed project plans, establish timelines, and define resource requirements, critical paths and key milestones; monitor overall progress and ensure timely completion of all tasks. • Build cost and time requirements into project plan; successfully meet project deliverables. • Execute all phases of the project life cycle - analysis, design, development, testing, implementation, and post-production support	

2. **Key Personal Role:** Sales and Reporting Contact
Name: Sachin Chopra **Years of Experience:** 20 yrs.
Education: Bachelor of Technology and PMP Certified

Summary Qualifications
• 6+ Years of experience in directing/supervising large contract vehicles of the State, Local, Federal and Private Sector. • Extensive experience providing Sales/account management for large contracts with various state and local agencies such as State of California, State of Oklahoma , State of California, State of Texas, State of North Carolina, State of South Carolina, NYCHA, NYCERS, MTA, Texas Capital Metropolitan Transportation Authority, Maryland DOT, North Carolina DOT, South Carolina DOT, Washington DOT, Metropolitan Transportation Authority (New York) and Capital Metropolitan Transportation Authority (Texas) etc. for their IT Professional needs.



Chronological Order Work Experience

Think Beyond, Inc. Sales Manager

Nov 2017 – Present

- Developing and executing sales strategies to drive revenue growth and meet or exceed sales targets.
- Building and maintaining strong relationships with clients and prospects, understanding their staffing needs, and providing tailored solutions.
- Leading and managing a high-performing sales team, setting sales targets, and providing guidance and support to achieve objectives.
- Identifying and pursuing new business opportunities, expanding the client base, and securing long-term contracts.
- Monitoring market trends, competitor activities, and industry developments to stay ahead of the curve and identify potential business opportunities.
- Collaborating with internal stakeholders, such as recruiters and operations teams, to ensure seamless delivery of staffing services and exceptional customer satisfaction.
- Conducting regular performance evaluations, providing coaching and training to sales team members to enhance their skills and drive individual and team performance.
- Analyzing sales data, generating reports, and presenting insights to senior management, informing strategic decision-making and identifying areas for improvement.
- Keeping abreast of industry best practices, emerging technologies, and changes in labor laws and regulations related to staffing, ensuring compliance and competitive advantage.
- Representing the company at industry events, conferences, and networking opportunities to enhance brand visibility and establish strategic partnerships.

EXHIBIT B

COST PROPOSAL



Cost Proposal

Job Title	Bill Rates		Mark Up
	Low	High	
Accountant	\$ 17.85	\$ 33.45	1.35
Administrative Support Services	\$ 16.59	\$ 29.49	1.35
Computer Operator	\$ 27.89	\$ 34.29	1.35
Custodian	\$ 14.69	\$ 19.33	1.35
Customer Care Representative	\$ 15.88	\$ 17.85	1.35
Customer Service	\$ 14.30	\$ 16.97	1.35
Data Entry	\$ 17.40	\$ 19.57	1.35
Database Support	\$ 15.90	\$ 18.55	1.35
Distribution Assistant	\$ 15.85	\$ 18.49	1.35
Engineer/Technician	\$ 25.39	\$ 28.95	1.35
Events Marketing Manager	\$ 17.66	\$ 19.50	1.35
File Clerk	\$ 15.92	\$ 18.30	1.35
Fitness Instructor	\$ 18.99	\$ 22.60	1.35
Food Server	\$ 18.45	\$ 21.56	1.35
Forklift Operator	\$ 16.39	\$ 18.44	1.35
General Labor	\$ 15.60	\$ 18.92	1.35
General Office Clerk	\$ 17.91	\$ 20.40	1.35
Janitorial	\$ 18.20	\$ 20.63	1.35
L.P Nurse	\$ 27.90	\$ 48.32	1.35
Librarian	\$ 19.20	\$ 26.39	1.35
Mechanics Maintenance	\$ 23.70	\$ 26.49	1.35
Office Assistant	\$ 17.99	\$ 20.80	1.35
Pool Maintenance	\$ 17.97	\$ 20.58	1.35
Receptionist	\$ 18.40	\$ 19.70	1.35
Shipping & Receiving Specialist	\$ 17.30	\$ 19.30	1.35
Site Management	\$ 14.30	\$ 16.97	1.35
Transcriber	\$ 18.40	\$ 20.99	1.35
Waste Maintenance	\$ 17.50	\$ 19.94	1.35



25-013

City Council Action and Executive Summary

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

District:	☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☒ N/A		
1st Reading:	Adopted: August 5, 2024		
Drafter:	Joe Padilla	Department:	Financial Services
Program:	Budget	Line of Business:	Fiscal Management
Title:	A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT GRANT AWARDS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY'S ADOPTED FY2025 BUDGET AND FY2025 CIP.		

TYPE OF ACTION: ☒ Administrative ☐ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:
Accept awarded grants and adjust FY25 budget and CIP.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
The City of Las Cruces (City) relies on grant funding for many of the critical programs provided each year for the residents of Las Cruces. Grant funding awards are received throughout the fiscal year and are not budgeted during the normal fiscal year budgeting process. Funds are not budgeted until the City has received a grant award agreement due to the unpredictable nature of funding levels and timing.

Per the City's Grants Administration Program Policy, the City Manager, or his designee, may execute grant agreements with funding agencies. Upon receipt of the fully executed agreement from the funding agency, the Council may adjust the budget.

The request for City Council is to accept the budget adjustments to be used by the departments for the scope of work as defined by each grant agreement.

SUPPORT INFORMATION:
[Exhibit "A" Fund Summary](#)
[Exhibit "B" FY2025-2030 CIP](#)
[Attachment "A" Grant Listing](#)
[Attachment "B" PR - FY24 ECECD SFSP Application Packet](#)
[Attachment "C" C1202821 2nd Amend TE reauth signed OOS](#)
[Attachment "D" Tran FFY23 Section 5339 NM-2024-012-00 paratransit vehicle replacement award executed](#)

PLAN(S):
None

COMMITTEE/BOARD REVIEW:
None

Agenda Item #7.2.

DOES THIS AMEND THE BUDGET?:

☒ Yes

☐ No

BUDGET / FISCAL IMPACT:

BUDGETED AMOUNT: Various

AVAILABLE AMOUNT: Various

EXPENDITURE AMOUNT:
Various

Funding Source(s):

Various

Overall Budget Impact:

Please refer to Exhibit "A" Fund Summaries

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes

☐ No

Does this action align with Elevate Las Cruces?

☒ Yes

☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution to accept the budget adjustments as presented and amend the City's FY2025 Budget.
2. Vote "No"; this will not approve the Resolution to adjust the FY2025 Budget as presented and return the funds to the granting agency.
3. Vote to "Amend"; this could delay the Resolution and the process of spending the grant funds within the predetermined grant schedule and require direction to staff.
4. Vote to "Table"; this will delay the Resolution and will impact the implementation of the grant agreement, the City department's ability to utilize the funds and return the grant funds to the granting agency.

RESOLUTION 25-013

A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT GRANT AWARDS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY'S ADOPTED FY2025 BUDGET AND FY2025 CIP.

The City Council is informed that:

WHEREAS, the City has received notice of grant awards for various City departments; and

WHEREAS, the grants will be used as designated in the scope of work and within the specified time period as shown in the grant agreements executed by the City Manager, or his designee; and

WHEREAS, the grant agreements that are the subject of this budget adjustment will be attached to the Resolution with a Summary, as Attachment "A"; and each agreement will be attached as subsequent attachments.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT the City hereby amends the FY2025 City Budget accept all grant awards as shown in the Fund Summary, Exhibit "A", attached hereto and made part of this Resolution, are hereby approved.

(II)

THAT the FY025 CIP, is hereby amended as outlined in Exhibit "B", attached hereto and made a part of this Resolution, are hereby approved.

(III)

THAT the City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS

CITY OF LAS CRUCES
BUDGET ADJUSTMENT REQUEST
BUDGET FISCAL YEAR 2024-25

Exhibit "A"

	2100 SPECIAL REVENUE REIMB GRANTS 2024-25			
	Original Budget	Amended Budget	Req. Adjustment	Adjusted Budget
RESOURCES				
Beginning Balance	\$ 270,735	0	0	270,735
Revenues				
Municipal Gross Receipts Tax	0	0	0	0
Public Safety Gross Receipts Tax	0	0	0	0
Hold Harmless Replacement GRT	0	0	0	0
State-Shared Gross Receipts Tax	0	0	0	0
Environmental Gross Receipts Tax	0	0	0	0
County Environmental Gross Receipts Tax	0	0	0	0
Internet Sales Gross Receipts Tax	0	0	0	0
Gasoline Tax	0	0	0	0
Cannabis Excise Tax	0	0	0	0
Lodgers Tax	0	0	0	0
Property Taxes	0	0	0	0
Payment In Lieu of Property Tax	0	0	0	0
Franchise Fees	0	0	0	0
Payment In Lieu of Franchise Fees	0	0	0	0
Licenses, Fees & Permits	0	0	0	0
Convention Center Fee	0	0	0	0
Auto License - State Shared	0	0	0	0
Fines & Forfeitures	0	0	0	0
Charges For Services	0	0	0	0
Natural Gas Sales - Commodity	0	0	0	0
Motor Pool Maintenances Charges	0	0	0	0
Fuel Charges	0	0	0	0
Intergovernmental	0	0	0	0
Investment Income	0	0	0	0
Miscellaneous Revenues	185,500	185,500	0	185,500
Federal Grants	15,245,266	15,263,560	58,200	15,321,760
State Grants	7,421,065	7,420,452	0	7,420,452
Local Grants	0	1,200	0	1,200
Debt Service	0	0	0	0
Total Revenues	22,851,831	22,870,712	58,200	22,928,912
TOTAL RESOURCES	\$ 23,122,566	22,870,712	58,200	23,199,647
Expenditures				
General Government	0	0	0	0
Legislative	0	0	0	0
Municipal Court	0	0	0	0
Chief Administrative Officer	0	0	0	0
City Manager	9,300,103	9,300,103	0	9,300,103
Legal	0	0	0	0
Las Cruces Police Department	4,248,063	4,266,357	0	4,266,357
Las Cruces Fire Department	1,415,683	1,415,683	0	1,415,683
Utilities	378,926	378,926	0	378,926
Economic Development	4,860,889	4,860,889	0	4,860,889
Internal Audit	0	0	0	0
Assistant City Manager-400	148,183	148,183	0	148,183
Human Resources	0	0	0	0
Financial Services	366,296	366,296	0	366,296
Information Technology	0	0	0	0
Fleet	0	0	0	0
Assistant City Manger-500	150,000	150,000	0	150,000
Parks & Recreation	0	0	58,200	58,200
Community Development	277,223	277,223	0	277,223
Quality of Life	1,479,054	1,479,641	0	1,479,641
Public Works	230,196	230,196	0	230,196
Legislative Reserve	0	0	0	0
Total Expenditures	\$ 22,854,616	22,873,497	58,200	22,931,697
Other Resources				
Operating Transfers In	0	0	0	0
Operating Transfers Out	0	0	0	0
Total Other Resources	\$ 0	0	0	0
Accrual Adjustments	0	0	0	0
ENDING BALANCE	\$ 267,950	(2,786)	0	267,949

CITY OF LAS CRUCES
BUDGET ADJUSTMENT REQUEST
BUDGET FISCAL YEAR 2024-25

Exhibit "A"

	4100 CAPITAL PROJECTS REIMB GRANTS 2024-25			
	Original Budget	Amended Budget	Req. Adjustment	Adjusted Budget
RESOURCES				
Beginning Balance	\$ 0	0	0	0
Revenues				
Municipal Gross Receipts Tax	0	0	0	0
Public Safety Gross Receipts Tax	0	0	0	0
Hold Harmless Replacement GRT	0	0	0	0
State-Shared Gross Receipts Tax	0	0	0	0
Environmental Gross Receipts Tax	0	0	0	0
County Environmental Gross Receipts Tax	0	0	0	0
Internet Sales Gross Receipts Tax	0	0	0	0
Gasoline Tax	0	0	0	0
Cannabis Excise Tax	0	0	0	0
Lodgers Tax	0	0	0	0
Property Taxes	0	0	0	0
Payment In Lieu of Property Tax	0	0	0	0
Franchise Fees	0	0	0	0
Payment In Lieu of Franchise Fees	0	0	0	0
Licenses, Fees & Permits	0	0	0	0
Convention Center Fee	0	0	0	0
Auto License - State Shared	0	0	0	0
Fines & Forfeitures	0	0	0	0
Charges For Services	0	0	0	0
Natural Gas Sales - Commodity	0	0	0	0
Motor Pool Maintenances Charges	0	0	0	0
Fuel Charges	0	0	0	0
Intergovernmental	0	0	0	0
Investment Income	0	0	0	0
Miscellaneous Revenues	0	0	0	0
Federal Grants	3,719,299	4,508,201	0	4,508,201
State Grants	16,008,104	19,216,253	720,000	19,936,253
Local Grants	799,144	350,000	0	350,000
Debt Service	0	0	0	0
Total Revenues	20,526,547	24,074,454	720,000	24,794,454
TOTAL RESOURCES	\$ 20,526,547	24,074,454	720,000	24,794,454
Expenditures				
General Government	0	0	0	0
Legislative	0	0	0	0
Municipal Court	0	0	0	0
Chief Administrative Officer	0	0	0	0
City Manager	0	0	0	0
Legal	0	0	0	0
Las Cruces Police Department	0	0	0	0
Las Cruces Fire Department	400,000	221,241	0	221,241
Utilities	0	0	0	0
Economic Development	2,103,908	2,894,891	0	2,894,891
Internal Audit	0	0	0	0
Assistant City Manager-400	0	0	0	0
Human Resources	0	0	0	0
Financial Services	0	0	0	0
Information Technology	370,000	370,000	0	370,000
Fleet	0	0	0	0
Assistant City Manger-500	0	0	0	0
Parks & Recreation	2,636,377	3,675,279	0	3,675,279
Community Development	0	0	0	0
Quality of Life	690,746	690,746	0	690,746
Public Works	14,325,516	16,222,298	720,000	16,942,298
Legislative Reserve	0	0	0	0
Total Expenditures	\$ 20,526,547	24,074,454	720,000	24,794,454
Other Resources				
Operating Transfers In	0	0	0	0
Operating Transfers Out	0	0	0	0
Total Other Resources	\$ 0	0	0	0
Accrual Adjustments	0	0	0	0
ENDING BALANCE	\$ 0	0	0	0

CITY OF LAS CRUCES
BUDGET ADJUSTMENT REQUEST
BUDGET FISCAL YEAR 2024-25

Exhibit "A"

	5923 TRANSIT CAPITAL 2024-25			
	Original Budget	Amended Budget	Req. Adjustment	Adjusted Budget
RESOURCES				
Beginning Balance	\$ 3,897,404	0	0	3,897,404
Revenues				
Municipal Gross Receipts Tax	0	0	0	0
Public Safety Gross Receipts Tax	0	0	0	0
Hold Harmless Replacement GRT	0	0	0	0
State-Shared Gross Receipts Tax	0	0	0	0
Environmental Gross Receipts Tax	0	0	0	0
County Environmental Gross Receipts Tax	0	0	0	0
Internet Sales Gross Receipts Tax	0	0	0	0
Gasoline Tax	0	0	0	0
Cannabis Excise Tax	0	0	0	0
Lodgers Tax	0	0	0	0
Property Taxes	0	0	0	0
Payment In Lieu of Property Tax	0	0	0	0
Franchise Fees	0	0	0	0
Payment In Lieu of Franchise Fees	0	0	0	0
Licenses, Fees & Permits	0	0	0	0
Convention Center Fee	0	0	0	0
Auto License - State Shared	0	0	0	0
Fines & Forfeitures	0	0	0	0
Charges For Services	0	0	0	0
Natural Gas Sales - Commodity	0	0	0	0
Motor Pool Maintenances Charges	0	0	0	0
Fuel Charges	0	0	0	0
Intergovernmental	0	0	0	0
Investment Income	0	0	0	0
Miscellaneous Revenues	0	0	0	0
Federal Grants	13,804,155	15,974,369	224,093	16,198,462
State Grants	0	0	0	0
Local Grants	0	0	0	0
Debt Service	0	0	0	0
Total Revenues	13,804,155	15,974,369	224,093	16,198,462
TOTAL RESOURCES	\$ 17,701,559	15,974,369	224,093	20,095,866
Expenditures				
General Government	0	0	0	0
Legislative	0	0	0	0
Municipal Court	0	0	0	0
Chief Administrative Officer	0	0	0	0
City Manager	0	0	0	0
Legal	0	0	0	0
Las Cruces Police Department	0	0	0	0
Las Cruces Fire Department	0	0	0	0
Utilities	0	0	0	0
Economic Development	0	0	0	0
Internal Audit	0	0	0	0
Assistant City Manager-400	13,662,133	15,832,347	263,639	16,095,986
Human Resources	0	0	0	0
Financial Services	0	0	0	0
Information Technology	0	0	0	0
Fleet	0	0	0	0
Assistant City Manger-500	0	0	0	0
Parks & Recreation	0	0	0	0
Community Development	0	0	0	0
Quality of Life	0	0	0	0
Public Works	2,709,656	2,709,656	0	2,709,656
Legislative Reserve	0	0	0	0
Total Expenditures	\$ 16,371,789	18,542,003	263,639	18,805,642
Other Resources				
Operating Transfers In	857,059	857,059	0	857,059
Operating Transfers Out	0	0	0	0
Total Other Resources	\$ 857,059	857,059	0	857,059
Accrual Adjustments	0	0	0	0
ENDING BALANCE	\$ 2,186,829	(1,710,576)	(39,546)	2,147,282

**City of Las Cruces
Capital Improvements Program
FY 2025-2030**

Exhibit "B"

Amended: 8/5/2024

Projects	Department	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Funding Source(s)
ACTIVE TRANSPORTATION		6,985,471	(975,000)	809,000	635,000	635,000	635,000	
Active Transportation - Newly Funded		500,000	-	-	-	-	-	
Trails +	Parks and Recreation	500,000						Grants
Active Transportation - Carryover Projects		6,485,471	(1,550,000)	135,000	135,000	135,000	135,000	
Active Transportation Program		5,577,515	(1,840,000)	135,000	135,000	135,000	135,000	Bonds, Grants, Taxes
Active Transportation Projects	Public Works	4,840,778						Bonds, Grants
<i>2024 Legislative Appropriations Pending Design Approval</i>			350,000					
Pedestrian Safety Improvements	Public Works	736,737	135,000	135,000	135,000	135,000	135,000	Taxes, Telshor
Dona Ana Move Trail	Parks and Recreation	400,000						Grants, Taxes
<i>2024 Legislative Appropriations (R)</i>			290,000					
Picacho Ave HAWK System	Public Works	39,746						Bonds, Taxes
University Multi-Use Trail Loop	Parks and Recreation	55,014						Grants, Taxes
Las Cruces Lateral RTP Trail	Parks and Recreation	413,196						Grants
Active Transportation - Future Projects		-	575,000	674,000	500,000	500,000	500,000	
Tortugas Trail	Parks and Recreation							Grants
<i>2024 Legislative Appropriations (R)</i>			75,000					
Trail Renovations	Parks and Recreation		500,000	500,000	500,000	500,000	500,000	Grants, Taxes
Green Cool Corridors for Bicycles	Sustainability			174,000				Grants, Taxes
AIRPORT		2,577,509	19,107,903	15,020,000	3,600,000	2,700,000	24,320,000	
Airport - Carryover Projects		2,437,709	-	-	-	-	-	
LRU Runway Improvements	Las Cruces Airport	2,437,709						Grants, Taxes
LRU Runway 4/22 Rehabilitation	Las Cruces Airport	2,437,709						Grants, Taxes
Airport - Annual Projects		139,800	200,000	200,000	200,000	200,000	200,000	
LRU Pavement Maintenance Program	Las Cruces Airport	64,800	125,000	125,000	125,000	125,000	125,000	Taxes
LRU Pavement Striping/Marking Maintenance Program	Las Cruces Airport	75,000	75,000	75,000	75,000	75,000	75,000	Taxes
Airport - Future Projects		-	18,907,903	14,820,000	3,400,000	2,500,000	24,120,000	
LRU Airport Rotating Beacon	Las Cruces Airport		170,000					Grants, Taxes
LRU Airport Automated Weather Observation System (AWOS)	Las Cruces Airport		415,000					Grants
LRU Maintenance Facility Design and Construction	Las Cruces Airport		500,000					Grants
LRU Airline Ground Support Equipment Facility Design & Construction	Las Cruces Airport							Grants
LRU Airport Maintenance Equipment	Las Cruces Airport		850,000					Grants, Taxes
LRU Commercial Hangar Design and Construction	Las Cruces Airport		2,800,000					Grants, Taxes
LRU Runway Improvements	Las Cruces Airport	-	14,172,903	-	-	-	12,850,000	Grants
LRU Runways 8/26 and 12/30 Blast Pads	Las Cruces Airport		410,000					Grants, Taxes
LRU Runway 12/30 Extension	Las Cruces Airport		13,500,000					Grants
<i>2024 Legislative Appropriations (R)</i>			262,903					
Runway 8/26 Extension	Las Cruces Airport						12,850,000	Grants, Taxes
LRU ARFF (Airport Rescue & Fire Fighting) Index B Equip Upgrades	Las Cruces Airport			1,600,000				Grants, Taxes
LRU Passenger Terminal Parking Design and Construction	Las Cruces Airport			1,600,000				Grants, Taxes
LRU Fuel Farm Relocation and Expansion	Las Cruces Airport			1,900,000				Grants
LRU Infrastructure Extensions/Improvements	Las Cruces Airport			4,500,000				Grants
LRU Passenger Terminal Design and Construction	Las Cruces Airport	-		5,220,000				Grants, Taxes
LRU Taxi Lane Extensions/Improvements	Las Cruces Airport				3,400,000			Grants
LRU Multi-Modal Public Passenger Transit Facility	Las Cruces Airport					2,500,000		Grants
LRU Apron West Rehabilitation	Las Cruces Airport						70,000	Grants, Taxes
LRU East Road Extensions/Improvements	Las Cruces Airport						11,200,000	Grants

Projects	Department	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Funding Source(s)
ATTAINABLE/AFFORDABLE HOUSING		10,137,334	9,975,000	4,000,000	4,000,000	4,000,000	4,000,000	
Attainable/Affordable Housing - Carryover Projects		5,872,334	-	-	-	-	-	
GO Bond 2024 - Affordable Housing Development	Neighborhood Housing	5,872,334						Bonds
Attainable/Affordable Housing - Carryover Projects		4,265,000	5,975,000	-	-	-	-	
MV Community of Hope - Campus Extension (Amador Crossing)	Neighborhood Housing	4,265,000						Grants, Taxes, Telshor
<i>2024 Legislative Appropriations</i>			5,975,000					
Attainable/Affordable Housing - Future Projects		-	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000	
MV Community of Hope - Master Plan Implementation	Neighborhood Housing		2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	Grants, Taxes
Paseos Verdes	Neighborhood Housing		2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	Grants, Bonds, Taxes
CITY OPERATIONAL FACILITIES		346,000	8,039,500	505,500	505,500	505,500	505,500	
City Operational Facilities - Newly Funded		346,000	-	-	-	-	-	
<i>Well Monitoring</i>	Public Works	346,000						Telshor
City Operational Facilities - Annual Projects		-	255,500	255,500	255,500	255,500	255,500	
Safety, Health, Environmental & Emergency	Facilities Management	-	255,500	255,500	255,500	255,500	255,500	Taxes
Safety, Health, Environmental, & Emergency	Facilities Management		255,500	255,500	255,500	255,500	255,500	Taxes
City Operational Facilities - Future Projects		-	7,784,000	250,000	250,000	250,000	250,000	
General Facilities Improvements		-	7,500,000	-	-	-	-	Bonds, Taxes
<i>City Hall Expansion</i>	Facilities Management		7,500,000					Bonds, Taxes
HVAC Upgrade Program		-	200,000	200,000	200,000	200,000	200,000	Taxes
HVAC Upgrade Program	Facilities Management		200,000	200,000	200,000	200,000	200,000	Taxes
Refuse & Recycling Buffer Program		-	84,000	50,000	50,000	50,000	50,000	Taxes
Refuse & Recycling Buffer Program	Facilities Management		84,000	50,000	50,000	50,000	50,000	Taxes
EQUIPMENT & IT		-	137,000	92,000	92,000	-	-	
Equipment & IT - Future Projects		-	137,000	92,000	92,000	-	-	
<i>Audio and Visual Equipment Upgrades for City Hall</i>	Facilities Management		137,000	92,000	92,000			Taxes
NON-PROFIT		5,976,672	15,850,746	1,300,000	-	-	-	
Non-Profit - Carryover Projects		5,976,672	13,580,000	500,000	-	-	-	
Arts and Cultural District Improvements	Non-Profit	1,875,623						Bonds, Taxes
MV Community of Hope - Building 1, Solar Project	Non-Profit	400,000	600,000					Grants
MV Community of Hope - Expansion Remodel	Non-Profit	1,171,268	500,000	500,000				Grants
MVCoH Flooring	Non-Profit	10,317						Grants
MVCoH Health Facility	Non-Profit	394,464	330,000	-	-	-	-	Grants
MVCoH Health Facility Improvements	Non-Profit	394,464	330,000					Grants
MV Community of Hope - Jardin de los Niños Re-Roof	Non-Profit	250,000	150,000					Grants
MV Community of Hope - The Kitchens	Non-Profit	1,875,000	10,850,000					Grants
<i>2024 Legislative Appropriations</i>			1,150,000					
Non-Profit - Future Projects		-	2,270,746	800,000	-	-	-	
Children's Museum Facility	Quality of Life	-						Grants
<i>2024 Legislative Appropriations (R)</i>			690,746					
<i>La Casa, Inc. Safety and Security Improvements</i>	Non-Profit		-					Grants
<i>2024 Legislative Appropriations</i>			580,000					
MVCoH Patio to Office Remodel	Non-Profit		1,000,000					Grants
MV Community of Hope - Jardin de los Niños Security Improvements	Non-Profit			200,000				Grants
MVCoH Solar Parking Structure	Non-Profit			600,000				Grants
OTHER		2,499,918	7,235,000	1,755,000	1,755,000	1,755,000	1,755,000	
Other - Carryover Projects		2,499,918	280,000	280,000	280,000	280,000	280,000	
GO Bond - ARPA	Public Works		514,918					Bonds
Pilla Mora Dam Park Study	Parks and Recreation		250,000					Bonds
Downtown Shade Structures	Economic Development		600,000					Bonds, Taxes
Mesquite Historical District Renovations	Public Works		1,025,000					Grants
Senior Programs Kitchen Equipment/Senior Programs Vehicles	Quality of Life		110,000	280,000	280,000	280,000	280,000	Taxes, Grants

Projects	Department	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Funding Source(s)
Other - Future Projects		-	6,955,000	1,475,000	1,475,000	1,475,000	1,475,000	
General Facilities Improvements		-	145,000	-	-	-	-	Grants, Taxes
Senior Programs Master Plan	Quality of Life		145,000					Grants, Taxes
LCIIP Gateway Signage & Pocket Park	Economic Development	-	335,000					Bonds, Grants, Taxes
LCIIP Infrastructure Improvements	Economic Development		5,000,000					Other
Safety, Health, Environmental & Emergency		-	1,475,000	1,475,000	1,475,000	1,475,000	1,475,000	Taxes
City Vacant /Abandoned Lots	Facilities Management		825,000	825,000	825,000	825,000	825,000	Taxes
Rehabilitation and Demolition of Vacant/Condemned Buildings	Facilities Management		650,000	650,000	650,000	650,000	650,000	Taxes
PARK IMPROVEMENTS		13,172,724	12,675,485	67,575,000	4,100,000	4,101,000	4,101,000	
Park Improvements - Newly Funded		400,000	-	-	-	-	-	
Park Construction/Enhancements	Parks and Recreation	400,000						Telshor
Park Improvements - Carryover Projects		8,699,474	2,634,494	125,000	-	-	-	
A. Fielder Memorial Safe Haven Renovations	Parks and Recreation	353,635						Taxes
Apodaca Park Aquatic Playground and Multi-Use Path	Parks and Recreation	1,388,902						Grants,Taxes, PIF
Chandler Tank Park	Parks and Recreation	1,071,192						PIF, Taxes
Gallagher Park Improvements	Parks and Recreation	62,533						Other
Highland Park		2,028,552						Bonds , Other , PIF
GO Bond 2018- Park & Sport Field Improvements & Additions	Public Works	30,874						Bonds
GO Bond 2022- Parks Improvements	Public Works	1,915,919						Bonds
GO Bond 2018 - Walking, Jogging, Biking Trails Improvements & Additions	Public Works	4,413						Bonds
Klein Park Improvements	Parks and Recreation	210,000						Grants, PIF
Parks and Recreational Facilities Structural Renovations	Parks and Recreation	300,000	585,000	125,000				Grants, Taxes
2024 Legislative Appropriations (Lift Up)			100,000					
Pioneer Women's Park improvements	Parks and Recreation	660,000						Grants
2024 Legislative Appropriations (R)			175,669					
Skate Park Renovation & Improvements	Parks and Recreation	321,000						Grants, PIF
2024 Legislative Appropriations (R)			773,825					
Smart Controllers & Pumps	Parks and Recreation	102,454						Taxes
Veteran's Memorial Park Enhancements	Parks and Recreation	250,000	1,000,000					ARPA, Bonds, Grants, Taxes
Park Improvements - Annual Projects		4,073,250	4,249,000	4,250,000	4,100,000	4,101,000	4,101,000	
Parks Shade Structures		23,250	24,000	25,000	25,000	26,000	26,000	Taxes
Park Structure Replacement	Parks and Recreation	23,250	24,000	25,000	25,000	26,000	26,000	Taxes
Playground Renovations	Parks and Recreation	1,500,000	1,825,000	1,825,000	1,825,000	1,825,000	1,825,000	Grants, Telshor
Legacy Park Renovations	Parks and Recreation	2,550,000	2,400,000	2,400,000	2,250,000	2,250,000	2,250,000	ARPA, Bonds, Grants, PIF, Taxes,Telshor
Park Improvements - Future Projects		-	5,791,991	63,200,000	-	-	-	
Park Drinking Fountains	Parks and Recreation	-	55,000					Grants
Albert Johnson Park Electrical Improvements	Parks and Recreation		70,000					Taxes, Grants
Ballfield/Multi-Use Field Renovations & Upgrades	Parks and Recreation		144,000	3,200,000				ARPA, Bonds, Grants, Taxes
2024 Legislative Appropriations (R)			662,991					
Soldados Field Restroom	Parks and Recreation		550,000					Grants, Bonds, PIF, Taxes
Soldados Field Lighting	Parks and Recreation		1,200,000					Grants, Bonds, PIF, Taxes
Light Poles at Hadley Fields	Facilities Management		1,010,000					Bonds, Grants, Taxes
Benavidez Community Center Park Improvements	Parks and Recreation		2,000,000					ARPA, Bonds, Grants, PIF, Taxes
Valley View Park - Heske Garden Lighting Replacement	Parks and Recreation		100,000					Grants
Multi-Use Recreation Center	Parks and Recreation			60,000,000				Bonds, Grants, Taxes

Projects	Department	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Funding Source(s)
PARKS - NEW		8,573,314	3,600,000	8,855,000	1,500,000	2,700,000	1,500,000	
Parks - New - Carryover Projects		6,036,576	800,000	500,000	500,000	500,000	500,000	
GO Bond 2022- East Mesa Public Recreation Complex	Public Works	3,316,762						Bonds
E. Mesa Public Recreational Complex	Public Works	2,100,000						Bonds, PIF, Grants
2024 Legislative Appropriations			300,000					
Metro Verde Neighborhood Parks	Parks and Recreation	619,814	500,000	500,000	500,000	500,000	500,000	PIF
Parks - New - Annual Projects		2,536,738	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	
Land Acquisition, Planning, and Design for Parks	Parks and Recreation	1,919,000	500,000	500,000	500,000	500,000	500,000	Taxes
Neighborhood Parks		617,738	500,000	500,000	500,000	500,000	500,000	PIF
Neighborhood Parks	Parks and Recreation	617,738	500,000	500,000	500,000	500,000	500,000	PIF
Parks - New - Future Projects		-	1,800,000	7,355,000	-	1,200,000	-	
New Skate Park- Plan and Design	Parks and Recreation	-						Grants
2024 Legislative Appropriations (R)			100,000					
Bike Park/Trail	Parks and Recreation		1,700,000	1,400,000				ARPA, Bonds, Grants, PIF
Four Field Baseball/Softball Complex	Parks and Recreation			5,955,000				Grants, Taxes
Waterfalls Park	Parks and Recreation					1,200,000		Grants, Bonds, PIF, Taxes
PUBLIC FACILITIES		18,594,001	30,308,013	32,438,796	12,387,396	38,988,396	13,382,396	
Public Facilities - Carryover Projects		1,556,789	4,000,000	-	-	-	-	
Branigan Cultural Center Improvements	Quality of Life	287,715	1,000,000					Taxes, TIDD
GO Bond 2018 - New Animal Shelter Facility	Public Works	33,520						Bonds
GO Bond 2022- Public Art	Quality of Life	340,000						Bonds
JCP Learning Center Exterior Repairs	Parks and Recreation	217,800						Grants
Public Art Program	Quality of Life	97,199						Grants
Various Park Restroom Replacement/Repairs & Upgrades	Parks and Recreation	580,555	3,000,000					Grants
Public Facilities - Annual Projects		17,037,212	7,997,017	18,639,700	2,054,700	6,039,700	6,039,700	
ADA Compliance	Facilities Management		101,200	101,200	101,200	101,200	101,200	Taxes
Convention Center FF&E	Facilities Management	75,000	75,000	75,000	75,000	75,000	75,000	Taxes
Downtown Parking Lots Renovation	Facilities Management	2,100,000	280,500	280,500	280,500	280,500	280,500	TIDD
Downtown Parking Lot Program	Facilities Management	2,100,000	280,500	280,500	280,500	280,500	280,500	TIDD
Roof Replacement Program	Facilities Management	2,255,000	438,000	-	-	-	-	Other
Meerscheidt Center Re-roof	Facilities Management	540,000						Bonds
Municipal Court Re-roof	Facilities Management	350,000						Bonds
Railroad Museum Re-roof	Facilities Management	150,000						Bonds, Grants, Taxes
Rio Grande Theater Re-roof	Facilities Management	400,000	118,000					TIDD
Museum of Art and Museum of Nature and Science Re-roof	Facilities Management	815,000						
Roof Inspections	Facilities Management	-	100,000					Taxes
Police Department Main Building - Re-roof	Facilities Management		110,000					Taxes
Police Department Academy - Re-roof	Facilities Management		110,000					Taxes
Parks Parking Lots		2,433,666	-	-	-	-	-	Grants, Taxes
BMX Track Parking Lot & ADA Improvements	Parks and Recreation	1,275,000	-	-	-	-	-	Grants, Taxes
Paz Ball Field Parking Lot Improvements	Parks and Recreation	650,000						Taxes
Tony Gomez Park Parking Lot Improvements	Parks and Recreation	200,000						Grants
Veterans' Park Parking Lot	Parks and Recreation	308,666						Grants, Taxes
Safety, Health, Environmental & Emergency		8,448	1,015,500	330,500	345,500	330,500	330,500	Grants, Taxes
City Hall Security Upgrades	Facilities Management	8,448	270,500	255,500	270,500	255,500	255,500	Taxes
Parks Sidewalk Replacement	Facilities Management	-	75,000	75,000	75,000	75,000	75,000	Grants, Taxes
Fire Alarm & Security Upgrades	Facilities Management		670,000					Taxes

Projects	Department	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Funding Source(s)
General Facilities Improvements Program		10,165,098	5,179,317	17,100,000	1,000,000	5,000,000	5,000,000	Bonds, Grants, Taxes, Telshor
General Facilities Improvements	Facilities Management	1,000,000						Telshor
Amador Hotel Renovation	Quality of Life	2,989,992	1,000,000	1,000,000	1,000,000	5,000,000	5,000,000	Taxes, TIDD
2024 Legislative Appropriations (R)			74,783					
Benavidez Center Renovations	Quality of Life	126,225	-					Grants, Taxes
Branigan Library - Expansion Phase II/Branch	Quality of Life	77,809	1,750,000	15,750,000				Grants, Taxes
Communication and Cashier Offices Construction	Facilities Management	398,900						Taxes
Frank O'Brien Papen Center Dining Room Floor	Quality of Life	35,000						Grants
Meerscheidt Center	Facilities Management	2,000,000						Bonds
Meerscheidt Recreation Center Improvements	Parks and Recreation	157,678						Taxes
Munson Senior Center Renovations	Quality of Life	2,279,375						Grants, Taxes
Museum of Nature and Science - Improvements	Quality of Life	260,000	75,000	175,000	-	-	-	Grants, Taxes
Atrium Redesign	Quality of Life	50,000						
Technology Improvements	Quality of Life	210,000						
Nature Center Redesign	Quality of Life		75,000	175,000				Grants, Taxes
Sage Café Expansion	Quality of Life	840,119	2,204,534					Taxes
Public Facilities - Future Projects		-	18,310,996	13,799,096	10,332,696	32,948,696	7,342,696	
Generator Buffer Program	Facilities Management	-	50,000	15,000	15,000	15,000	15,000	Taxes
Generator Buffer Program	Facilities Management		50,000	15,000	15,000	15,000	15,000	Taxes
Veterans Memorial Park Restroom Plumbing Repairs and Upgrades	Parks and Recreation		134,000					Grants, Taxes
HVAC Upgrade Program	Facilities Management		200,000	200,000	200,000	200,000	200,000	Taxes
Generator Replacement Program	Facilities Management	-	40,500	463,000	40,500	40,500	40,500	Taxes
Generator Replacement Program	Facilities Management		40,500	40,500	40,500	40,500	40,500	Taxes
Sage Café Backup Generator	Quality of Life			422,500				Grants, Taxes
Parks and Recreational Facilities Structural Renovations	Parks and Recreation		685,000	125,000				Other
Eastside Senior Center Purchase and Renovation	Quality of Life		775,000	1,000,000				Grants
General Facilities Improvements		-	12,818,996	11,243,596	9,784,696	32,440,696	6,834,696	Grants, Bonds, Taxes
City Hall Furnishings	Facilities Management	-	80,000	80,000	80,000	80,000	80,000	Taxes
Museum of Art Improvements	Quality of Life		130,000	485,000	200,000			Grants, Taxes
Frank O'Brien Papen Community Center	Facilities Management		224,400	224,400				Taxes
WIA Rehabilitation	Facilities Management		236,470	151,470	156,470	151,470	156,470	Taxes
Railroad Museum Exterior Improvements	Quality of Life		249,900					Grants, Taxes
Hadley Ave Complex Recreation Rehabilitation	Parks and Recreation		315,000	3,185,000				Grants, Other
Munson Center Floor	Quality of Life		750,000					Grants, Taxes
Plugged in for Good Community Energy Center	Sustainability		1,215,000					Grants
Municipal Court Rehabilitation	Facilities Management		6,618,226	6,618,226	6,598,226	6,598,226	6,598,226	Bonds, Grants, Taxes
Museum of Art/MoNaS Remodel	Quality of Life		3,000,000			15,000,000		Grants, Bonds, Taxes
Branigan Library Renovation	Facilities Management			249,500	2,750,000	1,111,000		Grants, Bonds, Taxes
Munson Center Bathrooms	Quality of Life			250,000				Grants, Taxes
Museum Collections Storage Facility	Quality of Life					9,500,000		Bonds, Grants, Taxes
Facility Parking Lot Program	Facilities Management		907,500	752,500	252,500	252,500	252,500	Taxes
Facility Parking Lot Program	Facilities Management		907,500	752,500	252,500	252,500	252,500	Taxes
Solar Array	RoadRunner Transit		2,700,000					Grants
New Sand Volleyball Courts	Parks and Recreation				40,000			Grants, Taxes

Projects	Department	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Funding Source(s)
PUBLIC SAFETY		13,913,778	13,036,000	1,340,000	14,925,000	57,000,000	-	
Public Safety - Carryover Projects		13,913,778	7,950,500	-	-	-	-	
Fire Station Maintance and Improvements	Fire Department	499,026	950,000	-	-	-	-	Grants
Fire Dept. Administration Building Improvements	Fire Department	199,026						Grants
Fire Station 2 Bay Remodel	Fire Department	100,000						Grants
Fire Station 6 Repairs	Fire Department	100,000						Grants
Fire Station 5	Fire Department	100,000						Grants
Fire Department CIT and MIH Building	Fire Department	230,196	1,450,000					ARPA, Grants
2024 Legislative Appropriations			2,550,000					
Fire Station 9	Fire Department	11,582,015	1,100,000					Bonds, Grants, Telshor
GO Bond 2022 - New Fire Station	Fire Department	9,360,772						Bonds
2024 Legislative Appropriations			100,000					
GO Bond 2018 - New Fire Station No. 3 Building	Fire Department	19,407						Bonds
Police Department Building Renovation	Police Department	15,134	400,000					Grants, Taxes
Police Department Equipment	Police Department	468,000	500,500	-	-	-	-	Grants
Public Safety Regional Radio Communication System	Police Department	468,000	500,500					Grants
Safety, Health, Environmental & Emergency		1,100,000	900,000	-	-	-	-	Grants
Real Time Crime Center (RTCC)	Police Department	1,100,000	250,000					Grants
2024 Legislative Appropriations			650,000					
Public Safety - Annual Projects		-	1,340,000	1,340,000	240,000	-	-	
Fire Department Vehicles and Equipment	Fire Department		1,100,000	1,100,000				Bonds
Fire Station equipment	Fire Department		240,000	240,000	240,000			Grants
Public Safety - Future Projects		-	3,745,500	-	14,685,000	57,000,000	-	
Police North Parking Lot Fencing	Police Department		20,000					Taxes
Solar Canopy protective screen	Police Department		20,000					Taxes
Police Parking Lot Resurfacing	Police Department		25,000					Taxes
Public Safety Vehicle SWAT Command Vehicle	Police Department		100,000					Grants
Public Safety Vehicles - Bearcat	Police Department		350,000					Grants
Public Safety Vehicle - Rook	Police Department		450,000					Grants
Police Department Mobile Operation Command Vehicle	Police Department		750,000					Grants
Police Department Equipment	Police Department	-	800,500	-	2,100,000	-	-	Grants, PSIF, Taxes
Technology Equipment	Police Department		100,000					Grants, Taxes
Police Department Equipment - Mobile Data Terminals	Police Department		500,500					Grants
Police/Fire Training Facility - Furniture, Fixtures, and Equipment	Police Department				2,100,000			Grants, PSIF, Taxes
Public Safety Smart Technology	Police Department		200,000					Grants
Police Emergency Vehicles	Police Department		1,230,000					Grants, PSIF, Taxes
Police/Fire Training Facility - Design/Construct	Police Department				6,900,000			Bonds, Grants, PSIF, Taxes
Southwest Station Build	Fire Department				5,685,000			Other
Downtown Public Safety Complex	Police Department					57,000,000		Bonds, Taxes
PUBLIC TRANSIT		16,436,272	5,421,800	3,340,000	70,000	70,000	70,000	
Public Transit - Carryover Projects		16,361,272	-	-	-	-	-	
Active Transportation		16,361,272	-	-	-	-	-	Grants, Taxes
Municipal Service Center - Transit	RoadRunner Transit	16,361,272						Grants, Taxes
Public Transit - Annual Projects		75,000	75,000	190,000	70,000	70,000	70,000	
Active Transportation		75,000	75,000	190,000	70,000	70,000	70,000	Grants
Transit Facilities Improvement Program	RoadRunner Transit	75,000	75,000	190,000	70,000	70,000	70,000	Grants
Public Transit - Future Projects		-	5,346,800	3,150,000	-	-	-	
Resiliency		-	5,346,800	3,150,000	-	-	-	Grants
Battery Storage	RoadRunner Transit			3,150,000				Grants
AVITT Inductive Charging	RoadRunner Transit		5,346,800					Grants

Projects	Department	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Funding Source(s)
RESILIENCY		6,882,275	1,000,000	500,000	500,000	500,000	500,000	
Resiliency - Carryover Projects		214,153	-	-	-	-	-	
Resiliency		214,153	-	-	-	-	-	Bonds
Solar Energy Photo Voltaic Projects	Sustainability	214,153						Bonds
Resiliency - Annual Projects		6,668,122	600,000	500,000	500,000	500,000	500,000	
Resiliency Program		6,668,122	600,000	500,000	500,000	500,000	500,000	Other, Taxes
Resiliency	P&I	1,390,000						
Drainage Infrastructure Improvements	Public Works	3,568,122	500,000	500,000	500,000	500,000	500,000	Other
Storm Water System Mapping	Public Works	100,000	100,000					Other, Taxes
Casa Linda Acres Reconstruction	Public Works	650,000						Bonds
East Mesa Roads and Drainage (Cortez Rd)	Public Works	960,000						Bonds
Resiliency - Future Projects		-	400,000	-	-	-	-	
DC Fast Chargers for Electric Vehicles	Sustainability		200,000					Grants, Taxes
Public Electric Vehicle Chargers	Sustainability		200,000					Grants, Taxes
STREETS - NEW		-	40,424,000	8,424,000	-	-	-	
Streets - New - Future Projects		-	40,424,000	8,424,000	-	-	-	
High Mesa Road	Economic Development		32,000,000					Grants, Bonds, Taxes
Transit Loop Road	Economic Development		8,424,000	8,424,000				Grants, Bonds, Taxes
STREETS IMPROVEMENTS		46,381,665	42,148,324	38,838,200	29,119,000	31,225,000	41,715,000	
Streets Improvements - Carryover Projects		22,552,781	5,280,000	600,000	600,000	600,000	600,000	
Bellamah Drive - Lees Drive to Luna Street	Public Works	1,983,276						Bonds, Taxes
Casa Linda Acres Reconstruction	Public Works	2,984,760						ARPA, Taxes
Downtown Street Improvements		6,986,630	-	-	-	-	-	TIDD
Campo Street Design and Reconstruct	Public Works	6,986,630	-					TIDD
East Mesa Recreation Complex Roads	Public Works	385,364						Bonds, Taxes
Madrid Ave Extension - Evelyn St to N Triviz Dr	Public Works	2,851,472						Bonds, Grants, Taxes
Active Transportation			1,000,000					Bonds
Midway Ave - Gas Line Rd to Mesa Dr.	Public Works	344,301						Bonds, Taxes
South Main St - Avenida de Mesilla to Boutz	Public Works	3,299,983						Bonds, Grants, Taxes
Active Transportation			1,000,000					Bonds
Telshor Spruce Intersection Improvements	Public Works	891,865	2,200,000					Grants, Bonds, Taxes
University Ave. Complete Street Improvements-Design	Public Works	520,000	480,000					Grants
Unpaved Roads	Public Works	250,000						Taxes
Voluntary Assessment District Phase II	Public Works	1,422,509						Bonds
Streets Improvements - Annual Projects		23,828,883	16,244,500	22,715,000	18,215,000	18,215,000	18,215,000	
Complete Streets Program		7,660,000	2,479,500	4,500,000	4,500,000	-	-	Bonds
Complete Streets		6,323,563						
East Mesa Roads and Drainage (Cortez Rd)	Public Works	1,100,000						Bonds
University Area Complete Streets- Design Study	Public Works	236,437	500,000	4,500,000	4,500,000			Grants, Bonds, Taxes
Idaho Ave.	Public Works							Grants, Bonds, Taxes
El Paseo Rd.	Public Works							Grants, Bonds, Taxes
Melendres Ave - Hadley to Picacho	Public Works							Bonds, Taxes
Pending Design Approval			1,979,500					
East Mesa Roads and Drainage (Cortez Rd)	Public Works	1,721,896	550,000	500,000	500,000	500,000	500,000	Grants, Bonds, Taxes
2024 Legislative Appropriations (R)			550,000					

Projects	Department	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Funding Source(s)
Lift Up Las Cruces - Streets Improvements	Public Works	567,774	600,000	600,000	600,000	600,000	600,000	Bonds, Taxes
M.A.P. Match	Public Works	165,000	150,000	150,000	150,000	150,000	150,000	Taxes
Materials Testing	Public Works	240,000	240,000	240,000	240,000	240,000	240,000	Taxes
CO-OP Match	Public Works	80,000	80,000	80,000	80,000	80,000	80,000	Taxes
Land Acquisition - Public Works	Public Works	350,000	200,000	200,000	200,000	200,000	200,000	Taxes
Flood Control		250,000	100,000	100,000	100,000	100,000	100,000	Taxes
Rights of Way		100,000	100,000	100,000	100,000	100,000	100,000	Taxes
Median Landscaping	Parks and Recreation	411,956	1,120,000	1,120,000	1,120,000	1,120,000	1,120,000	Grants, Taxes
Lohman Ave & Roadrunner Parkway Medians	Parks and Recreation	411,956	-	-	-	-	-	Grants
Neighborhood Traffic Calming Program	Public Works	60,000	60,000	60,000	60,000	60,000	60,000	Taxes
Neighborhood Traffic Calming Program	Public Works	60,000	60,000	60,000	60,000	60,000	60,000	Taxes
Pavement Condition Index Improvements	Public Works	8,087,000	6,300,000	6,300,000	6,300,000	6,300,000	6,300,000	Taxes
Pavement Condition Index Improvements	Public Works	8,087,000	6,300,000	6,300,000	6,300,000	6,300,000	6,300,000	Taxes
Pavement Marking Program	Public Works	169,000	169,000	169,000	169,000	169,000	169,000	Taxes
Pavement Marking Program	Public Works	169,000	169,000	169,000	169,000	169,000	169,000	Taxes
Roadway Maintenance Program	Public Works	1,705,119	1,846,000	1,846,000	1,846,000	1,846,000	1,846,000	Taxes
Chip Seal Program	Public Works	220,000	220,000	220,000	220,000	220,000	220,000	Taxes
Roadway Maintenance Program	Public Works	1,267,569	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000	Taxes
Weed Control & Maintenance Program	Public Works	217,550	126,000	126,000	126,000	126,000	126,000	Taxes
Street Lighting & Traffic Signal Maintenance Program	Public Works	1,096,291	1,000,000	5,500,000	1,000,000	5,500,000	5,500,000	Grants, Taxes
Street Lighting and Traffic Signal Maintenance	Public Works	1,096,291	500,000	500,000	500,000	500,000	500,000	Taxes
Traffic Signal Program	Public Works	514,847	450,000	450,000	450,000	450,000	450,000	Taxes
Traffic Signal	Public Works	450,000	450,000	450,000	450,000	450,000	450,000	Taxes
Bataan Memorial at Rinconada	Public Works	64,847						Taxes
Transportation System Modernization ITS	Public Works	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	Taxes
Streets Improvements - Future Projects		-	20,623,824	15,523,200	10,304,000	12,410,000	22,900,000	
McClure Rd & Carlyle Dr	Public Works		300,000	1,800,000	2,700,000	1,500,000		Taxes
Advancement Ave Expansion	Economic Development		516,384					Taxes
S Alameda Blvd-W Amador Ave to W Las Cruces Ave	Public Works		659,400					Taxes
Armijo St - W Picacho Ave to Parker Rd	Public Works		684,000					Bonds, Taxes
Alameda Blvd Design and Construct	Public Works		750,000					TIDD
Venture Blvd Expansion	Economic Development		900,000					Grants, Taxes
Ethel Ave/Houma St- N Miranda St to N Alameda Blvd	Public Works		718,250					Bonds, Taxes
Active Transportation			325,000					
Mountain Vista Parkway Expansion	Public Works		1,200,474					Grants, Taxes
Mountain Ave - Melendres St to Armijo St	Public Works		1,368,000					Bonds, Taxes
Evelyn St - Madrid Ave to Ash Ave	Public Works		1,710,000					Bonds, Grants, Taxes
Johnson St - Rouault Ave to Topley Dr	Public Works		1,712,000					Bonds, Taxes
Sacramento St - Poplar Ave to Oasis Ave	Public Works		1,500,000					Grants, Bonds, Taxes
Med Park Ave - Idaho to Perkins Ave	Public Works		1,824,000					Bonds, Taxes
Rocket Drive Expansion	Economic Development		5,956,316					Bonds, Grants, Taxes
Sixth St- Hayner Ave to W. Hadley Ave	Public Works			484,000				Bonds, Taxes
La Fonda Dr - Idaho Ave to E.O.P.	Public Works			726,000				Bonds, Taxes
Poplar Ave - Mesquite St to Santa Fe St	Public Works			871,200				Bonds, Taxes
Armijo St - W Organ Ave to W Mountain Ave	Public Works			1,331,000				Bonds, Taxes
Kilmer St - Spruce Ave to Ash Ave	Public Works			1,391,000				Bonds, Taxes

Projects	Department	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Funding Source(s)
Traffic Signal Program		-	-	1,500,000	-	-	-	Taxes
Lohman at Walnut and Walton Signal Improvement	Public Works			1,500,000				Taxes, Grants
Sequoia Ave - Valley Dr to EOP	Public Works			2,420,000				Bonds, Taxes
Scoggins Ave-Sixth St to Sweet St	Public Works				652,800			Bonds, Taxes
Mountain Ave - Water St to Alameda Blvd	Public Works				640,000			Bonds, Taxes
Rigsby Rd - Barker to Valley Dr	Public Works				768,000			Bonds, Taxes
Miranda Ave - Picacho Ave to Court Ave	Public Works				1,664,000			Bonds, Taxes
South Valley Dr Reconstruction - Avenida de Mesilla to Boutz	Public Works				3,379,200			Bonds, Taxes
Street Lighting & Traffic Signal Maintenance Program	Public Works	-	500,000	5,000,000	500,000	5,050,000	5,000,000	Bonds, Taxes
Street Lighting Management System	Public Works		500,000	5,000,000	500,000	5,000,000	5,000,000	Taxes
Targeted Road and Lighting Improvements - Design	Public Works					50,000		Bonds, Taxes
Sweet St- Hayner Ave to W. Hadley Ave	Public Works					568,000		Bonds, Taxes
Parkview Dr - Espina St to E.O.P	Public Works					972,000		Bonds, Taxes
Westgate St - Amador Ave to Cul de Sac	Public Works					1,350,000		Bonds, Taxes
Aspen Ave-Sequoia Ave to S Valley Dr	Public Works					2,970,000		Bonds, Taxes
Elm St from Aspen Ave to Sequoia Ave	Public Works						1,300,000	Bonds, Taxes
Tamarack St from Aspen Ave to Sequoia Ave	Public Works						1,600,000	Bonds, Taxes
Solano Dr- Missouri to Lohman	Public Works						15,000,000	Bonds, Taxes
UTILITIES		12,081,638	104,655,574	27,939,881	3,130,000	3,340,000	2,770,000	
Utilities - Carryover Projects		12,081,638	50,310,265	27,939,881	3,130,000	3,340,000	2,770,000	
2020 Wastewater Bond Projects	Utilities	220,001						Other
2020A Water Utilities Projects	Utilities	2,115,201						Other
Gas Admin Building Improvements	Utilities	253,333	549,750	673,998	125,000	125,000	125,000	Other
Gas Development	Utilities	146,055	780,455	1,468,364	300,000	300,000	300,000	Other
Gas Miscellaneous	Utilities	304,284	361,748	175,000	175,000	175,000	175,000	Other
Gas Rehabilitation	Utilities	1,833,414	6,135,724	3,463,396	360,000			Other
Solid Waste Building Improvements	Utilities	128,333	1,990,478	2,173,998				Other
Wastewater Building Improvements	Utilities	50,000	424,750	548,998	50,000	50,000	50,000	Other
Wastewater Development	Utilities	156,000	100,000	100,000	100,000	100,000	100,000	Other
Wastewater Miscellaneous	Utilities	55,966	396,569	230,000	230,000	230,000	230,000	Other
Wastewater Rehab	Utilities	328,406	6,290,463	760,000	510,000	760,000	510,000	Other
Wastewater Septic Systems (WW Dev)	Utilities	1,389,046						Other, Grants
2024 Legislative Appropriations (R)			348,451					
Wastewater Street Utility Rehabilitation	Utilities	1,890,017	4,017,628	400,000	200,000	400,000	200,000	Other
Water Building Improvements	Utilities	128,333	549,750	673,998	125,000	125,000	125,000	Other
Water Development	Utilities	154,224						Other
Water Miscellaneous	Utilities	75,000	744,461	125,000	105,000	125,000	105,000	Other
Water Rehab	Utilities	2,088,650	22,438,644	5,914,864	850,000	950,000	850,000	Other
Water Rehab (NMFA)	Utilities	34,941						Other
WW23 Projects	Utilities	730,434	5,181,394	11,232,265				Other
Utilities - Future Projects		-	54,345,309	-	-	-	-	
Belt Filter Press Drainage Improvement	Utilities		93,000					Other, Grants
Primary Digester Sludge Pump Upgrade	Utilities		93,000					Other, Grants
Lift Station Stationary Generator Installation	Utilities		100,000					Other, Grants
Pressure Reducing Valve Rehabilitation	Utilities		100,000					Other, Grants
Water Valve Replacements	Utilities		120,000					Other, Grants
Elevated Airport Water Storage Tank Rehab	Utilities		3,000,000					Other
Transit Pipe Identification & Replacement	Utilities		5,000,000					Other
Wastewater Treatment Plant	Economic Development		45,839,309					Bonds, Grants, Taxes

Projects	Department	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Funding Source(s)
ALL DEPARTMENTS								
Total Annual Projects		54,359,005	31,961,017	49,090,200	26,635,200	30,381,200	30,381,200	
Total Carryover Projects		103,081,231	89,260,259	30,079,881	4,645,000	4,855,000	4,285,000	
Total Future Projects		-	191,418,069	133,562,296	45,038,696	112,283,696	60,587,696	
Total Newly Funded Projects		1,246,000						
GRAND TOTAL		158,686,237	312,639,344	212,732,377	76,318,896	147,519,896	95,253,896	

Abbreviations:

<u>ARPA</u> - American Rescue Plan Act	<u>Other</u> - Includes Fees, State Entitlements, Leases, Developer Contributions, and Donations	<u>TIDD</u> - Tax Increment Development District
<u>Bonds</u> - Includes Bonds and Loans	<u>PIF</u> - Park Impact Fees	<u>WIF</u> - Water Impact Fees
<u>Grants</u> - Includes Local, State, Federal, or private entity	<u>PSIF</u> - Public Safety Impact Fees	<u>WWIF</u> - Wastewater Impact Fees
	<u>Telshor</u> - Telshor Fund	

Notes

 Indicates a Change Indicates newly submitted	<i>Pending funding noted in italic</i> (R) Leg. Appropriations Reauthorizations	Current funding sources noted in bold
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Agenda Item #7.2.



CITY OF LAS CRUCES

The following grant has been awarded to the City of Las Cruces

Today's Date: 07/03/2024

Grant Team Representative: Gabriela Prats

Grant Award Amount: \$ 58,200.00

Council Budget Adjustment Date: 08/05/2024

Grant Agreement #: N/A

Grant Effective Date: 06/03/2024

Grant Reversion Date: 08/31/2024

Funding Agency: New Mexico Early Childhood Education and Care Department (NM ECECD)

PROJECT INFORMATION

Grant Project Title: Las Cruces Summer Food Service Program

Type of Funding: Federal Operating

Type of Grant: Non-Competitive/Entitlement Recurring

Grantor Type: State

Match Amount: \$ 0.00

Match Description: No Match Required-Provided

Match Percent/Ratio:

Match Source:

City Fiscal Year: FY2025

Funder Fiscal Year: FFY2024

Grant Scope of Work:

The agreement with the NM ECECD establishes the City of Las Cruces as a Summer Food Service Program Sponsor. As a Sponsor, the City is entitled to be reimbursed for meals served to children below the age of 18 at designated sites throughout the city. The Parks & recreation Department established 12 sites this summer and served more than 5,000 breakfasts and 10,000 lunches to Las Cruces children. The Program ran from June 5th through July 12, 2024.

Does this grant involve Sub-Grantees or Pass Through Grants: ☒ YES ☐ NO

DEPARTMENT INFORMATION

User Department: N/A

Implementation Department: Parks & Recreation

Line of Business:

Line of Business: Out of School Time and Youth Dev &

Program:

Program: Out of School Time 0545A

Project Manager:

Project Manager: Ryan Steinmetz

Phone:

Phone: 575-541-2498

Email:

Email: rsteinmetz@lascruces.gov

MUNIS Dept. Number: SELECT

MUNIS Dept. Number: 450- Parks & Rec

ACCOUNT STRINGS:

Fund Number - Organization Number - Object Number - Amount for Revenue and Expense

(2100 for General Grants/4100 for Capital Grants)

REV: 2100-20545001-599100 - \$58,200.00

EXP: 2100-20545001-721080 - \$58,200.00

Capital Assets: ☐ YES ☒ NO

Reimbursable Grant: ☒ **Revenue Collected in Advance:** ☐

Project Created By: Liam Beasley

Project Number: 24001

Date to Accounting: 7/3/24

Set-Up Date: 7/10/24

Accounting Comments:



CITY OF LAS CRUCES

The following grant has been awarded to the City of Las Cruces

Today's Date: 07/02/2024

Grant Award Amount: \$ 720,000.00

Grant Agreement #: C1202821-I4074

Grant Effective Date: 07/01/2024

Funding Agency: State of New Mexico Department of Transportation (NMDOT)

Grant Team Representative: Crystal Silva

Council Budget Adjustment Date: 08/05/2024

Grant Reversion Date: 06/30/2026

PROJECT INFORMATION

Grant Project Title: East Mesa Roads/Drainage 24-I4074

Type of Funding: State Legislative Outlay

Grantor Type: State

Match Description: No Match Required-Provided

Match Source: N/A

City Fiscal Year: FY2025

Grant Scope of Work:
To acquire rights of way and to plan, design and construct roads, including curb and gutter, utilities and flood control, on the east side of Las Cruces in Dona Ana County. This is a reauthorization of 20-E2821- East Mesa Roads/Drainage.

Type of Grant: Legislative Appropriation

Match Amount: \$ 0.00

Match Percent/Ratio: 0

Grant Fiscal Year: FY2025

Does this grant involve Sub-Grantees or Pass Through Grants: ☐ YES ☒ NO

DEPARTMENT INFORMATION

User Department: Public Works	Implementation Department: Public Works
Line of Business: 0255- Public Infrastructure	Line of Business: 0255- Public Infrastructure
Program: 0255A- Engineering and Surveying	Program: 0255A- Engineering and Surveying
Project Manager: Natashaia Billy	Project Manager: Natashaia Billy
Phone: 575-528-3168	Phone: 575-528-3168
Email: nbilly@lascruces.gov	Email: nbilly@lascruces.gov
MUNIS Dept. Number: 550- Public Works	MUNIS Dept. Number: 550- Public Works

ACCOUNT STRINGS:

Include the fund number - Object Description - Amount: (2100 for General Grants/4100 for Capital Grants)

Revenue: 4100-40255004-599200 - \$720,000

Expense: 4100-40255004-802000 - \$720,000

Please copy project 12029. This is a reauthorization of project 12029.

Capital Assets: ☒ YES ☐ NO

Reimbursable Grant: ☒ Revenue Collected in Advance: ☐

Grant Application #: N/A

Set-Up Date: 07/10/2024

Project Code # 24074

Date to Accounting: 07/03/2024

Liam Beasley

Accounting Department Info:



CITY OF LAS CRUCES

The following grant has been awarded to the City of Las Cruces

Today's Date: 07/05/2024

Grant Team Representative: Gabriela Prats

Grant Award Amount: \$ 224,093.00

Council Budget Adjustment Date: 08/05/2024

Grant Agreement #: NM-2024-012-00

Grant Effective Date: 06/07/2024

Grant Reversion Date: 06/30/2025

Funding Agency: U.S. Department of Transportation Federal Transit Administration

PROJECT INFORMATION

Grant Project Title: Replacement of Paratransit Vehicles

Type of Funding: Federal Capital

Grantor Type: Federal

Match Description: Local Cash Match

Match Source: Transfer from HHR GRT (5923-990100-91)

City Fiscal Year: FY2025

Grant Scope of Work:

Type of Grant: Non-Competitive/Entitlement Recurring

Match Amount: \$ 39,546.00

Match Percent/Ratio: 15%

Funder Fiscal Year: FFY2023

The funding will allow the Transit Department to replace two paratransit vehicles that have reached their useful life. As per the City's Transit Asset Management Plan, these two vehicles need to be replaced as the cost of maintenance has become quite high.

Does this grant involve Sub-Grantees or Pass Through Grants: ☐ YES ☒ NO

DEPARTMENT INFORMATION

Implementation Dept: Office of the Assistant CM

User Dept:

Line of Business: Transit 0740

Program: Dial-A-Ride 0740B

Project Manager: Richard Hanway

Phone: 575-541-2533

Email: rhanway@lascruces.gov

MUNIS Dept. Number: 400- ACM Transit

Line of Business:

Program:

Project Manager:

Phone:

Email:

MUNIS Dept. Number: SELECT

Check box if implementation and user department are the same: ☒

ACCOUNT STRINGS:

Fund Number - Organization Number - Object Number - Amount for Revenue and Expense
(2100 for General Grants/4100 for Capital Grants)

REV: 5923-50740092-599100-24339 - \$224,093.00
EXP: 5923-50740092-807000-24339 - \$224,093.00
5923-50740022-807000-24339 - \$39,546.00 (match)

Capital Assets: ☒ YES ☐ NO

Reimbursable Grant: ☒ Revenue Collected in Advance: ☐

Date to Accounting: 7/5/24

Project Number: 24339

Project Created By: Liam Beasley

Set-Up Date: 7/11/24

Accounting Comments:

So What will be Needed?

To become a sponsor, you must complete an application, attend sponsor training (usually in March), follow Federal regulations, and ensure your organization can administer the Summer Food Service Program (SFSP) effectively, and maintain fiscal accountability and Program compliance. Here is a condensed list of what an organization will need.

- **Meal Sites** to use as locations where meals will be served to children. Meal sites may be: apartment complexes, churches, community centers, parks, playgrounds, or schools.
- **Children** to participate in the Program. Children 18 years old and younger at the meal site and in the serving line are eligible to receive a meal. Also, disabled persons older than 18 years of age participating in state educational programs for the mentally or physically disabled are eligible to participate.
- **Kitchen** to prepare meals. All kitchens must be inspected and approved by a State or local health or environmental authority. Sometimes a sponsor will contract with a local school or food service management company to prepare meals in their facility.
- **Program Staff** to operate the Program employees are needed to supervise the meal service at the sites and to prepare and/or serve meals.
- **Administrative Staff** to organize and administer the Program, and to ensure efficiency and effectiveness. The administrative staff must coordinate and communicate with the program staff and the State agency, and follow program regulations.

Summer Meals for Children

- There is no discrimination during the course of the meal service. Meals are available to all children regardless of race, color, national origin, sex, gender identity, sexual orientation, age, disability, reprisal or retaliation for prior civil rights activity.
- **Free meals** are available to all children eighteen years old and younger who are at the meal site and in the serving line.
- **No application or registration** is required for children to participate.
- Children are required to take all food components they are served. No part of the meal can be taken from the meal site.

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, gender identity, sexual orientation, age, disability, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or, (3) email: program.intake@usda.gov. This institution is an equal opportunity provider.

Become a Summer Food Service Program Sponsor



NEW MEXICO

Early Childhood
Education & Care Department
Family Nutrition Bureau

“No child should have to worry about going hungry when the school year ends. The Summer Food Service Program ensures that all children in New Mexico can receive and benefit from healthy and nutritious meals throughout the summer months.”

- Elizabeth Groginsky
ECECD Cabinet Secretary

What is the Summer Food Service Program (SFSP)?

The Summer Food Service Program (SFSP) provides nutritious meals and snacks to children during the summer months. The Federally funded SFSP helps children who live in eligible areas receive the same high-quality meals during the summer as they get during the school year. Organizations that are eligible and approved to participate (sponsors) receive United States Department of Agriculture (USDA) funds to administer and operate the Program, including preparing and distributing meals and snacks to children 18 years old and younger.

Sponsors oversee the production and distribution of meals to children at meal sites, such as schools, churches, parks, and playgrounds.

Eligibility

The 4 types of organizations eligible to participate as a sponsor:

- Public school food authorities and non-profit private school food authorities;
- Public or non-profit private residential summer camps;
- Units of local, municipal, county, tribal, or state government;
- Private non-profit 501 (c)(3) organizations

Funding

Reimbursement is determined by the number of meals served to children multiplied by the USDA rate per meal type. **Sponsors receive USDA funds through the New Mexico Early Childhood Education and Care Department.**

Preparing Meals

Food can be prepared in several ways. The sponsoring organization can prepare the meals themselves or have a school or private food service management company prepare meals for them. The meals can be prepared at the site or at a central kitchen serving several sites. The ideal location is a local school kitchen, but many programs utilize other food production facilities.

What to Serve

With the exception of lunch and supper at a single site, a sponsor can serve any combination of the following meals or snacks, not to exceed two per site: breakfast, lunch, supper or snack. Most sponsors serve breakfast and lunch. **SFSP meals are nutritious and simple to prepare.** A typical SFSP lunch includes an entrée consisting of meat or a meat alternate, fruit, a vegetable or second fruit, a grain or bread and a half-pint of milk.

Sponsor

As a Sponsor there are Program regulations, policies and guidelines both at the Federal and State Agency level, to ensure the program is in compliance and well administered:

- Meals prepared and served must meet USDA meal pattern requirements;
- All personnel working in the SFSP must be trained;
- Meal sites must be monitored by the Sponsor during the summer;
- Records must be maintained for meal production, meals served, finances, and other program requirements and;
- The organization must adhere to all approvals made by the State agency.

Receive an application to participate as a SFSP Sponsor

New Mexico Early Childhood Education and Care Department

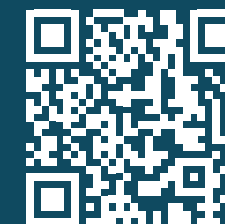
NMeccd.org/family-nutrition

Summer Food Program
SummerFoodnm.org

1-800-EAT-COOL
(1-800-328-2665)
or 505-231-4703

SFSP Program Contact:
Debbie Candelaria
debra.candelaria@eecd.nm.gov

Scan to learn more



PROCEDURES for DETERMINING SUMMER FOOD SERVICE PROGRAM (SFSP) ADVANCE PAYMENTS and START-UP PAYMENTS for SPONSORS

- **Background**

- 1) As per Summer Food Service Program (SFSP) code of Federal regulations found at 7CFR, Part 225.6(b)(2), State agencies shall inform potential sponsors of the procedure for applying for advance operating and administrative costs payments as provided for in 7CFR, Part 225.9(c). During the required, annual SFSP training sessions, potential sponsors of the Program are informed that all Sponsor requests for advance funds for operating and administrative costs are handled through the most current, electronic application, reporting and claiming system.
 - a. As per 7CFR, Part 225.9(c) – “At the sponsor’s request, State agencies shall make advance payments to sponsors which have executed Program agreements in order to assist these sponsors in meeting operating and administrative expenses...”.
 - b. The following procedures listed for the State agency determination of advance SFSP funds, are with the assumption that the sponsor has made the request through the appropriate electronic application, reporting and claiming system - EPICS. Additionally, the listed procedures below, are being provided with the assumption that the applicant sponsor has met all requirements, and criteria necessary for participation, and is otherwise approvable to participate in the Program.
- 2) Summer Food Service Program (SFSP) code of Federal regulations found at 7CFR, Part 225.9(a) – At their discretion, State agencies may make start-up to sponsors which have executed Program agreements.
 - a. Start-up payments shall not be made more than two months before the Sponsor is scheduled to begin food service operations and shall not exceed 20 percent of the sponsor’s approved administrative budget.
 - b. The amount of the start-up payment shall be deducted from the first advance payment for administrative costs or, if the sponsor does not receive advance payments, from the first administrative reimbursement.
 - c. Start-up payments are provided to the Sponsor, at the discretion of the State agency, with the intent to assist the sponsor with initial costs related to planning of a food service and in establishing effective management procedures for that service. (2016 SFSP Administrative Guidance, Page 136).
 - d. During the application process, the State agency will consider an applicant organization’s financial viability in its consideration of offering a SFSP start-up payment. The State agency will not offer start-up payments to any organization that is not deemed financially viable. The State agency will work with any viable organization to provide the Sponsor with the most appropriate level of funding prior to Program operations, be it *advance*, or *start-up* payment.



- **Sponsor notification of availability of advance payments**
 - 1) Potential sponsors of the Program are notified at the annual, required SFSP training sessions that sponsor requests for advance payments, are made through the current Enterprise Provider Information and Constituent Services (EPICS).
- **Determining advance payment levels– Current process using current electronic system, (SPARCS)**
 - 1) In general, applicant sponsors applications have already been approved within EPICS at the time of advance funding determination. Only Bureau Chief signature approval is still needed on paper due to the current process.
 - 2) In general, the Program Manager follows current SFSP regulations found at 7CFR, Part 225.9(c)(1-5) regarding the determination of advance funding. However, the State agency does use its best possible estimate based on the Sponsor's request, and any other available data, as provided for in 7CFR, Part 225.9(c)(2).
 - 3) At the State agency's discretion, it may consider, and provide for a School Food Authority (SFA) special request to weight advances heavier for one month, compared to another month.
 - 4) Determining advances for return, self-prep sponsorships– The State agency provides advance funding in the amount of 65% of estimated operational costs, per month requested, and 33% of estimated administrative costs, per month requested. If the State agency knows of, or is made aware of, any special needs of the requesting entity, the State agency will consider those needs, on a case-by-case basis, under the provision stated in 7CFR, Part 225.9(c)(2).
 - 5) Determining advances for return, vended sponsorships - The State agency provides advance funding in the amount of 50% of estimated operational costs, per month requested, and 33% of estimated administrative costs, per month requested.
 - 6) Determining advances for new self-prep sponsorships – Due to a lack of previous participation data, the State agency provides for no variance in the SFSP regulation found at 7CFR, Part 225.9(c)(1)(ii)(B). Additionally, the State agency highly scrutinizes an applicant sponsor's estimated average daily attendance listed in the application, and for which is one factor in determining estimated entitlement/funds/reimbursement for the Program. New sponsors are urged to lower presumed attendance expectations for the sake of not artificially inflating projected Program values that are used in the determination of SFSP advance funds.
 - 7) Determining advances for new, vended sponsorships – Due to a lack of previous participation data, the State agency provides for no variance in the SFSP regulation found at 7CFR, Part 225.9(c)(1)(ii)(B). Additionally, the State agency highly scrutinizes an applicant sponsor's estimated average daily attendance listed in the application, and for which is one factor in determining estimated entitlement/funds/reimbursement for the Program. New sponsors are urged to lower presumed attendance expectations for the sake of not artificially inflating projected Program values that are used in the determination of SFSP advance funds.
 - 8) All sponsor types are only provided with administrative advance funding in the amount of 33% of estimated administrative costs, per month requested. Future coding changes to the State's electronic application and claiming system will allow the State to vary it's percentage of administrative advance funds, per sponsor.
 - 9) Special needs of sponsors – As per 7CFR, Part 225.9(c)(2), the State agency will make special considerations pertaining to advance funding determinations, when requested by organization. In these situations the State agency considers a variety of factors, prior to making the determination



NEW MEXICO
Early Childhood
Education & Care Department

to accept the sponsor request for special handling of advance funding requests. The factors the State agency considers include, but is not limited to:

- a. Participation trends over the last 3 years.
- b. Number of operating sites over the last 3 years.
- c. Sponsor type (School, PNO, Tribal, etc.)
- d. Available USDA Foods from SFSP and/or NSLP
- e. Sponsor ability to payback similar advance fund amounts over previous years
- f. Previous years claims for reimbursement
- g. Net difference between total reimbursement, and total advance funding, for prior year.
- h. Sponsor reasoning for request
- i. Excess SFSP funds from previous year(s)
- j. Any other available information

- 10) As part of the Bureau Chief's high-level review of the application for participation, advance funding amounts are either approved, or disapproved by the Chief based on their own considerations.
- 11) In no circumstance, are advance funding amounts provided in excess of the estimated (determined) amounts needed by the sponsor to meet operating and/or administrative costs, respectively.

- **Providing Start-Up Payment to Sponsors**

- 1) Start-up payments are handled through the start-up payment functionality that has been developed into EPICS.
- 2) Start-up payments shall not be made more than two months before the sponsor is scheduled to begin food service operations and shall be calculated in an amount of no more than 20% of an organizations approved administrative budget.
- 3) Start-up payments are approved on three different levels: Program Manager, Bureau Chief/Fiscal Manager, Business Operations Specialist.
- 4) Start-up payments shall be deducted from the first advance payment or, if the sponsor does not receive advance payments, from the first reimbursement.
- 5) When viewed in combination with advance payments, the need for start-up payments is indicative the applicant organization is not as financially viable as what is preferred and careful consideration must be given by the Program Manager prior to the decision to issue start-up payments to any sponsor



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SUMMER FOOD SERVICE PROGRAM FOR CHILDREN APPEAL RIGHTS AND PROCEDURES

The following rights and procedures are in accordance with the 7 CFR Part 225.13 of the Code of Federal Regulations for the Summer Food Service Program for Children (SFSP) regarding Appeal Procedures. All sponsors and food service management companies will be notified in writing of the grounds upon which the New Mexico Early Childhood Education and Care Department (NMECECD) based its action. The notice will inform the sponsor of its right to appeal. The NMECECD will provide a copy of the appeal procedures to each potential sponsor upon applying for Summer Food Service Program for Children participation and to each food service management company upon applying for registration. Sponsor requests for appeal of adverse actions taken by the State agency must be made to SFSP Program Manager or Family Nutrition Bureau, Chief in writing.

a. **Appeal Rights for the New Mexico Early Childhood Education and Care Department SFSP Applicants**

The New Mexico Early Childhood Education and Care Department (NMECECD) shall notify the applicant sponsor in writing of the grounds upon which an appeal may be filed. Actions which may be appealed are:

1. A denial of an application for SFSP participation;
2. A denial of a sponsor's request for an advance payment;
3. A denial of a sponsor's claim for reimbursement, except for late submission under 7 CFR Part 225.9 (d)(5);
4. A State agency's refusal to forward to Food and Nutrition Service (FNS) an exception request by the sponsor for payment of a late claim or a request for an upward adjustment to a claim;
5. A claim against a sponsor for remittance of a payment;
6. The termination of a sponsor's (or site) participation;
7. A denial of a sponsor's application for a site;
8. A denial of a food service management company's application for registration; or
9. revocation of a food service management company's registration; if applicable.

Appeals shall not be allowed on decisions made by FNS with respect to late claims or upward adjustments under 7 CFR Part 225.9(d)(6).

b. **Appeal Procedures for the New Mexico Early Childhood Education and Care Department SFSP Applicants**

1. The sponsor or food service management company will be advised in writing of the grounds upon which the State agency based the action. The notice of action, shall also state that the sponsor or food service management company has the right to appeal the State's action. The notice is considered to be received by the sponsor or food service management company when it is delivered by certified mail, return receipt (or the equivalent private delivery service), by facsimile, or by email. If the notice is undeliverable it is considered to be received by the

Family Nutrition Bureau
4801 Indian School Rd. NE Bldg. 2
Albuquerque, New Mexico 87110-4801

Agenda Item #7.2.

sponsor or food service management company five days after being sent to the addressee's last known mailing address, facsimile number or email address.

2. The sponsor or food service management company has fourteen calendar days from the date on which the notice of action is received to request an appeal;
3. The appellant will be allowed the opportunity to review any information upon which the action was based;
4. The appellant will be allowed to refute the charges contained in the notice of action either in person or by filing written documentation with the review official. To be considered, written documentation must be submitted by the appellant within seven days of submitting the appeal, and must clearly identify the State agency action being appealed, and must include a photocopy of the notice of action issued by the State agency;
5. A hearing shall be held by the review official in addition to, or in lieu of, a review of written information submitted by the appellant only if the appellant specifies in the letter appealing the action. The appellant may retain legal counsel, or may be represented by another person. Failure of the appellant's representative to appear at a scheduled hearing constitutes the appellant's waiver of the right to a personal appearance before the review official, unless the review official agrees to reschedule the hearing. A representative of the State agency shall attend the hearing to respond to the appellant's testimony and written information and to answer questions from the review official;
6. If the appellant has requested a hearing, the appellant and the State agency shall be provided with at least 5 days advance written notice, sent by certified mail, return receipt requested, of the time and place of the hearing;
7. The hearing be held within 14 days of the date of the receipt of the request for review, but, where applicable, not before the appellant's written documentation is received in accordance with paragraph (b)(4) and (5) of this Part;
8. The review official be independent of the original decision-making process;
9. The review official make a determination based on information provided by the State agency and the appellant, and on Program regulations;
10. Within 5 working days after the appellant's hearing, or within 5 working days after receipt of written documentation if no hearing is held, the reviewing official must make a determination based on a full review of the administrative record and informs the appellant of the determination of the review by certified mail, return receipt requested;
11. The State agency's action remains in effect during the appeal process. However, participating sponsors and sites may continue to operate under the Program during an appeal of termination, and if the appeal results in overturning the State agency's decision, reimbursement shall be paid for meals served during the appeal process. However, such continued Program operation shall not be allowed if the State agency's action is based on imminent dangers to the health or welfare of children. If the sponsor or site has been terminated for this reason, the State agency shall so specify in its notice of action; and

Agenda Item #7.2.

12. A determination by the State review official is the final administrative determination to be afforded to the appellant.
- c. The State agency shall send written notification of the complete appeal procedures and the actions which can be appealed, as specified in paragraph (a) of this Section, to each potential sponsor applying to participate and to each food service management company applying to register in accordance with 7 CFR Part 225.6(g).
- d. A record regarding each review shall be kept by the State agency, as required under 7 CFR Part 225.8(a). The record shall document the State agency's compliance with these regulations and shall include the basis for its decision.

Submit written requests for appeal to the SFSP Lead Compliance Officer or Family Nutrition Bureau Chief.

Debra Candelaria, SFSP Lead Compliance Officer
Family Nutrition Bureau
4801 Indian School Rd NE Bldg. 2
Albuquerque, NM 87110
Debra.candelaria@eeced.nm.gov

Loren Miller, Bureau Chief
Family Nutrition Bureau
4801 Indian School Rd NE Bldg. 2
Albuquerque, NM 87110
loren.miller@eeced.nm.gov

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, gender identity, sexual orientation, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotope, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the [USDA Program Discrimination Complaint Form](#), (AD-3027) found online at: http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or, (3) email: program.intake@usda.gov. This institution is an equal opportunity provider.

Family Nutrition Bureau
4801 Indian School Rd. NE Bldg. 2
Albuquerque, NM 87110-4801

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

Approved by OMB
0348-0046

1. Type of Federal Action: ☐ a. contract ☐ b. grant ☐ c. cooperative agreement ☐ d. loan ☐ e. loan guarantee ☐ f. loan insurance		2. Status of Federal Action: ☐ a. bid/offer/application ☐ b. initial award ☐ c. post-award		3. Report Type: ☐ a. initial filing ☐ b. material change For Material Change Only: year _____ quarter _____ date of last report _____	
4. Name and Address of Reporting Entity: ☒ Prime ☐ Subawardee Tier _____, if known : City of Las Cruces 700 N Main St Las Cruces, NM 88001-1120 Congressional District, if known : NM-002			5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime: Congressional District, if known :		
6. Federal Department/Agency: U.S. Department of Agriculture Food and Nutrition Service			7. Federal Program Name/Description: Summer Food Services Program for Children CFDA Number, if applicable: 10.559		
8. Federal Action Number, if known :			9. Award Amount, if known : \$		
10. a. Name and Address of Lobbying Registrant (if individual, last name, first name, MI): HROD, Inc. 101 Constitution Ave NW Washington, DC 20001			b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI): O'Donnel, John R. Pagonis, Kyriakos		
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.			Signature: _____ Print Name: Gabriela M. Prats Title: Grant Manager Telephone No.: (575) 541-2430 Date: 04/29/2024		
Federal Use Only:					Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)



Signature: Gabriela M. Prats
 Gabriela M. Prats (May 24, 2024 16:13 MDT)
 Email: gprats@lascruces.gov

Signature: Josie Trevino
 Josie Trevino (May 24, 2024 16:26 MDT)
 Email: jotrevino@las-cruces.org

Signature: Steven Bingham
 Steven Bingham (May 24, 2024 18:46 MDT)
 Email: sbingham@lascruces.gov

**New Mexico Summer Food Service Program for Children
Personnel Disclosure Statement Form**

Please review the statement and definitions listed below and complete the form on the next page as applicable to your organization. It is possible that your organization may need to complete more than one of the tables. Return the completed form with the Sponsor Official's signature, title and date along with the New Mexico Summer Food Service Program for Children Application for Participation.

Institutions are required to meet the State Agency disclosure requirements and provide any additional information needed for the State Agency to make an informed decision of the allowed budgeted or claimed costs estimated by the institution.

The failure of the institution to identify related party transactions, less-than-arm's length transactions, ownership interests in equipment, supplies, vehicles and facilities, or disclose any other information to the State Agency that inhibits the State Agency's ability to make an informed assessment of allowing a particular cost will result in the disallowance of the cost and may subject the institution, its principals, employees, consultants or others to the administrative and legal remedies available to the State Agency and USDA-Food and Nutrition Service. If the State Agency determines that the institution's failure to disclose pertinent information was not deliberate, the State Agency may permit the institution to claim and retain Program reimbursement up to the amount that would have been allowed had a full disclosure been provided to the State Agency; however, the State Agency cannot permit the institution to claim unallowable costs, retain program funds earned as a result of claiming unallowable costs or use nonprofit food service account funds to pay for unallowable costs.

DEFINITIONS:

- 1) **Related Party Transaction** – is a transaction between the institution and its parent corporation, corporate divisions, subsidiaries, an employee(s), officer(s), agent(s) of the institution or members of their immediate family either directly or indirectly through corporations, trusts or similar arrangements in which they hold a controlling interest, no matter how represented. All related party transactions are less-than-arm's length transactions.
- 2) **Less-Than-Arm's Length Transaction** – A less-than-arm's length transaction is one under which one party to the transaction is able to control or substantially influence the actions of the other(s). Such transactions include, but are not limited to, those between divisions of an organization; organizations under common control through common officers, directors or members; and an organization and a director, trustee, officer, key employee of the institution or immediate family, either directly or through corporations, trusts or similar arrangements in which a controlling interest is held. All less-than arm's length transactions require specific prior written approval.
- 3) **Specific Prior Written Approval** – Means securing the State Agency's or, in some cases, Food and Nutrition Service's (FNS's) permission in advance to incur costs. Except in cases of emergencies, this permission must be in writing.

PERSONNEL DISCLOSURE FORM

FOR BOARD MEMBERS OF THE SFSP ORGANIZATION

NAME OF ORGANIZATION: City of Las Cruces

Name of Board Member	Position held on the Board	Is there a relation (family or acquaintance) to any key SFSP sponsor personnel (i.e.: Program Directors, Coordinators, Financial Staff, etc.)?			Name(s) of SFSP key sponsor personnel that you may have a relation to
		No	Yes	Indicate Relation	
		☐	☐		
		☐	☐		
		☐	☐		

FOR SFSP FOOD SERVICE VENDORS

NAME OF SFSP FOOD SERVICE VENDOR: Las Cruces Public Schools

Name(s) of vendor representative that has a deciding or monetary interest in the Sponsor's SFSP	Title of position held with the vending organization	Does this person serve on a Board for the sponsoring organization?		Does person have a deciding interest in the Sponsor's SFSP?		Does person have a monetary interest in the Sponsor's SFSP?	
		Yes	No	Yes	No	Yes	No
		☐	☐				
		☐	☐				
		☐	☐				

FOR OTHER SFSP CONTRACTED SERVICES

Name of SFSP organization the contractor is affiliated with	Name of person Providing Contractual services (not company name)	Is there a relation (family or acquaintance) to any key SFSP sponsor personnel (i.e.: Program Directors, Coordinators, Financial Staff, etc.)?			Name of SFSP key sponsor personnel that you have a relation to
		No	Yes	Indicate Relation	
		☐	☐		
		☐	☐		
		☐	☐		

☒ This page is **Not Applicable** to the organization

Ikani Taumoepeau

Sponsor Official Name


Sponsor Official Signature

City Manager

Sponsor Official Title

5/28/24.
Date

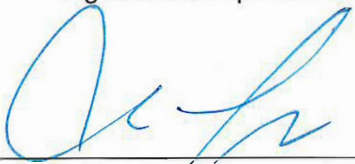
SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

FREE MEAL POLICY STATEMENT 7 CFR 225.6(c)(4)

For all programs to complete, except camps charging separately for meals

City of Las Cruces
Name of Sponsoring Organization

Assures the New Mexico Early Childhood Education and Care Department, Summer Food Service Program for Children, that all children, at the state-approved meal sites, will be served the same meal(s), free of charge and there will be no discrimination regarding race, color, national origin, sex, gender identity, sexual orientation, age, disability or reprisal or retaliation for prior civil rights activity during the course of meal service.

OR
Signature of Sponsor Official

Authorized Representative
Ikani Taumoepeau, City Manager

Date
5/28/24

**LOCAL HEALTH & ENVIRONMENT DEPARTMENT
NOTIFICATION**

DATE: 04/15/2024

TO: New Mexico Environment Department, Food Safety Bureau
Presiding Health and Environment Authority

FROM: Robert Nunez, Deputy Director, Parks & Recreation
Contact Name

SFSP SPONSOR NAME: City of Las Cruces

SUBJECT: Notification of kitchen(s) and meal site(s) where Summer Food Service Program for Children meals will be prepared and/or served

The purpose of this letter is to notify you of our intention to prepare Summer Food Service Program for Children (SFSP) meals at the following facilities and provide them at the following locations:

1. KITCHEN NAME, ADDRESS AND PHONE NUMBER

Las Cruces High School
1750 El Paseo Rd. Las Cruces, NM 88001 Tel: 575-527-9400

2. PLANNED MEAL SITE NAME (S), ADDRESS AND MEAL SERVICE TIMES
(if more space is needed, please attach the additional names on a separate page)

Please see attachment

ANTICIPATED PROGRAM DATES:

FROM: 06 / 05 / 2024 **TO:** 07 / 12 / 2024

If you have any questions, please contact the above name at the following phone number: 575-541-2551

Thank you.



**City of Las Cruces
Summer Food Sponsorship Program Sites**

1. City of Las Cruces- Youth Services Managed Sites

- Weed & Seed – A. Fielder Memorial Safe Haven
 - Address: 906 N. Tornillo St. Las Cruces, NM 88001
 - Service Dates: 06/05/2024-07/12/2024
 - Meal Service Times:
 - Breakfast 8:00AM–9:00AM
 - Lunch 12:00PM – 1:00PM
- OST Site 1 – Sierra Middle School
 - Address: 1700 Spruce Ave. Las Cruces, NM 88001
 - Service Dates: 06/05/2024-06/28/2024
 - Meal Service Times:
 - Breakfast 8:00AM–9:00AM
 - Lunch 11:30AM – 12:30PM
- OST Site 2 – Mesa Middle School
 - Address: 7225 N. Jornada Road Las Cruces, NM 88012
 - Service Dates: 06/05/2024-07/12/2024
 - Meal Service Times:
 - Breakfast 8:00AM–9:00AM
 - Lunch 12:00PM – 1:00PM
- OST Site 3 – Jornada Elementary School
 - Address: 3400 Elks Drive Las Cruces, NM 88005
 - Service Dates: 06/05/2024-07/12/2024
 - Meal Service Times:
 - Breakfast 8:00AM–9:00AM
 - Lunch 12:00PM – 1:00PM
- Teen Connection – Frank O'Brien Papen Center
 - Address: 304 W. Bell Ave. Las Cruces, NM 88005
 - Service Dates: 06/05/2024-07/12/2024
 - Meal Service Times:
 - No Breakfast Served
 - Lunch 12:00PM – 1:00PM

-continued on next page-



2. City of Las Cruces – Other Listed Sites

- Meerscheidt Center
 - Address: 1600 E. Hadley Ave. Las Cruces, NM 88001
 - Service Dates: 06/05/2024-07/12/2024
 - Meal Service Times:
 - Breakfast 8:00AM–9:00AM
 - Lunch 12:00PM – 1:00PM
- East Mesa Recreation Center
 - Address: 5589 Porter Dr. Las Cruces, NM 88011
 - Service Dates: 06/05/2024-07/12/2024
 - Meal Service Times:
 - Breakfast 8:00AM–9:00AM
 - Lunch 12:00PM – 1:00PM

3. External Partner Site

- Boys and Girls Club
 - Address: 330 W. Las Cruces Ave. Las Cruces, NM 88005
 - Service Dates: 06/05/2024-07/12/2024
 - Meal Service Times:
 - Breakfast 8:00AM–9:00AM
 - Lunch 11:30PM – 12:30PM

4. NMSU 21st Century Learning Summer Locations

- University Location
 - Address: 1220 Stewart St. Las Cruces, NM 88001
 - Service Dates: 06/05/2024-07/05/2024
 - Meal Service Times:
 - Lunch 11:30AM – 12:30PM
- Parkour Generations
 - Address: 3030 Harrelson St. Las Cruces, NM 88005
 - Service Dates: 06/05/2024-06/21/2024
 - Meal Service Times:
 - Lunch 11:30AM – 12:30PM
- Wild West Martial Arts
 - Address: 114 N. Campo St. Las Cruces, NM 88001
 - Service Dates: 06/05/2024-06/14/2024
 - Meal Service Times:
 - Lunch 11:30AM – 12:30PM

**SUMMER FOOD SERVICE PROGRAM FOR CHILDREN (SFSP)
PRE-OPERATIONAL SITE VISIT FORM**

Sponsors are required to visit potential new meal sites and prior year sites that had operational problems no more than 3 months prior to the proposed first-day of meal service. All items on this form must be completed.

1. Sponsoring Organization Name:

City of Las Cruces

2. Site Name:
- Weed & Seed- A. Fielder Memorial Safe Haven

3. Site Address:
- 906 N. Tornillo St. Las Cruces 88001

(Physical location)

(City)

(Zip code)

4. Has this site been visited by a Sponsor Representative?

Yes ☒No ☐

5. List the number of children for which this site has the capability and facilities to accommodate and serve:
- 80

6. Does the proposed site appear to be safe, clean and appropriate for children?

Yes ☒No ☐

7. Is this the first time you will be serving meals at this site?

Yes ☒No ☒

8. Is the meal site
- indoors
- , outdoors or both? (Circle one answer)

9. List the name of the school that will qualify this meal site:

Booker T. Washington Elementary School

By signing below, I certify that I have visited the above described location and that all the information recorded above is true and correct. I understand that this information is being given in connection with the receipt of Federal funds and that deliberate misrepresentation or withholding of information may subject me to prosecution under applicable State and Federal criminal statutes. I further certify that all meals will be made available, free of charge, without regard to race, color, national origin, sex, gender identity, sexual orientation, age, disability or reprisal or retaliation for prior civil rights activity.

Signature

Print Name of Person who Visited the Site

Date

Title of Person who Visited the Site

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN (SFSP) PRE-OPERATIONAL SITE VISIT FORM

Sponsors are required to visit potential new meal sites and prior year sites that had operational problems no more than 3 months prior to the proposed first-day of meal service. All items on this form must be completed.

1. Sponsoring Organization Name:

City of Las Cruces

2. Site Name: Wild West Martial Arts

3. Site Address: 114 N. Campo St. Las Cruces 88001

(Physical location)

(City)

(Zip code)

4. Has this site been visited by a Sponsor Representative?

Yes ☒ No ☐

5. List the number of children for which this site has the capability and facilities to accommodate and serve: 20

6. Does the proposed site appear to be safe, clean and appropriate for children?

Yes ☒ No ☐

7. Is this the first time you will be serving meals at this site?

Yes ☒ No ☐

8. Is the meal site indoors, outdoors or both? (Circle one answer)

9. List the name of the school that will qualify this meal site:

Booker T. Washington Elementary School

By signing below, I certify that I have visited the above described location and that all the information recorded above is true and correct. I understand that this information is being given in connection with the receipt of Federal funds and that deliberate misrepresentation or withholding of information may subject me to prosecution under applicable State and Federal criminal statutes. I further certify that all meals will be made available, free of charge, without regard to race, color, national origin, sex, gender identity, sexual orientation, age, disability or reprisal or retaliation for prior civil rights activity.

Ryan Steinmetz
Signature

Ryan Steinmetz
Print Name of Person who Visited the Site

5/17/24
Date

Youth Serv. Admin.
Title of Person who Visited the Site

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN (SFSP) PRE-OPERATIONAL SITE VISIT FORM

Sponsors are required to visit potential new meal sites and prior year sites that had operational problems no more than 3 months prior to the proposed first-day of meal service. All items on this form must be completed.

1. Sponsoring Organization Name:

City of Las Cruces

2. Site Name: Parkour Generations

3. Site Address: 3030 Harrelson St. Las Cruces 88005

(Physical location)

(City)

(Zip code)

4. Has this site been visited by a Sponsor Representative?

Yes ☒

No ☐

5. List the number of children for which this site has the capability and facilities to accommodate and serve: 50

6. Does the proposed site appear to be safe, clean and appropriate for children?

Yes ☒

No ☐

7. Is this the first time you will be serving meals at this site?

Yes ☒

No ☐

8. Is the meal site indoors, outdoors or both? (Circle one answer)

9. List the name of the school that will qualify this meal site:

Mesilla Park Elementary

By signing below, I certify that I have visited the above described location and that all the information recorded above is true and correct. I understand that this information is being given in connection with the receipt of Federal funds and that deliberate misrepresentation or withholding of information may subject me to prosecution under applicable State and Federal criminal statutes. I further certify that all meals will be made available, free of charge, without regard to race, color, national origin, sex, gender identity, sexual orientation, age, disability or reprisal or retaliation for prior civil rights activity.

Signature

Print Name of Person who Visited the Site

Date

Title of Person who Visited the Site

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN (SFSP) PRE-OPERATIONAL SITE VISIT FORM

Sponsors are required to visit potential new meal sites and prior year sites that had operational problems no more than 3 months prior to the proposed first-day of meal service. All items on this form must be completed.

1. Sponsoring Organization Name:

City of Las Cruces

2. Site Name: Boys & Girls Club of Las Cruces

3. Site Address: 330 W. Las Cruces Ave. Las Cruces 88001

(Physical location)

(City)

(Zip code)

4. Has this site been visited by a Sponsor Representative? Yes ☒ No ☐

5. List the number of children for which this site has the capability and facilities to accommodate and serve: 80

6. Does the proposed site appear to be safe, clean and appropriate for children?

Yes ☒ No ☐

7. Is this the first time you will be serving meals at this site?

Yes ☒ No ☐

8. Is the meal site indoors, outdoors or both? (Circle one answer)

9. List the name of the school that will qualify this meal site:

Central Elementary School

By signing below, I certify that I have visited the above described location and that all the information recorded above is true and correct. I understand that this information is being given in connection with the receipt of Federal funds and that deliberate misrepresentation or withholding of information may subject me to prosecution under applicable State and Federal criminal statutes. I further certify that all meals will be made available, free of charge, without regard to race, color, national origin, sex, gender identity, sexual orientation, age, disability or reprisal or retaliation for prior civil rights activity.

[Signature]
Signature

Amelia Gomez
Print Name of Person who Visited the Site

5/16/24
Date

Administrator
Title of Person who Visited the Site

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN (SFSP) PRE-OPERATIONAL SITE VISIT FORM

Sponsors are required to visit potential new meal sites and prior year sites that had operational problems no more than 3 months prior to the proposed first-day of meal service. All items on this form must be completed.

1. Sponsoring Organization Name:

City of Las Cruces

2. Site Name: East Mesa Recreation Center

3. Site Address: 5589 Porter Rd. Las Cruces 88011

(Physical location)

(City)

(Zip code)

4. Has this site been visited by a Sponsor Representative?

Yes ☒

No ☐

5. List the number of children for which this site has the capability and facilities to accommodate and serve: 40

6. Does the proposed site appear to be safe, clean and appropriate for children?

Yes ☒

No ☐

7. Is this the first time you will be serving meals at this site?

Yes ☒

No ☐

8. Is the meal site indoors, outdoors or both? (Circle one answer)

9. List the name of the school that will qualify this meal site:

Cesar Chavez Elementary

By signing below, I certify that I have visited the above described location and that all the information recorded above is true and correct. I understand that this information is being given in connection with the receipt of Federal funds and that deliberate misrepresentation or withholding of information may subject me to prosecution under applicable State and Federal criminal statutes. I further certify that all meals will be made available, free of charge, without regard to race, color, national origin, sex, gender identity, sexual orientation, age, disability or reprisal or retaliation for prior civil rights activity.

Signature

Ukadia Carter
Print Name of Person who Visited the Site

Date

5/16/24
Administrator
Title of Person who Visited the Site

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN (SFSP) PRE-OPERATIONAL SITE VISIT FORM

Sponsors are required to visit potential new meal sites and prior year sites that had operational problems no more than 3 months prior to the proposed first-day of meal service. All items on this form must be completed.

1. Sponsoring Organization Name:

City of Las Cruces

2. Site Name: Jornada Elementary School

3. Site Address: 3400 Elks Dr. Las Cruces 88005

(Physical location)

(City)

(Zip code)

4. Has this site been visited by a Sponsor Representative?

Yes ☒ No ☐

5. List the number of children for which this site has the capability and facilities to accommodate and serve: 60

6. Does the proposed site appear to be safe, clean and appropriate for children?

Yes ☒ No ☐

7. Is this the first time you will be serving meals at this site?

Yes ☒ No ☐

8. Is the meal site indoors outdoors or both? (Circle one answer)

9. List the name of the school that will qualify this meal site:

Jornada Elementary School

By signing below, I certify that I have visited the above described location and that all the information recorded above is true and correct. I understand that this information is being given in connection with the receipt of Federal funds and that deliberate misrepresentation or withholding of information may subject me to prosecution under applicable State and Federal criminal statutes. I further certify that all meals will be made available, free of charge, without regard to race, color, national origin, sex, gender identity, sexual orientation, age, disability or reprisal or retaliation for prior civil rights activity.

Ryan Stermetz
Signature

Ryan Stermetz
Print Name of Person who Visited the Site

5/16/24
Date

Youth Services Administrator
Title of Person who Visited the Site

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN (SFSP) PRE-OPERATIONAL SITE VISIT FORM

Sponsors are required to visit potential new meal sites and prior year sites that had operational problems no more than 3 months prior to the proposed first-day of meal service. All items on this form must be completed.

1. Sponsoring Organization Name:

City of Las Cruces

2. Site Name: NMSU 21st Century Learning

3. Site Address: 1220 Stewart St. Las Cruces 88001

(Physical location)

(City)

(Zip code)

4. Has this site been visited by a Sponsor Representative?

Yes ☒

No ☐

5. List the number of children for which this site has the capability and facilities to accommodate and serve: 300

6. Does the proposed site appear to be safe, clean and appropriate for children?

Yes ☒

No ☐

7. Is this the first time you will be serving meals at this site?

Yes ☒

No ☐

8. Is the meal indoors outdoors or both? (Circle one answer)

9. List the name of the school that will qualify this meal site:

Mesilla Park

By signing below, I certify that I have visited the above described location and that all the information recorded above is true and correct. I understand that this information is being given in connection with the receipt of Federal funds and that deliberate misrepresentation or withholding of information may subject me to prosecution under applicable State and Federal criminal statutes. I further certify that all meals will be made available, free of charge, without regard to race, color, national origin, sex, gender identity, sexual orientation, age, disability or reprisal or retaliation for prior civil rights activity.

Signature

Date

CLAUDIA CHAVEZ

Administrator

Print Name of Person who Visited the Site

Title of Person who Visited the Site

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN (SFSP) PRE-OPERATIONAL SITE VISIT FORM

Sponsors are required to visit potential new meal sites and prior year sites that had operational problems no more than 3 months prior to the proposed first-day of meal service. All items on this form must be completed.

1. Sponsoring Organization Name:

City of Las Cruces

2. Site Name: Sierra Middle School

3. Site Address: 1700 Spruce Ave. Las Cruces 88001

(Physical location)

(City)

(Zip code)

4. Has this site been visited by a Sponsor Representative?

Yes ☒ No ☐

5. List the number of children for which this site has the capability and facilities to accommodate and serve: 60

6. Does the proposed site appear to be safe, clean and appropriate for children?

Yes ☒ No ☐

7. Is this the first time you will be serving meals at this site?

Yes ☒ No ☐

8. Is the meal site indoors, outdoors or both? (Circle one answer)

9. List the name of the school that will qualify this meal site:

Sierra Middle School

By signing below, I certify that I have visited the above described location and that all the Information recorded above is true and correct. I understand that this information is being given in connection with the receipt of Federal funds and that deliberate misrepresentation or withholding of information may subject me to prosecution under applicable State and Federal criminal statutes. I further certify that all meals will be made available, free of charge, without regard to race, color, national origin, sex, gender identity, sexual orientation, age, disability or reprisal or retaliation for prior civil rights activity.

Bryan Steinmetz
Signature

Bryan Steinmetz
Print Name of Person who Visited the Site

5/16/24
Date

Youth Services Advisor
Title of Person who Visited the Site

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN (SFSP) PRE-OPERATIONAL SITE VISIT FORM

Sponsors are required to visit potential new meal sites and prior year sites that had operational problems no more than 3 months prior to the proposed first-day of meal service. All items on this form must be completed.

1. Sponsoring Organization Name:

City of Las Cruces

2. Site Name: Mesa Middle School

3. Site Address: 7225 Jornada Rd. N. Las Cruces 88012

(Physical location)

(City)

(Zip code)

4. Has this site been visited by a Sponsor Representative?

Yes ☒ No ☐

5. List the number of children for which this site has the capability and facilities to accommodate and serve: 60

6. Does the proposed site appear to be safe, clean and appropriate for children?

Yes ☒ No ☐

7. Is this the first time you will be serving meals at this site?

Yes ☒ No ☐

8. Is the meal site indoors, outdoors or both? (Circle one answer)

9. List the name of the school that will qualify this meal site:

Mesa Middle School

By signing below, I certify that I have visited the above described location and that all the information recorded above is true and correct. I understand that this information is being given in connection with the receipt of Federal funds and that deliberate misrepresentation or withholding of information may subject me to prosecution under applicable State and Federal criminal statutes. I further certify that all meals will be made available, free of charge, without regard to race, color, national origin, sex, gender identity, sexual orientation, age, disability or reprisal or retaliation for prior civil rights activity.

Ryan Steinmetz
Signature

5/12/24
Date

Ryan Steinmetz
Print Name of Person who Visited the Site

Youth Serv. Admin
Title of Person who Visited the Site

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN (SFSP) PRE-OPERATIONAL SITE VISIT FORM

Sponsors are required to visit potential new meal sites and prior year sites that had operational problems no more than 3 months prior to the proposed first-day of meal service. All items on this form must be completed.

1. Sponsoring Organization Name:

City of Las Cruces

2. Site Name: Meerscheidt Recreation Center

3. Site Address: 1600 E. Hadley Las Cruces 88001

(Physical location)

(City)

(Zip code)

4. Has this site been visited by a Sponsor Representative?

Yes ☒

No ☐

5. List the number of children for which this site has the capability and facilities to accommodate and serve: ~~60~~ 38 (+60 in July)

6. Does the proposed site appear to be safe, clean and appropriate for children?

Yes ☒

No ☐

7. Is this the first time you will be serving meals at this site?

Yes ☒

No ☐

8. Is the meal site Indoors, outdoors or both? (Circle one answer)

9. List the name of the school that will qualify this meal site:

Booker T. Washington

By signing below, I certify that I have visited the above described location and that all the information recorded above is true and correct. I understand that this information is being given in connection with the receipt of Federal funds and that deliberate misrepresentation or withholding of information may subject me to prosecution under applicable State and Federal criminal statutes. I further certify that all meals will be made available, free of charge, without regard to race, color, national origin, sex, gender identity, sexual orientation, age, disability or reprisal or retaliation for prior civil rights activity.

Ryan Steinmetz
Signature

Ryan Steinmetz
Print Name of Person who Visited the Site

5/10/24
Date

Youth Serv. Administrator
Title of Person who Visited the Site

**SUMMER FOOD SERVICE PROGRAM FOR CHILDREN (SFSP)
PRE-OPERATIONAL SITE VISIT FORM**

Sponsors are required to visit potential new meal sites and prior year sites that had operational problems no more than 3 months prior to the proposed first-day of meal service. All items on this form must be completed.

1. Sponsoring Organization Name:

City of Las Cruces

2. Site Name:
- Frank O'Brien Papen Center

3. Site Address:
- 304 W. Bell Ave. Las Cruces 88001

(Physical location)

(City)

(Zip code)

4. Has this site been visited by a Sponsor Representative?

Yes ☒No ☐

5. List the number of children for which this site has the capability and facilities to accommodate and serve:
- 50

6. Does the proposed site appear to be safe, clean and appropriate for children?

Yes ☒No ☐

7. Is this the first time you will be serving meals at this site?

Yes ☒No ☐

8. Is the meal site
- indoors
- , outdoors or both? (Circle one answer)

9. List the name of the school that will qualify this meal site:

Mesilla Park Elementary

By signing below, I certify that I have visited the above described location and that all the information recorded above is true and correct. I understand that this information is being given in connection with the receipt of Federal funds and that deliberate misrepresentation or withholding of information may subject me to prosecution under applicable State and Federal criminal statutes. I further certify that all meals will be made available, free of charge, without regard to race, color, national origin, sex, gender identity, sexual orientation, age, disability or reprisal or retaliation for prior civil rights activity.

Signature

Print Name of Person who Visited the Site

Date

Title of Person who Visited the Site

PERMANENT AGREEMENT

Summer Food Service Program for Children Early Childhood Education and Care Department

Sponsoring Organization: City of Las CrucesAgreement Number: 3027

INSTRUCTIONS: Signing of Agreement means that: (1) This Permanent Agreement shall be signed by the Sponsor Official and submitted to the State Agency. (2) The application for participation is submitted accurately and completely in electronic format. (3) The State Agency will provide the Sponsor with an approval letter, after reviewing and approving the application, indicating the approved program operating dates, meal sites, budget and other relevant information. (4) The Code of Federal Regulations (7 CFR Part 225) for the Summer Food Service Program for Children becomes a part of this Agreement. (5) A copy of this Permanent Agreement will be sent to the Sponsor for their files when, and if, this Agreement is approved.

IN ORDER to carry out the purpose of Section 13 of the National School Lunch Act, (42 U.S.C. 1961) as amended, and the regulations governing the Summer Food Service Program for Children issued hereunder, 7 CFR Part 225 (hereinafter referred to as the "Summer Program"), and to carry out the purpose of Section 3 of the Child Nutrition Act of 1966 as amended, the Early Childhood Education and Care Department (hereinafter referred to as the "Department"), and the sponsor whose name appears below, covenant and agree as follows:

THE SPONSOR:

REPRESENTS AND WARRANTS that it will accept final administrative and financial responsibility for total program operations at all sites listed in the application.

HEREBY AGREES it will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by the regulations of the Department of Agriculture (7 CFR Part 15), Department of Justice (28 CFR Parts 42 and 50), and FNS directives or regulations issued pursuant to the Act and regulations, to the effect that, no person in the United States shall, on the grounds of race, color, national origin, sex, gender identity, sexual orientation, age, disability or reprisal or retaliation for prior civil rights activity be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity for which the Program Applicant receives Federal financial assistance from USDA; and hereby gives assurance it will immediately take any measures necessary to fulfill this Agreement.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal financial assistance, grants, and loans of Federal funds, reimbursable expenditures, grant, or donation of Federal property and interest in property, the detail of Federal personnel, the sale and lease of, and the permission to use Federal property or interest in such property or the furnishing of services without consideration or at a nominal consideration, or at a consideration that is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale, lease, or furnishing of services to the recipient, or any improvements made with Federal financial assistance extended to the Program applicant by USDA. This includes any Federal agreement, arrangement, or other contract that has as one of its purposes the provision of cash assistance for the purchase of food, and cash assistance for purchase or rental of food service equipment or any other financial assistance extended in reliance on the representations and agreements made in this assurance.

By accepting this assurance, the Program applicant agrees to compile data, maintain records, and submit reports as required, to permit effective enforcement of nondiscrimination laws and permit authorized USDA personnel during hours of program operation to review such records, books, and accounts as needed to ascertain compliance with the nondiscrimination laws.

If there are any violations of this assurance, the Department of Agriculture, FNS, shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Program applicant, its successors, transferees, and assignees as long as it receives assistance or retains possession of any assistance from USDA. The person or persons whose signatures appear below are authorized to sign this assurance on the behalf of the Program applicant.

CERTIFIES that the approved sites listed in the application have been visited, and that the information on this form and subsequent application pages are true and correct. Furthermore, the Sponsor understands this information is being given in connection with the receipt Federal funds; and that deliberate misrepresentation or withholding of information may result in the Sponsoring Organization and its representatives to prosecution under applicable State and Federal criminal statutes.

CERTIFIES that it is aware of receiving USDA Summer Food Service Program for Children funds CFDA No. 10.559 passed through the Early Childhood Education and Care Department.

FURTHER AGREES to administer the SFSP in accordance to the Code of Federal Regulations 7CFR Part 225.6(e) (1-17), which says the following:

- (1) Operate a nonprofit food service during the period specified, as follows:
 - (i) From May through September for children on school vacation;
 - (ii) At any time of the year, in the case of sponsors administering the Program under a continuous school calendar system; or
 - (iii) During the period from October through April, if it serves an area affected by an unanticipated school closure due to a natural disaster, major building repairs, court orders relating to schools safety or other issues, labor management disputes, or, when approved by the State agency, a similar cause.
- (2) For school food authorities, offer meals which meet the requirements and provisions set forth in 7 CFR Part 225.16 during times designated as meal service periods by the sponsor, and offer the same meals to all children;
- (3) For all other sponsors, serve meals which meet the requirements and provisions set forth in 7 CFR Part 225.16 during times designated as meal service periods by the sponsor, and serve the same meals to all children;
- (4) Serve meals without cost to all children, except that camps may charge for meals served to children who are not served meals under the Program;
- (5) Issue a free meal policy statement in accordance with 7 CFR Part 225.6 (c);
- (6) Meet the training requirement for its administrative and site personnel, as required un 7 CFR Part 225.15(d)(1);

- (7) Claim reimbursement only for the type or types of meals specified in the agreement and served without charge to children at approved sites during the approved meal service period, except that camps shall claim reimbursement specified in the agreement and served without charge to children who meet the Program's income standards. The agreement shall specify the approved levels of meal service for the sponsor's sites if such levels are required in 7 CFR Part 225.6(d) (2). No permanent changes may be made in the serving time of any meal unless the changes are approved by the State agency;
- (8) Submit claims for reimbursement in accordance with procedures established by the State agency, and those stated in 7 CFR Part 225.9;
- (9) In the storage, preparation and service of food, maintain proper sanitation and health standards in conformance with all applicable State and local laws and regulations;
- (10) Accept and use, in quantities that may be efficiently utilized in the Program, such foods as may be offered as a donation by the Department;
- (11) Have access to facilities necessary for storing, preparing, and serving food;
- (12) Maintain a financial management system as prescribed by the State agency;
- (13) Maintain on file documentation of site visits and reviews in accordance with 7 CFR Part 225.15(d)(2) and (3);
- (14) Upon request, make all accounts and records pertaining to the Program available to State, Federal, or other authorized officials for audit or administrative reviews, at a reasonable time and place. The records shall be retained for a period of 3 years after the end of fiscal year to which they pertain, unless audit or investigative findings have not been resolved, in which case the records shall be retained until all issues raised by the audit or investigation have been resolved;
- (15) Maintain children on site while meals are being consumed;
- (16) Retain final financial and administrative responsibility for its program; and
- (17) Operate the Program or facility in compliance with Civil Rights laws and implementing nondiscrimination regulations.

THE DEPARTMENT

AGREES to reimburse the Sponsor the number of meals served to eligible children multiplied by the USDA established reimbursement rate and in accordance with the Summer Food Service Program for Children Code of Federal regulations 7 CFR Part 225 to approved sites listed in the application, during the dates and times stated and approved.

SHALL terminate a Sponsor's participation in the Program by written notice whenever it is determined, by the Department, that the Sponsor has failed to comply with the regulations and requirements of the Program.

SHALL inform the Sponsor of its right to request a review of decisions made by the Department, which affect the participation of a Sponsor in the Program or the Sponsor's claim for reimbursement.

The SUMMER FOOD SERVICE PROGRAM for CHILDREN is hereby,

Approved to operate effective:

(To be completed by the Department)

THE SPONSOR AND THE DEPARTMENT AGREE:

TO COMPLY with and meet all responsibilities and requirements set forth in the Code of Federal Regulations 7 CFR, Part 225 of the Summer Food Service Program for Children.

The State of New Mexico has no financial obligation to the Sponsor if Federal monies are not available. If the State Agency has reason to believe that a Sponsor will not be able to submit a valid claim for reimbursement covering the month for which advance payments have already been made, the next advance payment shall be withheld until a valid claim is received.

Upon demand of the State Agency, Sponsors shall repay any advance program payments in excess of the amount cited on a valid claim for reimbursement.

Ikani Taumoepeau, City Manager

NAME and TITLE of SPONSOR OFFICIAL (Print or Type)



SIGNATURE of SPONSOR OFFICIAL

5/28/24.

DATE

Loren Miller Bureau Chief, Family Nutrition

NAME and TITLE of EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT REPRESENTATIVE (Print or Type)

Loren Miller

Digitally signed by Loren Miller
Date: 2024.05.30 07:57:14
-06'00'

SIGNATURE of EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT REPRESENTATIVE

5-30-2024

DATE

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, gender identity, sexual orientation, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA. Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English. To file a program complaint of discrimination, complete the [USDA Program Discrimination Complaint Form](http://www.ascr.usda.gov/complaint_filing_cust.html), (AD-3027) found online at: http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or, (3) email: program.intake@usda.gov. This institution is an equal opportunity provider.

**SUMMER FOOD SERVICE PROGRAM FOR CHILDREN (SFSP)
NOTIFICATION TO THE COMMUNITY FORM****This form is required to be completed and submitted with the application.**

All Sponsors of the Summer Food Service Program for Children must publicly announce the availability of the Program before beginning meal service (7CFR, Part 225.15 (e)). Each type of meal service (breakfast, lunch, supper, and snack) must be clearly advertised as to the date, time and locations where meals will be served. This announcement must be made with the media serving the area from which the Program will draw its attendance. The media used may be general distribution print, radio, television or website. **All the required information must be provided to the media for publishing or airing, including the USDA nondiscrimination statement, procedure for filing a complaint and address to submit a complaint to.** Announcements made in restricted media, such as newsletters or on cable television, are not acceptable unless approved by the State agency. Documentation of the sponsor's release to the media must be maintained by Sponsor.

Name of the news media that this release will be submitted to:

Las Cruces Summer Food Service Program
Name of News Media

May 29, 2024
Approximate Date

The City of Las Cruces announces its sponsorship of the
Name of Sponsoring Organization
Summer Food Service Program for Children (SFSP).

Beginning 06 / 05 / 2024 and ending 07 / 12 / 2024, meals will be provided to all

children free of charge. The meals served will be the same for all children regardless of race, color, national origin, sex, gender identity, sexual orientation, age, disability or reprisal or retaliation for prior civil rights activity and there will be no discrimination in the course of the meal service. Meals will be provided at the following meal site location(s) and approved time(s):

Meal Site Location**Meal Service Offered****Scheduled Time**

A. Fielder Memorial Safe Haven, 906 N. Tornillo

Breakfast

8:00-9:00 am

Lunch

12:00-1:00 pm

Boys and Girls Club, 100 S. Las Cruces St.

Breakfast

8:00-9:00 am

Lunch

12:00-1:00 pm

Meerscheidt Recreation Center, 1600 E. Hadley Ave.

Breakfast

8:00-9:00 am

Lunch

12:00-1:00 pm

Frank O'Brien Papen Center, 304 W. Bell Ave.

Lunch

12:00-1:00 pm

East Mesa Recreation Center, 5589 Porter Dr.

Lunch

12:00-1:00 pm

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, gender identity, sexual orientation, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the [USDA Program Discrimination Complaint Form](http://www.ascr.usda.gov/complaint_filing_cust.html), (AD-3027) found online at: http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or, (3) email: program.intake@usda.gov.

This institution is an equal opportunity provider.

City of Las Cruces Parks & Recreation Department
(575) 541-2550

For more information call: _____
Sponsoring Organization Contact Name and Telephone Number

Meal Site Location

Meal Service Offered

Scheduled Time

NMSU O'Donnell Hall, (June 5-July 5 ONLY), 1220 Stewart St	Lunch	11:30-12:30 pm
Parkour Generations (June 5-June 21 ONLY), 3030 Harrelson St.	Lunch	11:30-12:30 pm
Wild West Martial Arts (June 5-June 14 ONLY), 114 N. Campo St	Lunch	11:30-12:30 pm
Jornada Elementary School, 3400 Elks Dr	Breakfast Lunch	8:00-9:00 am 12:00-1:00 pm
Mesa Middle School, 7225 N. Jornada Rd.	Breakfast Lunch	8:00-9:00 am 12:00-1:00 pm
Sierra Middle School (June 5-June 28 ONLY), 1700 Spruce Ave.	Breakfast Lunch	8:00-9:00 am 12:00-1:00 pm

DO NOT SEND TO
IRS - SUBMIT
FORM TO
REQUESTING
AGENCY

FCD 04/2021

NEW MEXICO DEPARTMENT OF FINANCE & ADMINISTRATION
FINANCIAL CONTROL DIVISION
SUBSTITUTE FORM W-9



REQUEST FOR TAXPAYER IDENTIFICATION NUMBER, CERTIFICATION

TYPE OR PRINT NEATLY, PLEASE REFER TO INSTRUCTIONS FOR MORE INFORMATION

PART I: SUPPLIER INFORMATION

1. Name: (as shown on your income tax return). Name is required; do not leave blank. 2. Business name/disregarded entity name, if different from #1:

CITY OF LAS CRUCES

3. Entity Type (Check only one, unless you are or have been a State of New Mexico Employee, then also check State of New Mexico Employee box):

- ☐ Individual / Sole Proprietorship / Single Member LLC
☐ Partnership
☐ C Corporation / S Corporation
☐ Trust / Estate
☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership > _____.)
- ☒ Government (Local, State, Federal, Tribe)
☐ Tax-Exempt organization under IRC Section 501 C
☐ State of New Mexico Employee (Agency No.) _____

4. 1099 Reporting: Services provided to the State by vendor:

- ☐ Health care or medical service
☐ Attorney services
☐ Rental of Real Property
☐ Royalties
☐ State of NM Appointed Board member / commissioner / committee member
☐ Agency Volunteer (Agency No.)
☐ DUAL Supplier & Active NM Employee
☒ Other **GOVERNMENT ENTITY**

PART II: TAXPAYER IDENTIFICATION NUMBER (TIN) & TAXPAYER IDENTIFICATION TYPE

1. Enter your TIN here (DO NOT USE DASHES)

8 5 6 0 0 0 1 4 7

2. Taxpayer Identification Type (check appropriate box):

- ☒ Employer ID No. (EIN) ☐ Social Security No. (SSN) ☐ Employee ID ☐ N/A (Non-United States Business Entity)

PART III: ADDRESS

1. Address: (Location where payments and correspondances can be sent)
(if a NM state employee, enter Agency name and Field Office Address)
Address Line #1

700 N. MAIN ST.

Address Line #2

Address Line #3

2. REMITTANCE, IF DIFFERENT: (location specifically used for
payment that is different than address 1, if applicable)
Address Line #1

Address Line #2

Address Line #3

City	State	Zip Code	City	State	Zip - 9 Digit
LAS CRUCES	NM	88001			

PART IV: CERTIFICATION

Under penalties of perjury, I certify that:

- The number shown on this form is my correct tax payer identification number (or I am waiting for a number to be issued to me), AND
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, AND
- I am a U.S. Citizen or other U.S. person.

The Internal Revenue Service does not require your consent to any provision of this document other than the certifications required to avoid backup withholding

Printed Name

ERIKA JAQUEZ

Occupation

TREASURER

Telephone Number

(575) 541-2084

Signature

Erika Jaquez

Email for receiving ACH advices

TREASURY@LASCRUCES.GOV

Date (mm/dd/yyyy)

05/09/2024

PART V: OPTIONAL DIRECT DEPOSIT (ACH)

Warning: The State of New Mexico will not process International ACH Transactions (IAT). If any payment to you from the State will ever result in an IAT under National Automated Clearing House Association (NACHA) operating rules or if you are not sure if the rules apply to you DO NOT FILL OUT THIS SECTION OF THE FORM. Please provide a copy of a voided check or letter from bank confirming information indicated above.

Include a voided check or letter from financial institution if requesting ACH payments

Type of Account ☒ Checking ☐ Savings

I acknowledge the IAT warning and authorize the State of New Mexico to initiate direct deposit of funds to the account and financial institution indicated, and to recover funds deposited in error if necessary in compliance with NACHA regulations.

Signature

Erika Jaquez

Printed Name

ERIKA JAQUEZ

2024 USDA SFSP REIMBURSEMENT RATES

Operational and Administrative Rates Combined*

MEAL TYPE	RURAL <u>AND/OR</u> SELF-PREP PROGRAMS	URBAN <u>AND</u> VENDED PROGRAMS**
Breakfast	\$2.9775	\$2.9225
Lunch	\$5.2125	\$5.1300
Supper	\$5.2125	\$5.1300
Snack	\$1.2350	\$1.2050

SFSP reimbursement rates are effective January 1st through December 31st.

Sponsors receive operational and administrative reimbursement for first meals that are served to children and eligible for reimbursement (first eligible meals). Reimbursement for these meals is based on the number served multiplied by the appropriate USDA rate listed above.

Sponsors also receive operational and administrative reimbursement for second meals that are served to children and eligible for reimbursement. Reimbursement for these meals is based on the number served to children multiplied by the appropriate USDA rate listed above. The number of second meals that are reimbursed may not exceed 2% of the total first eligible meals claimed for the month.

* Operational and Administrative rates have been combined for simplification.

** Urban areas are locations within the counties of Bernalillo, Chavez, Doña Ana, Sandoval, San Juan, Santa Fe, Torrance, and Valencia.



SUMMER FOOD SERVICE PROGRAM FOR CHILDREN AGREEMENT TO PROVIDE FOOD SERVICE BY A SCHOOL FOOD AUTHORITY (SFA)

THIS AGREEMENT is made and entered into and between Las Cruces Public Schools
(Name of School)
and City of Las Cruces
(Name of Sponsoring Organization-"Sponsor")

WHEREAS the (School) Las Cruces Public Schools agrees to supply unitized meals (inclusive/
exclusive) of milk and/or juice to (Sponsor) City of Las Cruces for the rates herein listed,
per meal type:

Breakfast \$ 2.00 Lunch \$ 4.50 Snacks \$ N/A Supper \$ N/A

It is further agreed that (School) Las Cruces Public Schools, pursuant to the provisions of the Summer Food Service Program for Children regulations found at 7 CFR, Part 225, attached copy of which is part of this Agreement, will assure that said meals meet the minimum meal pattern requirements, found at 7 CFR Part 225.16(d) through (e) as to components and portion sizes, and will maintain full and accurate records that the (Sponsor) City of Las Cruces will need to meet its responsibility including menu records containing the amount of food prepared and the daily number of meals delivered by type.

These records must be reported to the (Sponsor) City of Las Cruces promptly at the end of the month. (School) Las Cruces Public Schools agrees also to retain records required under the preceding clause for a period of 3 (three) years from the date of receipt of final payment under this agreement (or longer, if an audit is in progress); and upon request, to make all accounts and records pertaining to the Program available to representatives of the U.S. Department of Agriculture and the General Accounting Office for audit or administrative review at a reasonable time and place.

Should the State Agency not reimburse meals to the Sponsor due to the fault of the School, the Sponsor may deduct the following cost per meals from the invoice:

Breakfast \$ 2.9225 Lunch \$ 5.1300 Supper or Snack \$ N/A

This agreement shall be effective as of 05 / 20 / 2024. The duration of this agreement shall begin from 05 / 20 / 2024 and end 10 / 12 / 2024. It may be terminated by notice in writing given by either party hereto to the other, at least 30 days prior to the date of termination.

The (School) Las Cruces Public Schools AGREES it will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by the regulations of the Department of Agriculture (7 CFR Part 15), Department of Justice (28 CFR Parts 42 and 50), and FNS directives or regulations issued pursuant to the Act and regulations, to the effect that, no person in the United States shall, on the grounds of race, color, national origin, sex, gender identity, sexual orientation, age, disability or reprisal or retaliation for prior civil rights activity be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity for which the Program Applicant receives Federal financial assistance from USDA; and hereby gives assurance it will immediately take any measures necessary to fulfill this Agreement.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal financial assistance, grants, and loans of Federal funds, reimbursable expenditures, grant, or donation of Federal property and interest in property, the detail of Federal personnel, the sale and lease of, and the permission to use Federal property or interest in such property or the furnishing of services without consideration or at a nominal consideration, or at a consideration that is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale, lease, or furnishing of services to the recipient, or any improvements made with Federal financial assistance extended to the Program applicant by USDA. This includes any Federal agreement, arrangement, or other contract that has as one of its purposes the provision of cash assistance for the purchase of food, and cash assistance for purchase or rental of food service equipment or any other financial assistance extended in reliance on the representations and agreements made in this assurance.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the dates indicated below:


School Official


Sponsor Official

Board President May 29, 2024
Title Date

City Manager 5/22/24
Title Date

Name(s) and Location of food preparation facility(ies): Las Cruces High School- 1750 El Paseo Rd. Las Cruces, NM 88001



New Mexico Environment Department
Environmental Health Bureau

Permit to Operate

Owner Name: Las Cruces Public Schools
Facility Name: Las Cruces High School
Location: 1755 El Paseo Las Cruces, NM 88001
Permit Type: Food Retail Permit
Permit Number: 005189

Failure to maintain and operate the facility in compliance with the applicable State Regulations may result in suspension or revocation of this permit by an authorized representative of this Department.

Date Issued: August 01, 2023

Date of Expiration: July 31, 2024



Authorizing Official
NMED

*This permit shall be renewed annually, but is not transferable to another individual, establishment, or location.
This permit must be displayed in conspicuous place.*



As Governed by State Regulation 7.6.2 NMAC
NMED Environment Health Bureau
121 Tijeras Ave NE, Albuquerque NM 87102

Establishment Name:

Shipment Name: Las Cruces High School

Permit #:

005189

TEMPERATURE OBSERVATIONS

TEMPERATURE OBSERVATIONS					
Item/Location	Temp	Item/Location	Temp	Item/Location	Temp
RTF		walk in	36°F	Juice - milk	
meat locker	160°F	#1			
		walk in 2	40	beef Dressing	
		walk in #3	36°F	Fruit - veg.	

OBSERVATIONS AND CORRECTIVE ACTIONS	
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Violations cited in this report must be corrected within the time frames below, or as stated in section 8-405.11 of the Food Code.

[illegible]

Food Establishment Inspection Report

Page 1 of 2

Establishment Name: High School	Physical Address: 1755 E 1st Ave	City: LC	State: NM	Zip Code: 005189
Permit #: 05189	Permit Expiration Date: July 2021	Phone:	Email: Food Retail/High School	Est. Type: Food Retail/High School



As Governed by State Regulation 7.6.2 NMAC
NMED Environmental Health Bureau
121 Tijeras Ave. NE, Albuquerque NM 87102

Purpose of Inspection:

☐ Pre-Opening	☐ Annual	☐ Complaint	☐ Closing
☐ Opening	☐ Re-inspection	☐ Investigation	☐ CAR
☐ Other	☐ Initial Operational		

Risk Category:

Time In:	
Time Out:	

FOODBORNE ILLNESS RISK FACTORS AND PUBLIC HEALTH INTERVENTIONS

Compliance Status		COS		R	
Supervision					
1	IN OUT	Person in charge present, demonstrates knowledge, and performs duties			
2	IN OUT N/A	Certified Food Protection Manager			
Employee Health					
3	IN OUT	Management, food employee and conditional employee; knowledge, responsibilities and reporting			
4	IN OUT	Proper use of restriction & exclusion			
5	IN OUT	Procedures for responding to vomiting and diarrheal events			
Employees					
6	IN OUT N/A	Food Handler Cards			
Good Hygienic Practices					
7	IN OUT N/O	Proper eating, tasting, drinking, or tobacco use			
8	IN OUT N/O	No discharge from eyes, nose, and mouth			
Preventing Contamination by Hands					
9	IN OUT N/O	Hands clean & properly washed			
10	IN OUT N/A N/O	No bare hand contact with RTE foods or pre-approved alternative procedure properly followed			
11	IN OUT	Adequate handwashing sinks; supplied & accessible			
Approved Source					
12	IN OUT	Food obtained from approved source			
	IN OUT N/A N/O	Food received at proper temperature			
	IN OUT	Food in good condition, safe, & unadulterated			
15	IN OUT N/A N/O	Required records available: shellstock tags, parasite destruction			

Risk factors are important practices or procedures identified as the most prevalent contributing factors of foodborne illness or injury. Public health interventions are control measures to prevent foodborne illness or injury.

No. of Risk Factors / Intervention Violations	0
No. of Repeat Risk Factors / Intervention Violations	

GOOD RETAIL PRACTICES

Good Retail Practices are preventative measures to control the addition of pathogens, chemicals, and physical objects into foods.		COS		R	
Safe Food and Water					
31		Pasteurized eggs used where required			
32		Water & ice from approved source			
33		Variance obtained for specialized processing methods			
Food Temperature Control					
34		Proper cooling methods used; adequate equipment for temperature control			
35		Plant food properly cooked for hot holding			
36		Approved thawing methods used			
37		Thermometers provided & accurate			
Food Identification					
38		Food properly labeled; original container			
Prevention of Food Contamination					
39		Insects, rodents, & animals not present			
40		Contamination prevented during food preparation, storage & display			
41		Personal cleanliness			
42		Wiping cloths: properly used & stored			
43		Washing fruits & vegetables			
Proper Use of Utensils					
44		In-use utensils: properly stored			
45		Utensils, equipment & linens: properly stored, dried, & handled			
46		Single-use/single-service articles: properly stored & used			
47		Gloves used properly			
Utensils, Equipment and Vending					
48		Food & non-food contact surfaces cleanable, properly designed, constructed, & used			
49		Warewashing facilities: installed, maintained, & used; test strips			
50		Non-food contact surfaces clean			
Physical Facilities					
51		Hot & cold water available; adequate pressure			
52		Plumbing installed; proper backflow devices			
53		Sewage & waste water properly disposed			
54		Toilet facilities: properly constructed, supplied, & cleaned			
55		Garbage & refuse properly disposed; facilities maintained			
56		Physical facilities installed, maintained, & clean			
57		Adequate ventilation & lighting; designated areas used			

No. of Good Retail Practices Violations	0
No. of Repeat Good Retail Practices Violations	

Reinspection:	Yes ☐ No ☒	Date:	
Corrective Action Response:	Yes ☐ No ☐	Date:	

Status: (check one) Approved ☒ Unsatisfactory ☐ Immediate Closure ☐ Voluntary Closure ☐

Person in Charge: (Signature)

Inspector: (Signature)

Date: 9.11.2023

Summer Food Program Site Visits

On **Thursday, May 16**, the City of Las Cruces along with the Early Childhood Education & Care Department (the statewide entity in charge of the Summer Food Service Program) will be touring our 12 food service sites that we will be operating this summer in Las Cruces.

The purpose of these pre-visits is to make sure the following:

- The space appears safe, clean, and appropriate for children.
- Can the space accommodate the number of kids proposed for that site?
- Give each site some updates as to this summer’s food service program and updated protocols.
- Answer questions you might have about

There will be a required training for all site supervisors and staff who will be managing the different sites announced shortly. We hope to have this information to you by our site visit.

Tentative Site Visit Itinerary

8:00 am	Meet at A. Fielder Memorial Building, 906 N. Tornillo (Weed and Seed Program)
8:30 am	Meerscheidt Center, 1600 E. Hadley Ave. (CLC P&R Recreation Staff)
9:00 am	Frank O’Brien Papen Center (CLC P&R Teen Connection/Recreation Program Staff)
9:45 am	Gym Magic, 2341 Entrada del Sol (21 st Century Program Staff)
10:30 am	Wild West Martial Arts, 114 N. Campo St. (21 st Century Program Staff)
11:00 am	NMSU University, 1220 Stewart St. (21 st Century Program Staff)
11:30 am	Parkour Generation, 3030 Harrelson St. (21 st Century Program Staff)
12:00 pm	Boys and Girls Club, 330 W. Las Cruces Ave. (Boys and Girls Club Staff)
12:30-1:00pm	Lunch
1:00 pm	Las Cruces High School, 1750 El Paseo Rd. (LCPS Kitchen Staff)
2:00 pm	Jornada Elementary School (CLC P&R Out-of-School-Time Staff)
2:45 pm	Sierra Middle School (CLC P&R Out-of-School-Time Staff)
3:30 pm	Mesa Middle School, 7225 Jornada Rd. N. (CLC P&R Out-of-School-Time Staff)
4:15 pm	East Mesa Recreation Center, 5589 Porter Rd. (CLC P&R Recreation Staff)

Please let us know if you have any questions or concerns.

Reach out to our CLC Staff:

Ryan Steinmetz, Youth Services Administrator, rsteinmetz@lascruces.gov , 575-541-2498

Claudia Chavez, Recreation Administrator, cchavez@lascruces.gov, 575-541-2712

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
3/25/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Poms & Associates Insurance Brokers CA License #0814733 4500 Park Granada #206 Calabasas, CA 91302	CONTACT NAME: Risk Services	
	PHONE (A/C, No, Ext): (800) 578-8802	FAX (A/C, No): (818)449-9449
	E-MAIL ADDRESS: rservices@pomsassoc.com	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A : New Mexico Public Schools Insurance Authority	
	INSURER B : Safety National	
INSURED New Mexico Public Schools Insurance Authority Member: Las Cruces Public Schools 4110 Old Taos Highway Santa Fe, NM 87501	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	
	NAIC # N/A	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	COMMERCIAL GENERAL LIABILITY	Y	Y	MOC NO L0026	07/01/2023	07/01/2024	EACH OCCURRENCE \$ Tort Limit
	☐ CLAIMS-MADE ☒ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ Tort Limit
	☒ Owners Contractors Protective Liability						MED EXP (Any one person) \$ Tort Limit
	GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC						PERSONAL & ADV INJURY \$ Tort Limit
							GENERAL AGGREGATE \$ Tort Limit
							PRODUCTS - COMP/OP AGG \$ Tort Limit
							Maximum Liability \$ 1,050,000
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)
	☐ ANY AUTO ☐ SCHEDULED AUTOS ☐ ALL OWNED AUTOS ☐ NON-OWNED AUTOS ☐ HIRED AUTOS						BODILY INJURY (Per person)
							BODILY INJURY (Per accident)
							PROPERTY DAMAGE (Per accident)
							Maximum Liability
	UMBRELLA LIAB						EACH OCCURRENCE
	EXCESS LIAB						AGGREGATE
	☐ OCCUR ☐ CLAIMS-MADE ☐ DED ☐ RETENTION \$						
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	Y / N	N / A				☐ ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below
	PER STATUTE						OTH-ER
	E.L. EACH ACCIDENT						
	E.L. DISEASE - EA EMPLOYEE						
							E.L. DISEASE - POLICY LIMIT
							Each Occurrence
							Maximum Liability

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

See attached New Mexico Tort Claims Act Section 41-4-19: Maximum Liability Summary. Cert Holder is additional insured if required by written contract. General Liability Retention=\$750K.

**General COI for all LCPS/City of Las Cruces events for school year. Coverages include waiver of subrogation.

CERTIFICATE HOLDER

CANCELLATION

*City of Las Cruces
PO box 20000
Las Cruces, NM 88001

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE





ADDITIONAL REMARKS SCHEDULE

AGENCY Poms & Associates Insurance Brokers		NAMED INSURED New Mexico Public Schools Insurance Authority	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: _____ FORM TITLE: : Notes

Summary of New Mexico Tort Claims Act Section 41-4-19:
Maximum Liability Governmental entities and agencies, including
public schools, public charter schools and community colleges
and universities are granted immunity from liability.
Commercial General
Liability Products and
Completed Operations
Professional Liability
Contractual Liability
Imposed by New Mexico Tort Claims Act [NMSA 1975 §41-4-1 through 41-4-29]
\$400,000 Bodily Injury Per Person
\$200,000 Property Damage Per Property Address
\$300,000 Medical
\$750,000 Per Occurrence
\$1,050,000 Combined Limit/Maximum Liability



CITY OF LAS CRUCES

SERVICE AGREEMENT

THIS AGREEMENT made and entered into on this 24th day of May, 2024 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and Las Cruces Public School District 2, of 505 South Main Street, Suite 249, Las Cruces, New Mexico, 88001, hereinafter called "CONTRACTOR".

1. PROJECT DESCRIPTION

Provide meals for the Summer Food Program.

2. SCOPE OF SERVICES

In a satisfactory and proper manner, the CONTRACTOR shall perform SERVICES as set forth in Exhibit A, attached hereto and made a part of this Agreement.

3. APPROPRIATIONS

The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

4. COMPENSATION

The CITY shall compensate CONTRACTOR for the performance of SERVICES under this Agreement an amount not to exceed \$98,050.60, plus applicable taxes. CONTRACTOR shall perform the SERVICES upon receipt of a purchase order or written Notice to Proceed from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed. CONTRACTOR shall submit invoices monthly. CITY shall pay invoices Net 30 days upon receipt of undisputed invoice.

CONTRACTOR is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. CONTRACTOR agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

5. DEVOTION OF ADEQUATE TIME

CONTRACTOR will devote the necessary hours each week to the performance of project that are required by the CITY, and it will serve the CITY, diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE

This Agreement shall become effective on date of award for a term of 26 workdays. CONTRACTOR shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and CONTRACTOR.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall CONTRACTOR be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request CONTRACTOR to perform other extra services not incorporated within the Services set forth in this Agreement. If the CONTRACTOR is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the CITY, CONTRACTOR shall so notify the CITY, of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the CONTRACTOR within five (5) business work days from the date of receipt of CONTRACTOR'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE CONTRACTOR

In the event a condition is identified by the CONTRACTOR which, in the opinion of the CONTRACTOR, changes the services, costs, and/or time required for performance under this Agreement, the CONTRACTOR shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business work days from the date of receipt of CONTRACTOR'S notification.

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of CONTRACTOR, and without the fault or negligence of CONTRACTOR, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. CONTRACTOR shall provide the CITY, with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by CONTRACTOR to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY, for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to CONTRACTOR.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY, deliver to the CITY, the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

CONTRACTOR will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S, right to recover excessive or illegal payments. CONTRACTOR will retain records for five (5) years after the completion of the project.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY, will be kept confidential and CONTRACTOR will not disclose to any other party, directly or indirectly, without the CITY'S, prior written consent unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the CONTRACTOR shall be the sole property of the CITY, and shall be delivered to the CITY, when requested and at the end of the Agreement.

14. INDEPENDENT CONTRACTOR

CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY, CONTRACTOR, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY, by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR's employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to

perform services for other parties; and (ii) CONTRACTOR may perform for its own account other professional services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as otherwise specifically set forth herein, neither CONTRACTOR nor CITY, shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT

CONTRACTOR shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

CONTRACTOR shall obtain and maintain at least the following insurance at its own cost and expense during the life of this Agreement, and shall require Subcontractors, if any, to maintain the same insurance during the life of the subcontracted work:

1. Commercial General Liability Insurance

- a. \$1,000,000 per occurrence / \$2,000,000 aggregate
- b. Coverage must include premises and operations, products and completed operations, and personal and advertising injury.
- c. The City of Las Cruces must be named as an Additional Insured for all coverages listed above on endorsements acceptable to the City.
- d. Coverage must be primary and non-contributory.
- e. Coverage must be per project or per location.

- f. Coverage must be on an occurrence form.
 - g. Subrogation must be waived.
- 2. Commercial Auto Liability
 - a. \$1,000,000 per occurrence
 - b. Coverage must be for "owned, leased, hired, and non-owned autos" or "any autos."
- 3. Workers' Compensation and Employers Liability
 - a. Statutory Limits
 - b. Employer liability – \$1,000,000 each accident, \$1,000,000 each employee by disease, \$1,000,000 policy limit
 - c. Subrogation must be waived.

Endorsements for additional insured coverage and waivers of subrogation must be provided as a condition of this Agreement and shall be noted on the certificate.

CONTRACTOR shall furnish the CITY with a certificate(s) of insurance showing CONTRACTOR and Subcontractors, if any, have complied with this Article. The CONTRACTOR shall provide Insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

CONTRACTOR shall indemnify, defend, and hold harmless the CITY, from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused in whole or in part by, resulting in whole or in part from, or arising in whole or in part out of the negligent acts, errors, or omissions of CONTRACTOR, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

CONTRACTOR shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the CONTRACTOR'S services or any work done pursuant to this Agreement, including anti-discrimination.

20. BREACH

In the event CONTRACTOR breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY, shall give CONTRACTOR written notice of such breach. In the event CONTRACTOR fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other

remedies available under applicable law, may remedy CONTRACTOR'S breach and recover any and all costs and expenses in so doing from CONTRACTOR.

21. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and CONTRACTOR under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

22. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY: City of Las Cruces
 PO Box 20000
 Las Cruces, NM 88004
 ATTENTION: Robert Nunez

With Copies to: Purchasing Manager

TO CONTRACTOR: Las Cruces Public School District 2
 505 South Main Street, Suite 249
 Las Cruces, NM 88001
 ATTENTION: Tereas Tenorio

23. SCOPE OF AGREEMENT

This Agreement incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof and that all such covenants, agreements, and understandings have been merged into this written agreement. No prior agreement or understanding verbal or otherwise of the parties or their agents shall be valid or enforceable unless embodied in this agreement.

24. SEVERABILITY

The parties agree that each provision of this Agreement is severable and the invalidity or unenforceability of any one or more of the provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

25. CONFLICT OF INTEREST

CONTRACTOR represents and warrants that CONTRACTOR has no business, professional, personal, or other interest, including, but not limited to, the representation of other clients, that would conflict in any manner or degree with the performance of its obligations under this Agreement. If any such actual or potential conflict of interest arises under this Agreement, CONTRACTOR shall immediately inform the CITY in writing of such conflict. If, in the reasonable judgement of the CITY, such conflict poses a conflict to and with the performance of CONTRACTOR'S obligations under this

Agreement, or is otherwise a violation of the CITY'S current policy or ordinances, then the CITY may terminate the Agreement immediately upon written notice to CONTRACTOR; such termination of the Agreement shall be effective upon the receipt of such notice by CONTRACTOR.

LAS CRUCES PUBLIC SCHOOL
DISTRICT 2

BY: 
Teresa Tenorio
LCPS Board President

May 21, 2024
Date

CITY OF LAS CRUCES

BY: 
Alicia Hernandez
Purchasing Manager

5/24/2024
Date

APPROVED AS TO FORM

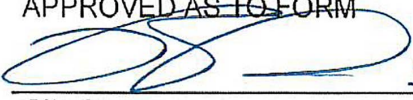
 5/25/24
City Attorney

EXHIBIT A

SERVICES

Las Cruces Public School District 2 Responsibilities	
1	Acquire the necessary supplies and prepare weekday breakfast and lunches from June 5, 2024 through July 12, 2024, with quantities to be determined by the City.
2	Prepare the breakfast and lunches at a designated school cafeteria(s) and ready for pick up and delivery to designated sites.
3	Pursuant to the New Mexico Summer Food Service Program and the New Mexico Environmental Department, assure that said breakfast and lunch meals are prepared to meet the health and safety requirements minimum nutritional value and content requirements.
4	Invoice the City monthly. The June 2024 billing will be due on or before July 5, 2024, the July 2024 billing will be due on or before August 5, 2024. The invoices will show the number of meals prepared for the program at the rate of \$2.00 per breakfast and \$4.50 per lunch, which rate includes all costs associated with preparing the meals including but not limited to school employee salaries, food, drink and other supply acquisition costs, and any operating expenses.
5	Maintain accurate and complete menu records including the amount of food and number of meals prepared.
6	Maintain all records required to be maintained for this program for a period of three (3) years after the end of the fiscal year to which the records pertain, or longer if an audit is in progress. Upon request, make all accounts and records pertaining to the program available to representatives of the City, New Mexico Early Childhood Education & Care Department, United States Department of Agriculture (U.S.D.A.), and the General Accounting Office for audit or administrative review at a reasonable time and place.
7	Arrange the payroll and pay schedule for its employees.
8	Not assign, transfer, or subcontract any duties or responsibilities under this Agreement without the City's prior written consent.
City of Las Cruces Responsibilities	
1	Compensate the Las Cruces Public School District 2 at the rate of \$2.00 per breakfast and \$4.50 per lunch that meets the New Mexico Summer Food Service Program standards prepared in accordance with this Agreement.
2	Payment will be made by the City within fifteen (15) days after receipt by the City of the school's monthly invoice. The City will be reimbursed for the amounts paid to the school with a U.S.D.A. Summer Food Service Grant administered through the New Mexico Early Childhood Education & Care Department

EXHIBIT B

MEAL SITE LOCATIONS		
Location	Address	Dates of Service
Weed & Seed – A. Fielder Memorial Safe Haven	906 N. Tornillo St.	June 5, 2024-July 12, 2024
OST Site 1 – Sierra Middle School	1700 Spruce Ave.	June 5, 2024-June 28, 2024
OST Site 2 – Mesa Middle School	7225 Jornada Rd. N.	June 5, 2024-July 12, 2024
OST 3 – Jornada Elementary School	3400 Elks Dr.	June 5, 2024-July 12, 2024
Teen Connection – Frank O'Brien Papen Center	304 W. Bell Ave.	June 5, 2024-July 12, 2024
Meerscheidt Recreation Center	1600 E. Hadley Ave.	June 5, 2024-July 12, 2024
East Mesa Recreation Center	5589 Porter Dr.	June 5, 2024-July 12, 2024
Boys & Girls Club	300 W. Las Cruces Ave.	June 5, 2024-July 12, 2024
Gym Magic	2341 Entrada del Sol	June 5, 2024-July 12, 2024
NMSU Location	1220 Stewart St.	June 5, 2024-July 5, 2024
Parkour Generations	3030 Harrelson St.	June 5, 2024-June 21, 2024
Wild West Martial Arts	114 N. Campo St.	June 5, 2024-June 14, 2024

MICHELLE LUJAN GRISHAM
GOVERNOR

HOWIE MORALES
LIEUTENANT GOVERNOR



NEW MEXICO

Early Childhood

Education & Care Department

ELIZABETH GROGINSKY
CABINET SECRETARY

COTILLION SNEDDY
ASSISTANT SECRETARY for Native American
Early Education and Care

SARA MICKELSON
DEPUTY CABINET SECRETARY

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN APPEAL RIGHTS AND PROCEDURES

The following rights and procedures are in accordance with the 7 CFR Part 225.13 of the Code of Federal Regulations for the Summer Food Service Program for Children (SFSP) regarding Appeal Procedures. All sponsors and food service management companies will be notified in writing of the grounds upon which the New Mexico Early Childhood Education and Care Department (NMECECD) based its action. The notice will inform the sponsor of its right to appeal. The NMECECD will provide a copy of the appeal procedures to each potential sponsor upon applying for Summer Food Service Program for Children participation and to each food service management company upon applying for registration. Sponsor requests for appeal of adverse actions taken by the State agency must be made to SFSP Program Manager or Family Nutrition Bureau, Chief in writing.

a. **Appeal Rights for the New Mexico Early Childhood Education and Care Department SFSP Applicants**

The New Mexico Early Childhood Education and Care Department (NMECECD) shall notify the applicant sponsor in writing of the grounds upon which an appeal may be filed. Actions which may be appealed are:

1. A denial of an application for SFSP participation;
2. A denial of a sponsor's request for an advance payment;
3. A denial of a sponsor's claim for reimbursement, except for late submission under 7 CFR Part 225.9 (d)(5);
4. A State agency's refusal to forward to Food and Nutrition Service (FNS) an exception request by the sponsor for payment of a late claim or a request for an upward adjustment to a claim;
5. A claim against a sponsor for remittance of a payment;
6. The termination of a sponsor's (or site) participation;
7. A denial of a sponsor's application for a site;
8. A denial of a food service management company's application for registration; or
9. revocation of a food service management company's registration; if applicable.

Appeals shall not be allowed on decisions made by FNS with respect to late claims or upward adjustments under 7 CFR Part 225.9(d)(6).

b. **Appeal Procedures for the New Mexico Early Childhood Education and Care Department SFSP Applicants**

1. The sponsor or food service management company will be advised in writing of the grounds upon which the State agency based the action. The notice of action, shall also state that the sponsor or food service management company has the right to appeal the State's action. The notice is considered to be received by the sponsor or food service management company when it is delivered by certified mail, return receipt (or the equivalent private delivery service), by facsimile, or by email. If the notice is undeliverable it is considered to be received by the

Family Nutrition Bureau
4801 Indian School Rd. NE Bldg. 2
Albuquerque, New Mexico 87110-4801

sponsor or food service management company five days after being sent to the addressee's last known mailing address, facsimile number or email address.

2. The sponsor or food service management company has fourteen calendar days from the date on which the notice of action is received to request an appeal;
3. The appellant will be allowed the opportunity to review any information upon which the action was based;
4. The appellant will be allowed to refute the charges contained in the notice of action either in person or by filing written documentation with the review official. To be considered, written documentation must be submitted by the appellant within seven days of submitting the appeal, and must clearly identify the State agency action being appealed, and must include a photocopy of the notice of action issued by the State agency;
5. A hearing shall be held by the review official in addition to, or in lieu of, a review of written information submitted by the appellant only if the appellant specifies in the letter appealing the action. The appellant may retain legal counsel, or may be represented by another person. Failure of the appellant's representative to appear at a scheduled hearing constitutes the appellant's waiver of the right to a personal appearance before the review official, unless the review official agrees to reschedule the hearing. A representative of the State agency shall attend the hearing to respond to the appellant's testimony and written information and to answer questions from the review official;
6. If the appellant has requested a hearing, the appellant and the State agency shall be provided with at least 5 days advance written notice, sent by certified mail, return receipt requested, of the time and place of the hearing;
7. The hearing be held within 14 days of the date of the receipt of the request for review, but, where applicable, not before the appellant's written documentation is received in accordance with paragraph (b)(4) and (5) of this Part;
8. The review official be independent of the original decision-making process;
9. The review official make a determination based on information provided by the State agency and the appellant, and on Program regulations;
10. Within 5 working days after the appellant's hearing, or within 5 working days after receipt of written documentation if no hearing is held, the reviewing official must make a determination based on a full review of the administrative record and informs the appellant of the determination of the review by certified mail, return receipt requested;
11. The State agency's action remains in effect during the appeal process. However, participating sponsors and sites may continue to operate under the Program during an appeal of termination, and if the appeal results in overturning the State agency's decision, reimbursement shall be paid for meals served during the appeal process. However, such continued Program operation shall not be allowed if the State agency's action is based on imminent dangers to the health or welfare of children. If the sponsor or site has been terminated for this reason, the State agency shall so specify in its notice of action; and

Agenda Item #7.2.

12. A determination by the State review official is the final administrative determination to be afforded to the appellant.
- c. The State agency shall send written notification of the complete appeal procedures and the actions which can be appealed, as specified in paragraph (a) of this Section, to each potential sponsor applying to participate and to each food service management company applying to register in accordance with 7 CFR Part 225.6(g).
- d. A record regarding each review shall be kept by the State agency, as required under 7 CFR Part 225.8(a). The record shall document the State agency's compliance with these regulations and shall include the basis for its decision.

Submit written requests for appeal to the SFSP Lead Compliance Officer or Family Nutrition Bureau Chief.

Debra Candelaria, SFSP Lead Compliance Officer
Family Nutrition Bureau
4801 Indian School Rd NE Bldg. 2
Albuquerque, NM 87110
Debra.candelaria@eeced.nm.gov

Loren Miller, Bureau Chief
Family Nutrition Bureau
4801 Indian School Rd NE Bldg. 2
Albuquerque, NM 87110
loren.miller@eeced.nm.gov

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, gender identity, sexual orientation, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the [USDA Program Discrimination Complaint Form](#), (AD-3027) found online at: http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or, (3) email: program.intake@usda.gov. This institution is an equal opportunity provider.

Family Nutrition Bureau
4801 Indian School Rd. NE Bldg. 2
Albuquerque, NM 87110-4801

Contract Number: D18775/2
Vendor Number: 0000054342
Control Number: C1202821

**STATE OF NEW MEXICO
DEPARTMENT OF TRANSPORTATION
SECOND AMENDMENT TO
FUND 89200 CAPITAL APPROPRIATION PROJECT**

THIS SECOND AMENDMENT is made and entered into as of this 26th day of June, 2024 by and between the Department of Transportation, P.O. Box 1149, Room 126, Santa Fe, New Mexico 87504-1149, hereinafter called the "Department" and City of Las Cruces, hereinafter called the "Grantee". This Amendment shall be effective as of the date it is executed by the Department.

RECITALS

WHEREAS, the Department and the Grantee entered into a Capital Appropriation Project Agreement, Control Number C1202821, Contract Number D18775 on April 19, 2021; and,

WHEREAS, in the Laws of 2020, Chapter 81, Section 38, Sub Section 14, the Legislature made an appropriation to the Department, funds from which the Department made available to the Grantee under Contract Number D18775; and,

WHEREAS, in the Laws of 2024, Chapter 65, SB246, Section 76, the Legislature reauthorized or re-appropriated funding, under Contract Number D18775 and extended the expenditure period; and,

WHEREAS, Article VII allows the parties to alter the Agreement by written consent of both parties; and,

WHEREAS, the Department and the Grantee want to amend the Agreement; and,

WHEREAS, pursuant to NMSA 1978, Section 67-3-28, as amended, and State Highway Commission Policy No. 44, the Department has the authority to enter into this Amendment.

AGREEMENT

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

1. Article I(A) is deleted and replaced with the following:

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

DFA Appropriation ID E2821, NMDOT Control Number C1202821, **\$720,000**

APPROPRIATION REVERSION DATE: 6/30/2024

Laws of 2020, Chapter 81, HB349, Section 38, Sub Section 14, Seven Hundred Twenty Thousand Dollars and No Cents (**\$720,000**), to acquire rights of way and to plan, design and construct roads, including curb and gutter, utilities and flood control, on the east side of Las Cruces in Dona Ana county;

The funding identified above was reauthorized or re-appropriated during the 2024 Legislative Session to extend the time of expenditure with the following new appropriation ID and reversion date.

DFA Appropriation ID I4074, NMDOT Control Number C1202821

APPROPRIATION REVERSION DATE: 6/30/2026

Laws of 2024, Chapter 65, SB246, Section 76.

The Grantee's total reimbursements shall not exceed the appropriation amount Seven Hundred Twenty Thousand Dollars and No Cents, \$720,000, (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")¹, if applicable, \$0.00, which equals Seven Hundred Twenty Thousand Dollars and No Cents, \$720,000, (the "Adjusted Appropriation Amount").

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." Optional Attachment A sets forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If Optional Attachment A imposes more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of Attachment A 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.

2. Article IV(A) is deleted and replaced with the following:

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.

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, 2026 the Reversion Date unless Terminated Before Reversion Date (“Early Termination”) pursuant to Article V herein.

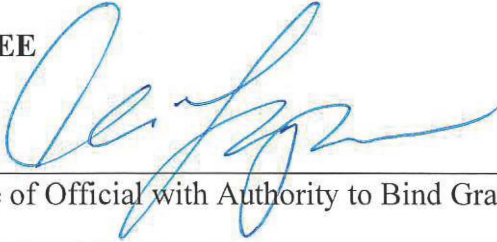
All other obligations set forth in the Original Agreement shall remain in full force and effect unless expressly amended or modified by this Amendment.

The remainder of this page is intentionally left blank.

Agenda Item #7.2.

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

By: Ikani Taumoepeau
(Type or Print Name)

Its: City Manager
(Type or Print Title)

5/3/24
Date

DEPARTMENT OF TRANSPORTATION

DocuSigned by:

Molly Manzanares

83F307B82C81449...

Cabinet Secretary or Designee

06/26/24

Date

**REVIEWED AND APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY THE
DEPARTMENT'S OFFICE OF GENERAL COUNSEL**

DocuSigned by:

Sunderjeet Kaur

C8DDF719F5734A2...

By: Aaron Frankland or Designee

05/06/24

Date

RESOLUTION 24-128

A RESOLUTION TO ACCEPT THE 2024 LEGISLATIVE SESSION REAUTHORIZED GRANT AGREEMENT 24-I4074 FROM THE NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT).

The City Council is informed that:

WHEREAS, the City of Las Cruces (City) requests funding on an annual basis from the New Mexico State Legislature to complete capital outlay projects throughout the City; and

WHEREAS, a reauthorization of appropriation 20-E2821 was submitted by the City and approved during the 2024 Legislative Session to extend the time of expenditure. Appropriation 24-I4074 reflects this change; and

WHEREAS, NMDOT requires a resolution of acceptance by the City before the agreement is fully executed.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

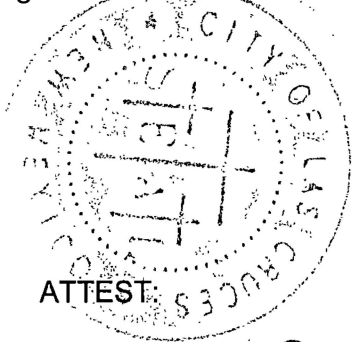
THAT The City Manager or successor is authorized to sign the agreement for this project.

(II)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this 03 day of June 2024

Agenda Item #7.2:



ATTEST

Christine Rivera

City Clerk

APPROVED

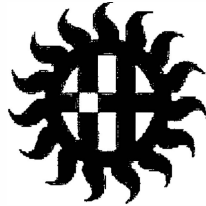
EJE
Mayor

Moved by: Becki Graham

Seconded by: Becky Corran

AYES Becki Graham, Becky Corran, Cassie McClure, Eric Enriquez

NAYS



City Council Action and Executive Summary

24-128

Type of Action:

☒ Resolution

☐ Ordinance

☐ TIDD Resolution

District:	☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☒ N/A
1st Reading:	Adopted: June 3, 2024
Drafter: Crystal Silva	Department: Financial Services
Program: Grants Administration Program	Line of Business: Fiscal Management
Title:	A RESOLUTION TO ACCEPT THE 2024 LEGISLATIVE SESSION REAUTHORIZED GRANT AGREEMENT 24-I4074 FROM THE NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT).

TYPE OF ACTION: ☒ Administrative ☐ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:

To accept a reauthorized grant agreement.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The City of Las Cruces (City) requests funding on an annual basis from the New Mexico State Legislature to complete capital outlay projects throughout the City.

The City was granted the following reauthorization from the New Mexico Department of Transportation (NMDOT) during the 2024 Legislative Session: Appropriation# 24-I4074 for the East Mesa Roads/Drainage projects which is a reauthorization of 2020 Legislative Appropriation# 20-E2821.

This appropriation has been reauthorized for \$720,000 and to extend the time of expenditure with a reversion date of June 30, 2026.

The funding is to acquire rights of way and to plan, design and construct roads, including curb and gutter, utilities and flood control, on the east side of Las Cruces in Dona Ana County.

NMDOT requires a resolution of acceptance by the City before the agreement is fully executed.

SUPPORT INFORMATION:

ATTACHMENT "A" - 2024-0507-C1202821 2nd Amendment

COMMITTEE/BOARD REVIEW:

None

DOES THIS AMEND THE BUDGET?:

☐ Yes

☒ No

Agenda Item #7.2.

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes

☒ No

Does this action align with Elevate Las Cruces?

☒ Yes

☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution to accept the 2024 reauthorized grant agreement 24-I4074.
2. Vote "No"; this will not approve the Resolution to accept the 2024 reauthorized grant agreement 24-I4074 and result in a loss of funds.
3. Vote to "Amend"; this will require further direction to staff.
4. Vote to "Table"; this will result in a loss of funds needed to complete City projects.

DOT

FTA

U.S. Department of Transportation

Federal Transit Administration

Award

Federal Award Identification Number (FAIN)	NM-2024-012-00
Temporary Application Number	1580-2024-1
Award Name	City of Las Cruces RoadRUNNER Transit (1580) Section 5339 FY 2023 Appropriation for Replacement Paratransit Vehicles
Award Status	Active (Executed)
Award Budget Number	0

Period of Performance Start Date	6/7/2024		
Original Period of Performance End Date	6/30/2025		
Current Period of Performance End Date	6/30/2025	Revision #: 0	Approved?: Yes

Budget Period Start Date	6/7/2024
Budget Period End Date	6/30/2025

Part 1: Recipient Information

Name: CITY OF LAS CRUCES

Recipient ID	Recipient OST Type	Recipient Alias	UEI	DUNS
1580	City	CITY OF LAS CRUCES	J3ZLWA2K1X47	077609279

Location Type	Address	City	State	Zip
Headquarters	700 N MAIN ST	LAS CRUCES	NM	88001
Physical Address	700 N MAIN ST # 3134	LAS CRUCES	NM	88001
Mailing Address	PO BOX 20000	LAS CRUCES	NM	88004

Union Information

Union Name	UNITED STEELWORKERS OF AMERICA, AFL-CIO/CLC
Address 1	632 N Almendra Street
Address 2	
City	Las Cruces
State	NM
Zipcode	88001
Contact Name	Eric Quiz
Telephone	(575) 202-2771
Fax	
E-mail	equiz79@gmail.com
Website	

Part 2: Award Information

Title: City of Las Cruces RoadRUNNER Transit (1580) Section 5339 FY 2023 Appropriation for Replacement Paratransit Vehicles

FAIN	Award Status	Award Type	Application Cost Center	Date Created	Last Updated Date	From TEAM?
NM-2024-012-00	Active (Executed)	Grant	Region 6	2/24/2024	2/24/2024	No

Award Executive Summary

This grant will use the Federal Fiscal Year 2023 Small Urbanized Section 5339 funding suballocated to the City of Las Cruces by the New Mexico Department of Transportation. The suballocation letter is attached to this application. This grant will fund 85% of the cost of acquiring two (2) replacement fully ADA-accessible paratransit buses (Total \$263,639, \$224,093 grant, \$39,546 local match).

In executing this grant, the City agrees to abide by Section 3011 of the FAST Act (49 U.S.C. 5323(j)(2)(C) regarding the phased increase in domestic content under the Buy America statute for rolling stock. As the Grant Agreement includes an FTA-funded transit vehicle purchase, the City agrees to comply with the related requirements set forth in 49 CFR 26.49(a). Specifically, the City ensures as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, that each transit vehicle manufacturer certified that it complied with DOT requirements for submitting a DBE program and goal to FTA prior to bidding. The City is also required to submit the name of the successful vendor and the total dollar value of the contract within 30 days of making an FTA-assisted transit vehicle award using the required FTA reporting tool. The City understands that failure to comply with these requirements may result in formal enforcement action or appropriate sanction as determined by FTA, including reimbursement of FTA funds used for the vehicle procurement. By executing this grant, the City certifies that projects funded in this grant are included in the 2024 TAM plan investment prioritization section.

The local match will be from one or more of these local City funds: General Fund, Gas Tax Fund, Hold Harmless Fund (a rebate the State gives the City on gross receipts tax revenue) or Vehicle Acquisition Fund.

This application may use pre-award authority to enter a purchase order request for these vehicles.

The suballocation letter from the New Mexico DOT to FTA is attached to this application. Funding for all

this project is included in the New Mexico eSTIP, which is also attached to this application.

Frequency of Milestone Progress Reports (MPR)

Annual

Frequency of Federal Financial Reports (FFR)

Annual

Does this application include funds for research and/or development activities?

This award does not include research and development activities.

Pre-Award Authority

This award is using Pre-Award Authority.

Does this application include suballocation funds?

Recipient organization is suballocated these apportioned funds and can apply for and receive these funds directly.

Will this Grant be using Lapsing Funds?

No, this Grant does not use Lapsing Funds.

Will indirect costs be applied to this application?

This award does not include an indirect cost rate.

Indirect Rate Details: N/A

Requires E.O. 12372 Review

No, this application does not require E.O. 12372 Review.

Delinquent Federal Debt

No, my organization does not have delinquent federal debt.

Award Description

Purpose

The purpose of this award is to acquire two (2) fully ADA-accessible replacement paratransit vehicles. All vehicles have met their Useful Life Benchmark (ULB) per the City's Transit Asset Management Plan.

Activities to be performed:

Funds will be used to purchase two (2) replacement paratransit vehicles.

Expected outcomes:

This funding will permit RoadRUNNER Transit to procure two paratransit vehicles to replace two existing paratransit vehicles that are aging. This vehicle replacement will help ensure that the paratransit fleet continues to remain reliable.

Intended beneficiaries:

Intended beneficiaries are residents and visitors who rely on paratransit services. This purchase will help to ensure that the paratransit vehicle fleet remains in a state of good repair so that reliable paratransit service continues.

Subrecipient Activities:

N/A - there are no subrecipients.

Award Point of Contact Information

First Name	Last Name	Title	E-mail Address	Phone
	tony.ogboli@dot.gov	Community Planner		
	layana.george@dot.gov	General Engineer		

Michael	Bartholomew	City Transit Director	mbartholomew@las- cruces.org	(575) 541- 2537
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Award Budget Control Totals

Funding Source	Section of Statute	CFDA Number	Amount
5339 – Buses and Bus Facilities Formula	5339-1	20526	\$224,093
Local			\$39,546
Local/In-Kind			\$0
State			\$0
State/In-Kind			\$0
Other Federal			\$0
Transportation Development Credit			\$0
Adjustment			\$0
Total Eligible Cost			\$263,639

Award Budget

Project Number	Budget Item	FTA Amount	Non-FTA Amount	Total Eligible Amount	Quantity
NM-2024-012-01-00	111-00 (111-A1) BUS - ROLLING STOCK	\$224,093.00	\$39,546.00	\$263,639.00	2
NM-2024-012-01-00	BUY 11.12.04 REPLACEMENT <30 FT BUS	\$224,093.00	\$39,546.00	\$263,639.00	2

Discretionary Allocations

This application does not contain discretionary allocations.

Sources of Federal Financial Assistance

PO Number	Project Number	Scope Name	Scope Number	Scope Suffix	UZA Code	Area Name	Account Class Code	FPC	Description	Amendment Amount	Cumulative Amount
NM-34-0036	NM-2024-012-01-00	BUS - ROLLING STOCK	111-00 (111)	A1	350000	New Mexico	2023.2J.34.BF.2	00	Bus Form - Formula Alloc	\$224,093	\$224,093

Part 3: Project Information

Project Title: FY2023 Formula Section 5339 City of Las Cruces RoadRUNNER Transit Paratransit Vehicle Procurements

Project Number	Temporary Project Number	Date Created	Start Date	End Date
NM-2024-012-01-00	1580-2024-1-P1	3/4/2024	4/15/2024	6/2/2025

Project Description
This grant will fund 85% of the cost of acquiring two (2) replacement fully ADA-accessible paratransit buses (Total \$263,639, \$224,093 grant, \$39,546 local match). The two vehicles being replaced are both year 2012 gasoline cutaways on a Ford E-350 chassis with 178,994 miles and 176,667 respectively. These two vehicles were classed as having a ULB of 10 years per the City's Transit Asset Management Plan and have exceeded that benchmark. They are becoming very expensive to maintain. The vehicles are past their ULB and will be replaced with similar type vehicle. The City will first explore whether these vehicles can be procured on a compliant state contract, if not, requests for bid will be issued.

Project Benefits
This purchase will help to ensure that the paratransit vehicle fleet remains in a state of good repair so that reliable paratransit service continues. The replacement of vehicles will also meet the City's State of Good Repair goals in its Asset Management Plan.

Additional Information
N/A

Location Description
These vehicles will be providing service in the Las Cruces NM urbanized area. Las Cruces is located in Dona Ana County NM. The urbanized area includes the town of Mesilla and the New Mexico State University campus (University Park CDP), the Village of Dona Ana CDP, and parts of Dona Ana County. UZA Code 350000.

Project Location (Urbanized Areas)

UZA Code	Area Name
350000	New Mexico
353520	Las Cruces, NM

Congressional District Information

District	State
2	New Mexico

Program Plan Information

STIP/TIP
Date: 3/4/2024
Description: New Mexico eSTIP project TL00140 screenshot

UPWP
Date: Not Provided
Description: N/A

Long Range Plan

Date: Not Provided
Description: N/A

Project Control Totals

Funding Source	Section of Statute	CFDA Number	Amount
5339 – Buses and Bus Facilities Formula	5339-1	20526	\$224,093
Local			\$39,546
Local/In-Kind			\$0
State			\$0
State/In-Kind			\$0
Other Federal			\$0
Transportation Development Credit			\$0
Adjustment			\$0
Total Eligible Cost			\$263,639

Project Budget

Project Number	Budget Item	FTA Amount	Non-FTA Amount	Total Eligible Amount	Quantity
NM-2024-012-01-00	111-00 (111-A1) BUS - ROLLING STOCK	\$224,093.00	\$39,546.00	\$263,639.00	2
NM-2024-012-01-00	11.12.04 BUY REPLACEMENT <30 FT BUS	\$224,093.00	\$39,546.00	\$263,639.00	2

Project Budget Activity Line Items

Budget Activity Line Item: 11.12.04 - BUY REPLACEMENT <30 FT BUS

Scope Name / Code	Line Item #	Line Item Name	Activity	Quantity
BUS - ROLLING STOCK (111-00)	11.12.04	BUY REPLACEMENT < 30 FT BUS	BUY REPLACEMENTS - CAPITAL BUS	2

Extended Budget Description

Activity under this scope is to replace two existing paratransit vehicles that have met their Useful Life Benchmark (ULB) under the City's Transit Asset Management Plan. The vehicles being replaced are both year 2012 gasoline cutaways on a Ford E-350 chassis with 178,994 miles (VIN# 1FDEE3FS8CDA29126) and 176,667 miles (VIN# 1FDEE3FS1CDA29128) respectively. They both have exceeded the ULB of 10 years and are expensive to repair. The City intends to buy similar type gasoline engine vehicles as replacements. If these vehicles can be found on a compliant state contract,

Agenda Item #7.2.

the City will purchase the vehicles off of that. If not, the City will solicit competitive bids for them. These two vehicles will be fully equipped ADA-compliant vehicles and eligible for the 85% federal share, with the remaining 15% matched by the City.

Consistent with FTA Circular 5010.1E, the new paratransit vehicles will be medium-size, medium-duty transit buses with a minimum useful life of 7 years or an accumulation of at least 200,000 miles. Per the City's Transit Asset Management Plan, these vehicles are expected to have a (ULB) of at least 10 years.

A screenshot of New Mexico eSTIP project is TL00110 is attached to this grant.

Will 3rd Party contractors be used to fulfill this activity line item?

Yes, 3rd Party Contractors will be used for this line item.

Propulsion	Fuel Type	Vehicle Condition	Vehicle Size (ft.)
N/A	Gasoline	New	

Funding Source	Section of Statute	CFDA Number	Amount
5339 – Buses and Bus Facilities Formula	5339-1	20526	\$224,093
Local			\$39,546
Local/In-Kind			\$0
State			\$0
State/In-Kind			\$0
Other Federal			\$0
Transportation Development Credit			\$0
Adjustment			\$0
Total Eligible Cost			\$263,639

Milestone Name	Est. Completion Date	Description
Seek Compliant State Procurement Contracts	4/15/2024	The City will first seek compliant state contracts for this procurement.
RFP/IFB Issue Date	4/29/2024	RFP will be issued if a compliant state contract is not found.
Contract Award Date	7/29/2024	Anticipated award of contract. This will be sooner if a compliant State pricing agreement is identified.
Initial Delivery Date	5/1/2025	Desired initial Delivery. This milestone will be met much earlier if a compliant State pricing agreement is identified.
Final Delivery Date	5/2/2025	Desired delivery of second vehicle. This milestone will be met much earlier if a compliant State pricing agreement is identified.
Contract Completion Date	6/2/2025	Contract completed. This milestone will be met much earlier if a compliant State pricing agreement is identified.

Project Environmental Findings

Finding: Class II(c) - Categorical Exclusions (C-List)

Class Level Description

Class II(c) consists of projects that do not have a significant environmental impact on the human or natural environment and are therefore categorically excluded from the requirement to prepare an environmental assessment or an environmental impact statement. FTA requires a sufficient project description to support a CE determination. The project may require additional documentation to comply with other environmental laws.

Categorical Exclusion Description

Type 07: Acquisition, installation, rehabilitation, replacement, and maintenance of vehicles or equipment, within or accommodated by existing facilities, that does not result in a change in functional use of the facilities, such as: equipment to be located within existing facilities and with no substantial off-site impacts; and vehicles, including buses, rail cars, trolley cars, ferry boats and people movers that can be accommodated by existing facilities or by new facilities that qualify for a categorical exclusion.

Date Description	Date
Class IIc CE Approved	

Scope Name / Code	Line Item Number	Line Item Name	Quantity	FTA Amount	Total Eligible Cost
BUS - ROLLING STOCK (111-00)	11.12.04	BUY REPLACEMENT <30 FT BUS	2	\$224,093.00	\$263,639.00

Part 4: Fleet Details

Fleet Type: Other

Fleet Comments

Eight (11) total staff vehicles
Shop Maintenance Trucks - 3
Administrative Staff Vehicles -1
Dial-A-Ride Supervisor vehicle - 1
Fixed Route supervisor vehicles - 1
Mini vans for Fixed Route driver change out -2
15 - Passenger van for fixed Route driver change out - 3

Current Value		
I.	Active Fleet	
	A. Peak Requirement	11
	B. Spares	0
	C. Total (A+B)	11
	D. Spare Ratio (B/A)	0%
II.	Inactive Fleet	
	A. Other	0
	B. Pending Disposal	0

Agenda Item #7.2.

	C. Total (A+B)	0
III.	Total (I.C and II.C)	11

Fleet Type: Fixed Route

Fleet Comments

13 - 35' Gillig heavy duty buses (5 2004s, 4 2008s, 1 2010, 1 2016, 2 2018) -
 5 BYD BEBs 2023
 2 - Arbocs (16 passenger capacity) (2 are 2015s)

Total 20

		Current Value
I.	Active Fleet	
	A. Peak Requirement	13
	B. Spares	7
	C. Total (A+B)	20
	D. Spare Ratio (B/A)	53.85%
II.	Inactive Fleet	
	A. Other	0
	B. Pending Disposal	0
	C. Total (A+B)	0
III.	Total (I.C and II.C)	20

Fleet Type: Paratransit

Fleet Comments

24' cutaways (light duty vehicles):
 three 2022s, one 2021, three 2020s, one 2017, one 2016s, seven 2015s, three 2012s, one 2010s.

		Current Value
I.	Active Fleet	
	A. Peak Requirement	15
	B. Spares	5
	C. Total (A+B)	20
	D. Spare Ratio (B/A)	33.33%
II.	Inactive Fleet	
	A. Other	0
	B. Pending Disposal	0
	C. Total (A+B)	0
III.	Total (I.C and II.C)	20

Part 5: FTA Review Comments

Application Review Comments

Comment By Tony Ogboli

Comment Type	Pre-Award Manager Returns Application
Date	3/28/2024
Comment	Please address the following couple of grant application review comments which have also been entered in the TrAMS grant application: 1. Vehicle VIN#: Anytime an FTA funded vehicle is to be replaced, the vehicle identification number needs to be included in the grant application. FTA requires that grantee provide the VIN#s of all Replacement Vehicle(s). So please, provide the VIN numbers of the vehicles to be replaced in the Project Description/Extended Budget Description. 2. ADA accessible vehicle? I assume you are purchasing ADA accessible vehicles; If so, ADA vehicles can be funded for 85/15 ratio. For the Useful Life of the Vehicles, add to the Extended Budget Description of the vehicle ALI a statement describing how the 2 vehicles qualify for the 85% federal share (if theyre equipped to meet the requirements of the ADA and/or the Clean Air Act); and then include text describing the useful life of the 2 vehicles to be purchased (years and miles), consistent with FTA Circular 5010. (I notice a couple of the dash-blank spaces intended to be filed with info in the narrative that may have been intended for the useful life info) Please you may re-transmit after the above comments have been addressed.

Comment By Tony Ogboli

Comment Type	Pre-Award Manager Returns Application
Date	4/3/2024
Comment	Please address the following grant application review comments: 1. Vehicle VIN#: Anytime an FTA funded vehicle is to be replaced, the vehicle identification number needs to be included in the grant application. FTA requires that grantee provide the VIN#s of all Replacement Vehicle(s). So please, provide the VIN numbers of the vehicles to be replaced in the Project Description/Extended Budget Description. 2. ADA accessible vehicle? I assume you are purchasing ADA accessible vehicles; If so, ADA vehicles can be funded for 85/15 ratio. For the Useful Life of the Vehicles, add to the Extended Budget Description of the vehicle ALI a statement describing how the 2 vehicles qualify for the 85% federal share (if they are equipped to meet the requirements of the ADA and/or the Clean Air Act); and then include text describing the useful life of the 2 vehicles to be purchased (years and miles), consistent with FTA Circular 5010. (I

Comment By Tony Ogboli

Comment Type	Pre-Award Manager Returns Application
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Date	6/7/2024
Comment	

Application Review Comments

Comment By	Margaret Griffin
Comment Type	Application Details
Date	4/11/2024
Comment	Transit Vehicle Manufacturers (TVM) must have an approved FTA DBE Goal prior to bidding on contract. For a current listing, see https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/eligible-tvms-list . Recipient must ensure that all vehicles purchased are accessible and purchased from an FTA approved TVM.

Part 6: Agreement

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION

GRANT AGREEMENT
(FTA G-31)

On the date the authorized U.S. Department of Transportation, Federal Transit Administration (FTA) official signs this Grant Agreement, FTA has obligated and awarded federal assistance as provided below. Upon execution of this Grant Agreement by the Recipient named below, the Recipient affirms this FTA Award, enters into this Grant Agreement with FTA, and binds its compliance with the terms of this Grant Agreement.

The following documents are incorporated by reference and made part of this Grant Agreement:
(1) "Federal Transit Administration Master Agreement," FTA MA(31), <http://www.transit.dot.gov>,
(2) The Certifications and Assurances applicable to the FTA Award that the Recipient has selected and provided to FTA, and
(3) Any Award notification containing special conditions or requirements, if issued.

WHEN THE TERM "FTA AWARD" OR "AWARD" IS USED, EITHER IN THIS GRANT AGREEMENT OR THE APPLICABLE MASTER AGREEMENT, "AWARD" ALSO INCLUDES ALL TERMS AND CONDITIONS SET FORTH IN THIS GRANT AGREEMENT.

FTA OR THE FEDERAL GOVERNMENT MAY WITHDRAW ITS OBLIGATION TO PROVIDE FEDERAL ASSISTANCE IF THE RECIPIENT DOES NOT EXECUTE THIS GRANT AGREEMENT WITHIN 90 DAYS FOLLOWING FTA's AWARD DATE SET FORTH HEREIN.

FTA AWARD

Federal Transit Administration (FTA) hereby awards a Federal Grant as follows:

Recipient Information

Agenda Item #7.2.

Recipient Name: CITY OF LAS CRUCES

Recipient ID: 1580

UEI: J3ZLWA2K1X47

DUNS: 077609279

Award Information

Federal Award Identification Number: NM-2024-012-00

Award Name: City of Las Cruces RoadRUNNER Transit (1580) Section 5339 FY 2023 Appropriation for Replacement Paratransit Vehicles

Award Start Date: 6/7/2024

Original Award End Date: 6/30/2025

Current Award End Date: 6/30/2025

Award Executive Summary: This grant will use the Federal Fiscal Year 2023 Small Urbanized Section 5339 funding suballocated to the City of Las Cruces by the New Mexico Department of Transportation. The suballocation letter is attached to this application. This grant will fund 85% of the cost of acquiring two (2) replacement fully ADA-accessible paratransit buses (Total \$263,639, \$224,093 grant, \$39,546 local match).

In executing this grant, the City agrees to abide by Section 3011 of the FAST Act (49 U.S.C. 5323(j)(2)(C)) regarding the phased increase in domestic content under the Buy America statute for rolling stock. As the Grant Agreement includes an FTA-funded transit vehicle purchase, the City agrees to comply with the related requirements set forth in 49 CFR 26.49(a). Specifically, the City ensures as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, that each transit vehicle manufacturer certified that it complied with DOT requirements for submitting a DBE program and goal to FTA prior to bidding. The City is also required to submit the name of the successful vendor and the total dollar value of the contract within 30 days of making an FTA-assisted transit vehicle award using the required FTA reporting tool. The City understands that failure to comply with these requirements may result in formal enforcement action or appropriate sanction as determined by FTA, including reimbursement of FTA funds used for the vehicle procurement. By executing this grant, the City certifies that projects funded in this grant are included in the 2024 TAM plan investment prioritization section.

The local match will be from one or more of these local City funds: General Fund, Gas Tax Fund, Hold Harmless Fund (a rebate the State gives the City on gross receipts tax revenue) or Vehicle Acquisition Fund.

This application may use pre-award authority to enter a purchase order request for these vehicles.

The suballocation letter from the New Mexico DOT to FTA is attached to this application. Funding for all this project is included in the New Mexico eSTIP, which is also attached to this application.

Research and Development: This award does not include research and development activities.

Indirect Costs: This award does not include an indirect cost rate.

Agenda Item #7.2.

Suballocation Funds: Recipient organization is suballocated these apportioned funds and can apply for and receive these funds directly.

Pre-Award Authority: This award is using Pre-Award Authority.

Award Budget

Total Award Budget: \$263,639.00

Amount of Federal Assistance Obligated for This FTA Action (in U.S. Dollars): \$224,093.00

Amount of Non-Federal Funds Committed to This FTA Action (in U.S. Dollars): \$39,546.00

Total FTA Amount Awarded and Obligated (in U.S. Dollars): \$224,093.00

Total Non-Federal Funds Committed to the Overall Award (in U.S. Dollars): \$39,546.00

Award Budget Control Totals

(The Budget includes the individual Project Budgets (Scopes and Activity Line Items) or as attached)

Funding Source	Section of Statute	CFDA Number	Amount
5339 – Buses and Bus Facilities Formula	5339-1	20526	\$224,093
Local			\$39,546
Local/In-Kind			\$0
State			\$0
State/In-Kind			\$0
Other Federal			\$0
Transportation Development Credit			\$0
Adjustment			\$0
Total Eligible Cost			\$263,639

(The Transportation Development Credits are not added to the amount of the Total Award Budget.)

U.S. Department of Labor Certification of Public Transportation Employee Protective Arrangements:

DOL Decision: DOL Concurrs - Certified
DOL Review Date: 6/3/2024
DOL Certification Date: 6/3/2024

Special Conditions

There are no special conditions.

FINDINGS AND DETERMINATIONS

Agenda Item #7.2.

By signing this Award on behalf of FTA, I am making all the determinations and findings required by federal law and regulations before this Award may be made.

FTA AWARD OF THE GRANT AGREEMENT

Awarded By:
Gail Lyssy
Regional Administrator
FEDERAL TRANSIT ADMINISTRATION
U.S. DEPARTMENT OF TRANSPORTATION
Contact Info: gail.lyssy@dot.gov
Award Date: 6/7/2024

EXECUTION OF THE GRANT AGREEMENT

Upon full execution of this Grant Agreement by the Recipient, the Effective Date will be the date FTA or the Federal Government awarded Federal assistance for this Grant Agreement.

By executing this Grant Agreement, the Recipient intends to enter into a legally binding agreement in which the Recipient:

- (1) Affirms this FTA Award,
- (2) Adopts and ratifies all of the following information it has submitted to FTA:
 - (a) Statements,
 - (b) Representations,
 - (c) Warranties,
 - (d) Covenants, and
 - (e) Materials,
- (3) Consents to comply with the requirements of this FTA Award, and
- (4) Agrees to all terms and conditions set forth in this Grant Agreement.

Executed By:
Michael Bartholomew
City Transit Director
CITY OF LAS CRUCES
6/27/2024



25-014

City Council Action and Executive Summary

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

District:	☒ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ N/A		
1st Reading:		Adopted:	August 5, 2024
Drafter:	Sergio Esparza	Department:	Parks & Rec
Program:	Special Projects	Line of Business:	Office of the Director & Special Projects
Title:	A RESOLUTION AUTHORIZING A VARIANCE TO SECTION 19-131 OF THE LAS CRUCES MUNICIPAL CODE, 1997, AS AMENDED, ALLOWING CONSTRUCTION WORK BETWEEN THE HOURS OF 6:00 P.M. AND 7:00 A.M. FOR CONCRETE POURING ASSOCIATED WITH THE RENOVATION OF THE EXISTING SKATEPARK AT 151 N. WALNUT.		

TYPE OF ACTION: ☒ Administrative ☐ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:
Approve a construction time variance to the City's Noise Ordinance.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
On July 17, 2000, the Las Cruces City Council passed Ordinance No. 1814, amending Section 19-131 of the Las Cruces Municipal Code, 1997, as amended (LCMC), allowing for more effective enforcement of the construction restrictions related to noise. LCMC Section 19-131 prohibits specified construction, repair, or demolition work between the hours of 6:00 p.m. and 7:00 a.m. if the work disturbs the comfort or repose of others except in case of urgent public necessity as determined by the City Council.

As part of the Skatepark Renovation Project, the City has entered into a contract with Spohn Ranch Inc, for the renovation of the Skatepark at 151 N. Walnut. City staff requests a variance to the restrictions of LCMC sec 19-131 for this project.

Without a variance, the contractor is only able to receive and pour the concreted between 7:00 a.m. and 10:00 a.m. because of the weather conditions. A variance will allow the contractor to receive earlier morning concrete deliveries and avoid extreme heat, ensuring the safety of the workers and minimizing the likelihood of insufficient curing of the concrete. Insufficient curing results in decreased strength and durability of the concrete which impacts the life of, and maintenance requirements for, the resulting product. The alternate work hours should have minimal impact to the surrounding area because there are no immediately adjacent residences to the job site, the closest of which is over 400 feet from the construction site.

Therefore, City staff is seeking approval of this Resolution, granting a variance to LCMC Section 19-131 to work outside of the hours of 7:00 a.m. through 6:00 p.m., not to exceed a total of 12 working days throughout the life of the project which is estimated to culminate by the end of September 2024. If this resolution does not pass, the contractor would only be able to pour concrete from 7:00 a.m. to 10:00 a.m., which would risk inadequate curing of concrete and delay the project.

Agenda Item #7.3.

PLAN(S):

None

COMMITTEE/BOARD REVIEW:

None

DOES THIS AMEND THE BUDGET?:

☐ Yes

☒ No

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes

☒ No

Does this action align with Elevate Las Cruces?

☒ Yes

☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution and authorize a variance to LCMC Section 19-131 allowing the contractor to complete additional work between the hours of 6:00 p.m. to 7:00 a.m. for the concrete pouring construction for the Skatepark Renovation Project.
2. Vote "No"; this will not approve the Resolution or will it authorize a variance to LCMC 19-131.
3. Vote to "Amend"; this could delay the Resolution and will require further direction from City Council to staff.
4. Vote to "Table"; this would require further direction from the City Council to staff, which could risk having a delay of project completion of more than thirty days.

REFERENCE INFORMATION:

N/A

RESOLUTION 25-014

A RESOLUTION AUTHORIZING A VARIANCE TO SECTION 19-131 OF THE LAS CRUCES MUNICIPAL CODE, 1997, AS AMENDED, ALLOWING CONSTRUCTION WORK BETWEEN THE HOURS OF 6:00 P.M. AND 7:00 A.M. FOR CONCRETE POURING ASSOCIATED WITH THE RENOVATION OF THE EXISTING SKATEPARK AT 151 N. WALNUT.

The City Council is informed that:

WHEREAS, on July 17, 2000, the Las Cruces City Council passed Ordinance No. 1814, amending Section 19-131 of the Las Cruces Municipal Code, 1997, as amended (LCMC), allowing for more effective enforcement of the construction restrictions; and

WHEREAS, LCMC Section 19-131 prohibits specified construction, repair, or demolition work between the hours of 6:00 p.m. and 7:00 a.m. if the work disturbs the comfort or repose of others except in case of urgent public necessity as determined by the City Council; and

WHEREAS, the Skatepark Renovation Project construction consists mostly of concrete materials and is ready for the installation of concrete; and

WHEREAS, such construction work may temporarily disturb the comfort or repose of residents living adjacent to the construction site, however, the nearest residence is over 400 feet from the site; and

WHEREAS, City staff are seeking a variance to LCMC Sec 19-131 to allow work between the hours of 6:00 p.m. and 7:00 a.m., not to exceed a total of 12 working days throughout the life of the project.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT City Council approves a variance to LCMC Section 19-131 to allow additional construction work between the hours of 6:00 p.m. and 7:00 a.m. for the installation of the concrete to complete the project promptly, ensure adequate concrete curing, and prevent heat-related illnesses of workers.

(II)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

Agenda Item #7.3.

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS



City Council Action and Executive Summary

3075; Council
Bill 25-004

Type of Action:
☐ Resolution
☒ Ordinance
☐ TIDD Resolution

District:	☐ 1	☐ 2	☐ 3	☐ 4	☐ 5	☒ 6	☐ N/A
1st Reading:	July 15, 2024			Adopted:	August 5, 2024		
Drafter:	Vince Banegas			Department:	Community Development		
Program:	Community Planning			Line of Business:	Community Planning		
Title:	AN ORDINANCE APPROVING A ZONE CHANGE FROM R-4 (MULTI-DWELLING HIGH DENSITY AND LIMITED RETAIL AND OFFICE) TO C-3 (COMMERCIAL HIGH INTENSITY) FOR PROPERTY LOCATED AT 3250 NORTHRISE DRIVE. SUBMITTED BY JOHN HECK, PROPERTY OWNER.						

TYPE OF ACTION: ☐ Administrative ☐ Legislative ☒ Quasi-Judicial

PURPOSE(S) OF ACTION:
Zone Change.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
The City Council is required to review and take final action on zone changes per Section 38-10.B.2.b. and 38-13.A of the 2001 Las Cruces Zoning Code, as amended. A zoning district is a specifically designated area where land use regulation uniformly governs the use, placement, spacing, density, bulk, height, and size of buildings and/or land.

The applicant is requesting a zone change from R-4 (Multi-Dwelling High Density and Limited Retail and Office) to C-3 (Commercial High Intensity) for property approximately 2.5 acres in size and located at 3250 Northrise Drive. The existing R-4 zone represents a district designation that allows the development of residential property at a maximum density of 40 dwelling units/acre (du/ac) meaning that in this instance, 100 units could be developed less any lost due to meeting development standard requirements such as landscaping, parking, setbacks, etc.

The subject property is currently vacant, maintains approximately 35 feet of frontage along Northrise Drive, and sits within the Suburban Neighborhood place type which as per Elevate Las Cruces Comprehensive Plan, is intended to accommodate low to moderate density residential land uses intermixed with areas of commercial development. In contrast, the Regional Commercial place type which is located immediately adjacent to Northrise Drive (north side), runs along Bataan Memorial East. An area of the Regional Commercial place type spills across Northrise Drive, west of Rinconada Boulevard where the Walmart location sits. This place type is intended to provide large retail and office uses that have a city-wide and/or regional draw. Other lots adjacent to the Walmart site (west) and outside the Regional Commercial place type node have been zoned commercial (C-3) representing what staff feels is "commercial creep" in a place type which clearly emphasizes residential development over commercial. As such, staff considers the subject property's existing R-4 zoning consistent with the Suburban Neighborhood place type. Maintaining the existing zoning within the subject place type is well supported by goals, policies, and actions which speak to balanced growth, encouraging a variety of housing types, promoting a diversity of lot sizes and density ranges, increasing opportunities for

Agenda Item #7.4.

attainable housing, among others. As such, staff and the Planning and Zoning Commission through their respective recommendations, did not feel a zone change was necessary.

Several other parcels adjacent to the subject property (south) are vacant and zoned A-2 (Rural Agriculture), a defunct zoning designation previously used as a "place holder" upon annexation of property when a property owner was uncertain as to the direction future development of the property would take. EE (Equestrian Estate) zoned property also exists due east of the subject property and is intended to provide a low-density style of development on large lots allowing the keeping/raising of animals in a rural atmosphere.

One significant concern that exists with the immediate vicinity south of Northrise Drive was transportation access and connectivity. At the time the zone change request was directed to the Commission, staff apprised the applicant of a staff-initiated effort to create a community blueprint plan (blueprint) for the vicinity that would primarily focus on transportation/property access matters, with the possibility of examining land use issues. The applicant requested that the zone change request proceed. Following consideration by the P&Z Commission, the applicant requested a delay prior to moving the request forward to City Council basing said request on the possibility of policy changes in favor of the request. Per the blueprint titled "Northrise Blueprint Plan", approved by City Council in January, 2024, no place type boundary changes were proposed, or land use considerations made beyond those discussing road and utility easement locations, transportation corridors, and their impacts to property access. As such, no blueprint policy supporting the zone change request was generated via the blueprint effort.

On September 26, 2023, the case was heard by the Planning and Zoning Commission at their regular meeting. The zone change request had no support or opposition from area property owners. Ultimately, the Planning and Zoning Commission voted 1-5-0 (one Commissioner absent) to deny the request.

SUPPORT INFORMATION:

- [Exhibit "A" - VICINITY MAP](#)
- [EXHIBIT "B" - FINDINGS](#)
- [ATTACHMENT "A" - P&Z MINUTES](#)
- [ATTACHMENT "B" - STAFF REPORT](#)

PLAN(S):

Elevate Las Cruces

COMMITTEE/BOARD REVIEW:

P&Z

DOES THIS AMEND THE BUDGET?:

- ☐ Yes
- ☒ No

Does this action amend the Capital Improvement Plan (CIP)?

- ☐ Yes
- ☒ No

Does this action align with Elevate Las Cruces?

- ☐ Yes
- ☒ No

OPTIONS / ALTERNATIVES:

Agenda Item #7.4.

1. Vote "Yes"; this will approve the Ordinance and overturn the P&Z recommendation for denial. The subject property located at 3250 Northrise Drive will be rezoned from R-4 (Multi-Dwelling High Density and Limited Retail and Office) to C-3 (Commercial High Intensity). Findings in support of the request will be required for insertion into Exhibit "B".
2. Vote "No"; this will deny the request and affirm the P&Z recommendation for denial. The current R-4 will remain, requiring the property owner to seek an alternative zoning designation to aid in furtherance of the property owner's plans for development.
3. Vote to "Amend"; this could allow the City Council to modify the Ordinance by adding conditions as deemed appropriate.
4. Vote to "Table"; this could allow the City Council to table/postpone the Ordinance and direct staff accordingly.

ORDINANCE 3075; COUNCIL BILL 25-004

AN ORDINANCE APPROVING A ZONE CHANGE FROM R-4 (MULTI-DWELLING HIGH DENSITY AND LIMITED RETAIL AND OFFICE) TO C-3 (COMMERCIAL HIGH INTENSITY) FOR PROPERTY LOCATED AT 3250 NORTHRISE DRIVE. SUBMITTED BY JOHN HECK, PROPERTY OWNER.

The City Council is informed that:

WHEREAS, Mr. John Heck, property owner of 3250 Northrise Drive, has submitted a request for a zone change from R-4 (Multi-Dwelling High Density and Limited Retail and Office) to C-3 (Commercial High Intensity); and

WHEREAS, the subject property is approximately 2.5 acres in size, vacant, and has no imminent plans for development; and

WHEREAS, the proposed C-3 (Commercial High Intensity) was not found to be in substantial alignment with the Suburban Neighborhood place type in its' present place type context nor Elevate Las Cruces Comprehensive Plan policy in general; and

WHEREAS, the proposed zone change was not found to meet the purpose and intent of the 2001 Las Cruces Zoning Code, as amended; and

WHEREAS, the Planning and Zoning Commission, after conducting a public hearing on September 26, 2023, recommended that the zone change request be denied by a vote of 1-5-0 (one Commissioner absent).

NOW, THEREFORE, Be it Ordained by the Governing Body of the City of Las Cruces:

(I)

THAT the land as reflected in Exhibit "A", attached hereto and made part of this Ordinance, is hereby zoned C-3 (Commercial High Intensity).

(II)

THAT the zoning is based on City Council generated findings to be stipulated and contained in Exhibit "B", attached hereto and made part of this Ordinance.

(III)

THAT the zoning of said property be shown accordingly on the City Zoning Atlas.

(IV)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

Agenda Item #7.4.

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS

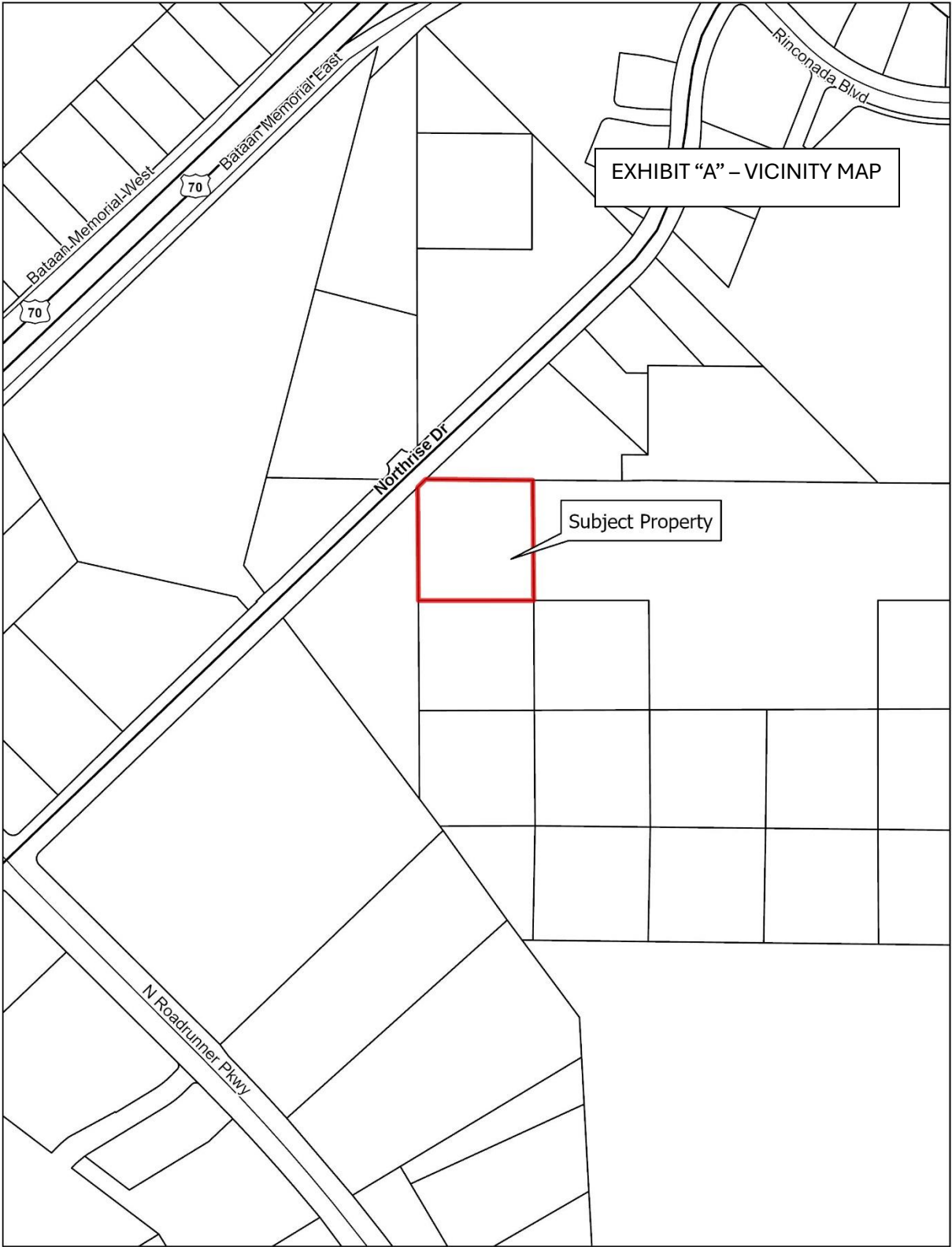


EXHIBIT "B" – FINDINGS

The findings reflected in this exhibit will be those generated by City Council on July 1, 2024, should the zone change as presented in the Ordinance be approved contrary to the denial recommendation made by the Planning and Zoning Commission.



PLANNING AND ZONING COMMISSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
September 26, 2023 at 6:00 p.m.

BOARD MEMBERS PRESENT:

- Scott Kaiser, Chair
- Enrico Smith, Vice-Chair
- James Bennett, Secretary
- Vanessa Vega, Member
- Joaquin Acosta, Member
- Connor Murray, Member

BOARD MEMBERS ABSENT:

- Vanessa Porter, Member

STAFF PRESENT:

- Tim Pitts, Deputy Director Building Development
- Adam Ochoa, Senior Planner/Building Inspection Supervisor
- Vincent Banegas, Interim Planner
- Brad Douglas, Deputy City Attorney
- Becky Baum, Recording Secretary, RC Creations, LLC

1. CALL TO ORDER (6:00)

Kaiser: All right. Good evening. It is 6:00 p.m. on September 26th and we will go ahead and call this meeting to order. It is the City of Las Cruces Planning and Zoning Commission meeting. Before we get started, we've got a couple of housekeeping items tonight. The first is I've been informed that I believe that big screen up there is out of order but we do have this smaller screen on either side of me so if you do want to move up or feel like you need to move up to be able to see the presentations tonight, I encourage you to do so.

The second item is I want to extend my thanks and gratitude to Commissioner Smith for covering last month while I was out. First month as Vice Chair and threw you into the deep end, and so I appreciate you covering for me and really did a great job. So thank you.

And then finally, if the rumors are true this is Commissioner Vega's final meeting with us here on the Commission. I speak for myself but certainly colleagues of up here, it's been a pleasure working with you the last year-

1 plus for myself, and certainly longer for others. And we wish you all the best
2 and hope to see you around town.

3
4 Vega: You will, on my bike.

5
6 Kaiser: Sounds great. All right.

7
8 **2. CONFLICT OF INTEREST**

9
10 Kaiser: So with that we will go ahead. Are there any conflicts of interest from the
11 Commission tonight? All right. Seeing none.

12
13 **3. APPROVAL OF MINUTES – July 25, 2023**

14
15 Kaiser: We'll go to the approval of minutes. Before we do that were there any
16 corrections or edits that folks would like to make? I just have a couple just
17 to clarify on the attendance. It should be Commissioner Bennett listed as
18 the Secretary and Commissioner Smith listed as the Vice-Chair. So we can
19 make those corrections and then looking for a motion to approve.

20
21 Bennett: I make a motion to approve the minutes.

22
23 Smith: I second.

24
25 Baum: Board Member Acosta.

26
27 Acosta: Yes.

28
29 Baum: Board Member Smith.

30
31 Smith: Yes.

32
33 Baum: Board Member Vega.

34
35 Vega: I abstain. I was not here.

36
37 Baum: Board Member Bennett.

38
39 Bennett: Yes.

40
41 Baum: Board Member Murray.

42
43 Murray: Yes.

44
45 Baum: Chair Kaiser.

1 Kaiser: I abstain as I was absent.

2

3 Baum: Thank you. Passes.

4

5 **4. POSTPONEMENTS**

6

7 Kaiser: All right. Moving onto the acceptance of the agenda, or I actually should
8 clarify there are no postponements tonight; is that correct?

9

10 Ochoa: Nothing tonight, sir. No.

11

12 **5. ACCEPTANCE OF THE AGENDA**

13

14 Kaiser: So go ahead and looking for a motion approve tonight's agenda?

15

16 Ochoa: I make a motion to approve tonight's agenda.

17

18 Murray: I second.

19

20 Baum: Board Member Acosta.

21

22 Acosta: Yes.

23

24 Baum: Board Member Smith.

25

26 Smith: Yes.

27

28 Baum: Board Member Vega.

29

30 Vega: Yes.

31

32 Baum: Board Member Bennett.

33

34 Bennett: Yes.

35

36 Baum: Board Member Murray.

37

38 Murray: Yes.

39

40 Baum: Chair Kaiser.

41

42 Kaiser: Yes.

43

44 Baum: Passes.

45

46 **6. PUBLIC PARTICIPATION**

1
2 Kaiser: All right. Moving onto public participation. Is there anybody in the audience
3 who wishes to speak on an item that is not on tonight's agenda? Please
4 raise your hand. Okay. Seeing none.
5

6 **7. CONSENT AGENDA**
7

8 Kaiser: We will move onto the consent agenda in which we have three, yes, three
9 items on the consent agenda. Can I get a motion to approve tonight's
10 consent agenda?
11

12 Vega: I make a motion to approve the consent agenda.
13

14 Smith: I second.
15

16 Baum: Board Member Acosta.
17

18 Acosta: Yes.
19

20 Baum: Board Member Smith.
21

22 Smith: Yes.
23

24 Baum: Board Member Vega.
25

26 Vega: Yes.
27

28 Baum: Board Member Bennett.
29

30 Bennett: Yes.
31

32 Baum: Board Member Murray.
33

34 Murray: Yes.
35

36 Baum: Chair Kaiser.
37

38 Kaiser: Yes.
39

40 Baum: Passes.
41

42 **8. OLD BUSINESS**
43

44 Kaiser: Okay. Moving on. We do not have any old business tonight.
45

46 **9. NEW BUSINESS**

1
2 **9.1 Case No. 22ZO0500085:** A zone change request from R-4 (Multi-Dwelling
3 High Density and Limited Retail and Office) to C-3 (Commercial High
4 Intensity) for a property located at 3250 Northrise Drive and encompassing
5 2.5 acres in size. Submitted by Mark Heck, property owner. Council District
6 6.

7
8 Kaiser: So we'll move onto new business and begin with item 9.1, A zone change
9 request from R-4 to C-3 located at 3250 Northrise Drive. Staff, please take
10 it away.

11
12 Banegas: Good evening, Commissioners. Vincent Banegas, Interim Planner for the
13 record, presenting tonight's case involving 3250 Northrise Drive. It is a zone
14 change request seeking zone change from R-4 to C-3. It is Case
15 22ZO0500085.

16
17 Current conditions on the case at hand, the zoning is R-4 which is our multi
18 dwelling, high density and limited retail and office zone. Limited retail and
19 office in the sense that there are perhaps more office uses than retail and
20 retail home occupation that type of thing is allowed. But otherwise, it's well
21 suited for the multi dwelling component of our land use spectrum. It is
22 roughly 2.5 acres in size and it was rezoned from A-2 to R-4 back in 2014.

23
24 The property is currently vacant and from a grading or elevation perspective
25 it does sit lower than some of the properties around it. In fact to that end,
26 there's some fill dirt being requested to help elevate the site so that it is
27 more developable, easier to develop in that regard.

28
29 It is one of several of 2.5 acre lots that were annexed back in the day with
30 the East Mesa U.S. 70 annexation that took place in 1986. The A-2 zone
31 was used quite extensively during that time. And for many of these parcels
32 as a placeholder, if you will, in that future consideration, future development
33 was going to be thought through and then a rezoning would be brought forth
34 at that time. So there's still several that are A-2 in nature and that's what
35 prompted the rezoning back in 2014 for this particular parcel.

36
37 Many of the properties in question around the subject property and including
38 the subject property were platted with access easements serving as a legal
39 method to gain access to the property. But from a broader perspective
40 doesn't provide any great surety in completing or providing for a suitable
41 road network further south of Northrise.

42
43 The property in question has approximately 35 feet of Northrise Drive
44 frontage, barely enough to comply with the ingress/egress requirements of
45 the code or design standards. The transportation issue going back to that
46 because there is a general lack of roadway system south of Northrise, a

1 blueprint to address those type of issues is currently underway. In fact, the
2 City has hired a consultant to aid in that effort and they are holding a
3 meeting I believe tomorrow if I'm not mistaken. And the expected
4 completion date is approximately four months from now, so end of year.

5
6 The property currently sits in the suburban neighborhood place type and as
7 we now know that supports low to moderate residential densities and allows
8 pockets of commercial development. The property is directly south and
9 west of the regional commercial neighborhood place type. In fact, the
10 majority of that place type sits north of Northrise Drive and then does wrap
11 around on the southwest corner of Rinconada Boulevard and Northrise.

12
13 The current R-4 zoning helps address some of the housing related issues
14 that we are well aware of through the planning efforts of late. Specifically,
15 the missing middle housing that we are trying to fill the gap for, and also
16 housing affordability. So those are a couple of the housing related issues
17 that play a role in this current request.

18
19 The surrounding neighborhood is multifamily residential both west and
20 southwest, office and commercial, north, northeast and east and southeast,
21 and vacant to the south of the subject property. The supporting zoning for
22 those uses is an alphabet soup, as you can see there's PUD, R-4, EE, A-2,
23 and so on. There's no immediate plans to develop the property. Certainly,
24 none that were mentioned to staff.

25
26 So here's a zoning map that shows the location of the subject parcel here.
27 Northrise Drive sits here. And the property as shown is currently R-4. You
28 do have EE which is our equestrian estates and agriculture zoning district
29 allowing up to one dwelling unit on a minimum of a one-acre lot size. The
30 other A-2 zone parcels kind of speak to that zoning effort back in the '80s
31 and based on what I know from the efforts back then those are the
32 placeholders.

33
34 You do have some plethora of other uses up in here. Some vacant, some
35 are developing right now but you have some office and commercial uses
36 further west of the property along Roadrunner. And of course, you do have
37 significant commercial uses beginning further east of the property along
38 Northrise out towards Rinconada with Walmart, etc., taking place in that
39 region.

40
41 The aerial view of the subject property. You do have this area here which
42 is not currently serviced, that's the area that is being referenced when I
43 speak of lack of road network. Connectivity for any roadway from Northrise
44 down to Calle Jitas intersection with Sonoma Ranch for instance once you
45 get past that it's kind of no man's land. There is the school further south of
46 subject property, an arroyo that separates some of the land in question.

1
2 A lot of these parcels, these 2.5-acre parcels are individually owned and
3 some have a grouping in terms of ownership. We refer to one as the tetras
4 parcel which has a shape of a tetra's game piece and has multiple 2.5-acre
5 lots assembled under a single ownership.
6

7 So the proposal given is R-4 to C-3 speculative in nature. Speculative in
8 the sense that that's a necessary step to get to market the property and
9 ultimately develop the property. Staff is aware of that but the applicant has
10 indicated that there's a need to change the zoning to commercial to help
11 offset some of the costs that are associated with grading and making the
12 parcel marketable and developable.
13

14 This is a plat showing the parcel in question. It's a little hard to read but you
15 see that small amount of frontage right along Northrise Drive which runs at
16 this location here. And you do see some of the easements, road easement,
17 in this case it looks to be a 33-foot road and utility easement here. A lot of
18 those parcels have very similar easements identified.
19

20 Some of the photos taken out on site. Here's the sign that's seeking clean
21 fill to help elevate the parcel. There is a fairly significant drop depending
22 where you stand from the top of surface here adjacent to Northrise Drive on
23 down to the subject parcel. Another shot. And then looking at either
24 direction both west and east along Northrise Drive and that's what these
25 photos represent. A lot of vacant land or underdeveloped land.
26

27 So in terms of analysis, there's no health, safety, or welfare issues that are
28 identified by staff through the review process. However, we do consider the
29 fact that the proposed zoning maybe compatible to some of the properties
30 east of the subject location. What I'm referring to are some of the
31 commercial properties there but again the regional commercial place type
32 that starts looping down along Rinconada lends credence to that
33 compatibility.
34

35 Staff feels that allowing further intrusion, if you will, of the regional
36 commercial or commercial uses I should say in an area that's already
37 identified as a suburban place type kind of minimizes the importance of that
38 suburban placed type and may provide added pressure for additional
39 property owners to seek rezoning to a commercial designation. So staff
40 feels that the areas north of Northrise Drive and east, south at the southwest
41 corner of Rinconada and Northrise Drive already allow commercial and so
42 limiting commercial to those areas is prudent.
43

44 So the property is within that suburban place type. We do encourage a
45 variety of residential development at low to moderate densities with areas
46 of commercial as we have identified in previous cases. I've also stipulated

1 that the deficient road network is a concern and the planning effort
2 underway at the present time will hopefully shed some light on how we can
3 handle that for future development.

4
5 The proposed zoning that is being requested in terms of the C-3 does allow
6 residential densities. I don't want to lead you to believe that it will not. It
7 does allow a minimum of 10 dwelling units per acre and up to 40 dwellings
8 units per acre as well. So that can be done. The question is will it be done
9 or will we see additional commercial development? Again, based on the
10 grading issues and the information provide, staff would suspect that
11 commercial would probably be a likely development scenario for that lot.

12
13 In terms of public notice and input, notice was sent in accordance with the
14 2001 Zoning Code as amended. And we really did not receive any feedback
15 from property ownership within the 500 feet of the subject property.

16
17 Staff recommendation and findings. This is going to be a little different than
18 most cases that you hear. Staff is recommending denial based on the
19 following findings. Property south of the subject property do not have
20 adequate road network to service those properties. Many of the properties
21 are platted with access easements which provide legal access but no surety
22 of developing right-of-way and efficient connectivity.

23
24 The CLC consultant is currently studying developing the blueprint in an area
25 concentrating on transportation issues and needs. And that hasn't come to
26 fruition yet so we feel rezoning is a little premature at this point given that.
27 The property is in the suburban neighborhood place type. Again, low to
28 moderate residential densities with supporting commercial.

29
30 The regional commercial place type primarily takes place north of Northrise
31 Drive, directly north of the subject property wrapping around to Rinconada
32 and Northrise. And so commercial areas and opportunities for development
33 already exist. The further introduction of commercial in this suburban
34 neighborhood place type kind of minimizes its purpose, that's kind of how
35 we feel. There's an ongoing need for apartments which the R-4 can satisfy
36 addressing the missing middle and housing affordability.

37
38 And so, we feel that the proposal is not substantially supported by Elevate
39 Las Cruces Comprehensive Plan in that it doesn't meet the purpose and
40 intent of the 2001 Las Cruces Zoning Code. The subject property is
41 surrounded largely by commercial, office, multifamily, and vacant property,
42 and zoned a variety of zoning designations. So a little different here in terms
43 of options. Staff would recommend you vote in affirmative like you would
44 any other case. But in this case if you vote yes, you're voting to approve
45 the zone change to C-3 in which case the findings that I've already identified
46 in the presentation you need to know do not support the request so you'd

1 have to identify findings of fact that are different from those I've just
2 presented. If you vote no, then you deny the request and you can also vote
3 yes amend with conditions, or you vote to table. And that concludes that
4 presentations. And I stand for question. And I know the property owner's
5 in attendance might want to say a few words regarding his request.
6

7 Kaiser: All right. Well, before we come to the Commission, would the applicant,
8 property owner wish to make a presentation or provide statements? Before
9 you start can you state your name for the record so I can swear you in?

10
11 Heck: Full name is John Mark Heck.

12
13 Kaiser: And do you swear or affirm that the testimony you're about to give is the
14 truth and nothing but the truth under penalty of law?

15
16 Heck: Yes.

17
18 Kaiser: Okay. Please go ahead, sir.

19
20 Heck: Good afternoon. Good evening. He failed to mention that that is a massive
21 sewer line across the, what I would call the southwest portion of the
22 property. It's already in existence. It's probably an 18-inch sewer line. It
23 serves Walmart and all the commercial area on upstream.

24
25 There's also an easement on what I would call the northeast side which is
26 a utility easement with an existing powerline. It's the only property in that
27 entire area that fronts Northrise. And it's also one of the deepest points
28 along Northrise elevation and topographical, so it needs to be filled in, and
29 you're talking approximately 35 to 40 feet of fill on 2.5 acres, that is a
30 considerable amount of fill. That's going to be incredibly expensive in most
31 cases.

32
33 Also, he did not mention that there is an existing arroyo that often flows that
34 goes around what I would call the west point of the property. That's going
35 to have to be addressed. I do not think that residential property can be built
36 on that area that would overcome those expenses that's why we need to go
37 commercial in that property. And I do have a prospective restaurant that
38 has looked at it and were thinking about it, but we don't know what the
39 zoning is going to be and we don't know whether they would qualify or not.

40
41 It seems like that's all I can think of that needs to be addressed. Other than
42 there's nothing but commercial property on both sides of it except for the
43 south portion and across the road it's all commercial in that area. I don't
44 understand why it has to be residential when you have so much other
45 property there and when they address the access needs that that could not
46 be developed more efficiently and at a lower cost. Thank you.

1
2 Kaiser: Thank you. All right. Coming to the Commission, are there any questions
3 or comments?
4

5 Acosta: I've got one. So looking at the, a statement you said Vincent about it being
6 perhaps too premature. In terms of the steps that would need to be making
7 it appropriate for rezoning could you clarify that for me?
8

9 Banegas: Certainly. Mr. Chairman, Commissioner Acosta. The statement of being
10 premature is referring to the planning effort for the blueprint in terms of
11 identifying how to provide for transportation networks, road networks in that
12 southern area. It could be that as Mr. Heck indicated that the property in
13 question that has perhaps the only access at least for some of those A-2
14 zoned and EE zoned parcels that's the only one that has the frontage could
15 be impacted in some form or fashion in terms of the provision for access.
16

17 So we don't know what's going to come from the planning effort. We truly
18 don't. We would like to wait and see and see what they come up with policy
19 wise, idea wise in terms of road network.
20

21 Acosta: And so just to clarify that, it comes from the City of Las Cruces before a
22 property owner could do what he needs to do as far as developing that? Or
23 can property owner, or if he sells it somebody come in there and do the
24 blueprints or propositions?
25

26 Banegas: The City of Las Cruces in working with the consultant have made contact to
27 the various property owners in the vicinity trying to assemble them, trying to
28 setup a meeting. In fact, that meeting as I recall talking with Sara about,
29 will take place tomorrow. And so the purpose is to convey what is being
30 proposed and start assembling some of the ideas and the thoughts of those
31 property owners in terms of making this a reality, making the road network
32 a reality for this region.
33

34 Acosta: Okay. Thank you.
35

36 Kaiser: Yes. Go ahead, Commissioner Smith.
37

38 Smith: I have a question or concern. I did a site on this area and it is highly
39 commercial and now looking at the zoning map, seeing that this one parcel
40 that's zoned residential. What is the likelihood that that area would be
41 developed for residential? I know of course the property owner would have
42 to sell it and then someone would have to purchase it and decide to build
43 residences there but what is that likelihood because of the highly
44 commercial and the fact that it's zoned EE and also A-2 that that would
45 happen sooner than say zoning it for commercial and having another
46 business there?

1
2 Banegas: Mr. Chairman, Commissioner Smith. That's a difficult question and the only
3 thing I can point to is some areas that have previously undergone master
4 planning that have identified multifamily as a use on property as part of the
5 master plan. Staff has received in the past immense pressure to convert
6 those parcels that were identified as multifamily over to a commercial
7 designation from a use perspective and then change the zoning to support
8 that. Staff has resisted that in the past and it took a while but we finally got
9 apartments exactly where the master plan intended them to be. And this
10 was an area along Sonoma Ranch.

11
12 In this case, it's likely. I can't indicate that some of these areas that are
13 south of the subject property will not ever be multifamily in nature. Keep in
14 mind that the suburban neighborhood place type encourages residential
15 with pockets of commercial. So commercial isn't outright banned. It's
16 allowed but we want to see, from our perspective residential is often,
17 especially multifamily is often the stepchild of master plans. Those tend to
18 come last.

19
20 Smith: All right. Thank you.

21
22 Kaiser: I just want to go back to Commissioner Acosta's question. So as it stands
23 right now R-4 is the current zoning. So if they wanted to move ahead with
24 a residential project is it staff's position that at this time due to the circulation
25 constraint concerns that it would also be premature to develop that type of
26 project now as well?

27
28 Banegas: Mr. Chairman. Based on the fact that the existing zoning is in place, staff
29 would encourage them to hold on but we wouldn't restrict them from
30 proceeding with development plans.

31
32 Kaiser: Okay. Thank you. And if you could go back to the slide that showed the
33 easement.

34
35 Banegas: If I could find it. Let's see. There.

36
37 Kaiser: That one, yes. So if I'm reading this correctly, the easements I guess would
38 be the eastern edge of the parcel, correct?

39
40 Banegas: That's correct.

41
42 Kaiser: So I'm just trying to think because that would be if they were to develop say
43 a residential project right now. Would that presumably be the access point?
44 I mean because they would have access, I'm assuming through that
45 easement back to Northrise.
46

1 Banegas: Mr. Chairman, Commissioners. You might also reference this little detail.
2 Based on that detail, I'd have to assume that their intent for primary access
3 to this property will be right at that frontage. The detail kind of illustrates a
4 driveway detail that is being at least proposed per this plat. I don't know if
5 that's going to change in terms of their development proposal, they would
6 ultimately submit but.

7
8 Kaiser: Okay. Thank you. Yes. This seems like a headache to be honest given
9 the lack of circulation there. I do want to kind of touch on the point that
10 Commissioner Smith kind of alluded to. And part of my concern is that, and
11 staff I think you've made this point in your presentation that we only ever
12 see these zone changes from residential to commercial on our multifamily
13 parcels. And I'm really concerned about that because we don't have a lot
14 of that to begin with. And every single time we do these, one instance. It's
15 always one instance. Well soon we're at 1,000 instances and we've lost a
16 tremendous amount of opportunity to develop multifamily and the missing
17 middle types of housing that the comprehensive plan is wanting to see.

18
19 We never see the opposite. We never see commercial being proposed to
20 be rezoned for multifamily residential, and we sure as heck do not see
21 single-family being rezoned either to commercial or multifamily. So I am
22 very concerned that by us giving this away it's another two acres. I mean
23 back in July I think we had another zone change off of multifamily residential
24 to commercial in urban core. It's just another example of this maybe one,
25 2.5-acre parcel but you do that 25 times, 30 times, 40 times suddenly we're
26 left with nothing else.

27
28 And so, I'm just very concerned. I'm also concerned that I mean I think
29 you've got to do some sort of master plan here. It sounds like the blueprint
30 may address some of it but I just think there's got to be some bigger vision
31 aside from just one, 2.5-acre parcels. So that's just my perspective there.
32 Any other questions or comments from, yes, Commissioner Smith?

33
34 Smith: Would you once again just clarify how we're to vote on this proposal?

35
36 Banegas: Yes.

37
38 Smith: Thank you.

39
40 Banegas: If I could before I leave this slide, Mr. Chairman, Commissioner Smith. I just
41 wanted to point out that this EE is the tetras piece that I mentioned. They're
42 knocking. Okay, they've already come and they're aware of the planning
43 effort but they're holding off until that goes through. Okay..

44
45 So going back to Commissioner Smith's question. The report that you've
46 read and my presentation are recommending denial. Staff would like for

1 you to vote. Make a motion in the affirmative and if you do so the findings
2 that I presented are based on a denial position. So you'd have to come up
3 with findings of fact that would support approval. Now, I do have some
4 standard ones that are in our com plan that could support that if you feel it's
5 warranted. But otherwise, if you vote no, you're siding with the packet,
6 you're siding with this presentation and you're denying the request. Okay.
7 Is that clear, because it is a little convoluted.

8
9 So if you want to approve it, these are some of the elements in our
10 comprehensive plan that speak to commercial development growth,
11 development of not necessarily older areas but vacant areas infill
12 development generating employment opportunities. Those are some of the
13 ones that we've used in the past. So I offer them up but staff recommends
14 denial.

15
16 Kaiser: Okay. I'm going to go to the public now. Are there anyone in the audience
17 who wishes to speak on this item? Please raise your hand. All right. Seeing
18 none. We'll come back to the Commission. Any final questions or
19 comments? All right. Looking for a motion to approve.

20
21 Bennett: I make a motion to approve 9.1.

22
23 Vega: I second.

24
25 Baum: Board Member Acosta.

26
27 Acosta: I vote yes to approve based on some of the findings that he had given us
28 there, balanced growth I would say, and I think infill development as well
29 would support my vote.

30
31 Baum: Board Member Smith.

32
33 Smith: I vote no based on staff recommendation. I feel that this needs to be more
34 of a master plan for this entire zoning area.

35
36 Baum: Board Member Vega.

37
38 Vega: I vote no based on staff recommendation.

39
40 Baum: Board Member Bennett.

41
42 Bennett: I vote no based on staff recommendation.

43
44 Baum: Board Member Murray.

45
46 Murray: No based on staff recommendation.

Baum: Chair Kaiser.

Kaiser: No, based on staff recommendation.

Baum: Motion fails.

9.2 Case No. 23ZO0500006: A zone change request from EE (Single-Family Equestrian Estate and Agriculture) to C-3 (Commercial High Intensity) for one parcel located at 780 Stern Drive and encompassing 1.78 acres in size. Submitted by Ted Scanlon, Borderland Engineers and Surveyors on behalf of Michael Clute, Hacienda RV LLC. Council District 4.

Kaiser: Okay, moving onto item 9.2. This is a zone change request from EE to C-3 located at 780 Stern Drive and I'll turn it over to staff.

Banegas: Once again, Mr. Chairman, Commissioners. Vincent Banegas for the record, Interim Planner presenting tonight's case involving 780 Stern Drive. The property is currently zoned EE and they are seeking the designation to C-3. And you may draw some I guess the proper term would be corollaries from what we just heard to this case. And if you have any questions, I think I can answer them as to why one is denial and this one is approval.

But this case has the following current conditions. It's located along Stern Road between Boutz Road to the south and the Avenida de Mesilla to the north. It's 1.78-acre parcel and it's our equestrian estate and agricultural district. Again, allowing one dwelling unit for a minimum of one acre lot size. It's within the suburban neighborhood place type per the Elevate Las Cruces Comprehensive Plan and immediately adjacent on the north side of this property is our commercial place type, literally just due north.

The applicant's request in this case at least early discussions with them are speculative in nature. But like the last case, we do recognize it's a necessary step in the marketing, sale, and development of property. The existing EE as indicated can be developed residentially, in fact that's what it calls for. But given the minimum lot sizes, you're going to see one lot based on the current acreage of this property developed unless they were to seek a variance to allow additional homes on the property.

The area has limited commercial office uses that exist between Avenida de Mesilla and Boutz. The commercial uses are largely coming from the RV sales right off of Avenida de Mesilla. Office uses, you have the Department of Agriculture not too far from this subject property. And you do have other I think it's a spec building on the east side of Stern. I didn't see any signs and couldn't come up with a specific use but it looks to be a spec building at this point in time, perhaps also for an office.

1
2 Stern Drive and Avenida de Mesilla are both minor arterials. Boutz Road is
3 a major collector. So you have adequate road infrastructure in this case to
4 support the commercial zoning that is immediately northwest of the subject
5 property. In fact, the zoning here is C-3C and you have additional C-3 not
6 too far off of Stern.

7
8 Now, in here you have what some of you may recall Banmore Estates, a
9 residential subdivision that was approved by you all, single-family detached
10 homes. You have an existing neighborhood in here. All this is R-1aC in
11 terms of zoning. Some of the existing older properties in the area, you have
12 fairly large R-1a tract here. I think some of that was used for agricultural
13 purposes as well. You have an A-2 sliver right up against Boutz Road and
14 right along the south boundary of the EE existing parcel in question. So you
15 do have much of that is underutilized property at the present time. So again,
16 even though you have C-3 zoning a lot of that is office and/or service
17 related.

18
19 Here is an aerial view of the subject property. You can see Banmore
20 Estates is well on its way. The Department of Ag building, RV park which
21 is residential in nature but nonetheless an RV park, RV sales further down
22 the road there. This is that spec building that I couldn't identify as to what it
23 is.

24
25 Staff is of the understanding that U-Haul seeks to develop here on this
26 portion, this lot. To my knowledge, we haven't seen any plans submitted
27 yet but that's what we hear is coming. So the proposal is to rezone to C-3.
28 Again, staff has not been informed of any specific development proposal for
29 this lot in question. The staff feels that this proposed zoning is in
30 accordance with Elevate Las Cruces. The early notification efforts that staff
31 requested of the applicant's representative were undertaken and to the best
32 of my knowledge staff did not receive any input from the neighborhood as
33 a result of that effort. And as I recall the representative indicated they had
34 received none as well.

35
36 A couple of photos. This was right off of Stern looking west. A vacant
37 property right now. This is part of that A-2 strip on the south side of the
38 property line. You can kind of tell what's going on there. Looking down
39 Stern Drive due north, the Department of Ag building. And looking south
40 there's Banmore Estates going in right here, right at the corner of Boutz and
41 Stern.

42
43 So staff did not identify any health, safety, or welfare issues related to this
44 proposal. We do find that the zoning district that is being proposed provides
45 some compatibility with existing uses in the surrounding neighborhood. It
46 is within the suburban place type and would offer the commercial

1 component that is allowed as per the suburban place type, and as such it is
2 found to be consistent with Elevate.

3
4 As we know it's low to moderate density residential development with
5 intermixed commercial uses. There are some buffers that will have to be
6 maintained if this property goes to a C-3 designation and those are
7 anywhere adjacent to lower density or less intense parcels. For instance,
8 those residential parcels on the southside. So regardless of the zone
9 change if it goes through that is an element of protection that can be
10 maintained pursuant to code for those residential single-family or lesser
11 zoned properties.

12
13 Public input notice was carried out as indicated. Early notification efforts
14 were conducted. Staff's efforts, we sent out letters pursuant to code. We
15 did not receive any inquiry as of this meeting date. So staff's
16 recommendation and finding is approval based on the following findings.
17 The property is 1.78 acres in size and has limited development potential for
18 providing a significant buffer, if you will, between the regional commercial
19 place type and the suburban place type. So since it's immediately adjacent,
20 we felt that impacts would be rather limited.

21
22 The applicant has no imminent plans for development. And if approved the
23 supporting road network, Stern Drive, etc., Boutz Road and Avenida de
24 Mesilla could easily provide for access to the property. And we all know
25 suburban supports that. Several goals, policies, and actions from Elevate
26 are identified for support of the proposed request as well as the 2001 Las
27 Cruces Zoning Code in terms of its purpose and intent.

28
29 And your options this evening with this one is to vote "yes" and approve,
30 vote "no" and deny, in which case you'd have to come up with your own
31 findings of fact, you could vote "yes" with conditions, or vote to table. And
32 that concludes staff's that presentation. And I believe the owner and/or
33 representative are in attendance if they'd like to speak to their case.

34
35 Kaiser: All right. Thank you very much. Would the owner/applicant wish to speak
36 before we turn this over for Q&A? If you could just state your name for the
37 record.

38
39 Scanlon: My name is Ted Scanlon. Address 2990 North Main Street.

40
41 Kaiser: And do you swear or affirm that the testimony you're about to give is the
42 truth and nothing but the truth under penalty of law?

43
44 Scanlon: I do.

45
46 Kaiser: Go ahead.

1
2 Scanlon: Okay. I don't have a whole lot to add to Vince's very concise and thorough
3 presentation here but it was -- one thing I wanted to bring up is the fact that
4 we subdivided this property and created that lot to go back a certain
5 distance from Stern Drive and leave a big buffer for ponding area and
6 landscaping adjacent to the existing houses along there. And we're only
7 asking for rezoning on that lot that was created and not on the area that's
8 adjacent to the existing residential development. That will stay undeveloped
9 with no buildings or anything on it for certain.

10
11 I believe the property was originally zoned equestrian estates because
12 there's a gentleman that owns a property right on Boutz Road. His name is
13 Ken Mills and he kept horses back there. And he would graze those horses
14 on our property. And for the record, I'm one of the owners of this property
15 besides being the applicant and the representative. But we allowed him to
16 graze horses back there forever.

17
18 But now, we've sold the RV park. We've sold the parcel to U-Haul. We sold
19 the parcel to USDA and this is the last piece of property on that area that
20 we still own that we need to dispose of, to sell and have developed as a
21 commercial site. I don't know if I have anything more to add to that or not,
22 but I would appreciate an affirmative vote. Thank you.

23
24 Kaiser: Thank you very much. All right. Any questions or comments from the
25 Commission? All right. Seeing none. We'll turn to the public now. Is there
26 anybody in the audience who wishes to speak on this item? Please raise
27 your hand. All right. Seeing none. We'll come back to the Commission and
28 looking for a motion.

29
30 Vega: I'll make a motion to approve item 9.2.

31
32 Murray: I'll second.

33
34 Baum: Board Member Acosta.

35
36 Acosta: I vote yes based on staff recommendation.

37
38 Baum: Board Member Smith.

39
40 Smith: I'll vote yes based on site visit and staff recommendation.

41
42 Baum: Board Member Vega.

43
44 Vega: I vote yes based on staff recommendation and Elevate Las Cruces.

45
46 Baum: Board Member Bennett.

1
2 Bennett: I vote to approve based on staff recommendation. This meets the
3 neighborhood character and compatibility Elevate Las Cruces and purpose
4 and intent of the code.

5
6 Baum: Board Member Murray.

7
8 Murray: I vote yes based on staff recommendation.

9
10 Baum: Chair Kaiser.

11
12 Kaiser: Yes. Based on staff recommendation and consistency with Elevate Las
13 Cruces.

14
15 Baum: Motion passes.

16
17 **9.3 Case No. 23VO0500101:** A variance request to deviate twenty-four (24)
18 feet from the required twenty-five (25) foot front yard setback for a carport
19 addition to a home located at 4093 Winters Street. The property is
20 approximately 0.12 + acres in size and zoned R-1bC (Single-Family High
21 Density- Conditional). Submitted by Catherine Silva, property owner.
22 Council District 1.

23
24 Kaiser: Okay, moving onto item 9.3. This is a variance request to deviate from the
25 front yard setback at 4093 Winters Street. Staff, all yours.

26
27 Gonzales: Good evening, Commission. Sara Gonzales, Senior Planner, City of Las
28 Cruces. This is for a variance request for 4093 Winters Street. Currently,
29 the property is about 649 feet north of its intersection with Holly Drive and
30 Winters Street. It is approximately 0.12 acres in size. The property was
31 rezoned to R-1bC back in 2006, which is single-family high density
32 conditional. At that time, there was six acres left and the developer wanted
33 to reduce the lot sizes in order to fit in 35 more single-family homes.

34
35 As stated, this does have a single-family residence on the property. Here's
36 an aerial map of the subject property. These are the properties that went
37 into essentially a higher density as opposed to the surrounding neighbors.
38 They are probably about a third to half an acre in size and then we move
39 into a mobile home park that's located on the west side.

40
41 Here's a zoning map of the surrounding area. As you can see, it is primarily
42 single-family residential. We do have a few nodes of multifamily on the
43 south side. However, those are also developed with single-family
44 residences.

1 Per chapter 38 of the 2001 Zoning Code, setbacks for an R-1b zoning
2 designation for a garage or carport is to be at 25 feet. The applicant is
3 seeking to retain the carport addition to the existing dwelling that was placed
4 in the front yard of the property. The variance would allow the applicant to
5 maintain a one-foot setback from the property line. Here's a site plan of the
6 property. As you can see within this area, this designation here shows that
7 this is 25 feet back already originally for the original garage. So with that,
8 with the 25 foot setback, you essentially take up that entire space covered
9 with a carport structure leaving one foot. One of the concerns, and I'm only
10 bringing it up now and I'll reiterate it later is that there is a 12-foot utility
11 easement that runs along the front of the property. Structures, buildings are
12 not permitted to be within those utility easements as you have line
13 connections, El Paso Electric. Anything that has to be done there would
14 have to be modified. So as part of our recommendation, I will provide those
15 findings and to elaborate later.

16
17 Here are the site photos of the property. As you can see it is extended out.
18 This would be where we measure from whenever we actually measure
19 carports. It's never to the edge of it, it is to the actual overhang because
20 that is the part that is actually extending up to the furthest point of the
21 property line. The posts are pushed back. However, we do only have about
22 one foot to that property line.

23
24 The applicant did provide a letter that was provided within your staff packets
25 that she was unaware that the codes and regulations were going to require
26 the building permit or the status of that application or to them to be permitted
27 to be put into place. There are medical reasons in which she has requested
28 that carport to be maintained and it also protects vehicles from weather
29 damage.

30
31 As identified, staff did not see any health, safety, or welfare issues. Our
32 only identification was that the utility easement is in place and that
33 structures are not to be within a utility easement. However, we also
34 analyzed that the 24-foot variance to the minimum required 25-foot setback
35 does not meet the criteria for a variance. Whenever you look at variances,
36 we are looking at topographic constraints on a property. We are looking at
37 does it spur economic development? Is there a monetary hardship on a
38 property in which you would be forced to do something that's going to cost
39 you more than what you would need as far as putting it in a different
40 location?

41
42 So with that staff is recommending denial as it does not meet the criteria
43 outlined in the 2001 Zoning Code to meet 25-foot setback. We are also
44 saying that it does not follow the standards for criteria to approve the
45 variance based on the three criteria listed: topographic constraints, spur

1 economic development, and then monetary hardship. And the carport was
2 constructed unfortunately without a building permit.

3
4 Notice was sent to the surrounding properties. The only phone call that I
5 ever received as far as the carports being in placed is if this one were to be
6 approved does everybody in the neighborhood now get one? The response
7 I did provide to the person who contacted me via phone was that every
8 variance case is a case-by-case basis. We are looking at every request
9 that comes in here as a single case. The adjacent property owners do not
10 set precedence. We are not looking for those to move forward. Variances
11 stay with the land and it's based on the justification provided by the
12 applicant.

13
14 If the P&Z Commission decides to approve the case, staff is recommending
15 that these conditions be placed upon it. Both of the sides of the structure
16 remain open just for visibility whenever you back up into the oncoming
17 traffic. The structure does need to be attached to the residence as you are
18 not permitted to have accessory structures located within your front yard.
19 Making it attached makes it now an addition to your structure. They must
20 obtain a building permit and require all inspections, and we are requesting
21 that it be built or cut down to meet the 12-foot setback out of that utility
22 easement.

23
24 With that your options are to vote "yes" and approve, if you choose to vote
25 and approve, please provide new findings of fact as everything presented
26 to you this evening has been in denial. You can vote "no" and deny, you
27 can vote "yes" with conditions, or you can vote to table. The applicant is
28 here as well. And then I do believe there is public to speak on behalf. And
29 if you have any questions, I stand for those as well.

30
31 Kaiser: Thank you very much. Any questions or comments from the Commission?

32
33 Bennett: How much of that needs to be cut off for the utility easement? Just a
34 ballpark.

35
36 Gonzales: Mr. Chair, Commissioner Bennett. That would be 11 feet just because we
37 only have ...

38
39 Bennett: Thank you.

40
41 Gonzales: That one foot. So to get out of that 12 feet, we have that 11 foot deviation.

42
43 Murray: And then are these underground utilities or above ground?
44

1 Gonzales: Mr. Chair, Commissioner Murray. These are going to be underground
2 utilities. A lot of times in the 12-foot utilities what we find are El Paso
3 Electric, Comcast, Quest, Lumen, your phone, your electrics.
4
5 Kaiser: All right. Thank you. Any other questions or comments? Commissioner
6 Smith.
7
8 Smith: Could you go back to the photo of the vehicles underneath the carport?
9 Thank you.
10
11 Kaiser: All right. If the applicant wishes to speak, you're welcome to come forward
12 before we get a public comment. You're not obligated to. And before you
13 begin can you please state your name?
14
15 Silva: Catherine G. Silva.
16
17 Kaiser: And do you swear or affirm that the testimony you're about to give is the
18 truth and nothing but the truth under penalty of law?
19
20 Silva: I do.
21
22 Kaiser: Please go ahead.
23
24 Silva: Well, the reason I did it it's because for my daughter's protection. She's on
25 medication. She can't be under the sun because of her medication. It's
26 medical reasons. And when it's raining, we can't be running into our vehicle
27 and slip and fall besides myself too. I'm injured too. So that's why I got it
28 done and it's expensive. And to remove it, it's another expense for myself
29 and I'm a single parent. So hopefully, I get it approved and it's for her
30 protection.
31
32 And I don't have no shade for her and I can't keep her inside the house all
33 the time. And that's the only place I take her outside. She loves to color so
34 I take her outside on a chair and she colors out there. And that's all I have
35 to say.
36
37 Kaiser: Okay. Thank you very much.
38
39 Silva: Okay.
40
41 Kaiser: All right. Is there anybody in the audience who wishes to speak? Please
42 raise your hand. Okay. Yes, ma'am. Please come forward. I'll give you
43 three minutes. We have a timer here. It will count down but I've been told
44 the beeper sound doesn't work so if you hear this gentleman here beep
45 that's your time. Before you begin can you please state your name for the
46 record?

1
2 Chavez: My name is Bertha Chavez.
3
4 Kaiser: And do you swear or affirm that the testimony you're about to give is the
5 truth and nothing but the truth under penalty of law?
6
7 Chavez: I do.
8
9 Kaiser: Go ahead.
10
11 Chavez: What I wanted to add as they need just a caregiver for Ms. Silva's daughter.
12 And I do take her outside. She loves to color. She loves to be outside for
13 a while but due to her medical condition I can only keep her out for a while.
14 So this was serving a purpose and a need for her daughter and also Ms.
15 Silva. That's all I have to say. Thank you.
16
17 Kaiser: Thank you very much. All right. Anybody else in the audience who wishes
18 to speak on this item? Okay. Seeing none. We'll come back to the
19 Commission. Any final comments? Commissioner Smith.
20
21 Smith: I just have a question for the applicant. Did you hire a commercial contractor
22 to build this? Was this something that was done by a family member who
23 is capable of building it?
24
25 Silva: It was done from a family member's friend. That was it. It wasn't a
26 contractor or nobody.
27
28 Smith: So this person is not a contractor themselves?
29
30 Silva: No.
31
32 Smith: Okay. Thank you.
33
34 Silva: But he did a good job. It's welded.
35
36 Smith: The reason I ask that question is that I mean any type of structure that's
37 being built like this requires a permit and is something that any contractor
38 would definitely know and should inform you of. And even if it's a family
39 member if they're capable of building something like this, they should know
40 that a permit is ...
41
42 Silva: Well, we didn't know. I didn't know I had to get ...
43
44 Smith: Required. All right. Thank you, ma'am.
45
46 Silva: I didn't know I had to get a permit.

1
2 Kaiser: All right. Any other comments or questions from the Commission? We're
3 looking for a motion to approve.
4
5 Bennett: I make a motion to approve 9.3.
6
7 Vega: I second.
8
9 Baum: Board Member Acosta.
10
11 Acosta: I vote no to deny based on staff recommendation.
12
13 Baum: Board Member Smith.
14
15 Smith: Sorry. I vote no to deny based on staff recommendation.
16
17 Baum: Board Member Vega.
18
19 Vega: I vote no based on staff recommendation.
20
21 Baum: Board Member Bennett.
22
23 Bennett: I vote to approve based on monetary hardship and medical reasons.
24
25 Baum: Board Member Murray.
26
27 Murray: I vote is to approve based on medical reasons and monetary hardship.
28
29 Baum: Board Member Kaiser.
30
31 Kaiser: No, based on staff recommendation.
32
33 Baum: Motion denied.
34
35 **9.4 Case No. 23VO0500106:** A variance request to deviate twenty (20) feet
36 from the required twenty-five (25) foot front yard setback for a carport
37 addition to a home located at 4053 Winters Street. The property is
38 approximately 0.108 + acres in size and zoned R-1bC (Single-Family High
39 Density- Conditional). Submitted by Tracie Stevenson, property owner.
40 Council District 1.
41
42 Kaiser: Okay. Moving onto item 9.4. This is another variance request from the front
43 yard setback. This time 4053 Winters Street. Back to you staff.
44
45 Gonzales: Sara Gonzales, Senior Planner once again for the record. This is a variance
46 request for 4053 Winters Street. The property is approximately 200 feet

1 north of its intersection of Holly Drive and Winters Street. The property is
2 0.108 acres in size. Once again, is zone R-1bC which is single-family, high
3 density conditional and there is currently a single-family residence on the
4 property.

5
6 Here's an aerial map of the subject property. As you can see the carport is
7 highlighted essentially in white as to its location. Surrounding neighborhood
8 is residential in nature as all the adjacent properties are either single-family,
9 mobile home, or multifamily to the south.

10
11 Per code, Chapter 38, 2001 Zoning Code, the property is required to meet
12 the 25-foot yard setback for a garage or carport. And the applicant is
13 seeking to retain the carport addition that was put up into the front of the
14 property for the existing dwelling. The variance would allow the applicant
15 to maintain a five-foot setback from the property line. Here is a site plan of
16 the subject property. You can see we do have the 12-foot utility easement
17 that also runs along the front of Winters continuously through the
18 subdivision. The building or the structure is a 20 x 20 so that's why you
19 have a five-foot deviation as far as it coming from that 25-foot setback. So
20 all garages in this area were built at a 25-foot setback leaving no additional
21 room for any of these carports to be placed onto the property.

22
23 Here is an image of the property, as far as you can see here is the structure.
24 It is pushed back a little bit further. As you can tell there is a five-foot
25 setback from this property boundary. The applicant has provided the
26 justification in the letter that was provided within your staff report. It was an
27 anniversary gift to the applicant as part of the, for their anniversary to protect
28 their vehicles from weather damage. Once the structure did go up, it did
29 provide some type of safety as far as the applicant was concerned once it
30 was in place.

31
32 Staff did not identify any health, safety, or welfare issues. Once again, there
33 is that condition of where we see the 12-foot utility easement in which
34 structures are not to be constructed upon. We did see that the 20-foot
35 variance does not meet the criteria that is outlined within a variance. There
36 are no topographic constraints. We do not see any spur of economic
37 development, and the monetary hardship would be essentially from not
38 receiving a building permit prior to where they would be notified that the
39 monetary value would be essential.

40
41 Monetary hardship is definitely determined by if you had to do something
42 outside or make it impossible to reconstruct or build something on a
43 property then that is considered a monetary hardship. We had a previous
44 case to where it is, in order to construct a home, you had to move the well,
45 that is a monetary hardship constraint.

1 So with this staff is recommending denial based on the carport does not
2 meet the requirement of the 25-foot setback with any residential zoning
3 district. We also are saying that it does not meet the essential guidelines to
4 permit a variance request for the three identified as topographic, monetary,
5 or for a spur of economic development, and it was constructed without a
6 building permit.

7
8 Public notice was sent out. The same phone call was in direction to both
9 as these neighborhoods are very close to one another. Notification was
10 sent to everybody essentially twice. And so, it gave two opportunities for
11 everyone to be notified within the neighborhood.

12
13 Once again if Commission decides to approve this case, please be aware
14 to add the conditions as to the structure must remain open. The structure
15 needs to be attached to the home as it is not considered accessory
16 structure. It needs to be added. Must obtain a building permit and all
17 required inspections and be removed up until the 12-foot utility easement.

18
19 Your options are to vote "yes" and approve. If you choose to vote to
20 approve you do need to find new facts of finding not found within your staff
21 report. Vote "no" and deny, vote "yes" with conditions, or vote to table. The
22 applicant is here as well and I stand for any additional questions.

23
24 Kaiser: All right. Thank you. Coming to the Commission. Any questions?

25
26 Smith: Once again would you please go back to the photo of the, thank you. I have
27 a question for the applicant. Was this carport constructed by the same
28 people, person, because they look almost identical?

29
30 T. Stevenson: No, they are. They do ...

31
32 Kaiser: Before you answer that question, ma'am. Can you please state your name
33 for the record?

34
35 T. Stevenson: My name is Tracie Stevenson.

36
37 Kaiser: And do you swear or affirm that the testimony you're about to give is the
38 truth and nothing but the truth under penalty of law?

39
40 T. Stevenson: Yes, I do.

41
42 Kaiser: Go ahead.

43
44 T. Stevenson: This isn't, we don't have the same person who built, mine went up first in
45 our neighborhood. And actually, the way this all came about was back in
46 January my husband wanted to give, we were going to plan something for

1 our 43rd wedding anniversary. And I told him I'm putting this on you
2 because I plan them all and he said he'll do it.

3
4 And then didn't hear anything. February comes rolling around. I don't see
5 anything happening. Like he hasn't made any plans. And we had an
6 automotive business here in town and he was a very, very busy man. March
7 comes rolling around and March 3rd is a Friday and we were having
8 breakfast and he was getting ready for work, and he comes back in and he
9 has a massive heart attack right in front of me. And all my attempts to try
10 to save him were gone.

11
12 And you go through all the motions of a funeral and all and then I did. April
13 comes running around. My anniversary was April 12th. April comes
14 around, the first week of April and I get somebody rang my doorbell. I go to
15 the door and it was a grandfather, a father, and a son, and they said that
16 they were here to put up an awning for me. Well you can imagine how
17 excited I was because this was something we always wanted, both of us.
18 And I know Roger. Roger always liked to do things correct. He never, if he
19 knew he was supposed to have a permit, I know he would have looked into
20 that because he was very adamant about that kind of a thing.

21
22 And so, you can imagine how excited I was. I said yes, please put it up. I
23 was thrilled. A permit never even crossed my mind. It was just, I literally
24 got weak at the knees. Well next morning comes, I was there. They came
25 and put it up and I watched them. They did the first two poles there; I saw
26 them dig the holes. It's three feet down into the ground with, they put a lot
27 of cement. It's bolted towards the end of the garage very securely. I mean
28 it's not going anywhere. It's structurally sound.

29
30 And so, I was thrilled and then of course I was, codes comes probably about
31 three days later. I guess he said he was going through the neighborhood
32 and saw it. And he put a notice on my door. And so, then I right away called
33 here and said what do I need to do to get a permit for this? And he sent me
34 through all the motions and I did them all because I want to keep it. It's the
35 last gift I'll ever receive from my late husband and he was like my best friend.
36 And I just really feel, I just really don't want to see it dismantled and taken
37 away. It's that special.

38
39 Now, she said it didn't provide any safety features. Now, this does provide
40 safety features. Last winter, I actually slipped outside while we were
41 clearing off our windshields. And it does provide elements from the
42 weather. I mean it's a 20 x 20 and it's structurally, has beautiful curb appeal.
43 And I also presented some letters from my surrounding neighbors that it did
44 not even propose a threat to them. They were absolutely thrilled about it
45 and didn't give me any heartache about it whatsoever. I was just, I didn't
46 know.

1
2 So I just thought I would come here today and just kind of give you a little
3 bit of insight how special it really is to me. And I hope I'm able to keep it
4 and I hope you all can find it in your hearts to allow me to have it and maybe
5 purchase a permit and be able to keep it. We all don't know how long we're
6 going to be here. I mean everything we have can be gone just like that.
7 And I just want to present my case and see if that's obtainable.

8
9 Now it's not attached but I did get a contractor to come over and look at it.
10 And he said that is attachable. He said it's just so close and he said that he
11 would do that for me. So I'm willing to do what I have to do to keep it and
12 enjoy it for as long as I can. I don't plan on selling my home. I plan on living
13 in it. And now that I'm alone, it does provide some safety for me. I stand
14 up here literally broken going through all this. And I just have to let you
15 know that if you would allow me to obtain a permit, I would be forever
16 grateful respectfully. Thank you.

17
18 Kaiser: Thank you. Any other questions? Commissioners Smith.

19
20 Smith: Ma'am I just wanted to offer my deepest condolences to you and your family
21 for the loss of your husband. And I know that this carport means a lot to
22 you. It's difficult for us as a Commission here. We get many cases where
23 carports are built in the City without permission and it's a challenging job for
24 codes because they're doing their job. And although this has special
25 meaning to you, the carport is no different than the previous applicant as far
26 as the amount of the variance that you're requesting.

27
28 And so, our hearts are with you and your family. We have a decision that
29 we'll have to make and so it will be a difficult one but we'll make the best
30 decision that this Commission can make based on the information we've
31 been provided.

32
33 Vega: I also want to say that regardless of what decision we come to you can
34 always appeal to the City Council; is that correct? So that's just something
35 else to share with you as well.

36
37 Kaiser: I also extend my condolences as somebody who unexpectedly lost a family
38 member within the last year. I certainly understand what you've been going
39 through. I think the difficulty here is there's rules in place and it's the
40 responsibility of all of us to be aware. I know this seems like something you
41 probably would never think of but the reality is these types of home projects
42 they are regulated.

43
44 And honestly hearing you explain what they did to put the posts in the
45 ground, I'm just very thankful nobody hit something they would regret hitting

1 especially if they were not aware. So call before you dig. But I think this is
2 just kind of unfortunate but there are rules in place. So that's all I'll say.

3
4 Is there anybody in the audience who wishes to speak on this item? Yes,
5 ma'am. Please come forward and please state your name for the record.

6
7 Vulco: Sarah Vulco.

8
9 Kaiser: Do you swear or affirm that the testimony you're about to give is the truth
10 and nothing but the truth under penalty of law?

11
12 Vulco: Yes, sir.

13
14 Kaiser: I'll give you three minutes.

15
16 Vulco: Okay. So when Tracie called me and asked me to look at the scenario that
17 had been presented to her from the City, I was of course wanted to help in
18 any way that I could. My background is that I am a general contractor and
19 I'm also a civil engineer. I work for the City at one point in the Public Works
20 Department. And then at this point, I'm a Regional Project Manager for the
21 State of New Mexico.

22
23 Based on my background what I wanted to present respectfully is that in the
24 case of building \$30 to \$50 million structures for the State of New Mexico,
25 there are situations where User Department buys a plat of land and there is
26 a utility easement right down the middle of the property. And so, at that
27 point we're coming together and collaborating with the design professional
28 saying, my gosh, how do we build anything on this plat of land?

29
30 And so, we try to take a more ethical approach. And what we do is often
31 times we'll build a building maybe with an outdoor courtyard that's over that
32 easement. And what we tell the User Department at that time is that we will
33 build the structure but they will have to resume the cost of remove and
34 replacement in the case that the utility easement, a project comes through
35 that requires them to access the utility easement.

36
37 And so, a lot of times we construct these buildings like I said with the
38 courtyard in the middle and that's the portion that's over the easement so
39 that it's predominantly flat work which is sidewalks things like that. So the
40 User Department would then tear that up and remove and replace it. And
41 so, there's an addendum to the contract when we do something like that.

42
43 My request is that if Tracie would be willing to sign some sort of an
44 addendum or some sort of paperwork that would say in the case of these
45 utilities needing to be accessed that she would remove and resume the cost
46 of removing the carport at that time. This isn't saying that she keeps the

carport for 20 years. It's not saying that she keeps the carport forever. It's saying during this time when emotions are raw and there's newly broken hearts that they would be able to keep the carport. And that's my request. Thank you for your time and consideration.

Kaiser: Thank you. Anybody else in the audience that wishes to speak? Yes, ma'am. Please come forward. Please state your name for the record.

Morgan: My name is Vicki Morgan.

Kaiser: And do you swear or affirm that the testimony you're about to give is the truth and nothing but the truth under penalty of law?

Morgan: Yes.

Kaiser: You have three minutes. Please go ahead.

Morgan: I am writing this letter on behalf of Tracie, my dear friend since grade school, to attest to her impeccable character and extraordinary circumstances surrounding the awning in question.

Throughout our years of friendship, Tracie has consistently shown herself to be an individual of outstanding character. She possesses a rare combination of qualities that can only be described as extraordinary. She is caring, always placing the needs and concerns of others above her own. She exudes positivity even when faced with challenges that would overwhelm many. Her resilience, her generosity and her kindness are qualities I have witnessed firsthand for many years.

The awning which stands at the heart of dispute represents more than just a mere structure to her. It was one of the last gifts given to her by her late husband before his untimely passing. Every time she looks at it, she is reminded of the love they shared and the memories they created together. It's a testament to their bond and an emblem of the life they built. While some may view it as just an awning, for Tracie it holds profound sentimental value.

Furthermore, beyond the emotional significance, the financial burden of removing the awning would be undue and harsh especially given the heartache she has already endured. I kindly request that you consider the exceptional circumstances of this case. Removing the awning would not only be financially expensive for Tracie but would also mean erasing a tangible reminder of her husband. I sincerely hope that a compassionate resolution can be reached in this matter taking into account both the character of my dear friend and the significant emotional implications of

1 removing such a treasured memento. Thank you for your time and
2 consideration.
3
4 Kaiser: Thank you very much. Anybody else that wishes to speak? Yes, ma'am.
5 Please come forward. State your name for the record.
6
7 Gennings: Hi. My name is Lindsey Ray Gennings.
8
9 Kaiser: And do you swear or affirm that the testimony you're about to give is the
10 truth and nothing but the truth under penalty of law?
11
12 Gennings: Yes, I do.
13
14 Kaiser: Please go ahead.
15
16 Gennings: All right. So everybody has kind of hit upon the emotional aspect of Tracie
17 losing her husband which was very sad. But I would like to provide a
18 different perspective on the structure.
19
20 So I work for Wet Dog Mobile Grooming Services. And I am out there
21 probably at least once a month for the last seven years to groom her dogs,
22 make sure they're nice and clean. And I've never seen a weed in her yard.
23 Her house is always kept up really nice. That structure is really nicely built.
24 I complimented her on it the first time I came out and saw it. I was like this
25 is really nice.
26
27 It doesn't really block anybody's view. And it's so hot in Las Cruces that
28 Tracie likes to put out water for the stray cats in the neighborhood. And it's
29 very nice for me to see someone taking initiative to prevent unneeded
30 cruelty to the cats, where Las Cruces takes them and spays them, neuters
31 them and then places them back where they found them. We don't need to
32 be cruel to the cats so it's nice to see.
33
34 I've been out there several times. I get to see the cats getting a nice cool
35 drink of water. It provides shade for her car so the paint doesn't get eaten.
36 And it seems to me that if the utilities are underground already, they're going
37 to have to go under the concrete slab so I don't think that it's a problem
38 having the carport there. And I'm sure that if it is for the utilities in the future
39 that she would be willing to remove it or replace it or whatnot.
40
41 And I'm sure that she didn't know about a permit because of her husband
42 being the last gift that she was given from him. So I would like to see Tracie
43 be able to keep the carport. That's it.
44
45 Kaiser: Thank you. Anybody else? Please state your name for the record.
46

Agenda Item #7.4.

1 Allen: My name is James Allen.

2

3 Kaiser: And do you swear or affirm that the testimony you're about to give is the
4 truth and nothing but the truth under penalty of law?

5

6 Allen: I do.

7

8 Kaiser: Go ahead.

9

10 Allen: So I do not know Ms. Tracie by any means or length measure. I did listen
11 to her testimony and narrative. There were some things that were brought
12 up to me knowing now she was in her emotional state after having recently
13 lost her husband. She was presented by three gentlemen. I know that in
14 Las Cruces having had family members who are small business
15 contractors, she was presented as that this was something that was
16 arranged for her.

17

18 She has stated that she is willing to retain a permit and take care of any
19 fees that were unnecessarily missed with this. But I do question, she was
20 presented with three individuals who were stated that they were contracted
21 to do this job. So with her emotional state at the time and with her
22 knowledge, I mean most people in town do not know building code but it
23 seems that she may have been led to believe that this was a permitted job
24 at the time. And she later found out that she did not have proper contractors
25 so I believe that is something to be taken into consideration in this case.

26

27 Kaiser: Thank you. Okay. Is there anybody else who wishes to speak? Yes, sir.
28 And before you come up can I just see hands so we just have an idea of,
29 okay. So this gentleman is going to be the last one. Please come forward.
30 Please state your name for the record.

31

32 B. Stevenson: Hi. My name is Brent Stevenson.

33

34 Kaiser: And do you swear or affirm that the testimony you're about to give is the
35 truth and nothing but the truth under penalty of law?

36

37 B. Stevenson: Yes.

38

39 Kaiser: Go ahead.

40

41 B. Stevenson: Yes. Well, I'm up here just to kind of talk. This is my mother and I do know
42 that my father after hearing or seeing that she did fall in the driveway. I
43 mean I know you took it upon himself to make sure that it will never happen
44 again. And I'm sure that's the reason why he did purchase this awning.

45

1 As her son and the rest of her family, we're concerned about her, about her
2 safety of course. And now that she does live alone, we are concerned that
3 we just want her to be safe. And I think that if you're able to grant this
4 variance I mean I know that she'll be more than grateful. We'll all be grateful
5 and we'll do whatever it takes to conform with your policies and everything
6 if that were possible. It does protect the driveway from its elements, from
7 snow, from rain, from the heat. I just see more positives with this and I just
8 wanted to talk about that. Thank you.
9

10 Kaiser: Thank you. Okay. Coming back to the Commission. Commissioner Smith.
11

12 Smith: I just have one more question for staff. Did you state that there was also a
13 12-foot easement with this property also, or it was just the previous
14 proposal?
15

16 Gonzales: Mr. Chair, Commissioner Smith. There is a 12-foot utility easement that
17 runs along every property within this subdivision in the front of those
18 property boundaries. A lot of times what we see in newer subdivisions is
19 that is essentially where all the utilities are being placed. There used to be
20 in the old part of town where we would get utility easements in the back, on
21 the side of the properties. Now everything is generally ran through the front
22 of the properties and it's 12 feet wide as generally the distance we see.
23

24 Smith: Okay. Thank you.
25

26 Kaiser: All right. Any other questions, comments? All right. Looking for a motion
27 to approve.
28

29 Vega: I make a motion to approve item 9.4.
30

31 Smith: I second.
32

33 Baum: Board Member Acosta.
34

35 Acosta: I vote yes to approve with the conditions that the City staff had outlined.
36

37 Kaiser: You need to provide a ...
38

39 Acosta: Sorry, can I go back to that page if that's the case? So I guess it would just
40 be all four lines of that. Should I read that out?
41

42 Kaiser: No. I was just looking for there, based on what was your rationale for voting
43 to approve with the conditions.
44

45 Acosta: I'm sorry about that. Okay. So just based on the emotional impact and the
46 willingness to work with City staff to keep the structure alive in whatever

compliant capacity and willingness to pay for that. So I think if they'd be willing to work under that condition then they need to perhaps preserve a structure that had that much more sentimental value.

Baum: Board Member Smith.

Smith: I vote yes to approve. I know that this case is very similar to the previous applicant. There are some extraordinary circumstances I think in this particular case based on the fact that the homeowner was not aware that she was even going to be receiving the carport. And that the people who presented it, who arrived to construct it may not have told her that whether they were actually contractors or not. And there is room for compassion, there is room for just the circumstances under which this particular carport was constructed as opposed to the previous one. And so, that is why I'm voting yes to approve.

Baum: Board Member Vega.

Vega: I echo Commissioner Smith's comments. I also vote yes to approve based not only on the financial hardship. Also, the suggestion for easement. I have an easement in my backyard, it's totally different but always something to consider. Thanks.

Vega: Board Member Bennett.

Bennett: I vote to deny based on staff recommendation.

Vega: Board Member Murray.

Murray: I vote to deny based on staff recommendation.

Vega: Chair Kaiser.

Kaiser: No, based on staff recommendation.

Baum: Motion denies due to a tie.

9.5 Case No. 23VO0500107: A variance request to deviate one (1) freestanding sign to the maximum permitted two (2) freestanding signs and a to deviate seven (7) feet to the minimum required fifteen (15) foot freestanding sign front yard setback for a property located at 1300 El Paseo. The property is 5.50 + acres in size and zoned C-3 (Commercial High Intensity). Submitted by Burke Sign Company, LLC., representative. Council District 3.

1 Kaiser: All right. Our final item this evening is item 9.5. A variance to request to
2 deviate from the maximum permitted signs. This is at 1300 El Paseo. And
3 do we have staff to make a presentation?
4

5 Ochoa: Sorry for the delay. Adam Ochoa, Senior Planner, Community
6 Development Department for the record. The last case we have tonight for
7 you folks is case number 23VO0500107. It is a request for a variance for a
8 property located at 1300 El Paseo Road.
9

10 A little case specifics of the subject property. It is located on the southwest
11 corner of El Paseo Road and Idaho Avenue. Currently zoned C-3
12 commercial, high intensity encompasses roughly 5.5 acres in size. There
13 is an existing business/shopping center on the property. And just a
14 reference are two existing previously permitted freestanding signs on the
15 property.
16

17 Here's showing the property on the zoning map here. A large parcel here
18 is zoned C-3 and in what is just a sea of commercial zoning, so definitely
19 one of our major commercial hubs in the City of Las Cruces with a lot of
20 traffic going off El Paseo and Idaho Avenue.
21

22 Showing here on the aerial map the shopping center, if you will, kind of L-
23 shapes along the back with parking along the front. The two existing
24 freestanding signs that were permitted previously, a number of years ago
25 of course, is one located right on the corner of Idaho and El Paseo and
26 another one essentially right around here in the entry along El Paseo.
27

28 The third sign which we'll be discussing here today is located off of Idaho.
29 Here are the pictures of the two distant signs as they currently exist. And I
30 just wanted to bring up the fact as well that what is the Planet Fitness sign
31 itself does conform with current requirements for a freestanding sign. The
32 larger sign to the left of all the different tabs in it, that's a nonconforming
33 sign, so just a little bit of reference for you all.
34

35 So what we're looking at today is in Chapter 36, the Las Cruces sign code.
36 We're looking at two different sections because this is essentially two
37 different variances under this case. One is Article 2, Section 36-46 (b) (6).
38 This is essentially dictating the number of freestanding signs allowed for
39 what are C-2, C-3 in our industrial zoning designations where essentially it
40 states in the City of Las Cruces each commercial property is allowed to have
41 one freestanding sign with the exception with lots that exceed a frontage of
42 600 linear feet which this property does. In those cases, those properties
43 are allowed up to two freestanding signs. That is the absolute max that is
44 permitted by code.
45

1 The other that we're looking at here is under Appendix 1, Table 2, also of
2 the Las Cruces sign code. There is a minimum of 15-foot front yard setback
3 required for all freestanding signs located along what are collector roadways
4 and arterial roadways which are El Paseo and Idaho Avenue.
5

6 Here's a picture of that sign that has been constructed that third
7 freestanding sign. So again, so the variance would be a variance of one
8 freestanding sign to allow for three freestanding signs on the subject
9 property and a variance of eight feet to allow the sign to stay where it is
10 existing at its current location which is roughly about seven feet from the
11 front property line there on Idaho Avenue.
12

13 A little bit of analysis, a little bit of what happened essentially here is
14 essentially the sign was permitted and issued by error by staff, some
15 misinterpretations, some misinformation unfortunately was provided and
16 the sign permit application was essentially approved by staff and it was
17 issued. The sign permit application was missing some information. It did
18 not show the existing two freestanding signs on the site plan nor did it show
19 setbacks on there. Something staff should have taken the consideration
20 but like I said it was issued by error.
21

22 The applicant was unaware of these requirements, essentially of the
23 requirements as stated. And after he was made aware of the issuing of the
24 permit, he was made aware of the error of the sign being the third sign and
25 its setback, was made aware after we issued the permit and he already
26 installed the sign.
27

28 So additional analysis. So the way you approve a variance under the 2001
29 Zoning Code on Article 2, Section 38-K. Staff kind of went back and forth
30 on this one. Where we could see both ways how this variance could
31 potentially be denied or approved. First, of course, I want to touch base on
32 your physical hardship which is relative to the property. The first thing that
33 staff looked at and we saw there's no real topographical constraints, any
34 right-of-way takes or anything that would impinge on them having to meet
35 code. But we also saw the potential of a, if we go back here, how the layout
36 of this existing shopping center exists. How this back row kind of lies along
37 the back instead of closer to the street. We could potentially see that the
38 business is located in that further back portion from the street of El Paseo
39 could potentially benefit. And so that's kind of a physical hardship being
40 located further back away from the street. So we saw that as a potential
41 physical hardship so just keep that in mind.
42

43 Second, the spurring of additional economic development. This may not
44 considering the shopping center is existing. It's fully built out, that's what
45 staff saw essentially. But the potential for now those businesses in the back
46 which as a person who reviews all business permits that come in from a

1 building standpoint, we get a number of them, a lot of turnaround in the back
2 portion of this shopping center so it potentially for business opportunities or
3 economic opportunities for those in those suites located in the back portion
4 of the property.

5
6 And third, of course, for monetary hardship. There is the cost of the already
7 built and erected sign that was located on the property due to error
8 unfortunately.

9
10 With that note, staff does still recommend kind of a soft denial for this case.
11 That being said, staff does not see any significant safety, health, or welfare
12 issues associated or identified for the proposed variance. Findings stated
13 here in you find in your staff report, essentially the two code requirements,
14 maximum two freestanding signs, required setback. And of course staff in
15 the end after much deliberation came with a soft denial because we feel it
16 does not meet the Section 38-10J of the 2001 Zoning Code.

17
18 I did want to mention, staff did also send out a public notification to the
19 surrounding property owners. We received nothing until yesterday morning.
20 We did get a phone call from; they didn't want to state who they were or
21 what business they were but they're a business in that shopping center.
22 They have their name on that sign and they find to get a little more flow into
23 their business now. So they appreciate the sign as they stated. Again, no
24 name, no business unfortunately.

25
26 But with that the Commission's options tonight, one to vote "yes" and
27 approve the proposed variance. Again, new findings will be required if you
28 do vote to approve. Two, to vote "no" and deny as recommended by staff.
29 Three, to vote "yes" with conditions. And four, table or postpone and direct
30 staff and the applicant accordingly. The applicant and I believe her
31 representative who erected the sign are here if you have any questions for
32 them. I stand for questions as well.

33
34 Kaiser: All right. Thank you. Any questions, comments from the Commission?

35
36 Smith: I just have a comment. I'm very familiar with this shopping area. I live very
37 close to El Paseo and Idaho. And the other businesses are setback from
38 El Paseo. Of course, the Planet Fitness has their own sign. It is also a sign
39 that they share with some of the other businesses there. It's kind of a unique
40 shopping plaza or property because you have a business that's on the
41 corner. You have a gym that's very prominent. And as far as accessing the
42 other businesses there, I mean you have several entrances but not of them
43 are very easy to see the other businesses. So it was just a comment I
44 wanted to make just based on the signing where it's located and also the
45 fact that they have the other businesses listed there.

1 Kaiser: Soft denial. It's a new one.
2
3 Ochoa: I didn't want to be too harsh.
4
5 Kaiser: I'm just trying to understand here. So basically, the order of events were
6 the applicant submitted an application for a permit to install this third sign.
7 And during the course of staff's review, it was not caught that they were
8 already at their maximum. And it was also not noticed that they're missing
9 specific information related to the placement of the sign. So staff approved
10 it. The applicant went and built it. And now, six months later staff is saying
11 you need to come back for a variance and we're recommending the soft
12 denial. Is that ...
13
14 Ochoa: Mr. Chair. That kind of sums it all up. That is correct.
15
16 Kaiser: Okay. So my next question is ...
17
18 Ochoa: I would say yes, but ...
19
20 Kaiser: Did the applicant, did they pay any fees for this variance application?
21
22 Ochoa: Mr. Chair. Yes, they did pay all required application fees as well as public
23 notification fees which includes notice letters, signage, and advertisement
24 in Sun News as well as all associated sign permit fees as well.
25
26 Kaiser: Okay. So they paid for a variance application. If it's to be denied tonight
27 then the result would be removal of the sign, correct? Which would cost
28 additional money out of their pocket?
29
30 Ochoa: Mr. Chair. That is correct. And then they would also, they'll have the option
31 to appeal the denial to City Council which would be further costs. Not only
32 the fee, advertisement requirements as well, sir.
33
34 Kaiser: Okay. So basically, they have a situation where staff messed up and the
35 applicant's bearing all the cost?
36
37 Ochoa: I believe that's fair to say. Yes, sir.
38
39 Kaiser: I have a problem with that.
40
41 Ochoa: Definitely don't disagree with you with that on that, sir. And staff did, I guess
42 supervisory staff did discuss this issue with staff so, yes, sir, understood.
43
44 Kaiser: Okay. I mean based on that I think it's; I mean we just got done talking
45 about sort of homeowners doing their due diligence on whether or not they
46 need a building permit for a carport. And now we have sort of the opposite.

1 The City didn't do their due diligence and now the applicant is paying the
2 price for all of that. I personally think that this is one that we've got to own.
3 And I think in my opinion the applicant should be able to retain that sign and
4 I think I'm going to vote to approve this variance so those are just my
5 thoughts. Please go ahead.
6

7 Pitts: Tim Pitts, Deputy Director for Community Development. I think that's a
8 reasonable compromise. And I think a condition that says the extra sign
9 goes away when one of them comes down. That way the business isn't
10 harmed by the thing but we will gain compliance at some point in the future.
11

12 Kaiser: So in other words, what you're saying is if the business that's there now with
13 the sign on this new sign goes away that the new business doesn't get to
14 put a new sign up?
15

16 Pitts: No, the third sign goes away. So if over the time they decide they wish to
17 take one down for whatever reason, until that time, we're not talking about
18 the faces on the sign, we're talking about the sign itself. That when that
19 sign gets approved for redevelopment purposes, they come in and they
20 want to do something and a sign comes down, we wouldn't allow it to go
21 back up. But if all they do is replace the face of the sign which is the name
22 of the businesses, I think it would be a fair thing because I think the business
23 did everything they thought they needed to. And if that's the will of the
24 Commission I think that staff did make a mistake. And it's tough to want to
25 punish a business for staff's mistake.
26

27 Kaiser: Okay. Yes, I understood. So do you have any recommendation for
28 language in that condition?
29

30 Ochoa: Yes. Mr. Chair. If I could? You could always vote to approve with the
31 conditions that at any time in the future if any one of the three freestanding
32 signs voluntarily gets removed, they will only be allowed to have the two
33 freestanding or a total of two freestanding signs on the property.
34

35 Kaiser: Okay. Thank you.
36

37 Ochoa: Apologies, Chair. I did talk to the property owner and their representative
38 and they are amenable to that condition, just to clarify.
39

40 Kaiser: Okay. Thank you. I think that's fair from our perspective. Before we go to
41 the public, Commissioner Smith do you have a comment?
42

43 Smith: Just a clarification as far as our options. We can still vote yes to approve or
44 we can vote yes with the conditions, either one of those. They're still on the
45 table, correct?
46

Agenda Item #7.4.

1 Ochoa: Mr. Chair, Commissioner Smith. That is correct. You can just vote yes or
2 when you do your motions, whoever does the motion, they could do, that's
3 where it needs to start. When you do your motion, whoever is going to do
4 the initial motion will have to do a motion with conditions and state that
5 condition. The second will be, and then you'll take the vote with that. If not,
6 whoever wants to make a motion just to approve, they could just make a
7 motion to approve, second it, and so on and so forth.
8
9 Kaiser: Okay. I'm going to go to public comment now. Is there anybody in the
10 audience who wishes to speak on this item? Okay. Seeing none. We'll
11 come back unless there's any additional comments we'll go ahead and
12 make a motion to approve.
13
14 Bennett: I'm just going to make a motion to approve 9.5.
15
16 Vega: I second.
17
18 Baum: Board Member Acosta.
19
20 Acosta: I vote yes to approve based on monetary hardship and the potential to spur
21 economic business.
22
23 Baum: Board Member Smith.
24
25 Smith: I vote yes to approve based on frequent site visits. Also based on the
26 hardship because of the error. And also, having driven down Idaho many
27 times that that is actually a well-placed sign to help promote those
28 businesses that are located within that plaza.
29
30 Baum: Board Member Vega.
31
32 Vega: I vote yes to approve based on the financial hardship and the staffing errors.
33
34 Baum: Board Member Bennett.
35
36 Bennett: I vote to approve based on physical and monetary hardship.
37
38 Baum: Board Member Murray.
39
40 Murray: I vote to approve based on monetary hardship and staff error.
41
42 Baum: Chair Kaiser
43
44 Kaiser: Yes, based on monetary hardship and staff error.
45
46 Baum: Motion passes.

1
2 Kaiser: Okay. Thanks for all the presentations tonight.

3
4 **10. DISCUSSION**

5
6 Kaiser: Is there any discussion or staff announcements?

7
8 Ochoa: Any discussion with the Commission you need to bring up? Is no.

9
10 **11. STAFF ANNOUNCEMENTS**

11
12 Ochoa: Okay, so staff announcements. It is almost that time of year. It's still hot
13 but the holidays are coming around. So staff did want to bring up the
14 November Planning and Zoning Commission meeting and the December
15 Planning and Zoning Commission meeting. As of now, we still have them
16 scheduled for the fourth Tuesday of the month which would essentially be
17 November 28th which would be the Tuesday after Thanksgiving. And then
18 in December, it would be on December 26th which that's definitely going to
19 be an issue because staff will not be here.

20
21 So I guess if we could come to a decision tonight if we wanted to move one,
22 both then to the third Tuesday or potentially even moving the November one
23 to the fifth Tuesday of the month that's a possibility as well. So we leave
24 that up to the Commission with what they would like to do.

25
26 Kaiser: So I think the 28th works. It's after the Thanksgiving holiday. I think that's
27 more than fine. Yes, okay. So we'll keep the 28th. And then yes definitely
28 would agree with the 26th. I think probably move it to before so that would
29 be the 19th. I think that's obviously fair for staff and certainly the public. I
30 think that's amenable as well.

31
32 Ochoa: Sounds good. We'll go ahead and make those changes, sir. And so you
33 all will be getting either packets and everything either earlier or later than
34 usual on those two months so just keep an eye on them those for them.

35
36 Also, I just wanted to update. We are finalizing you all's flash drives. So
37 those flash drives should be delivered probably with your next P&Z packets
38 for the next meeting. So they're pretty cool. Economic Development bot us
39 these really nice wooden ones so they're not junky. They look pretty cool.
40 So sorry Commissioner Vega, but thank you so much for being here though.
41 Thank you ma'am. Appreciate your time here.

42
43 Vega: I didn't expect to cry at my last Planning and Zoning meeting but thank you
44 for the opportunity to serve and work with all of you. It's been a pleasure. I
45 really appreciate it. And however, I can help in finding a replacement I
46 certainly will.

1
2 Kaiser: Awesome. Well, once again best of luck and we'll see you out on the
3 bicycle.
4

5 **12. ADJOURNMENT (7:52)**
6

7 Kaiser: All right. Go ahead and need a motion to adjournment tonight.
8

9 Murray: I make a motion to adjourn tonight's meeting.
10

11 Smith: I second.
12

13 Kaiser: All in favor?
14

15 MOTION PASSES UNANIMOUSLY.
16

17 Kaiser: Thank you all for coming out tonight.
18
19
20
21

22
23 _____
Chairperson



Planning & Zoning Commission 9/26/2023
CASE 22ZO0500085: NORTHRISE DRIVE REZONING

STAFF CONTACT:	Vincent Banegas, (575) 528-3058, vbanegas@las-cruces.org
OWNER:	John Heck
REPRESENTATIVE:	Same
DISTRICT:	District #6
SITE ADDRESSES:	3250 Northrise Drive
EXISTING ZONING:	R-4 (Multi-Dwelling High Density and Limited Retail and Office)
REQUEST:	Rezone from R-4 (Multi-Dwelling High Density and Limited Retail and Office) to C-3 (Commercial High Intensity)
RELATED APPLICATIONS:	N/A
STAFF RECOMMENDATION:	Denial

SUMMARY OF CASE 22ZO0500085:

A zone change request from R-4 (Multi-Dwelling High Density and Limited Retail and Office) to C-3 (Commercial High Intensity) for property ± 2.5 acres in size and located at 3250 Northrise Drive. Submitted by John Heck, property owner.

SUMMARY OF RECOMMENDATION:

Staff is recommending **DENIAL** based on the findings listed below:

- The area south of Northrise Drive is deficient in any approved transportation network recognized by either the City of Las Cruces or Mesilla Valley Metropolitan Planning Organization.
- Many of the properties in the area are platted with access easements which can be used for legal access but provide no surety or continuity in terms of developing right-of-way or a roadway system that can provide more appropriate access to area properties especially those located further south of the subject property.
- CLC has procured the services of a planning firm/consultant to aid in developing a Community Blueprint focusing on roadway accessibility issues for this area. Their work is underway, and the planning and policies developed through this effort may impact the subject property.

- The subject property falls within the Suburban Neighborhood Place Type. This classification is characterized by low-to-moderate density residential land uses intermixed with areas of commercial development. The subject property is zoned R-4 which allows multi-family development. Pockets of commercial exist east of this location.
- Although few commercial parcels exist on the south side of Northrise Drive, the Regional Commercial Place Type that strongly encourages commercial development is located on the north side of Northrise Drive.
- There is an ongoing need for apartments and more importantly affordable apartments to help address housing needs in the community (City’s Affordable Housing Plan and Strategic Plan) and to help increase the supply of missing middle housing all of which are lacking.
- The request is not substantially supported by the Elevate Las Cruces Comprehensive Plan and does not meet the purpose and intent of the 2001 Zoning Code, as amended (2001 Zoning Code, Section 38-2).
- The surrounding area consists largely of commercial, office, multi-family, and vacant property zoned PUD, C-3, C-3C, R-4, R-4C, A-2, and EE.

PROPOSAL AND LAND USE HISTORY

DETAILED DESCRIPTION:

The property owner is seeking rezoning from R-4 to C-3. The rationale provided by the applicant is that the subject property is in a low-lying area requiring substantial fill to be used to effect developable land. Said effort, according to the applicant will be significant in terms of costs requiring that a commercial designation be sought to increase property value and in turn, offset said costs. The applicant is presently asking for clean fill to be placed on site to help facilitate this elevation grade change.

The R-4 district allows a minimum of ten dwelling units per acre (d.u./ac.) and as per Ordinance 2719 (6/2014), a maximum of 40 d.u./ac. for this specific parcel. Changing the zoning to C-3 allows residential development, but more often than not, commercial zoning begets commercial development which is already in abundance in the area surrounding the subject property. That said, the applicant’s proposal does not come with any specific plans for development and the property is presently undeveloped.

LAND USE HISTORY:

The subject property was originally annexed via the East Mesa/US 70 Annexation in 1986. Initially zoned A-2, a request to rezone the property to R-4 was approved per Ordinance 2719 in 2014. Several 2.5-acre parcels, like the subject property, exist south of Northrise Drive in the immediate vicinity, most under different ownership. There has been no development of these properties to date.

ZONING DECISION CRITERIA AND POLICIES

POLICY	DOES IT COMPLY?
<u>Neighborhood Character and Compatibility</u>	No
<u>Elevate Las Cruces Comprehensive Plan</u>	No
<u>Thoroughfare Plans</u>	No
<u>Purpose and Intent of the Code: Section 38-2</u>	No
<u>Criteria for Decisions: Section 2-382</u>	No

NEIGHBORHOOD CHARACTER AND COMPATIBILITY:

In large part, the area surrounding the subject property consists of office, commercial, multi-family residential, and vacant land. Most commercially zoned properties are located on the north side of Northrise Drive, an area that encourages commercial uses given the Regional Commercial Place Type designation. South of Northrise Drive, much of the land is vacant and zoned A-2 (a defunct holding classification used per the 1981 zoning code as a zoning place holder). Apartments, an assisted living facility, and two commercial parcels do exist both east and west of the subject property. Given the land use and zoning pattern described, the need for housing in the community, and the blueprint effort focusing on transportation needs for the immediate area, staff does not feel the zone change is warranted at this time.

COMPLIANCE WITH ELEVATE LAS CRUCES COMPREHENSIVE PLAN:

According to the Future Development Map in the Elevate Las Cruces Comprehensive Plan, the subject parcel falls within the Suburban Neighborhood Place Type. This place type is characterized as low-to-moderate density residential land uses intermixed with areas of commercial development. The existing R-4 zone supports the intent of this place type and therefore is not recommended for change to the C-3 zone requested.

The following goals, policies, and actions from Elevate Las Cruces are relevant to the proposed Zone Change and reflect support for staff's recommendation:

- Community Environment:
 - Goal CE-1: Balanced Growth – Encourage efficient land use development patterns that accommodate projected growth in a sustainable manner.
 - Policy CE-1.2 – Promote investment within older areas of the city through redevelopment.
 - Action CE 1.2.2 – Work with property owners of potential redevelopment tracts to create master plans that generate pedestrian-friendly mixed-use (residential and non-residential) development sites and neighborhoods.
 - Policy CE-4.1 – Encourage a variety of housing types into new and redeveloping neighborhoods to provide options for all ages and incomes throughout the city.
 - Action CE-4.1.1 – Promote a diversity of residential building types, lot sizes, density ranges and architectural styles in new neighborhoods.
 - Policy CE-4.3 – Develop street networks that provide connectivity within and between residential areas and supporting centers of activity.
- Elevating Our Community Prosperity:
 - Goal CP-7: Attainable Housing – Provide affordable, clean, and safe housing options for all residents regardless of income.
 - Policy CP-7.2 – Disperse affordable housing units to promote the development of mixed-income neighborhoods.
 - Action CP-7.2.5 – Allow certain new housing types (duplex, triplex, fourplex) in the Suburban Neighborhood place type...

- Goal CP-9: Housing Diversity – Provide a diverse range of housing options to accommodate residents at all stages in life.
 - Policy CP-9.1 – Encourage the use of alternative housing types, styles, and living arrangements as a means to provide additional housing opportunities.
- Community Livability:
 - Goal CL-7: Transportation – Land Use – Develop an accessible and efficient transportation system that provides seamless connectivity to surrounding land uses and complements various development patterns.
 - Policy CL-7.2 – Promote street interconnectivity within and between neighborhoods, between commercial developments, and within town centers and neighborhood centers.

As the current use and others surrounding the subject property are congruous to the Suburban Neighborhood place type and well supported by various comprehensive goals, policies, and actions, staff feels the request to rezone is not justified at this time. Allowing the zone change prior to the blueprint planning at minimum has the potential to encourage others already waiting to submit similar applications without consideration as to how street layout and connectivity will impact the surrounding area.

COMPLIANCE WITH THOROUGHFARE PLAN:

Access to the subject property currently exists from Northrise Drive, a principal arterial roadway as designated by the Mesilla Valley Metropolitan Organization (MPO) and the City of Las Cruces. The frontage along Northrise Drive for this property is approximately 35' in length. Northrise Drive has $\pm$ 75 feet of built out right-of-way width, curb/gutter and sidewalk. No other roadways exist for access purposes and as such, the existing road network and the subject property's configuration are barely adequate for providing ingress/egress suitable to accommodate any proposed commercial development or large residential use.

CONSISTENCY WITH PURPOSE AND INTENT OF THE ZONING ORDINANCE:

Per Section 38-2: The intent of the Zoning Code is to encourage the most appropriate use of land and to promote the health, safety, and general welfare of the community for the purpose of improving each citizen's quality of life.

The regulations relevant to the proposed zone change include:

- A. Ensure that all development is in accordance with this Code and the Elevate Las Cruces Comprehensive Plan and its elements.
- C. Give reasonable consideration to the character of each zoning district and its peculiar suitability for particular uses.
- D. Encourage mixed land uses to decrease the length of trips for work and/or shopping and encourage the consolidation of trips and alternative modes of travel.
- H. Encourage the conservation of energy in the use of structures, buildings, and land.
- K. Encourage development of vacant properties within established areas.
- L. Ensure that development proposals are sensitive to the character of existing neighborhoods.
- M. Foster a more rational relationship between different land uses for the mutual benefit of all.
- N. Conserve the value of buildings and land.

Review by staff has determined the proposed zone change may impact the surrounding area from the perspective of land use, transportation, and comprehensive plan consistency. Future uses that may be authorized by the proposed zoning designation (residential) may not be realized thereby creating opportunities for the south side of Northrise to transition to a predominately commercial development not in keeping with the surrounding area per section 38-2 of the 2001 Zoning Code, as amended.

CRITERIA FOR DECISIONS:

Per Section 2-382 of the Las Cruces Municipal Code, the Planning and Zoning Commission shall determine the following:

- A. The Planning and Zoning Commission shall review the comprehensive plan, and other applicable plans and codes and determine whether the request will:
 - 1. Impair an inadequate supply of light and air to adjacent property or otherwise adversely adjoining properties.
 - 2. Unreasonably increase the traffic in public streets.
 - 3. Increase the danger of fire or endanger the public safety.
 - 4. Deter the orderly and phased growth and development of the community.
 - 5. Unreasonably impair established property values within the surrounding area.
 - 6. In any other respect, impair the public health, safety, or general welfare of the city.
- 7. Constitute a spot zone, and therefore, adversely affect adjacent property values.
- 8. Be in harmony with the purpose and intent of the zoning code, sign code, design standards, and other companion codes.
- B. The commission shall take care that the development of the city, in accordance with present and future needs, best promotes the health, safety, morals, order, convenience, prosperity, and general welfare of the people. It shall also promote efficiency and economy in the process of development.
- C. The commission shall encourage the proper use and development of land, shall seek to create and maintain an aesthetic urban setting, and protect and preserve the quality of the water, air and other environmental, natural, historical and cultural resources for the city.
- D. The commission shall use the comprehensive plan as a guide in making all future decisions concerning land use and development, and in the financing and location of capital improvements.
- E. Before taking any action concerning land use and development and financing and location of capital improvements, the commission shall review the relationship between the proposed action and the comprehensive plan.

Staff did identify several issues that may deter the Planning and Zoning Commission from making an affirmative recommendation to City Council regarding the zone change request. Staff also considered the Criteria for Decisions above and has deemed the zone change request premature at this time and thus, recommends denial.

DEVELOPMENT STANDARDS

SITE COMPLIANCE FOR USES UNDER CURRENT ZONING:

The subject property is currently zoned R-4. The R-4 zoning district for the subject parcel allows residential development at a minimum of 10 d.u./ac. and a maximum of 40 d.u./ac. The proposed zone change to C-3 allows multi-family residential to be developed however, based on the information submitted by the applicant, it is unlikely that this type of use will be considered.

SITE SUITABILITY FOR USES UNDER PROPOSED ZONING:

If the subject property is rezoned as proposed, the size of the lot and the access provided via Northrise Drive allows development of commercial uses and/or multi-family residential uses at specified minimum and maximum densities. All development would then follow the requirements of the C-3 zoning district if approved.

ADEQUACY OF PUBLIC FACILITIES AND SERVICES:

City water, gas, and sewer currently serve the property and will not be negatively impacted by the zone change request and any resulting development. Road infrastructure for primary ingress/egress is largely in place but places limitations for development pursuant to the C-3 standards. Other improved roadway infrastructure or shared access does not exist currently to bolster development opportunity.

STAFF AND PUBLIC COMMENTS

PUBLIC NOTIFICATION AND INPUT:

Notification letters were mailed to property owners within 500 feet of the subject property on September 8, 2023. Staff has not received any inquiry/input as of the writing of this report.

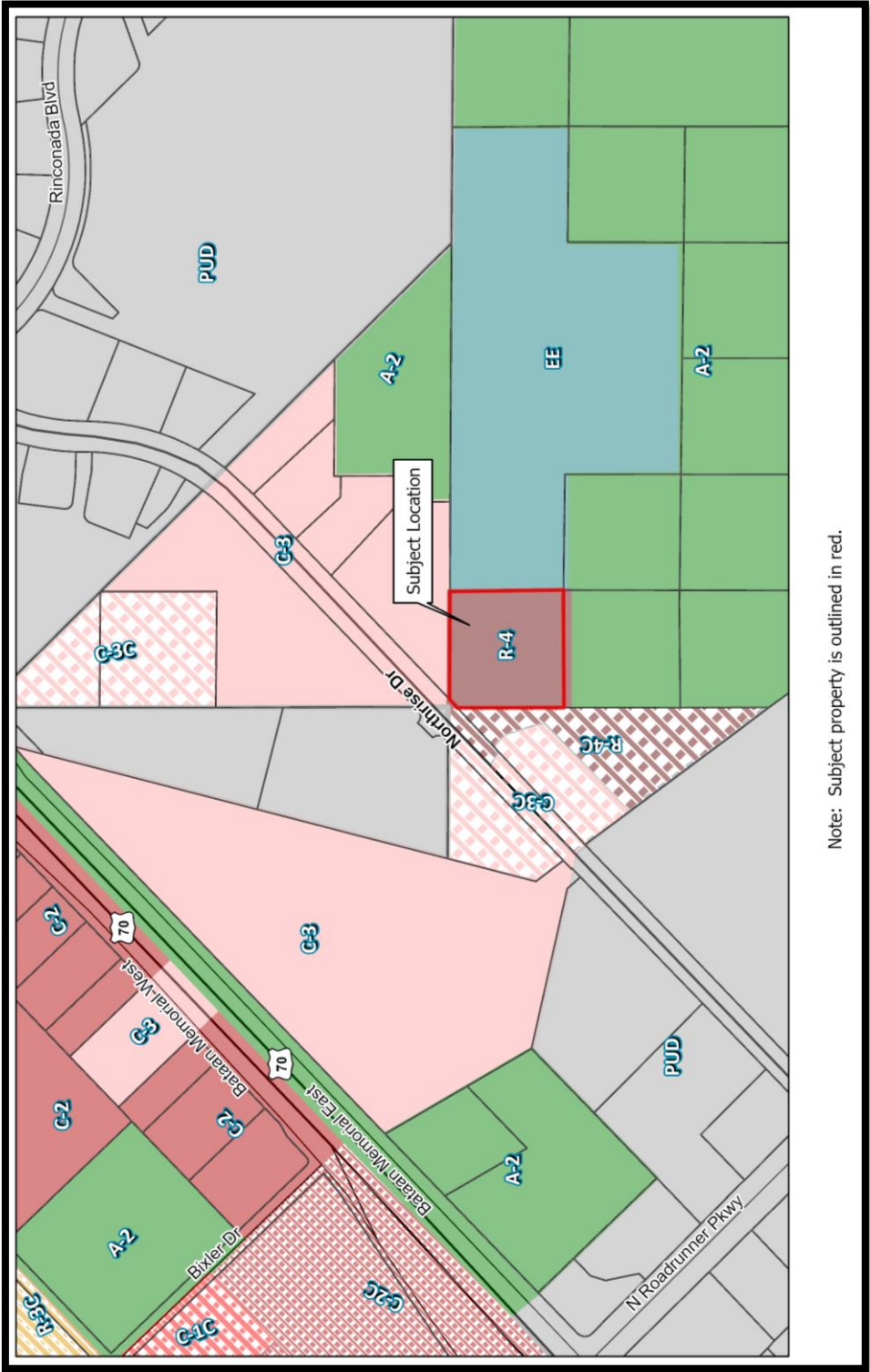
STAFF COMMENTS:

*No reviewing department had any negative comments nor have any reviewing staff objected to the proposed rezoning. **WILL UPDATE THIS AS NECESSARY.***

ATTACHMENTS:

1. Zoning Map
2. Aerial Map
3. Department Review Comments

ATTACHMENT 1
Zoning Map



ATTACHMENT 2
Aerial Map



Note: Subject property is outlined in red.

ATTACHMENT 3

Department Review Comments

Department: Planning

Status: APPROVED

Department: Econ. Dev. - Land Management

Status: IN PROCESS

Department: Transportation

Status: NOT REQUIRED

Department: Engineering

Status: IN PROCESS

Department: Utility

STATUS: IN PROCESS

Department: Fire

Status: APPROVED

Department: MPO

Status: APPROVED

Department: Parks and Recreation Review

Status: APPROVED



**3076; Council
Bill 25-005**

City Council Action and Executive Summary

Type of Action:
☐ Resolution
☒ Ordinance
☐ TIDD Resolution

District:	☐ 1 ☐ 2 ☐ 3 ☐ 4 ☒ 5 ☐ 6 ☐ N/A		
1st Reading:	July 15, 2024	Adopted:	August 5, 2024
Drafter:	Vince Banegas	Department:	Community Development
Program:	Community Planning	Line of Business:	Community Planning
Title:	AN ORDINANCE APPROVING A ZONE CHANGE FROM C-2 (COMMERCIAL MEDIUM INTENSITY) TO C-3C (COMMERCIAL HIGH INTENSITY - CONDITIONAL) FOR PROPERTY LOCATED AT 2999 BATAAN MEMORIAL WEST. SUBMITTED BY CHRIS SVEUM - ATWELL, LLC ON BEHALF OF YESWAY, INC.		

TYPE OF ACTION: ☐ Administrative ☐ Legislative ☒ Quasi-Judicial

PURPOSE(S) OF ACTION:
Zone change.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The City Council is required to review and take final action on zone changes per Section 38-10.B.2.b. and 38-13.A. of the 2001 Las Cruces Zoning Code, as amended. A zoning district is a specifically delineated area where land use regulation uniformly governs the use, placement, spacing, density, bulk, height, and size of buildings and/or land.

The applicant is requesting a zone change from C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity) for property approximately 2.32 acres in size and located at 2999 Bataan Memorial West. The subject location currently consists of two parcels and is undergoing a subdivision replat to merge these properties into one. Due to the size of one existing parcel, the acreage that will result after replatting, and the C-2 maximum lot size per code, a zone change converting the C-2 zoning to C-3C (Commercial High Intensity - Conditional) is necessary for code compliance. The condition attached to the request requires the property owner to complete the replatting process they have begun.

The subject property is currently vacant, and the property owner wishes to convert the zoning to the proper commercial designation in order to develop the property as an Allsup's gas station/convenience center. This use is allowed in the proposed commercial district. No deviations to code requirements are anticipated in the development of this property.

The proposed zone change is consistent with the Elevate Las Cruces Comprehensive Plan and several goals, policies, and actions contained therein. Policy supporting the request speaks to balanced growth, promoting investment in older areas of the city through development, encouraging infill, and achieving economic equity to name a few. Furthermore, the property is within the Suburban Neighborhood place type which encourages intermixed areas of residential and commercial uses.

Agenda Item #7.5.

On April 23, 2024, the case was brought to the Planning and Zoning Commission at their regular meeting. The zone change request had no opposition from area residents. Ultimately, the Planning and Zoning Commission voted 4-0-0 (two Commission seats vacant, one Commissioner absent) via the consent agenda, to approve the request with the condition as stated above.

SUPPORT INFORMATION:

[EXHIBIT "A" - VICINITY MAP](#)

[EXHIBIT "B" - FINDINGS](#)

[ATTACHMENT "A" - APPROVED 4-23-24 P&Z Minutes](#)

[ATTACHMENT "B" - STAFF REPORT](#)

PLAN(S):

Elevate Las Cruces

COMMITTEE/BOARD REVIEW:

P&Z

DOES THIS AMEND THE BUDGET?:

☐ Yes

☒ No

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes

☒ No

Does this action align with Elevate Las Cruces?

☒ Yes

☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Ordinance and affirm the P&Z recommendation. The subject property located at 2999 Bataan Memorial West will be rezoned from C-2 (Commercial Medium Intensity) to C-3C (Commercial High Intensity - Conditional).
2. Vote "No"; this will deny the Ordinance and will reject the recommendation made by P&Z. The current zoning designation of C-2 will remain which will be out of compliance with the zoning code. The applicant would be required to seek an alternative zone or variance before development of the property can take place.
3. Vote to "Amend"; this could allow the City Council to modify the Ordinance by adding conditions as deemed appropriate.
4. Vote to "Table"; this could allow the City Council to table/postpone the Ordinance and direct staff accordingly.

ORDINANCE 3076; COUNCIL BILL 25-005

AN ORDINANCE APPROVING A ZONE CHANGE FROM C-2 (COMMERCIAL MEDIUM INTENSITY) TO C-3C (COMMERCIAL HIGH INTENSITY - CONDITIONAL) FOR PROPERTY LOCATED AT 2999 BATAAN MEMORIAL WEST. SUBMITTED BY CHRIS SVEUM - ATWELL, LLC ON BEHALF OF YESWAY, INC.

The City Council is informed that:

WHEREAS, Chris Sveum - Atwell, LLC on behalf of Yesway, Inc., has submitted a request for a zone change from C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity); and

WHEREAS, the subject property consists of two lots having a combined total acreage of approximately 2.32 acres, is vacant, and is proposed to be developed as an Allsup's gas station/convenience center; and

WHEREAS, the replatting of the two properties into one is required to meet code and as such, said action was added as a condition to the C-3 request; and

WHEREAS, the proposed C-3C (Commercial High Intensity - Conditional) zone is consistent with the Suburban Neighborhood place type per the Elevate Las Cruces Comprehensive Plan and is supported by various goals and policies contained therein; and

WHEREAS, the proposed zone change meets the purpose and intent of the 2001 Las Cruces Zoning Code, as amended; and

WHEREAS, the Planning and Zoning Commission, after consideration of the case via the consent agenda, in a public hearing on April 23, 2024, recommended that the zone change request be approved by a vote of 4-0-0 (two Commissioner seats vacant, one Commissioner absent)

NOW, THEREFORE, Be it Ordained by the Governing Body of the City of Las Cruces:

(I)

THAT the land reflected in Exhibit "A", attached hereto and made part of this Ordinance, is hereby zoned C-3C (Commercial High Intensity - Conditional).

(II)

THAT the zoning is conditioned on the need to complete the replat process involving the two subject properties identified in Exhibit "A", merging the two lots into one.

(III)

THAT the zoning is based on the findings contained in Exhibit "B", attached hereto and made part of this Ordinance.

(IV)

THAT the zoning of said property be shown accordingly on the City Zoning Atlas.

(V)

Agenda Item #7.5.

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

Agenda Item #7.5.

APPROVED

ATTEST:

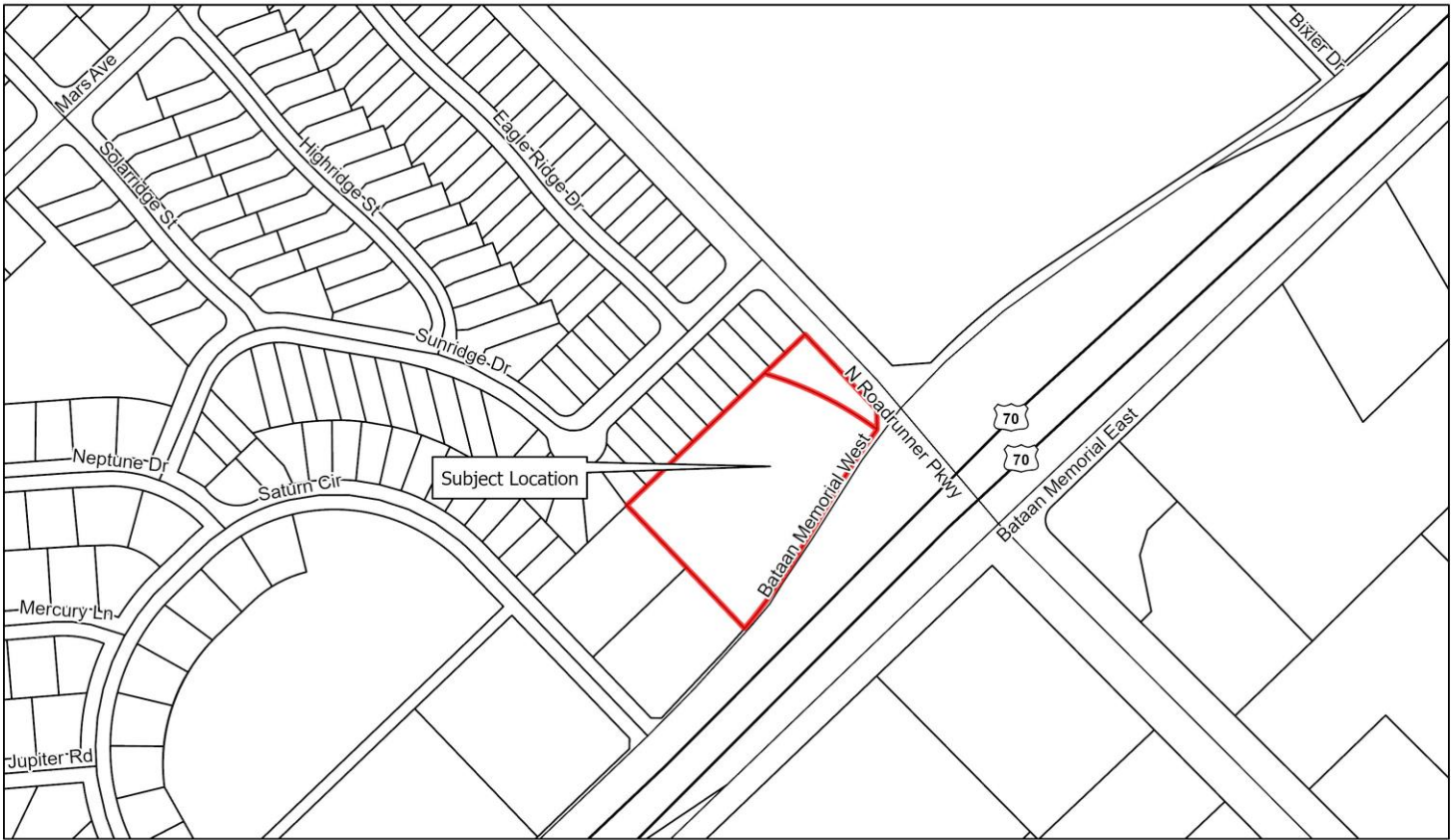
Moved by:

Seconded by:

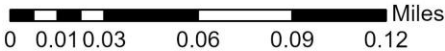
AYES

NAYS

EXHIBIT “A” – VICINITY MAP



Note: Subject property is outlined in red.



Legend

- | | |
|----------------|------------------|
| RoadCenterline | — Minor Arterial |
| Road Class | — Collector |
| — Highway | — Local Streets |
| | □ Owner Parcels |

EXHIBIT "B" - FINDINGS

1. The property under consideration is currently made up of two lots that are zoned C-2. The applicant will be initiating the replat process to combine said lots into one parcel.
2. The C-3 zoning designation is the most appropriate zoning district in that the larger lot is currently non-conforming (commercial standards) given its size and the fact that the properties are at the intersection of two minor arterials (N. Roadrunner Parkway and Bataan Memorial West).
3. Due to what will be a combined acreage of $\pm$ 2.32 acres, a zone change to C-3 is appropriate and will be required prior to any development taking place.
4. The applicant is proposing a gas station/convenience center which is an allowed use in the C-3 district.
5. The subject property falls within the Suburban Neighborhood Place Type. This classification is characterized by low to moderate density residential uses intermixed with areas of commercial development. The C-3 zoning district is consistent with this place type.
6. The proposed zone change request is supported by the Elevate Las Cruces Comprehensive Plan and meets the purpose and intent of the 2001 Zoning Code, as amended (2001 Zoning Code, Section 38-2).
7. The surrounding area consists largely of single-family residential (north/northwest), vacant land (east), commercial (west/southeast), vacant and professional office (south/southeast). Zoning designation of R-3 and R-1b, PUD, C-2C, and C-3 supports these uses.



CITY OF LAS CRUCES

**PLANNING AND ZONING COMMISSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
April 23, 2024 at 6:00 p.m.**

BOARD MEMBERS PRESENT:

Scott Kaiser, Chair
Enrico Smith, Vice-Chair
Connor Murray, Member
Joaquin Acosta, Member

BOARD MEMBERS ABSENT:

STAFF PRESENT:

David Weir, Deputy Director Community Planning
Vincent Banegas, Interim Planner
John Castillo, Planner
Brad Douglas, CLC Attorney's Office
Becky Baum, Recording Secretary, RC Creations, LLC

1. CALL TO ORDER (6:02)

Kaiser: Okay, it's 6:02. We'll go ahead and call this meeting to order. Welcome to the April 23rd City of Las Cruces Planning and Zoning Commission meeting. Before we get started I just want to announce that I learned this evening that Commissioner Bennett has resigned from the Commission. Sounds like there's a new job and the time, the scheduling is just not going to work out. So I just wanted to express, even though he's not here, express our appreciation for his service on this committee. It was a pleasure to serve with him. We will certainly miss him. And if there's anybody in the audience who's interested in sitting up here, we welcome new members.

2. APPROVAL OF MINUTES – March 26, 2024

Kaiser: So with that we will go ahead and get started looking at the minutes from the meeting back in March. There any comments or edits? I just had one. Wanted to note that the board members absent, Vanessa Porter, Commissioner Vanessa Porter was not listed there. So just want to make that correction. And with that correction, can I get a motion to approve?

1 Smith: I move that we approve the minutes from the last meeting.

2

3 Acosta: I second.

4

5 Baum: Board Member Acosta.

6

7 Acosta: Yes.

8

9 Baum: Board Member Smith.

10

11 Smith: Yes.

12

13 Baum: Board Member Murray.

14

15 Murray: Yes.

16

17 Baum: Chair Kaiser.

18

19 Kaiser: Yes.

20

21 Baum: Motion passes.

22

23 **3. CONFLICT OF INTEREST**

24

25 Kaiser: Okay, any conflicts of interest tonight? Seeing none.

26

27 **4. POSTPONEMENT**

28

29 Kaiser: All right, postponements. As I announced, we do have one postponement
30 tonight. Item 9.1 will be postponed until the May 28th meeting. So
31 apologies for those of you who came out to hear that item this evening. We
32 will hear it next month.

33

34 **5. ACCEPTANCE OF THE AGENDA**

35

36 Kaiser: So with that change, can I get motion to accept tonight's agenda?

37

38 Acosta: Motion to accept tonight's agenda.

39

40 Smith: I second.

41

42 Baum: Board Member Acosta.

43

44 Acosta: Yes.

45

46 Baum: Board Member Smith.

1
2 Smith: Yes.

3
4 Baum: Board Member Murray.

5
6 Murray: Yes.

7
8 Baum: Chair Kaiser.

9
10 Kaiser: Yes.

11
12 Baum: Motion passes.

13
14 **6. PUBLIC PARTICIPATION**

15
16 Kaiser: All right. Moving on to public participation. Is there anybody in tonight's
17 audience who wishes to speak on an item that is not on tonight's agenda?
18 I see three hands. All right, we will go ahead and give each of you three
19 minutes to speak.

20
21 Bernal: Good evening. My name is Dolores Bernal.

22
23 Kaiser: And do you swear or affirm that the testimony you're about to give is the
24 truth and nothing but the truth under penalty of law?

25
26 Bernal: Yes.

27
28 Kaiser: Go ahead.

29
30 Bernal: Dear Commissioners and City employees present. On April 10, 2024 I and
31 two other residents member of the group Save the Roadrunner filed an
32 appeal to case number 23CS0500013. The case is about the subdivision
33 of the 56 acres of land that the City plans to develop for the Apodaca
34 Blueprint project and the Villa Mora Mata Dam project at Madrid and Triviz.
35 The appeal leaves several reasons for holding the project including
36 violations to the municipal code, as well as state and federal laws. Even
37 though this appeal was filed by three people, our group has received over
38 100 comments from residents who want the City of Las Cruces to stop
39 unchecked development from continuing.

40
41 Development in Las Cruces has gone unchecked because you approve
42 these projects without any studies that inform you on the harm done to the
43 native wildlife and plants that are killed and destroyed at the construction
44 sites. In case you are not aware, the City of Las Cruces does not require
45 environmental impact reports for 99% of the project it proves at these
46 meetings. So again, the City of Las Cruces does not require environmental

1 impact reports for any of the projects that you approve at these meetings.
2 Mr. David Weir, the Director of Community Development told me and
3 another member recently that there is no one in the City government that
4 manages issues related to native wildlife and their habitat. No one. By the
5 way, thank you Mr. Weir for sharing that information with us. Appreciate the
6 transparency. The City lacks the expertise and insight of a professional who
7 understands the role wildlife plays in our economy, overall community
8 wellbeing, and way of life. I urge the new City manager, the City Council,
9 you to change how development in Las Cruces is approved. The City
10 manager and his staff need to understand that birds, rabbits, and other
11 mammals, as well as native plants are also part of the community and that
12 many of these species are protected. Mitigation plans need to be in place
13 by the City or should be required from the developer. But for now, please
14 remember that every time you come to these meetings, and Mr. Ochoa or
15 anyone else submit something for you to approve, nothing has been done
16 about the wildlife that lives in those areas. I'm not sure how anyone working
17 for the City can sleep at night knowing that their job involves having wildlife
18 die crushed by bulldozers. Seriously, how can you sleep at night? Maybe
19 you can't.
20

21 Kaiser: Thank you. And we will, whoever wants to go next, two of you. Please state
22 your name for the record.
23

24 Parsons: Dana Parsons.
25

26 Kaiser: And do you swear or affirm that the testimony you're about to give is the
27 truth and nothing but the truth under penalty of law?
28

29 Parsons: Yes.
30

31 Kaiser: Go ahead.
32

33 Parsons: I'm here with Save the Roadrunner. I'm concerned with how recent, current,
34 and planned developments are affecting our local and migratory wildlife.
35 These developments are not taking the proper precautions to protect our
36 local habitats that are essential to the survival of many species such as the
37 Greater Roadrunner. These projects are a mirror image of the City's past
38 developments that led to the decline of the burrowing owl, which were once
39 prevalent within the City and now have not been reported cited in three
40 years. Las Cruces being in the Chihuahuan Desert and close to the border,
41 there are species that exist here that can't be seen in the rest of the United
42 States. And saving these species doesn't mean slowing our economic
43 progress. Ecotourism is the fastest growing and one of the largest drivers
44 of economic growth in the world. People come from very far to visit our
45 region of the country hoping to see something unique, or something they've
46 never seen before. I've come across people from states as far away as

Alaska and countries as far away as New Zealand. Our visitors sometimes ask where are the roadrunners? Where are the burrowing owls? If the City continues to develop with its current methods, other species will meet the same fate as the burrowing owl. And once gone, they will likely remain gone forever. It is clear that the City is rushing to develop these areas with disregard to the habitats of our local and migratory wildlife. Local ordinances such as Section 34-125, and the better interest of the community, and this disregard will lead to a breakdown of the people's trust in the City of Las Cruces and irreparable harm to native wildlife populations. Thank you.

Kaiser: Thank you. And we have one more speaker. Please state your name for the record.

Martinez: Grace Martinez.

Kaiser: Do you swear or affirm that the testimony you're about to give is the truth and nothing but the truth under penalty of law?

Martinez: Yes.

Kaiser: Go ahead.

Martinez: My name is Grace Martinez. I was here on the March 26th meeting. And as a member of Save the Roadrunner, I want to emphasize the urgency of acknowledging the Villa Mora project. The impact on our community here. Okay, during the March 26th meeting I highlighted how this development threatens to destroy the natural habitat of our beloved wildlife. As my peers here have also stated to you how important this is to us. This is including the iconic roadrunner. Moreover, the residents in the area are opposed to this project, yet their voices seem to be ignored. When will our voices matter to the council here? When will our voices matter to the City? It's crucial that we demand more community involvement and input in these projects. So I would like to be considered and our project also here as Save the Roadrunner be taken more seriously. Thank you.

Kaiser: Thank you. Okay, anybody else in the audience who wishes to speak on an item that is not on tonight's agenda? All right, seeing none. We'll close public comment.

7. CONSENT AGENDA

7.1 Case No. 24ZO3000077: A request for approval of a Planned Unit Development (PUD) Final Site Plan, known as Metro Verde Arcadia Phase 5 & 6, located within the Metro Verde PUD area. The proposed subdivision encompasses 30.00 ± acres, is zoned PUD and located on the southwest corner of Arroyo Road and

Sentinel Avenue. The final site plan proposes 131-single-family residential lots with one tract of land for drainage and another tract of land for the mailbox cluster that will each be dedicated to the City of Las Cruces. Submitted by Sierra Norte Development Inc., property owners. City Council District 5.

7.2 Case No. 24ZO0500034: A proposed zone change request from C-2 (Commercial Medium Intensity) to C-3 (Commercial Medium Intensity) on a property encompassing 1.40 ± acres and located at 3200 W. Picacho Avenue. The zone change request seeks bring the property into compliance with the 2001 Zoning Code as, amended and allow for the future redevelopment of a commercial land use. Submitted by Allure Homes, representative. City Council District 4.

7.3 Case No. 24ZO0500035: A request to approve a zone change from C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity) for a parcel encompassing 2.67 ± acres in size and located at 2605 Bataan Memorial West. The proposed zone change will bring the property into compliance with the 2001 Zoning Code. Submitted by Kary Bulsterbaum, Representative. Council District 5.

7.4 Case No. 24ZO0500038: A request to approve a zone change from C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity) for property (replat of 2 lots into one is pending) having a total acreage of ± 2.32 acres in size and located at 2999 Bataan Memorial West (northwest corner of Bataan Memorial West and Roadrunner Parkway). Submitted by Chris Sveum – Atwell, LLC on behalf of Yesway, Inc. City Council District 5.

Kaiser: And we will move on to the consent agenda. We do have a number of items here. We've got 7.1, 7.2, 7.3 and 7.4. Is there anybody in the audience who wishes to hear a, or wants a discussion on any of those items? All right, seeing no hands raised, we will just proceed with the consent agenda. So looking for a motion to approve tonight's consent agenda.

Smith: I move that we approve tonight's consent agenda.

Acosta: I second.

Baum: Board Member Acosta.

Acosta: Yes.

Baum: Board Member Smith.

Smith: Yes.

Baum: Board Member Murray.

Murray: Yes.

Baum: Chair Kaiser.

Kaiser: Yes.

Baum: Motion passes.

8. OLD BUSINESS

Kaiser: Okay, we have no old business.

9. NEW BUSINESS

9.1 Case 22ZO0500156: A request to approve a zone change from R-1a (Single-Family Medium Density) to R-4 (Multi-Dwelling High Density & Limited Retail and Office) for land ± 5.00 acres in size and located at 2795 N. Roadrunner Parkway. Submitted by Tafiq Hindash – AJ Construction, LLC on behalf of Mohamed Aswad, M.D., property owner. City Council District 3.

Kaiser: And our one new business item, item 9.1 was rescheduled for May 28th.

10. DISCUSSION

Kaiser: So with that, is there any discussion or staff announcements? Okay, I actually have one item I wanted to bring up. On Saturday, I was out and about running some errands and drove by the athletic complex that's on Hadley Avenue, and noticed that the City had paved over what I can approximate to be about four acres of what used to be a dirt parking lot. It is now entirely asphalt there at the corner of Hadley and Walnut. There was zero landscaping provided as part of that project. And it does not appear that there was any additional stormwater management facilities that were built as part of that pave paving project as well. That is pretty upsetting to be honest that in the year 2024 given everything that we know about the urban heat island, climate change, our summers are not getting any cooler, last year was the hottest on record. National forecasts are projecting that this year may also be hotter than last year. And we know the impact of that kind of a mountain of asphalt that has on our neighborhoods, on our residents, on public health. In fact, a couple of years ago there was a study done to evaluate and assess the urban heat island in the City of Las Cruces and its impact on our neighborhoods and public health. And the outcome of that is, is not great.

Moreover, the City was a partner on a grant that through partnership with Doña Ana Soil and Water Conservation District received a million dollars to plant trees over the next five years to mitigate the urban heat island. And then in addition to that, several years ago a pilot project was done on the

bike lane that runs along this now asphalt parking lot. The project was to paint, use a special kind of paint that reflects sunlight and actually mitigates the urban heat island. The unfortunate part is, is the City's actions over the last couple of weeks of paving this parking lot in asphalt have completely undermined that outcome. The amount of asphalt that was poured on four acres will I mean just evaporate any potential gain that that pilot project had on that bike lane.

What's worse in my opinion is that any developer who had brought forward a very similar project would not have gotten staff support. It does not currently meet the development standards, a project like that. And in fact, this committee heard an applicant requesting to waive their landscape requirements for a truck rest stop parking lot, gas station on the West Mesa, the applicant sought to waive the landscape requirements and essentially have acres of asphalt. This body rejected that request. And I feel like the City's actions out there at the athletic complex undermines our authority. I don't know how we can sit here and tell a developer that they have to abide by the development standards when the City doesn't feel that they need to do the same for their projects.

In short, the unfortunate reality is, is that that amount of pavement has essentially created a hellscape come summertime, out there at the park. I don't know how you can honestly think that it would be an enjoyable experience to be in if you're walking to the athletic fields from your car. I mean all it's going to take is a couple of hours of summer sun on that parking lot and it's going to be an absolute furnace. We just had Earth Day yesterday. The City posted on social media accounts talking about making Las Cruces a beautiful and sustainable City. Yes we just paved four acres of asphalt with no landscaping. So I don't know if staff is familiar with that project. I don't know if that was undertaken through Community Development or the Parks department, but if there's any information that you have about whether or not the City has plans to install any stormwater management, low impact development, landscaping, I'd welcome that. But I was just very disappointing to drive by and see the sheer amount of asphalt that was poured out there. That's all I have.

11. STAFF ANNOUNCEMENTS

12. ADJOURNMENT (7:33)

Kaiser: With that, there's no other discussion or announcements, looking for a motion to adjourn tonight's meeting.

Murray: I make a motion to adjourn the meeting tonight.

Smith: I second.

Agenda Item #7.5.

- 1
- 2 Kaiser: All in favor.
- 3
- 4 MOTION PASSES UNANIMOUSLY.
- 5
- 6 Kaiser: And thank you all for coming out this evening. Really appreciate it. Sorry
- 7 again about the postponed item. We will see you all in May.
- 8
- 9
- 10
- 11
- 12
- 13

Chairperson



Planning & Zoning Commission 4/23/2024
**CASE 24ZO0500038: BATAAN MEMORIAL WEST
REZONING**

STAFF CONTACT:	Vincent Banegas, (575) 528-3058, vbanegas@las-cruces.org
OWNER:	Yesway, Inc.
REPRESENTATIVE:	Chris Sveum – Atwell, LLC
DISTRICT:	District #5
SITE ADDRESSES:	2999 Bataan Memorial West
EXISTING ZONING:	C-2 (Commercial Medium Intensity)
REQUEST:	Approval of a zone change from C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity)
RELATED APPLICATIONS:	N/A
STAFF RECOMMENDATION:	Conditional Approval

SUMMARY OF CASE 22ZO0500084:

A request to approve the rezoning of property from C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity), located at 2999 Bataan Memorial West. Combined (2 lots), the property is ± 2.32 acres in size and is within Council District 5. Submitted by Chris Sveum – Atwell, LLC on behalf of Yesway, Inc.

SUMMARY OF RECOMMENDATION:

Staff is recommending **CONDITIONAL APPROVAL** based on the findings listed below:

- The property under consideration is currently made up of two lots that are zoned C-2. The applicant will be initiating the replat process to combine said lots into one parcel.
- The C-3 zoning designation is the most appropriate zoning district in that the larger lot is currently non-conforming (commercial standards) given its size and the fact that the properties are at the intersection of two minor arterials (N. Roadrunner Parkway and Bataan Memorial West).

- Due to what will be a combined acreage of $\pm$ 2.32 acres, a zone change to C-3 is appropriate and will be required prior to any development taking place.
- The applicant is proposing a gas station/convenience center which is an allowed use in the C-3 district.
- The subject property falls within the Suburban Neighborhood Place Type. This classification is characterized by low to moderate density residential uses intermixed with areas of commercial development. The C-3 zoning district is consistent with this place type.
- The proposed zone change request is supported by the Elevate Las Cruces Comprehensive Plan and meets the purpose and intent of the 2001 Zoning Code, as amended (2001 Zoning Code, Section 38-2).
- The surrounding area consists largely of single-family residential (north/northwest), vacant land (east), commercial (west/southeast), vacant and professional office (south/southeast). Zoning designation of R-3 and R-1b, PUD, C-2C, and C-3 supports these uses.

Proposed Conditions include:

- Applicant to complete the replat process combining the two lots into one prior to permit submittal.

PROPOSAL AND LAND USE HISTORY

DETAILED DESCRIPTION:

The property owner is seeking to rezone two parcels (replat to combine into one pending) from C-2 to C-3 in that the present C-2 zoning district is currently non-conforming for the larger lot and said non-conformity will only increase upon completion of the replat process. As a reminder, at the time of code adoption, a two-year grace period allowed any non-conforming zoning to remain in full force and effect until rezoning, conversion, or initiation of some other development action took place. Staff initiated rezoning/conversion efforts for related properties and encouraged property owners to come forward with requests of their own to bring about compliance with the 2001 Zoning Code. Due to the sheer number of properties that needed adjustment, staff could not reach out to all applicable property owners within the time frame provided even after extending the time frame for compliance.

Changing the zoning to C-3 corrects the non-conforming zoning designation while maintaining and supporting the land use focus that the comprehensive plan intends for the area. The applicant's proposed development of a gas station/convenience center is consistent with the place type and proposed zoning designations.

LAND USE HISTORY:

The subject property was originally annexed via the Hwy 70 Annexation in 1967 and is believed to have been zoned commercial since that time. The subject parcels are not part of a recognized master plan. The property boundaries were altered to some degree during the right-of-way acquisition process for Hwy 70 improvements and the construction of Bataan Memorial West. The land is currently vacant.

ZONING DECISION CRITERIA AND POLICIES

POLICY	DOES IT COMPLY?
<u>Neighborhood Character and Compatibility</u>	Yes
<u>Elevate Las Cruces Comprehensive Plan</u>	Yes
<u>Thoroughfare Plans</u>	Yes
<u>Purpose and Intent of the Code: Section 38-2</u>	Yes
<u>Criteria for Decisions: Section 2-382</u>	Yes

NEIGHBORHOOD CHARACTER AND COMPATIBILITY:

In large part, the area surrounding the subject property consists of single-family medium density residential, office, retail, and vacant land. Given the land use and zoning pattern described earlier, there should be little to no impact to the surrounding neighborhood in terms of character and compatibility.

COMPLIANCE WITH ELEVATE LAS CRUCES COMPREHENSIVE PLAN:

According to the Future Development Map in the Elevate Las Cruces Comprehensive Plan, the subject parcel falls within the Suburban Neighborhood Place Type. This place type is characterized as providing low to moderate residential densities intermixed with areas of commercial development. Commercial, office, single-family, low and medium density, and multi-dwelling medium density zoning districts support the place type.

The following goals, policies, and actions from Elevate Las Cruces are relevant to the proposed Zone Change:

- Community Environment:
 - Goal CE-1: Balanced Growth – Encourage efficient land use development patterns that accommodate projected growth in a sustainable manner.
 - Policy CE-1.2. – Promote investment within older areas of the city through redevelopment.
 - Action CE 1.2.3 – Partner with property owners of vacant land for infill opportunities.
- Community Prosperity:
 - Goal CP-2: Economic Equity – Generate employment opportunities that create economic security for all residents.
 - Policy CP-2.2 – Support efforts to connect vulnerable populations to job opportunities.
 - Action CP-2.2.2 – Identify and promote places of employment to minimize commutes and increase accessibility to other transportation modes to create a jobs-housing balance.
 - Policy CP-4.2 – Support efforts to be regionally and nationally competitive in regards to retaining and growing businesses, jobs, and students.

- Community Livability:
 - Goal CL-2: Neighborhood Conservation - Strengthen neighborhood condition through improvements to the built-environment.
 - Policy CL-2.2 – Encourage redevelopment of vacant properties within neighborhoods.

As the uses surrounding the subject property are congruous to the Suburban Neighborhood Place Type and well supported by various comprehensive goals, policies, and actions, staff feels the application is justified and should pose no conflict with the existing neighborhood.

COMPLIANCE WITH THOROUGHFARE PLAN:

Access to the subject property exists from both Bataan Memorial West and N. Roadrunner Parkway; both minor arterial roadways as designated by the Mesilla Valley Metropolitan Organization (MPO). Bataan Memorial West is part of the Hwy 70 right-of-way, allows limited access to adjacent properties, and has a paving width of ± 27 feet with curb/gutter, and sidewalk. Access from Bataan Memorial West for any development will require review and approval from NMDOT and city staff. N. Roadrunner Parkway at the subject location has a variable ± 45 to 53 foot right-of-way width. Curb/gutter, sidewalk, and street lighting exist along each roadway at this location. As such, the road network is adequate to accommodate any proposed commercial development. Ingress/egress limitations may be placed on any proposed development at the time of permit submittal. These limitations may be in the form of right-in/right-out ingress/egress from one or both roadways, etc.

CONSISTENCY WITH PURPOSE AND INTENT OF THE ZONING ORDINANCE:

Per Section 38-2: The intent of the Zoning Code is to encourage the most appropriate use of land and to promote the health, safety, and general welfare of the community for the purpose of improving each citizen's quality of life.

The regulations relevant to the proposed zone change include:

- A. Ensure that all development is in accordance with this Code and the Elevate Las Cruces Comprehensive Plan and its elements.
- C. Give reasonable consideration to the character of each zoning district and its peculiar suitability for particular uses.
- H. Encourage the conservation of energy in the use of structures, buildings, and land.
- K. Encourage development of vacant properties within established areas.
- L. Ensure that development proposals are sensitive to the character of existing neighborhoods.
- N. Conserve the value of buildings and land.

Review by City of Las Cruces staff determined the proposed zone change would not adversely impact the surrounding area. Future uses that may be authorized by the proposed zoning designation will be in keeping with the surrounding area per section 38-2 of the 2001 Zoning Code, as amended. Additionally, the proposed action will eliminate the property's non-conforming zoning.

CRITERIA FOR DECISIONS:

Per Section 2-382 of the Las Cruces Municipal Code, the Planning and Zoning Commission shall determine the following:

- A. The Planning and Zoning Commission shall review the comprehensive plan, and other applicable plans and codes and determine whether the request will:
 1. Impair an inadequate supply of light and air to adjacent property or otherwise adversely adjoining properties.
 2. Unreasonably increase the traffic in public streets.
 3. Increase the danger of fire or endanger the public safety.
 4. Deter the orderly and phased growth and development of the community.
 5. Unreasonably impair established property values within the surrounding area.
 6. In any other respect, impair the public health, safety, or general welfare of the city.
7. Constitute a spot zone, and therefore, adversely affect adjacent property values.
8. Be in harmony with the purpose and intent of the zoning code, sign code, design standards, and other companion codes.
- B. The commission shall take care that the development of the city, in accordance with present and future needs, best promotes the health, safety, morals, order, convenience, prosperity, and general welfare of the people. It shall also promote efficiency and economy in the process of development.
- C. The commission shall encourage the proper use and development of land, shall seek to create and maintain an aesthetic urban setting, and protect and preserve the quality of the water, air and other environmental, natural, historical and cultural resources for the city.
- D. The commission shall use the comprehensive plan as a guide in making all future decisions concerning land use and development, and in the financing and location of capital improvements.
- E. Before taking any action concerning land use and development and financing and location of capital improvements, the commission shall review the relationship between the proposed action and the comprehensive plan.

Upon internal review, Staff did not identify any issues that would deter the Planning and Zoning Commission from making an affirmative recommendation to City Council regarding the zone change request. Staff also considered the Criteria for Decisions above and has deemed the zone change request appropriate with a recommendation of conditional approval.

DEVELOPMENT STANDARDS

SITE COMPLIANCE FOR USES UNDER CURRENT ZONING:

The subject property is currently zoned C-2. The C-2 zoning district at least in part is non-conforming, requiring that it be brought into compliance with current code prior to any development taking place on-site. The proposed zone change to C-3 seeks to accomplish this in a manner that is compatible with the surrounding area.

SITE SUITABILITY FOR USES UNDER PROPOSED ZONING:

If the subject property is rezoned as proposed, the size of the lot and the access provided via Bataan Memorial West and N Roadrunner Parkway allows future development of commercial uses. All development would then follow the requirements of the C-3 zoning district if approved.

ADEQUACY OF PUBLIC FACILITIES AND SERVICES:

City water, gas, and sewer currently serve the property and will not be negatively impacted by the zone change request and any resulting development. Road infrastructure is in place and should accommodate development pursuant to the C-3 standards.

STAFF AND PUBLIC COMMENTS

PUBLIC NOTIFICATION AND INPUT:

Notification letters were mailed to property owners within 500 feet of the subject property on April 8, 2024. Staff has not received any inquiry/input as of the writing of this report.

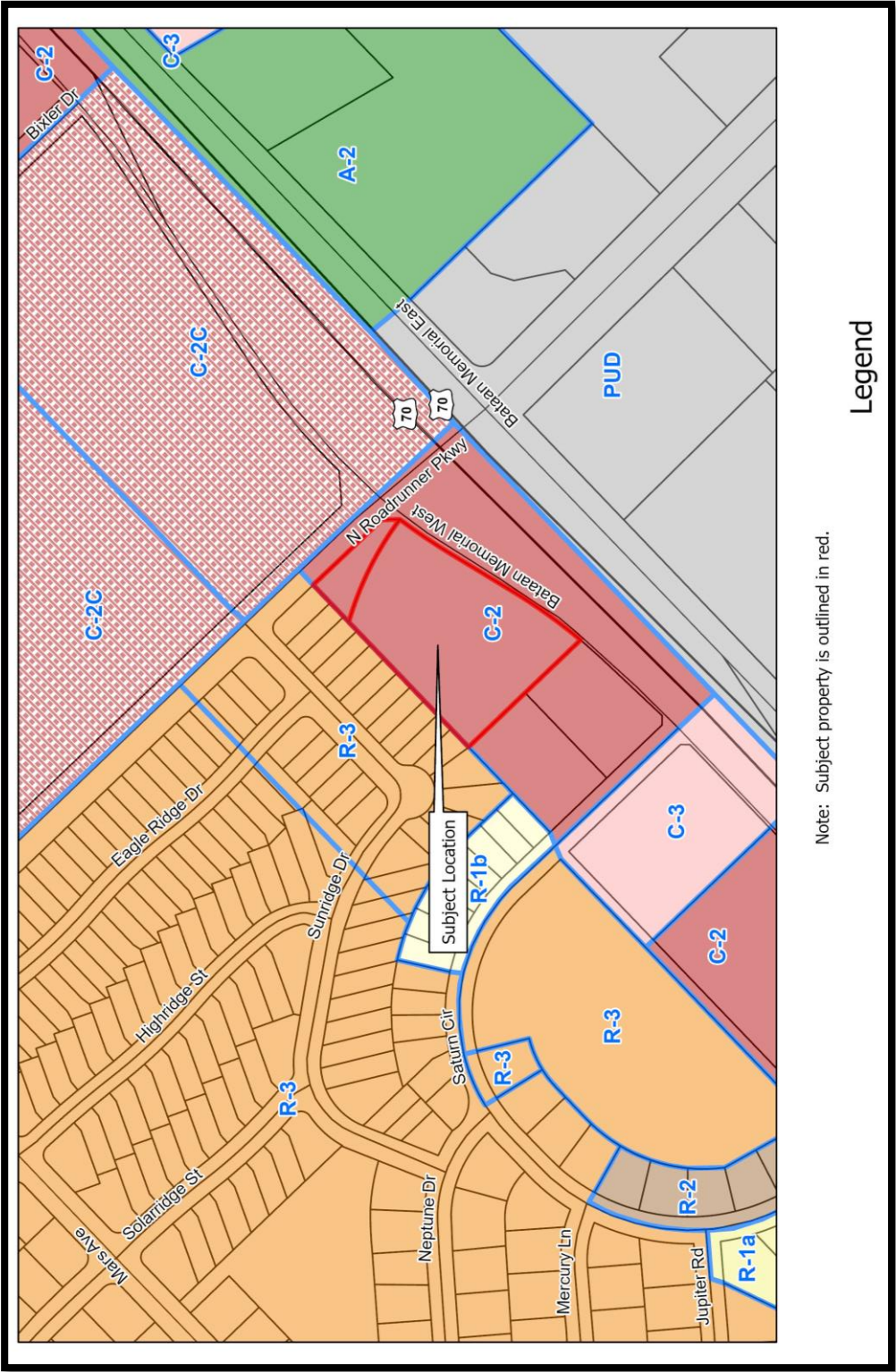
STAFF COMMENTS:

No reviewing department had any negative comments nor have any reviewing staff objected to the proposed rezoning.

ATTACHMENTS:

1. Zoning Map
2. Aerial Map
3. Department Review Comments

ATTACHMENT 1
Zoning Map



ATTACHMENT 2
Aerial Map



Note: Subject property is outlined in red.

ATTACHMENT 3

Department Review Comments

Department: Planning

Status: APPROVED W/ CONTINGENCY

- 1) Replat the two lots into one.

Department: Flood

Status: APPROVED

Department: Transportation

Status: APPROVED W/ CONTINGENCY

- 1) N. Roadrunner Pkwy improvements are likely which may include installation of a raised, concrete median with associated striping and access restrictions calling for right-in, right-out.

Department: Engineering

Status: NOT REQUIRED

Department: Utility

STATUS: IN PROCESS

Department: Fire

Status: APPROVED

Department: MPO

Status: APPROVED

Department: Parks and Recreation Review

Status: APPROVED

Department: NMDOT

Status: APPROVED W/ CONTINGENCY

- 1) NMDOT access permit will be required for any future development



25-015

City Council Action and Executive Summary

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

District:	☐ 1 ☐ 2 ☐ 3 ☐ 4 ☒ 5 ☐ 6 ☐ N/A		
1st Reading:	Adopted: August 5, 2024		
Drafter:	Jan Lauterbach	Department:	City Manager's Office
Program:	Housing and Neighborhood Services	Line of Business:	Housing and Neighborhood Services
Title:	A RESOLUTION APPROVING A \$4M HOUSING TRUST FUND LOAN AGREEMENT AND LAND USE RESTRICTION AGREEMENTS WITH PEACHTREE CANYON APARTMENTS LLLP FOR AN AFFORDABLE HOUSING PROJECT, INCLUDING REQUESTING WAIVERS OF ALL PERMIT FEES AND IMPACT FEES FOR PARKS AND PUBLIC SAFETY FOR THE PROJECT.		

TYPE OF ACTION: ☒ Administrative ☐ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:

Approve loan agreement, land use restriction agreements, permit and impact fee waivers.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

In response to the pressing need for affordable housing in Las Cruces, the City Council passed Resolution 23-077 on December 22, 2022. This resolution earmarks \$4 million in City funding for the Peachtree Canyon Apartments, contingent upon the project securing Low-Income Housing Tax Credits (LIHTC) from the New Mexico Mortgage Finance Authority (MFA). With the project successfully securing LIHTC funding, construction for this vital affordable housing development is anticipated to commence before the end of 2024.

The allocation of City funds for affordable housing development aligns with the State of New Mexico Affordable Housing Act (The Act), the City's Affordable Housing General Oversight Ordinance, and supports the objectives outlined in various Council-approved planning documents. These include, the Affordable Housing Plan, the Housing Investment Strategy, the 2021-2025 Consolidated Plan, the City Council's strategic plan, and Elevate Las Cruces. Additionally, the City Council approved Resolution 23-027 on September 6, 2022, committing \$2 million in American Rescue Plan Act (ARPA) funding to the Peachtree Canyon Apartments project. The ARPA agreement with the developer has been executed.

City Council approval is requested in order to comply with regulatory requirements. A Housing Trust Fund Loan Agreement, Mortgage and Security Agreement and various Land Use Restriction Agreements are required to be executed and will be filed against the property.

The apartments, consisting of 144 rent-restricted units for households earning up to 60% of area median income, will contain a mix 72 one-bedroom, 54 two-bedroom, and 18 three-bedroom units. Amenities' include a community room, computer center, landscaped courtyards, playground, pool, picnic area, walking paths and pickleball courts.

Agenda Item #8.1.

The City's Affordable Housing General Oversight Ordinance (Chapter 13, Article II, Division 2, Subdivision I), contains provisions for the waiver of various fees for affordable housing development. This Resolution also requests City Council approval for the waiver of permit, park and public safety impact fees for the development. These waivers reduce costs and benefit all residents of the development. If approved, a fee waiver agreement will also be executed and filed.

SUPPORT INFORMATION:

- [EXHIBIT A' Peachtree Canyon Loan Agreement](#)
- [EXHIBIT 'B' Peachtree Canyon MtgSecurityAgreement](#)
- [EXHIBIT 'C' Peachtree Canyon.LURACity&ARPA](#)

PLAN(S):

City Council Strategic Plan, Other, Department Strategic Business Plan, 2021-2025 Consolidated Plan, Elevate Las Cruces

COMMITTEE/BOARD REVIEW:

Affordable Housing Committee, Housing PRC

DOES THIS AMEND THE BUDGET?:

- ☐ Yes
- ☒ No

BUDGET / FISCAL IMPACT:

BUDGETED AMOUNT: 4,000,000	AVAILABLE AMOUNT: \$4,000,000	EXPENDITURE AMOUNT: \$4,000,000
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Funding Source(s):

Telshor Facility Fund (2705) 20430051-721080-25278- \$4,000,000

Overall Budget Impact:

Funding is budgeted in the FY2025 budget; Fee waivers could reduce revenue for fee-affected departments.

Does this action amend the Capital Improvement Plan (CIP)?

- ☐ Yes
- ☒ No

Does this action align with Elevate Las Cruces?

- ☒ Yes
- ☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this action will approve the Resolution and the loan agreement and LURAs' between the City and Peachtree Canyon Apartments LLLP for affordable housing development.
2. Vote "No"; this will not approve the Resolution and the loan agreement and LURAs' between the City and Peachtree Canyon Apartments LLLP for affordable housing development.
3. Vote to "Amend"; this could delay the Resolution and the start of construction and would require further direction from City Council.
4. Vote to "Table"; this could delay the Resolution and the start of construction and would require further direction from City Council.

Agenda Item #8.1.

REFERENCE INFORMATION:

1. Resolution 23-027
2. Resolution 23-077

RESOLUTION 25-015

A RESOLUTION APPROVING A \$4M HOUSING TRUST FUND LOAN AGREEMENT AND LAND USE RESTRICTION AGREEMENTS WITH PEACHTREE CANYON APARTMENTS LLLP FOR AN AFFORDABLE HOUSING PROJECT, INCLUDING REQUESTING WAIVERS OF ALL PERMIT FEES AND IMPACT FEES FOR PARKS AND PUBLIC SAFETY FOR THE PROJECT.

The City Council is informed that:

WHEREAS, the City of Las Cruces (City) is subject to the State of New Mexico Affordable Housing Act (Act) which identifies specific requirements to ensure governmental entities can assist with land, building, infrastructure, and financing of affordable housing projects; and

WHEREAS, the allocations of city funding for affordable housing development are in compliance with the Act, the City's Affordable Housing Ordinance and supports the goals and objectives of the City's adopted Affordable Housing Plan; and

WHEREAS, City Council approved Resolution 23-077 allocating \$4M in funding from the Telshor Facility Fund to subsidize the development of the Peachtree Canyon Apartments LIHTC project; and

WHEREAS, City Council approved Resolution 23-027 allocating \$2M in ARPA funds and executed an agreement to subsidize the development of the Peachtree Canyon Apartments LIHTC; and

WHEREAS, in order to comply with regulatory requirements of the Act, a Housing Trust Fund Loan Agreement between the City and Peachtree Canyon Apartments LLLP as shown in Exhibit "A" is required to be executed; and

WHEREAS, in order to comply with regulatory requirements of the Act, the Mortgage and Security Agreement between the City and Peachtree Canyon Apartments LLLP as shown in Exhibit "B" is required to be executed; and

WHEREAS, in order to comply with regulatory requirements of the Act and the American Rescue Plan Act, the two Land Use Restriction Agreements as shown in Exhibit "C" are required to be executed; and

WHEREAS, Council approval is requested for the waiver of impact fees for parks and public safety and the permit fees for the project in accordance with the City's Affordable Housing General Oversight Ordinance.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT the Housing Trust Fund Loan Agreement between the City and Peachtree Canyon Apartments LLLP, as shown in Exhibit "A" is hereby approved for execution.

(II)

THAT the Mortgage and Security Instrument agreement between the City and Peachtree Canyon Apartments LLLP, as shown in Exhibit "B" is hereby approved for execution.

(III)

Agenda Item #8.1.

THAT the two Land Use Restriction Agreements as shown in Exhibit "C" are hereby approved for execution.

(IV)

THAT the permit fees and impact fees for parks and public safety assessed to the project are hereby waived and staff is authorized to develop and execute any necessary agreements to be filed against the property for the amount of the waivers without further consideration.

(V)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS

**CITY OF LAS CRUCES
HOUSING TRUST FUND LOAN AGREEMENT
PEACHTREE CANYON APARTMENTS LLLP**

This Housing Trust Fund Loan Agreement (“Agreement”) is entered into as of _____, 2024, by and between the **City of Las Cruces**, a New Mexico municipal corporation (the “City” or “Lender”) with a principal address of 700 N. Main St., Las Cruces, NM 88001, and **Peachtree Canyon Apartments, LLLP (“Peachtree”)**, a New Mexico limited liability limited partnership (“Borrower”) with a principal address of 113 E. 1st Ave, Truth or Consequences, NM 87901 with reference to the following facts:

A. Borrower is acquiring certain real property located at 4936 Peachtree Hills Road, in the City of Las Cruces, State of New Mexico, as more particularly described in Attachment “A”, attached hereto and made a part hereof (the “Property”). The Property is vacant and the Borrower desires to construct the improvements located on the Property in order to construct new affordable housing for low-income households, to include One Hundred Forty-Four (144) restricted units.

B. Borrower wishes to borrow from the City and the City wishes to extend to Borrower a loan of Four Million Dollars (\$4,000,000) in Local Housing Trust Fund (“Trust Fund”) Loan Funds to assist in the construction of the Development. The Loan will be evidenced by a promissory note executed by Borrower in favor of City and secured by a Mortgage and Security Agreement and Land Use Restriction Agreement.

C. The Loan is being made to finance construction costs associated with the Development in order to help achieve financial feasibility for the Development and to increase the supply of affordable rental housing in the City of Las Cruces.

NOW, THEREFORE, the Parties agree as follows:

ARTICLE 1 DEFINITIONS AND ATTACHMENTS

Section 1.1 Definitions

The following capitalized terms have the meanings set forth in this Section 1.1 wherever used in this Agreement, unless otherwise provided:

(a) “Affordability Period” shall mean the 20 years from the date City of Las Cruces issues a final certificate of occupancy that the property shall be designated as affordable housing for extremely low and low-income households.

(b) “Agreement” shall mean this City of Las Cruces Housing Trust Fund Loan Agreement.

(c) “Approved Development Budget” shall mean the pro forma development budget, including sources and uses of funds, as approved by the City, and attached hereto and incorporated herein as Attachment “B”.

(d) “Approved Financing” shall be limited to the following funds acquired by the Borrower and approved by the City for the purposes of financing the Development, in addition to the City Loan:

i. “First Mortgage Loan” means the Cedar Rapids Bank and Trust Company (CRBT) construction and permanent period loans which will constitute the construction period and permanent period first mortgage financing for the Apartment Complex in the anticipated principal amount of \$9,656,236 to be made or deemed made to the Borrower by CRBT at the Final Closing, and which is to be secured by the Mortgage, Assignment of Rents and Security Agreement which shall hold the first lien position encumbering the Property, and a SWAP First Mortgage, Assignment of Rents and Security Agreement to secure the Borrower’s obligations under an interest rate swap transaction to artificially fix the interest rate of the permanent phase of the First Mortgage Loan, which shall hold the second lien position encumbering the property (both , as applicable, the “First Mortgage”) and other related security documents and financing statements.

ii. “Second Mortgage Loan” means the City of Las Cruces Residual Receipts Second Mortgage Loan which will constitute the permanent second mortgage financing for the Apartment Complex in the anticipated principal amount of \$4,000,000 to be made to the Borrower pursuant to this Affordable Housing Trust Fund Loan Agreement at Initial Closing, and which is to be secured by the Second Mortgage and Security Agreement (the “Second Mortgage”) and other related security documents and financing statements.

iii. “Third Mortgage Loan” means the SLFRF Mortgage Loan to be made by the New Mexico Mortgage Finance Authority (“MFA”) in the anticipated amount of \$1,250,000 to the Borrower at the Initial Closing, and which is to be secured by the Third Mortgage, Assignment of Rents and Security Agreement (the “Third Mortgage”) and other related security documents and financing statements.

iv. “Fourth Mortgage Loan” means the National Housing Trust Fund Mortgage Loan in the anticipated principal amount of \$1,500,000 to be made by MFA to the Borrower at the Initial Closing, and which is to be secured by the Fourth Mortgage, Assignment of Rents and Security Agreement (the “Fourth Mortgage”) and other related security documents and financing statements.

v. “Fifth Mortgage Loan” means the New Mexico Housing Trust Fund Mortgage Loan in the anticipated principal amount of \$2,000,000 to be made by MFA to the Borrower at the Initial Closing, and which is to be secured by the Fifth Mortgage (the “Fifth Mortgage”) and other related security documents and financing statements.

vi. “Sixth Mortgage Loan” means the HOME Mortgage Loan in the anticipated principal amount of \$800,000 to be made by MFA to the Borrower at the Initial Closing, and which is to be secured by the Sixth Mortgage (the “Sixth Mortgage”) and other related security documents and financing statements.

vii. “Seventh Mortgage ” means the American Rescue Plan Act (ARPA) Mortgage to be made by the City of Las Cruces (City) in the anticipated amount of \$2,000,000 to the New Mexico Housing and Community Development Corporation, a New Mexico nonprofit corporation (“NMHCDC”) and relent to the Borrower at the Initial Closing, and which is to be secured by the Seventh Mortgage, Assignment of Rents and Security Agreement (the “Seventh Mortgage”) and other related security documents and financing statements.

viii. “Eighth Mortgage” means the American Rescue Plan Act (ARPA) Mortgage to be made by the Dona Ana County Board of Commissioners (“DAC”) in the anticipated amount of \$1,500,000 to NMHCDC and relent to the Borrower at the Initial Closing, and which is to be secured by the Eighth Mortgage, Assignment of Rents and Security Agreement (the “Eighth Mortgage”) and other related security documents and financing statements.

(e) “City” shall have the same meaning set forth in the first paragraph of this Agreement.

(f) “Construction Plans” has the meaning assigned to such term in Section 3.2 hereof.

(g) “Default” shall have the meaning set forth in Section 6.1 hereof.

(h) “Default Rate” shall have the meaning set forth in Section 6.2(c).

(i) “Development” shall mean the Property and One Hundred Forty-Four (144) multi-family apartment units, and attendant site improvements.

(j) “Hazardous Materials” shall have the meaning set forth in Section 4.5.

(k) “Hazardous Materials Claim” shall have the meaning set forth in Section 4.5

(l) “Hazardous Materials Law” shall have the meaning set forth in Section 4.5

(m) “City of Las Cruces Housing Trust Fund Land Use Restriction Agreement” dated _____, 2024, shall be provided by the City, recorded against the property, and shall provide that its provisions shall survive the foreclosure of the Property by Senior Lenders.

(n) “Lender” means collectively, (i) CRBT in its capacity as the maker of the First Mortgage Loan (ii) the City of Las Cruces in its capacity as the maker of the Second Mortgage Loan; (iii) New Mexico Mortgage Finance Authority in its capacity as the maker of the Third Mortgage Loan; (iv) New Mexico Mortgage Finance Authority in its capacity as the maker of the Fourth Mortgage Loan; (v) New Mexico Mortgage Finance Authority in its capacity as the maker of the Fifth Mortgage Loan; (vi) New Mexico Mortgage Finance Authority in its capacity as the maker of the Sixth Mortgage Loan; (vii) City of Las Cruces in its capacity as the maker of the Seventh Mortgage ; ; (viii) Dona Ana County in its capacity as the maker of the Eighth Mortgage; and (ix) any of their successors(s) and assign(s) in such capacities.

Agenda Item #8.1.

(o) “Loan” or “Second Mortgage Loan” shall mean the City residual receipts loan to the Borrower pursuant to this Agreement in the total principal amount of Four Million Dollars (\$4,000,000)

(p) “Loan Documents” shall mean this Agreement, the Mortgage and Security Agreement and Note, and the Land Use Restriction Agreement.

(q) “Mortgage and Security Agreement” shall mean the Mortgage and Security Agreement dated _____, 2024, between the Borrower and the City that will encumber the development to secure repayment of the Loan and performance of the Loan Documents.

(r) “Note” shall mean the promissory note dated _____, 2024, between the Borrower and the City evidencing Borrower’s obligation to repay the Loan. The form of the Note shall be provided by the City.

(s) “Parties” shall mean the City and the Borrower.

(t) “Partnership Agreement” shall mean the agreement between Peachtree Canyon Management, LLC, a New Mexico limited liability company and AHP Housing Fund 368, LLC, a Delaware limited liability company.

(u) “Property” shall have the same meaning set forth in paragraph A of the Recitals.

(v) “Residual Receipts” means in a particular calendar year the amount by which Gross Revenue exceeds Annual Operating Expenses.

(w) “Restricted Units” shall mean the One Hundred Forty-Four (144) units whose occupancy and rental charges are restricted pursuant to the Approved Financing and Loan Documents.

(x) “Retention Amount” shall mean the One Hundred Thousand Dollars (\$100,000) of Loan funds set forth in Section 2.7 hereof.

(y) “Scope of Work” shall mean the new construction of the 144 unit rent restricted Peachtree Canyon Apartment complex and all surrounding amenities on the property as described in Attachment B, Approved Development Budget and Scope of Work.

(z) “Term” shall have the meaning set forth in Section 2.8(a) hereof.

(aa) “Transfer” shall have the meaning set forth in Section 4.11 hereof.

(bb) “Unit” means any one (1) of the One Hundred Forty-Four (144) apartment units to be constructed on the Property.

Section 1.2 Attachments

The following exhibits are attached to this Agreement and incorporated into this Agreement by reference:

ATTACHMENT A: Legal Description of the Property

ATTACHMENT B: Approved Development Budget and Scope of Work

ATTACHMENT C: Form of Subordination Agreement

ARTICLE 2 LOAN PROVISIONS.

Section 2.1 Loan.

The City shall loan to the Borrower the Loan for the purposes set forth in Section 2.3 of this Agreement. The obligation to repay the Loan shall be evidenced by the Note in the form provided by the City.

Section 2.2 Interest.

(a) Subject to the provisions of Section 2.2 (b) hereof, the outstanding principal balance of the Loan funds shall accrue simple interest at the rate of Three percent (3%) per annum, commencing on the date of disbursement.

(b) In the event of a default, interest on the Loan shall begin to accrue, as of the date of Default and continuing until such time as the Loan is repaid in full or the Default is cured, at the default rate of twelve percent (12%), compounded annually.

Section 2.3 Use of Loan Funds.

(a) The Borrower shall use the Loan funds to fund development costs consisting of hard construction costs of the property consistent with the Approved Development Budget and the Scope of Work.

(b) The Borrower shall not use the Loan for any other purposes without the prior written consent of the City.

Section 2.4 Security.

(a) Borrower shall secure its obligation to repay the Loan, as evidenced by the Note, by executing the Mortgage and Security agreement and Land Use Restriction Agreement and recording them as a lien against the Property.

Section 2.5 Subordination

The Mortgage and Security agreement and Land Use Restriction Agreement may be subordinated to other Approved Financing (in each case, a “Senior Loan” made by a “Senior Lender”), but only on condition that all following conditions are satisfied:

Agenda Item #8.1.

(a) All proceeds of the proposed Senior Loan(s), less any transaction costs, must be used to finance the costs of acquisition, construction and/or to provide permanent financing for the Development.

(b) The proposed Senior Lender must be a state or federally chartered financial institution, a nonprofit corporation or a public entity that is not affiliated with Borrower or any of Borrower's affiliates, other than as a lender or depository at which Borrower or an affiliate thereof is a depositor.

(c) Borrower must demonstrate to the City's reasonable satisfaction that subordination of the Mortgage and Security Agreement and the Land Use Restriction Agreement is necessary to secure adequate construction and/or permanent financing to ensure the viability of the Development, including the operation of the Development as affordable housing, as required by the Loan Documents. To satisfy this requirement, Borrower must provide to the city, in addition to any other information reasonably required by the city, evidence demonstrating that the proposed amount of the Senior Loan is necessary to provide adequate construction and/or permanent financing to ensure the viability of the Development, and adequate financing for the Development would not be available without the proposed subordination.

(d) The subordination agreement(s) must be structured to minimize the risk that the Mortgage and Security agreement and Land Use Restriction Agreement would be extinguished as a result of a foreclosure by the Senior Lender or other holder(s) of Senior Loan(s). To satisfy this requirement, the subordination agreement must provide the City with adequate rights to cure any defaults by Borrower, including: (i) providing the City or its successor with copies of any notices of default within five (5) Business Days and in the same manner as provided to Borrower by one or more Senior Lenders; and (ii) providing the City with a cure period of at least thirty (30) days to cure any monetary default and sixty (60) days to cure any non-monetary default. The City shall have the right to determine, in its sole and reasonable discretion, whether the provisions of this subparagraph are satisfied.

(e) The subordination agreement(s) described in the section may be effective only during the original term of the Senior Loan(s) and any extensions of the term thereof and, to the extent that any such Senior Loan includes remedies which survive the expiration of the term or extension term thereof, during the period in which such remedies can be exercised (i.e. while not time-barred by an applicable statute of limitation).

(f) No subordination agreement may limit the effect of the Mortgage and Security Agreement and Land Use Restriction Agreement before a foreclosure, nor require consent of any Senior Lender.

(g) Upon determination by the City's City Manager that the conditions in this Section have been satisfied, the City Manager or its designee will be authorized to execute the approved form of subordination agreement as shown in Attachment "C", without the necessity of any further action or approval.

(h) The Land Use Restriction Agreement shall survive foreclosure or deed in lieu of

foreclosure of Property by Senior Lenders, which foreclosure or deed in lieu of foreclosure shall be subject to the provisions thereof, if during the terms of the original Mortgage and Security agreement, an ownership interest in the Development or Property is held by either (1) the owner of record prior to the completion of a foreclosure action or deed in lieu of foreclosure, or (2) any entity that includes the former owner of record or any entity or person with whom the former owners of record has or has family or business ties.

Section 2.6 Conditions Precedent to Disbursement of Loan Funds.

The maximum amount of funds to be disbursed pursuant to this Agreement shall not exceed the amount of the Loan less the Retention Amount. The City shall not be obligated to make any disbursements of Loan funds for construction of the Development or take any other action under the Loan Documents unless the following conditions are satisfied prior to each disbursement of Loan funds:

(a) There exists no Default nor any act, failure, omission or condition that would constitute an event of Default under Article 6 of this Agreement;

(b) The Borrower holds title to the Property or is acquiring title simultaneously with the disbursement of the Loan proceeds;

(c) The Borrower has furnished the City with evidence of the insurance coverage meeting the requirements of this Agreement;

(d) The Borrower has caused to be executed and delivered to the City all Loan Documents and any other instruments, and policies required under the Loan Documents;

(e) The Mortgage and Security Agreement and Land Use Restriction Agreement have each been recorded against the Property in the Office of the County Clerk of Doña Ana County;

(f) A title insurer reasonably acceptable to the City is unconditionally and irrevocably committed to issuing an ALTA Lender's Policy of title insurance insuring the priority of the Mortgage and Security agreement and Land Use Restriction Agreement in the amount of the Loan, subject only to such exceptions and exclusions as may be reasonably acceptable to the City, and containing such endorsements as the City may reasonably require. The Borrower shall provide whatever documentation (including an indemnification agreement), deposits or surety that is reasonably required by the title company in order for the Mortgage and Security Agreement and Land Use Restriction Agreement to have lien priority over any mechanics liens in connection with any early start of construction;

(g) The Borrower shall provide to the City a copy of applicable environmental reviews under local, State, and the National Environmental Policy Act ("NEPA"), as necessary, and the application for the construction of the Development, and evidence of compliance with all applicable environmental requirements;

(h) The City has determined that the undisbursed proceeds of the Loan, together with the funds or firm commitments for funds that the Borrower has obtained in connection with the Development, are not less than the amount that is necessary to pay for construction of the

Development and to satisfy all of the covenants contained in this Agreement and the Mortgage and Security Agreement and Land Use Restriction Agreement;

(i) Borrower has obtained all permits and approvals necessary for the construction of the Development, as required by Section 3.1 hereof, and the City has received a copy of the building permits required to construct the Development (required for disbursements for construction costs only);

(j) The City has received and approved the final plans and specifications for the Development, as required pursuant to Section 3.2 hereof;

(k) The City has received and approved the general contractor's construction contract that the Borrower has entered into or proposed to enter into for construction of the Development as required pursuant to Section 3.3 hereof;

(l) The City has received copies of labor and material (payment) bonds and performance bonds as required pursuant to Section 3.4 hereof;

(m) Borrower has closed all Approved Financing described in Section 1.1(d)(i) through (viii) hereof and is eligible to receive proceeds thereof;

(n) Borrower has obtained a commitment letter from a tax credit equity investor, in form, substance, and amount consistent with the Approved Development Budget, and acceptable to and approved by the City in its reasonable exercise of discretion;

(o) The City has received a written draw request from the Borrower, including certification that the condition set forth in Section 2.6(a) hereof continues to be satisfied, and setting forth the proposed uses of funds consistent with the Approved Development Budget, the amount of funds needed, and where applicable, a copy of the bill or invoice covering a cost incurred or to be incurred. When a disbursement is requested for payment of any contractor in connection with improvements on the Property, the written request must be accompanied by (i) certification by the Borrower's architect reasonably acceptable to the City that the work for which disbursement is requested has been completed (although the City reserves the right to inspect the Property and make an independent evaluation); and (ii) lien release and/or mechanics lien title insurance endorsements reasonably acceptable to the City.

Section 2.7 Conditions Precedent to Disbursement of Retention Amount.

The City shall not be obligated to disburse the Retention Amount unless the following conditions precedent are satisfied:

(a) The City has received a completion report from the Borrower setting forth (i) the income, household size, and ethnicity of tenants of the Development, (ii) the Unit size, rent amount and utility allowance for all Units in the Development, and (iii) designation of the accessible and/or adaptable Units in the Development.

(b) The City has received a cost certification for the Development from the Borrower showing all sources and uses of funds.

Agenda Item #8.1.

(c) The City has received from the Borrower copies of the final certificate of occupancy for the Development.

(d) The City has received from the Borrower current evidence of the insurance coverage meeting the requirements of Section 4.12 hereof.

(e) The City has received from Borrower a form of lease and marketing plan for the Development.

(f) The City has received from Borrower a final management plan for the Development and contact information for the property manager of the Development and the name and phone number of the on-site property manager.

(g) If the Borrower was required to comply with relocation requirements, the City has received from the Borrower evidence of compliance with all applicable relocation requirements.

(h) If, as a result of the City's funding, the Borrower was required to pay prevailing wages under the Davis- Bacon Act (40 USC 3141-3148), the City has received from Borrower a written certification from the Borrower that they are in compliance with all certified payrolls, and any identified payment issues have been resolved, or the Borrower is working diligently to resolve any such issues. The City reserves the right to confirm with MFA the status of prevailing wage compliance throughout duration of construction.

(i) The City has received a written draw request from the Borrower, including certification that the conditions set forth in this Agreement and continues to be satisfied, and setting forth the proposed uses of funds consistent with the Approved Development Budget, and, where applicable, a copy of the bill or invoice covering a cost incurred or to be incurred.

(j) Borrower shall apply the disbursement for the purpose(s) requested.

Section 2.8 Repayment Schedule.

The Loan shall be repaid as follows:

(a) Term and Affordability Period. The Loan and this Agreement shall have a term and affordability period (the "Term") that expires on the date 20 years from the date City of Las Cruces issues a final certificate of occupancy, for the Development as set forth in the Certificate Notice, but in any event no later than June 30, 2046.

(b) Amount and Time of Payments. The loan will bear 3% interest per annum and be subject to annual repayment to Lender during the Affordability Period, as defined in Section 1.1 (a) of this Agreement, as the greater of (i) 42.85% of any positive annual Net Cash Flow as defined in Borrower's operating agreement after payments of items 9.1(a)(i) through (vi) of the Partnership Agreement, as determined and certified by the independent accounting firm preparing borrower's annual audited financial statements: or (ii) \$500.00 per year. Any repayment required by this paragraph shall be due within 180 days after the close of the Development's fiscal year. Any and all amounts or principal and interest outstanding upon the maturity of the Loan shall be then due and payable.

(c) Payment in Full. All principal and accrued interest on the Loan shall be due in full on the earlier to occur of (i) the date of any Transfer not authorized by the City, (ii) the date of any Default, and (iii) the expiration date of the Term.

(d) Prepayment. The Borrower shall have the right to prepay the Loan at any time without premium or penalty. However, the Agreement shall remain in effect for the entire Loan Term and the Regulatory Agreement, and the Land Use Restriction Agreement shall remain in effect for the entire Term, regardless of any prepayment.

Section 2.9 Non-Recourse.

Except as provided in this Section 2.9, neither the Borrower, nor any general or limited partner of the Borrower, shall have any direct or indirect personal liability for payment of the principal of, and interest on, the Loan or the performance of the covenants of the Borrower under the Land Use Restriction Agreement. Following recordation of the Land Use Restriction Agreement, the sole recourse of the City with respect to the principal of, and interest on, the Note and defaults by Borrower in the performance of its covenants under the Land Use Restriction Agreement shall be to the property described in the Land Use Restriction Agreement; provided, however, that nothing contained in the foregoing limitation of liability shall (i) limit or impair the enforcement of the Note of all the rights and remedies of the City thereunder, or (ii) be deemed in any way to impair the right of the City to accelerate the unpaid principal amount of the Note as a demand for money within the meaning and intent of the New Mexico Code of Civil Procedure or any successor provision thereto.

The foregoing limitation of liability is intended to apply only to the obligation for the repayment of the principal of, and payment of interest on the Note and the performance of the Borrower's obligations under the Land Use Restriction Agreement, except as hereafter set forth; nothing contained herein is intended to relieve the Borrower of its obligation to indemnify the City under Section 7.4 of this Agreement, or liability for (i) fraud or willful misrepresentation; (ii) the failure to pay taxes, assessments or other charges which may create liens on the Property that are payable or applicable prior to any foreclosure under the Land Use Restriction Agreement (to the full extent of such taxes, assessments or other charges); (iii) the fair market value of any personal property or fixtures removed or disposed of by Borrower other than in accordance with the Land Use Restriction Agreement; and (iv) the misappropriation of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss or destruction to any portion of the Property.

ARTICLE 3 CONSTRUCTION OF THE DEVELOPMENT

Section 3.1 Permits and Approvals

All permits and approvals necessary for the construction of the Development on the Property must be received no later than October 1, 2024, or such later date that the City may approve, or the City, at its option, and with forty-five (45) days' written notice and opportunity to cure, may declare Borrower in default hereunder.

Section 3.2 Construction Plans.

(a) Simultaneously with submission to the City of Las Cruces Community Development Department ("Development Department") the Borrower shall submit to the City a copy of the Construction Plans for the Development. As used in this Agreement, "Construction Plans" shall mean all construction documentation upon which Borrower and Borrower's contractor shall rely in constructing all the improvements on the Property (including the Units, the community building, landscaping, parking, and common areas) and shall include, but not necessarily be limited to, final architectural drawings, landscaping plans and specifications, final elevations, and building plans and specifications (also known as "working drawings").

(b) If the Construction Plans submitted to the City Development Department conform to the provisions of this Agreement, the City shall approve in writing the Construction Plans. Such approval of the Construction Plans by the City shall not relieve Borrower's Obligation to obtain any and all other approvals required by the City Departments.

(c) If rejected by the City in whole or in part, Borrower shall submit new or corrected Construction Plans no more than thirty (30) business days after notification of the City's rejection and the reasons therefor. The City shall then have fifteen (15) days to review and approve Borrower's new or corrected Construction Plans. The provisions of this Section relating to time periods for approval, rejection, or resubmission of a new or corrected Construction Plans shall continue to apply until the Construction Plans have been approved by the City.

Section 3.3 Construction Contract.

(a) Not later than thirty (30) days prior to the proposed commencement of construction of the Development, the Borrower shall submit to the City a copy of its proposed construction contract for the Development. All construction work and professional services shall be performed by persons or entities licensed or otherwise lawfully authorized to perform the applicable construction work or service in the State of New Mexico.

Section 3.4 Construction Bonds.

Prior to commencement of construction of the Development, the Borrower's General Contractor shall deliver to the City copies of labor and material bonds and performance bonds for the construction of the Development in an amount equal to one hundred percent (100%) of the scheduled cost of the Development. Such bonds shall name the City as a co-obligee.

Section 3.5 Commencement of Construction.

Borrower shall cause the commencement of construction of the Development no later than October 1, 2024, or such later date that the City may approve.

Section 3.6 Completion of Construction.

Borrower shall diligently prosecute construction of the Development to completion and shall cause the completion of the construction of the Development no later than June 30, 2026, or such later date that the City may approve.

Section 3.7 Construction Pursuant to Plans and Laws; Prevailing Wages.

(a) To the extent required by applicable law, the Borrower shall cause construction of the Development to be in compliance with the prevailing wage requirements of the federal Davis-Bacon Act (40 USC 3141-3148).

(b) The Borrower shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the City) the City against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including the Borrower, its contractor and subcontractors) to pay prevailing wages as determined pursuant to the prevailing wage provisions of the federal Davis-Bacon Act in connection with the construction pursuant to this Agreement, of the Development or any other work undertaken or in connection with the Property and shall indemnify and hold the City harmless against damages, compensation, fines, penalties or other amounts resulting from the successful prosecution of such claim. The requirements in this Subsection shall survive repayment of the Loan, the release, expiration or termination of the Land Use Restriction Agreement.

(c) Borrower shall construct the Development in conformance with the plans and specifications approved by the Development Department. Borrower shall notify the City in a timely manner of any changes in the work required to be performed under this Agreement, including any additions, changes, or deletions to the plans and specifications approved by the City.

Section 3.8 Marketing Plan.

(a) No later than three (3) months prior to the projected date of the completion of the Development, Borrower shall submit to the City, its plan for marketing the Development to income-eligible households, including information on affirmative marketing efforts and compliance with fair housing laws, including, but not limited to the information required under 24 C.F.R. Section 92.351(a) (the "Marketing Plan").

Section 3.9 Equal Opportunity.

During the construction of the Development there shall be no discrimination on the basis of race, color, religion, age, disability, sex, sexual orientation, marital status, familial status, genetic information, gender identity, serious medical condition, domestic abuse leave, source of income, ancestry or national origin or any other characteristic protected by federal, state or local law in the hiring, firing, promoting, or demoting of any person engaged in the construction of the Development.

Section 3.10 Minority and Women-Owned Contractors.

Borrower will use its best efforts to afford minority-owned and women-owned business enterprises the maximum practicable opportunity to participate in the construction of the Development. Borrower shall, at a minimum, notify applicable minority-owned and women-owned business firms located in the City of Las Cruces or surrounding areas of bid opportunities for the construction of the Development. Documentation of such notifications shall be maintained by Borrower and available to the City as requested.

Section 3.11 Progress Reports.

Until such time as Borrower has received a certificate of occupancy from the City for the Development, Borrower shall provide the City with quarterly progress reports regarding the status of the construction of the Development, including a certification that the actual construction costs to date conform to the Approved Development Budget, as it may be amended from time to time.

Section 3.12 Construction Responsibilities.

(a) It shall be the responsibility of Borrower to coordinate and schedule the work to be performed so that commencement and completion of the construction will take place in accordance with this Agreement.

(b) It shall be the responsibility of Borrower to coordinate and schedule the work to be performed so that commencement and completion of the construction will take place in accordance with this Agreement.

(c) Borrower shall be solely responsible for all aspects of Borrower's conduct in connection with the Development, including (but not limited to) the quality and suitability of the plans and specifications, the supervision of construction or work, and the qualifications, financial condition, and performance of all architects, engineers, contractors, subcontractors, suppliers, consultants, and property managers. Any review or inspection undertaken by the City with reference to the Development is solely for the purpose of determining whether Borrower is properly discharging its obligations to the City and should not be relied upon by Borrower or by any third parties as a warranty or representation by the City as to the quality of the design or construction of the Development.

Section 3.13 Mechanics Liens, Stop Notices, and Notices of Completion.

(a) If any claim of lien is filed against the Property or a stop notice affecting the Loan is served on the City or any other lender or other third party in connection with the Development, then Borrower shall, within twenty (20) days after such filing or service, either pay and fully discharge the lien or stop notice, effect the release of such lien or stop notice by delivering to the City a surety bond in sufficient form and amount, or provide the City with other assurance satisfactory to the City that the claim of lien or stop notice will be paid or discharged.

(b) If Borrower fails to discharge any lien, encumbrance, charge, or claim in the manner required in this Section, then in addition to any other right or remedy, the City may (but shall be under no obligation to) discharge such lien, encumbrance, charge, or claim at Borrower's expense. Alternately, the City may require Borrower to immediately deposit with the City the amount necessary to satisfy such lien or claim and any costs, pending resolution thereof. The City may use such a deposit to satisfy any claim or lien that is adversely determined against Borrower.

(c) Borrower shall file a valid notice of cessation or notice of completion upon cessation of construction on the Development for a continuous period of thirty (30) days or more and take all other reasonable steps to forestall the assertion of claims of lien against the Property. Borrower authorizes the City, but without any obligation, to record any notices of completion or cessation of labor, or any other notice that the City deems necessary or desirable to protect its interest in the Development and Property.

Section 3.14 Inspections.

Borrower shall permit and facilitate, and shall require its contractors to permit and facilitate, observation and inspection at the Development by the City and by public authorities during reasonable business hours for the purposes of determining compliance with this Agreement.

Section 3.15 Approved Development Budget; Revisions to Budget.

As of the date of this Agreement, the City has approved the Approved Development Budget. Borrower shall submit any required amendments to the Approved Development Budget to the City for approval within five (5) days of the date Borrower receives information indicating that actual costs of the Development vary or will vary from the costs shown on the Approved Development Budget. Written consent of the City shall be required to amend the Approved Development Budget.

Section 3.16. Developer Fee.

The maximum cumulative developer fee that may be paid to any entity or entities providing development services to the Development, whether paid up-front or on a deferred basis, shall not exceed the amount allowed by MFA's Low Income Housing Tax Credit requirements.

Section 3.17 NEPA Mitigation Requirements.

Borrower shall comply with any and all applicable NEPA mitigation requirements attached as Attachment D to this Agreement and incorporated by this reference, if applicable.

ARTICLE 4 LOAN REQUIREMENTS.

Section 4.1 Financial Accountings and Post- Completion Audits.

No later than sixty (60) days following completion of construction of the Development, Borrower shall provide to City a financial accounting of all sources and uses of funds for the Development. No later than one hundred fifty (150) days following completion of construction of the Development, Borrower shall submit an audited financial report showing the sources and uses of all funds utilized for the Development.

Section 4.2 Annual Operating Budget.

At least 150 days prior to the end of each year of the Term, Borrower shall provide to the City an annual budget for the operation of the Development. Unless rejected by the City in writing within fifteen (15) business days after receipt of the budget, said budget shall be deemed accepted. If rejected by the City in whole or in part, Borrower shall submit a new or corrected budget within thirty (30) calendar days of notification of the City's rejection and the reasons therefor. The provisions of this Section relating to time periods for resubmission of new or corrected budgets shall continue to apply until such budget has been approved by the City.

Section 4.3 Records.

(a) The Borrower shall keep and maintain at the Development, or elsewhere with the City's written consent, full, complete and appropriate books, record and accounts relating to the Development,

including all such books, records and accounts necessary or prudent to evidence and substantiate in full detail Borrower's compliance with the terms and provisions of this Agreement. Books, records and accounts relating to Borrower's compliance with the terms, provisions, covenants and conditions of this Agreement shall be kept and maintained in accordance with generally accepted accounting principles consistently applied and shall be consistent with requirements of this Agreement. All such books, records, and accounts shall be open to and available for inspection and copying by the Approved Financing lenders, the City, its auditors or other authorized representatives at reasonable intervals during normal business hours. Copies of all tax returns and other reports that Borrower may be required to furnish to any governmental agency shall at all reasonable times be open for inspection by the City at the place that the books, records and accounts of the Borrower are kept. All supporting documents shall be maintained in accordance with the requirements of 24 CFR §85.20. The Borrower shall preserve such records for a period of not less than five (5) years after the creation of such records in compliance with all HUD records and accounting requirements. If any litigation, claim, negotiation, audit exception, monitoring, inspection or other action relating to the use of the Loan is pending at the end of the record retention period stated herein, then the Borrower shall retain such records until such action and all related issues are resolved. Such records shall include all invoices, receipts, and other documents related to expenditures from the Loan funds. Such records shall include but not be limited to:

- (i) Records providing a full description of the activities undertaken with the use of the Loan funds;
- (ii) Records demonstrating compliance with the HUD property standards and lead-based paint requirements;
- (iii) Records demonstrating compliance with the affordability and income requirements for tenants;
- (iv) Records documenting compliance with the fair housing, equal opportunity, and affirmative fair marketing requirements;
- (v) Records demonstrating compliance with applicable relocation requirements which must be retained for at least five (5) years after the date by which persons displaced from the property have received final payments;
- (vi) Records demonstrating that tenant leases comply with the applicable funding requirements;
- (vii) Records demonstrating compliance with Section 3, and labor requirements, including certified payrolls from the Borrower's general contractor evidencing that applicable prevailing wages have been paid, if applicable;
- (viii) Financial records as required by 2 CFR 200 subpart F *et seq*, as amended from time to time.

(b) The City shall notify Borrower of any records it deems insufficient. Borrower shall have fifteen (15) calendar days after the receipt of such a notice to correct any deficiency in the records specified by the City in such notice, or if a period longer than fifteen (15) days is reasonably

necessary to correct the deficiency, then Borrower shall begin to correct the deficiency within fifteen (15) days and correct the deficiency as soon as reasonably possible.

Section 4.4 City Audits.

Each year during the Term, Borrower shall provide the City with a copy of Borrower's annual audit within 30 days after its completion, which shall include information on all of Borrower's activities and not just those pertaining to the Development. In addition, the City or any designated agent or employee of the City at any time shall be entitled to audit all of Borrower's books, records, and accounts pertaining thereto. Such audit shall be conducted during normal business hours at the principal place of business of Borrower and other places where records are kept. Immediately after the completion of an audit, the City shall deliver a copy of the results of such audit to Borrower.

Section 4.5 Hazardous Materials.

(a) Borrower shall keep and maintain the Property in compliance with and shall not cause or permit the Property to be in violation of any federal, state or local laws, ordinances or regulations relating to industrial hygiene or to the environmental conditions on, under or about the Property including, but not limited to, soil and ground water conditions. Borrower shall not use, generate, manufacture, store or dispose of on, under, or about the Property or transport to or from the Property any flammable explosives, radioactive materials, hazardous wastes, toxic substances or related materials, including without limitation, any substances defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials", or "toxic substances" under any applicable federal or state laws or regulations (collectively referred to hereinafter as "Hazardous Materials") except such of the foregoing as may be customarily used in construction of projects like the Development or kept and used in and about residential property of this type.

(b) Borrower shall immediately advise the City in writing if at any time it receives written notice of (i) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against Borrower or the Property pursuant to any applicable federal, state or local laws, ordinances, or regulations relating to any Hazardous Materials, ("Hazardous Materials Law"); (ii) all claims made or threatened by any third party against Borrower or the Property relating to damage, contribution, cost recovery compensation, loss or injury resulting from any Hazardous Materials (the matters set forth in clauses (i) and (ii) above are hereinafter referred to as "Hazardous Materials Claims"); and (iii) Borrower's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could cause the Property or any part thereof to be classified as "border-zone property" or any regulation adopted in accordance therewith, or to be otherwise subject to any restrictions on the ownership, occupancy, transferability or use of the Property under any Hazardous Materials Law.

(c) The City shall have the right to join and participate as a party if it so elects, in any legal proceedings or actions initiated in connection with any Hazardous Materials Claims and to have its reasonable attorneys' fees in connection therewith paid by Borrower. Borrower shall indemnify and hold harmless the City and its board members, supervisors, directors, officers, employees, agents, successors and assigns from and against any loss, damage, cost, expense or liability directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal, or presence of Hazardous Materials on, under, or about the Property including

without limitation: (i) all foreseeable consequential damages; (ii) the costs of any required or necessary repair, cleanup or detoxification of the Property and the preparation and implementation of any closure, remedial or other required plans; and (iii) all reasonable costs and expenses incurred by the City in connection with clauses (i) and (ii), including but not limited to reasonable attorneys' fees and consultant's fees. This indemnification applies whether or not any government agency has issued a cleanup order. Losses, claims, costs, suits, liability, and expenses covered by this indemnification provision include, but are not limited to: (1) losses attributable to diminution in the value of the Property; (2) loss or restriction of use of rentable space on the Property; (3) adverse effect on the marketing of any rental space on the Property; and (4) penalties and fines levied by, and remedial or enforcement actions of any kind issued by any regulatory agency (including but not limited to the costs of any required testing, remediation, repair, removal, cleanup or detoxification of the Property and surrounding properties). This obligation to indemnify shall survive termination of this Agreement.

(d) Without the City's prior written consent, which shall not be unreasonably withheld, Borrower shall not take any remedial action in response to the presence of any Hazardous Materials on, under or about the Property, nor enter into any settlement agreement, consent decree, or other compromise in respect to any Hazardous Material Claims, which remedial action, settlement, consent decree or compromise might, in the City's reasonable judgment, impair the value of the City's security hereunder; provided, however, that the City's prior consent shall not be necessary in the event that the presence of Hazardous Materials on, under, or about the Property either poses an immediate threat to the health, safety or welfare of any individual or is of such a nature that an immediate remedial response is necessary and it is not reasonably possible to obtain the City's consent before taking such action, provided that in such event Borrower shall notify the City as soon as practicable of any action so taken. The City agrees not to withhold its consent, where such consent is required hereunder, if (i) a particular remedial action is ordered by a court of competent jurisdiction, (ii) Borrower will or may be subjected to civil or criminal sanctions or penalties if it fails to take a required action; (iii) Borrower establishes to the reasonable satisfaction of the City that there is no reasonable alternative to such remedial action which would result in less impairment of the City's security hereunder; or (iv) the action has been agreed to by the City.

(e) Borrower hereby acknowledges and agrees that (i) this Section is intended as the City's written request for information (and Borrower's response) concerning the environmental condition of the Property as required by state, local, and federal regulations and (ii) each representation and warranty in this Agreement (together with any indemnity obligation applicable to a breach of any such representation and warranty) with respect to the environmental condition of the Property is intended by the Parties to be an "environmental provision" for purposes of state, local, and federal regulations.

(f) In the event that any portion of the Property is determined to be "environmentally impaired" or to be an "affected parcel", then, without otherwise limiting or in any way affecting the City's or the trustee's rights and remedies under the Land Use Restriction Agreement, the City may (1) waive its lien on such environmentally impaired or affected portion of the Property and (2) exercise (i) the rights and remedies of an unsecured creditor, including reduction of its claim against the Borrower to judgment, and (ii) any other rights and remedies permitted by law. The Borrower shall be deemed to have willfully permitted or acquiesced in a release or threatened release of

Hazardous Materials, if the release or threatened release of Hazardous Materials was knowingly or negligently caused or contributed to by any lessee, occupant, or user of any portion of the Property and the Borrower knew or should have known of the activity by such lessee, occupant, or user which caused or contributed to the release or threatened release. All costs and expenses, including (but not limited to) attorneys' fees, incurred by the City in connection with any action commenced under this paragraph, including any action required by local and State laws, to determine the degree to which the Property is environmentally impaired, plus interest thereon at the lesser of ten percent (10%) and the maximum rate permitted by law, until paid, shall be added to the indebtedness secured by the Land Use Restriction Agreement shall be due and payable to the City upon its demand made at any time following the conclusion of such action.

Section 4.6 Maintenance and Damage.

(a) During the course of both construction and operation of the Development, Borrower shall maintain the Development and the Property in good repair and in a neat, clean and orderly condition. If there arises a condition in contravention of this requirement, and if Borrower has not cured such condition within thirty (30) days after receiving a City notice of such a condition, then in addition to any other rights available to the City, the City shall have the right (but not the obligation) to perform all acts necessary to cure such condition, and to establish or enforce a lien or other encumbrance against the Property as security for reimbursement of the City's costs incurred in effecting such cure.

(b) Subject to the requirements of Senior Lenders, and if economically feasible in the City's reasonable judgment after consultation with the Borrower, if any improvement now or in the future on the Property is damaged or destroyed, then Borrower shall, at its cost and expense, diligently undertake to repair or restore such improvement consistent with the plans and specifications approved by the City with such changes as have been approved by the City.

(c) Such work or repair shall be commenced no later than the later of one hundred twenty (120) days, or such longer period approved by the City in writing, after the damage or loss occurs or thirty (30) days following receipt of the insurance proceeds and shall be complete within one (1) year thereafter. Any insurance proceeds collected for such damage or destruction shall be applied to the cost of such repairs or restoration and, if such insurance proceeds shall be insufficient for such purpose, then Borrower shall make up the deficiency. If Borrower does not make repairs, then any insurance proceeds collected for such damage or destruction shall be distributed as if such proceeds were Residual Receipts (as defined in this Agreement, subject to the rights of the Senior Lenders.

Section 4.7 Fees and Taxes.

Borrower shall be solely responsible for payment of all fees, assessments, taxes, charges, and levies imposed by any public authority or utility company with respect to the Property or the Development to the extent owned by Borrower and shall pay such charges prior to delinquency. However, Borrower shall not be required to pay and discharge any such charge so long as (a) the legality thereof is being contested diligently and in good faith and by appropriate proceedings, and (b) if requested by the City, Borrower deposits with the City any funds or other forms of assurance that the City in good faith from time to time determines appropriate to protect the City from the consequences of the contest being unsuccessful.

Section 4.8 Notice of Litigation.

Borrower shall promptly notify the City in writing of any litigation which has the potential to materially affect Borrower or the Property and of any claims or disputes that involve a material risk of such litigation.

Section 4.9 Operation of Development as Affordable Housing.

(a) Promptly after completion of construction or rehabilitation, the Borrower shall operate the Development as an affordable housing development consistent with requirements for use of all Approved Financing and the Mortgage and Security Agreement and Land Use Restriction Agreement.

(b) Before leasing any Unit in the Development, the Borrower shall submit its proposed form of lease agreement for the City's review.

(c) Before leasing the Development, the Borrower must provide the City, for its review, with the Borrower's written tenant selection plan. Borrower's tenant selection plan must, at a minimum, meet the requirements for tenant selection set out in 24 C.F.R. 92.253 and any modifications thereto.

(d) The Borrower shall determine the income eligibility of each tenant household in pursuant to the MFA's tenant selection procedures no more than sixty (60) days before the household's expected occupancy of one of the Development's Restricted Units. The Borrower shall comply with tenant certification requirements of any and all applicable Approved Financing.

(e) The maximum household income of a household occupying a Restricted Unit in the Development, and the total charges for rent, utilities, and related services to each household occupying a Restricted Unit shall be maintained as provided in the Land Use Restriction Agreement.

Section 4.10 Nondiscrimination.

(a) The Borrower covenants by and for itself and its successors and assigns that there shall be no discrimination against or segregation of a person or of a group of persons on account of race, color, religion, age, disability, sex, sexual orientation, marital status, genetic information, gender identity, serious medical condition, domestic abuse leave, source of income, ancestry or national origin in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall the Borrower or any person claiming under or through the Borrower establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the Property. The foregoing covenant shall run with the land.

Section 4.11 Transfer.

(a) For purposes of this Agreement, "Transfer" shall mean any sale, assignment, or transfer, whether voluntary or involuntary, of (i) any rights and/or duties under this Agreement, and/or (ii) any interest in the Development, including (but not limited to) a fee simple interest, a joint tenancy interest, a life estate, a partnership interest, a mortgage interest, a security interest, or an interest evidenced by a land contract by which possession of the Development is transferred

and Borrower retains title. "Transfer" shall exclude the leasing of any single unit in the Development to an occupant in compliance with the Land Use Restriction Agreement. The City Manager is authorized to execute assignment and assumption agreements on behalf of the City to implement any approved Transfer.

(b) No Transfer shall be permitted without the prior written consent of the City, which the City may withhold in its sole discretion. The Loan shall automatically accelerate and be due in full upon any Transfer made without the prior written consent of the City.

(c) The City approves the grant of the security interests in the Property described in this Agreement.

Section 4.12 Insurance Requirements.

As applicable during construction the Borrower shall maintain the insurance and the following insurance coverage throughout the term of construction:

- (a) Builders Risk Policy to the extent required by law, with limits not less than the total development costs of the project.
- (b) Commercial General Liability Policy to the extent required by law, with the City named as additional insured with waiver of subrogation, with limits not less than One Million Dollars (\$1,000,000) each accident.

As applicable during construction the General Contractor shall maintain the insurance and the following insurance coverage throughout the term of construction:

- (a) Commercial General Liability Policy to the extent required by law, with the City named as additional insured with waiver of subrogation, with limits not less than One Million Dollars (\$1,000,000) each accident. The policy shall also contain Comprehensive Auto Liability and Workers Compensation coverage, with limits not less than One Million Dollars (\$1,000,000) each accident.

As applicable post construction the Borrower shall maintain the insurance and the following insurance coverage throughout the term of affordability or until City loan is paid in full, whichever occurs latest:

- (a) Commercial General Liability Policy to the extent required by law, with the City named as additional insured with waiver of subrogation, with coverage not less than the final value of the property estimated at not less than Thirty-Nine Million, Five Hundred Five Thousand Eight Hundred Forty-Six Dollars (\$39,505,846).

(b) The Borrower shall cause any general contractor, agent, or subcontractor working on the Development under direct contract with the Borrower or subcontract to maintain insurance of the types and in at least the minimum amounts described in subsections (a), (b), and (c) above, except that the limit of liability for comprehensive general liability insurance for subcontractors shall be One Million Dollars (\$1,000,000), and shall require that such insurance shall meet all of the general requirements of subsections (f), (g), and (h) below, including, without limitation, the requirement of subsection (g). Liability and Comprehensive Automobile Liability insurance to be

maintained by such contractors and agents pursuant to this subsection shall name as additional insureds the City.

(c) All policies and bonds shall contain (i) the agreement of the insurer to give the City at least thirty (30) days' notice prior to cancellation (including, without limitation, for non-payment of premium) or any material change in said policies; (ii) an agreement that such policies are primary and non-contributing with any insurance that may be carried by the City; (iii) a provision that no act or omission of the Borrower shall affect or limit the obligation of the insurance carrier to pay the amount of any loss sustained; and (iv) a waiver by the insurer of all rights of subrogation against the City and its authorized parties in connection with any loss or damage thereby insured against.

Section 4.13 Anti-Lobbying Certification.

The Borrower certifies, to the best of Borrower's knowledge or belief, that:

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

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, grant, loan, or cooperative agreement, it will notify the City prior to execution of this Agreement and related documents.

This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than Ten Thousand Dollars (\$10,000) and no more than One Hundred Thousand Dollars (\$100,000) for such failure.

ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF BORROWER.

Section 5.1 Representations and Warranties.

Borrower hereby represents and warrants to the City as follows:

(a) Organization. Borrower is in existing and in good standing under the laws of the State of New Mexico and has the power and authority to own its property and carry on its business as now being conducted.

(b) Authority of Borrower. Borrower has full power and authority to execute and deliver this Agreement and to make and accept the borrowings contemplated hereunder, to execute and deliver the Loan Documents and all other documents or instruments executed and

delivered, or to be executed and delivered, pursuant to this Agreement, and to perform and observe the terms and provisions of all of the above.

(c) Authority of Persons Executing Documents. This Agreement and the Loan Documents and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement have been executed and delivered by persons who are duly authorized to execute and deliver the same for and on behalf of Borrower, and all actions required under Borrower's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Agreement and the Loan Documents and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, have been duly taken.

(d) Valid Binding Agreements. This Agreement and the Loan Documents and all other documents or instruments which have been executed and delivered pursuant to or in connection with this Agreement constitute or, if not yet executed or delivered, will when so executed and delivered constitute, legal, valid and binding obligations of Borrower enforceable against it in accordance with their respective terms.

(e) No Breach of Law or Agreement. Neither the execution nor delivery of this Agreement and the Loan Documents or of any other documents or instruments executed and delivered, or to be executed or delivered, pursuant to this Agreement, nor the performance of any provision, condition, covenant or other term hereof or thereof, will conflict with or result in a breach of any statute, rule or regulation, or any judgment, decree or order of any court, board, commission or agency whatsoever binding on Borrower, or any provision of the organizational documents of Borrower, or will conflict with or constitute a breach of or a default under any agreement to which Borrower is a party or will result in the creation or imposition of any lien upon any assets or property of Borrower, other than liens established pursuant hereto.

(f) Compliance With Laws; Consents and Approvals. The construction of the Development will comply with all applicable laws, ordinances, rules and regulations of federal, state and local governments and agencies and with all applicable directions, rules and regulations of the fire marshal, health officer, building inspector and other officers of any such government or agency.

(g) Pending Proceedings. Borrower is not in default under any law or regulation or under any order of any court, board, commission or agency whatsoever, and there are no claims, actions, suits or proceedings pending or, to the knowledge of Borrower, threatened against or affecting Borrower or the Development, at law or in equity, before or by any court, board, commission or agency whatsoever which might, if determined adversely to Borrower, materially affect Borrower's ability to repay the Loan or impair the security to be given to the City pursuant hereto.

(h) Title to Land. At the time of recordation of the Mortgage and Security agreement and Land Use Restriction Agreement, Borrower will have good and marketable fee title to the Development and there will exist thereon or with respect thereto no mortgage, lien, pledge or other encumbrance of any character whatsoever other than liens for current real property taxes and liens

in favor of the City or as approved in writing by the City, including liens related to or securing the Approved Financing.

(i) Financial Statements. The financial statements of Borrower and other financial data and information furnished by Borrower to the City fairly and accurately present the information contained therein. As of the date of this Agreement, there has not been any adverse, material change in the financial condition of Borrower from that shown by such financial statements and other data and information.

(j) Sufficient Funds. Borrower holds sufficient funds and/or binding commitments for sufficient funds to complete the acquisition of the Property and the construction of the Development in accordance with the plans and specifications approved by the City.

(k) Taxes. Borrower and its subsidiaries have filed all federal and other material tax returns and reports required to be filed, and have paid all federal and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their income or the Property otherwise due and payable, except those which are being contested in good faith by appropriate proceedings and for which adequate reserves have been provided in accordance with generally accepted accounting principles. There is no proposed tax assessment against Borrower or any of its subsidiaries that could, if made, be reasonably expected to have a material adverse effect upon the Property, liabilities (actual or contingent), operations, condition (financial or otherwise) or prospects of the Borrower and its subsidiaries, taken as a whole, which would be expected to result in a material impairment of the ability of Borrower to perform under any Loan Document, or a material adverse effect upon the legality, validity, binding effect or enforceability against Borrower of any Loan Document.

ARTICLE 6 DEFAULT AND REMEDIES

Section 6.1 Evidence of Default.

Each of the following shall constitute "Default" by Borrower under this Agreement.

(a) Failure to Construct. Failure of Borrower to commence and complete construction of the Development within the times set forth in Article 3 above.

(b) Failure to Make Payment. Failure to repay the principal and any interest on the Loan within ten (10) days after receipt of written notice from the City that such payment is due pursuant to the Loan Documents.

(c) Breach of Covenants. Failure by Borrower to duly perform, comply with, or observe any of the conditions, terms, or covenants of any of the Loan Documents, and such failure having continued uncured for thirty (30) days after receipt of written notice thereof from the City to the Borrower and to any limited partner of the Borrower who has requested written notice from the City of such failure (a "Permitted Limited Partner") or, if the breach cannot be cured within thirty (30) days, the Borrower shall not be in breach so long as Borrower is diligently undertaking to cure such breach and such breach is cured within ninety (90) days; provided, however, that if a different period or notice requirement is specified under any other section of this Article 6, the specific provisions

shall control. The Permitted Limited Partner shall have thirty (30) additional days to cure a breach beyond the cure periods for the Borrower described in this subsection. If a Permitted Limited Partner cannot cure a Default because the Borrower's general partner is in bankruptcy and/or because the cure requires removal of the general partner of the Borrower and the Permitted Limited Partner is proceeding diligently to remove the general partner of the Borrower in order to effect a cure of the Default, the cure period shall be extended for such reasonable time as is necessary for the Permitted Limited Partner to effect a cure of the Default, but in no event longer than one hundred eighty (180) days after the date of receipt by the Permitted Limited Partner of written notice of Default.

(d) Default Under Other Loans. A default is declared under any other financing for the Development by the lender of such financing after any applicable notice and opportunity to cure period.

(e) Liens on Property and the Development. There shall be filed any claim of lien (other than liens approved in writing by the City) against the Development or any part thereof, or any interest or right made appurtenant thereto, or the service of any notice to withhold proceeds of the Loan and the continued maintenance of said claim of lien or notice to withhold for a period of thirty (30) days, without discharge or satisfaction thereof or provision therefor (including, without limitation, the posting of bonds) satisfactory to the City.

(f) Suspension; Termination. Borrower shall have voluntarily suspended its business or, if Borrower is a partnership, the partnership shall have been dissolved or terminated, other than a technical termination of the partnership for tax purposes.

(g) Condemnation. The condemnation, seizure, or appropriation of all or the substantial part of the Property and the Development.

(h) Representation or Warranty Incorrect. Any Borrower representation or warranty contained in this Agreement, or in any application, financial statement, certificate, or report submitted to the City in connection with any of the Loan Documents, proving to have been incorrect in any material respect when made. After issuance of the certificates of occupancy for the Development, Default may be declared under this subsection only if the failure of representation or warranty also has a material adverse effect on the operation of the Development.

Section 6.2 Remedies.

The occurrence of any Default hereunder following the expiration of all applicable notice and cure periods will, either at the option of the City or automatically where so specified, relieve the City of any obligation to make or continue the Loan and shall give the City the right to proceed with any and all remedies set forth in this Agreement and the Loan Documents, including but not limited to the following:

(a) Acceleration of Note. The City shall have the right to cause all indebtedness of the Borrower to the City under this Agreement and the Note, together with any accrued interest thereon, to become immediately due and payable. The Borrower waives all right to presentment, demand, protest or notice of protest or dishonor. The City may proceed to enforce payment of the indebtedness and to exercise any or all rights afforded to the City as a creditor and secured party

under all applicable laws, including foreclosure under the Land Use Restriction Agreement. The Borrower shall be liable to pay the City on demand all reasonable expenses, costs and fees (including, without limitation, reasonable attorney's fees and expenses) paid or incurred by the City in connection with the collection of the Loan and the preservation, maintenance, protection, sale, or other disposition of the security given for the Loan.

(b) Specific Performance. The City shall have the right to mandamus or other suit, action or proceeding at law or in equity to require Borrower to perform its obligations and covenants under the Loan Documents or to enjoin acts on things which may be unlawful or in violation of the provisions of the Loan Documents.

(c) Right to Cure at Borrower's Expense. The City shall have the right (but not the obligation) to cure any monetary default by Borrower under a loan other than the Loan. The Borrower agrees to reimburse the City for any funds advanced by the City to cure a monetary default by Borrower upon demand therefor, together with interest of twelve (12%) per annum (the "Default Rate") from the date of expenditure until the date of reimbursement.

Section 6.3 Right to Contest.

Borrower shall have the right to contest in good faith any claim, demand, levy, or assessment the assertion of which would constitute a Default hereunder. Any such contest shall be prosecuted diligently and, in a manner not prejudicial to the City or the rights of the City hereunder.

Section 6.4 Remedies Cumulative.

No right, power, or remedy given to the City by the terms of this Agreement or the Loan Documents is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy given to the City by the terms of any such instrument, or by any statute or otherwise against Borrower and any other person. Neither the failure nor any delay on the part of the City to exercise any such rights and remedies shall operate as a waiver thereof, nor shall any single or partial exercise by the City of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

ARTICLE 7 GENERAL PROVISIONS

Section 7.1 Relationship of Parties.

Nothing contained in this Agreement shall be interpreted or understood by any of the Parties, or by any third persons, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between the City and Borrower or its agents, employees or contractors, and Borrower shall at all times be deemed an independent contractor and shall be wholly responsible for the manner in which it or its agents, or both, perform the services required of it by the terms of this Agreement. Borrower has and retains the right to exercise full control of employment, direction, compensation, and discharge of all persons assisting in the performance of services under the Agreement. In regard to the construction and operation of the Development, Borrower shall be solely responsible for all matters relating to payment of its employees, including compliance with Social Security,

withholding, and all other laws and regulations governing such matters, and shall include requirements in each contract that contractors shall be solely responsible for similar matters relating to their employees. Borrower shall be solely responsible for its own acts and those of its agents and employees.

Section 7.2 No Claims.

Nothing contained in this Agreement shall create or justify any claim against the City by any person that Borrower may have employed or with whom Borrower may have contracted relative to the purchase of materials, supplies or equipment, or the furnishing or the performance of any work or services with respect to the purchase of the Property, the construction or operation of the Development, and Borrower shall include similar requirements in any contracts entered into for the construction or operation of the Development.

Section 7.3 Amendments.

No alteration or variation of the terms of this Agreement shall be valid unless made in writing by the Parties. The City Manager or its designee is authorized to execute on behalf of the City amendments to the Loan Documents or amended and restated Loan Documents as long as any material change in the amount or terms of this Agreement is approved by the City Council, or in the event the amounts or terms of financing provided by other parties for the Development is revised, requiring conforming amendments to the City Loan documents.

Section 7.4 Indemnification.

The Borrower shall indemnify, defend and hold the City harmless against any and all claims, suits, actions, losses and liability of every kind, nature and description made against it and expenses (including reasonable attorneys' fees) which arise out of or in connection with this Agreement, including but not limited to the purchase of the Property, development, construction marketing and operation of the Development, except to the extent such claim arises from the grossly negligent or willful misconduct of the City, its agents, and its employees. The provisions of this Section shall survive the expiration of the Term and the release of the Land Use Restriction Agreement.

Section 7.5 Non-Liability of City Officials, Employees and Agents.

Pursuant to applicable local, state, and federal statutes and regulations, no member, official, employee or agent of the City shall be personally liable to Borrower in the event of any default or breach by the City or for any amount which may become due to Borrower or its successor or on any obligation under the terms of this Agreement.

Section 7.6 No Third-Party Beneficiaries.

There shall be no third-party beneficiaries to this Agreement.

Section 7.7 Discretion Retained by City.

The City's execution of this Agreement in no way limits the discretion of the City in the permit and approval process in connection with the development of the Development.

Section 7.8 Conflict of Interest.

Agenda Item #8.1.

(a) Disclosure upon assumption of office. Each candidate for councilor and mayor shall within five (5) working days after filing their nomination petition, file a disclosure statement identifying the following:

1. All business and civic group interests, including both policy and financial interests, of the councilor or mayor.
2. All trusts of which the councilor or mayor is a beneficiary.
3. All investments of the councilor or mayor including real estate holdings. In this respect, the real estate holdings shall include a legal description or other description sufficient to identify the location and extent of the property.

The council shall determine the format of the disclosure statement. The disclosure statement shall not require valuation of the assets owned by the councilor or mayor nor the number of shares of ownership in limited partnerships or corporations wherein that individual is an owner. The disclosure statement shall be filed with the city clerk and shall be updated annually thereafter by the councilor or mayor during his or her term of office. This report shall be a public record. It is intended that this section be broadly construed.

(b) Disclosure at council meeting. A councilor or mayor who has any private financial interest, direct or indirect, in any matter pending before or within the city or council shall disclose such private interest immediately. The council then shall determine if that councilor or mayor shall be disqualified from participating in any debate, decision or vote related thereto. Violation of this section shall render the contract, sale or purchase voidable at the option of the council.

(c) Employees' conflicts of interest. The city shall adopt, by ordinance or resolution, a policy for municipal employees prohibiting employees' conflicts of interest and dealing with violations of such policy.

Section 7.9 Notices, Demands and Communications.

Formal notices, demands, and communications between the Parties shall be sufficiently given if and shall not be deemed given unless dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered by express delivery service, return receipt requested, or delivered personally, to the principal office of the Parties as follows:

City:

City of Las Cruces
700 N Main
Las Cruces, NM 88001
Attn: Housing and Neighborhood Revitalization Administrator

Borrower:

Peachtree Canyon Apartments LLLP
113 E. 1st Ave.
Truth or Consequences, NM 87901

With a copy to:

Law Office of Mark Berry
1 Wren
Littleton CO 80127

Investor:

Affordable Housing Partners
1314 Douglas ST Ste 1400
Omaha, NE 68102-1944

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected Party may from time to time designate by mail as provided in this Section. Receipt shall be deemed to have occurred on the date shown on a written receipt as the date of delivery or refusal of delivery (or attempted delivery if undeliverable).

Section 7.10 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico.

Section 7.11 Parties Bound. Except as otherwise limited herein, the provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and their heirs, executors, administrators, legal representatives, successors, and assigns. This Agreement is intended to run with the land and shall bind Borrower and its successors and assigns in the Property and the Development for the entire Term, and the benefit hereof shall inure to the benefit of the City and its successors and assigns.

Section 7.12 Attorneys' Fees. If any lawsuit is commenced to enforce any of the terms of this Agreement, the prevailing Party will have the right to recover its reasonable attorneys' fees and costs of suit from the other Party.

Section 7.13 Severability. If any term of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

Section 7.14 Force Majeure. In addition to specific provisions of this Agreement, performance by either Party shall not be deemed to be in Default where delays or defaults are due to war, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, quarantine restrictions, freight embargoes, lack of transportation, or court order. An extension of time for any cause will be deemed granted if notice by the Party claiming such extension is sent to the other within ten (10) days from the commencement of the cause and such extension of time is not rejected in writing by the other Party within ten (10) days of receipt of the notice. In no event shall the City be required to agree to cumulative delays in excess of one hundred eighty (180) days.

Section 7.15 City Approval. The City has authorized the City Manager to execute the Loan Documents and deliver such approvals or consents as are required by this Agreement, and to execute estoppel certificates concerning the status of the Loan and the existence of Borrower defaults under the Loan Documents. Any consents or approvals required under this Agreement shall not be unreasonably withheld or made, except where it is specifically provided that a sole discretion standard applies. The City shall not unreasonably delay in reviewing and approving or disapproving any proposal by Borrower made in connection with this Agreement.

Agenda Item #8.1.

Section 7.16 Waivers. Any waiver by the City of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure by the City to take action on any breach or default of Borrower or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to Borrower to perform any obligation under this Agreement shall not operate as a waiver or release from any of its obligations under this Agreement. Consent by the City to any act or omission by Borrower shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for the City's written consent to future waivers.

Section 7.17 Title of Parts and Sections. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of the Agreement's provisions.

Section 7.18 Entire Understanding of the Parties. This Agreement constitutes the entire understanding and agreement of the Parties with respect to the Loan.

Section 7.19 Multiple Originals; Counterparts. This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

This Agreement has been entered into by the undersigned as of the first above written.

Signatures on Next Page

Agenda Item #8.1.

CITY:
City of Las Cruces, a New Mexico Municipal
Corporation

By: _____
Ikani Taumoepeau, City Manager

Approved as to form:
MODRALL, SPERLING, ROEFIL, HARRIS & SISK, P.A.

By _____

Owner/Borrower:

Peachtree Canyon Apartments, LLLP,
a New Mexico limited liability limited partnership

By: Peachtree Canyon Management, LLC,
a New Mexico limited liability company
Its: General Partner

By: PTC One LLC,
a New Mexico limited liability company
Its: Manager and Member

By: New Mexico Housing and Community
Development Corporation,
a New Mexico nonprofit corporation
Its: Sole Member and Manager

By: _____
Steven Rice, President

ATTACHMENT “A”

LEGAL DESCRIPTION

Lot 1 of Peachtree Canyon, a summary subdivision of land within the City of Las Cruces, Dona Ana County, New Mexico, as the same appears on the official plat filed as instrument #2414766 on July 15, 2024, in the office of the County Clerk of Dona Ana County, New Mexico.

AKA 4936 Peachtree Hills Road, Las Cruces, NM 88012

ATTACHMENT “B”

APPROVED DEVELOPMENT BUDGET

Agenda Item #8.1

Project Name: Peachtree Canyon Apartments

Date: 5/28/2024

Total Units: 144 Low Income Units:

*Round figures to nearest dollar

Round figures to nearest dollar

	TOTAL ACTUAL COST	COMMERCIAL	RESIDENTIAL	FEDERAL HTC REQUESTS ONLY		
				RESIDENTIAL COSTS ONLY		
				ACQUISITION BASIS	REHAB/ NEW CONSTRUCTION BASIS	Rehab/NG Projects enter entire NG + Rehab amount in column to the left and enter rehab amount here.
ACQUISITION COSTS						
Land Acquisition	957,597		957,597			
Building Acquisition	-					
Other (a)	-		-			
SUBTOTAL	957,597	-	957,597	-	-	-
TOTALS FROM SCHEDULE "D" CONTRACTOR'S AND MORTGAGOR'S COST BREAKDOWN						
Demolition (I)	-	-	-			
Accessory Structures (II)	-	-	-			
Site Construction (III)	2,563,900	-	2,563,900		2,563,900	
Buildings and Structures (IV)	20,638,700	-	20,638,700		20,638,700	
Off-Site Improvements (V)	-	-	-			
Other Costs (VI)	397,700	-	397,700		244,700	
SUBTOTAL (VII)	23,600,300	-	23,600,300	-	23,447,300	-
OTHER CONSTRUCTION COSTS						
Contractor Overhead	472,006	-	472,006		472,006	
Contractor Profit	1,416,018	-	1,416,018		1,416,018	
General Requirements	1,416,018	-	1,416,018		1,416,018	
Construction Contingency	1,172,665	-	1,172,665		1,172,665	
Gross Receipts Tax (GRT)	-	-	-			
Landscaping	-		-		-	
Furniture, Fixtures, & Equipment	155,999		155,999		155,999	
Other (b)	2,606,387		2,606,387		2,486,387	
SUBTOTAL	7,239,093	-	7,239,093	-	7,119,093	-
PROFESSIONAL SERVICES/FEES						
Architect (Design)	542,024		542,024		542,024	
Architect (Supervision)	135,506		135,506		135,506	
Attorney (Real Estate)	45,000		45,000		45,000	
Engineer/Survey	25,000		25,000		25,000	
Other (c)	50,500		50,500		50,500	
SUBTOTAL	798,030	-	798,030	-	798,030	-
CONSTRUCTION FINANCING						
Contractor's Hazard Insurance	-		-	-		
Contractor's Liability Insurance	45,500		45,500		45,500	
Contractor's Performance Bond	296,900		296,900	-	296,900	
Interest	1,604,272		1,604,272		1,604,272	
Origination/Discount Points	119,755		119,755		119,755	
Credit Enhancement	-		-			
Inspection Fees	35,000		35,000		35,000	
Title and Recording	135,000		135,000		135,000	
Legal	85,000		85,000		85,000	
Taxes	-		-			
Other (d)	-		-		120,000	
SUBTOTAL	2,321,427	-	2,321,427	-	2,441,427	-

--CONTINUED ON NEXT PAGE--

FOOTNOTES

- 1) Subtotal from Section I, Schedule "D"
- 2) Subtotal from Section II, Schedule "D"
- 3) Subtotal from Section III, Schedule "D"
- 4) Subtotal from Section IV, Schedule "D"
- 5) Subtotal from Section V, Schedule "D"
- 6) Subtotal from Section VI, Schedule "D"
- 7) Subtotal from Section VII, Schedule "D"

PERMANENT FINANCING COSTS					
Bond Premium	-	-	-		
Credit Report	-	-	-		
Origination/Discount Points	10,000	-	10,000		
Credit Enhancement	-	-	-		
Title and Recording	-	-	-		
Legal	50,000	-	50,000		
Costs of Bond Issuance	-	-	-		
Pre-Paid MIP	-	-	-		
Reserves and Escrows	-	-	-		
Other (e)	-	-	-		
SUBTOTAL	60,000	-	60,000		
SOFT COSTS					
Market Study	8,500	-	8,500	8,500	
Environmental	3,500	-	3,500	3,500	
Tax Credit Fees	140,242	-	140,242		
Appraisal	8,500	-	8,500	8,500	
Hard Relocation Costs	-	-	-		
Accounting/Cost Certification	25,000	-	25,000		
Other (f)	291,930	-	291,930	291,930	
SUBTOTAL	477,672	-	477,672	312,430	-
SYNDICATION					
Organization	75,000	-	75,000		
Bridge Loan	-	-	-		
Tax Opinion	-	-	-		
Other (g)	-	-	-		
SUBTOTAL	75,000	-	75,000		
TDC before Dev. Fees & reserves	35,529,119	-	35,529,119	34,118,280	-
RESERVES					
Rent Up	50,000	-	50,000		
Operating	588,859	-	588,859		
Replacement	-	-	-		
Escrows/Working Capital	-	-	-		
Other (h)	-	-	-		
SUBTOTAL	638,859	-	638,859		
DEVELOPER FEES					
Developer Fee*	4,454,577	-	4,454,577	4,454,577	

Applicant is required to provide detail on each "Other" row.

ACQUISITION COSTS [Other (a)]	
DESCRIPTION OF COST	AMOUNT
TOTAL	-

OTHER CONSTRUCTION COSTS [Other (b)]	
DESCRIPTION OF COST	AMOUNT
Gross Receipts Tax	2,214,983
General Liability Insurance	271,404
Builder's Risk	120,000
TOTAL	2,606,387

PROFESSIONAL SERVICES/FEES [Other (c)]	
DESCRIPTION OF COST	AMOUNT
Developer Bond Counsel	45,000
Geotech/Topo	5,500
TOTAL	50,500

CONSTRUCTION FINANCING COSTS [Other (d)]	
DESCRIPTION OF COST	AMOUNT
TOTAL	-

PERMANENT FINANCING COSTS [Other (e)]	
DESCRIPTION OF COST	AMOUNT
TOTAL	-

SOFT COSTS [Other (f)]	
DESCRIPTION OF COST	AMOUNT
MFA Bond Counsel	75,000
Commitment Fee MFA	100,000
Annual Administration Fee	30,000
MFA Bond Fees	29,690
Energy Star Certification	57,240
TOTAL	291,930

SYNDICATION [Other (g)]	
DESCRIPTION OF COST	AMOUNT
TOTAL	-

RESERVES [Other (h)]	
DESCRIPTION OF COST	AMOUNT

Agenda Item #8.1

Project Name: Pedernales Canyon Apartments Date: 5/28/2024
Total Units: 144 Low Income Units: 144

*Round figures to nearest dollar

	FEDERAL HTC REQUESTS ONLY				
	RESIDENTIAL COSTS ONLY				
	TOTAL ACTUAL	COMMERCIAL	RESIDENTIAL	ACQUISITION	REHAB/ NEW CONSTRUCTION
	COST			BASIS	BASIS
Consultant Fee	-				
Relocation Consultant	-				
SUBTOTAL	4,454,577	-	4,454,577	-	4,454,577
Total Development Cost (TDC)	40,622,555	-	40,622,555	-	38,572,857

*The amount of developer fee included in 30 percent basis will be proportional to acquisition cost (not including land) divided by total development cost (TDC). If the project just has land as acquisition, then there will not be a split in the developer fee. If you have any basis eligible acquisition costs, then the developer fee will be split based on the percentage of acquisition basis vs rehab basis. For example, if basis eligible acquisition costs are 1/4 of TDC, 1/4 of developer fee will be included in 30% basis. No deductions are made from TDC for the purpose of calculating the developer fee split.

SCOPE OF WORK

The new construction of Peachtree Canyon Apartments, a 144-unit Low Income Housing Tax Credit project, containing 72 1-BR, 54 2-BR, and 18 1-BR units. All 144 units are rent restricted to households with income up to 60% of area median income. Site amenities will include a community building featuring an office, lounge, exercise room, secure package drop off. Outdoor amenities include a pool, pickle ball courts, walking paths, playground areas, landscaped courtyards and picnic areas. Funding is provided from the City of Las Cruces Telshor funds and ARPA funds, Dona Ana County ARPA funds, Mortgage Finance Authority HOME funds, NM Housing Trust Funds, and National Housing Trust Funds,

ATTACHMENT “C”

SUBORDINATION AGREEMENTS

To be provided

After Recording Return To:
City of Las Cruces H&NS

**CITY OF LAS CRUCES
HOUSING TRUST FUND
MORTGAGE AND SECURITY AGREEMENT**

THIS MORTGAGE AND SECURITY AGREEMENT (hereinafter referred to as the "Agreement") is made this day of _____, 2024, between **PEACHTREE CANYON APARTMENTS, LLLP**, a New Mexico limited liability limited partnership ("Mortgagor", "Borrower", "Owner"), whose address is 113 E. 1ST Ave., Truth or Consequences, NM 87901 and the **CITY OF LAS CRUCES**, a New Mexico municipal corporation, organized and existing under its charter and the Constitution and laws of the State of New Mexico, with a principal address of 700 N Main Street, Las Cruces, New Mexico 88001 ("Mortgagee").

WHEREAS, the Mortgagor and Mortgagee have entered into a residual receipts loan agreement to be funded by the City of Las Cruces Housing Trust Fund Loan (hereinafter referred to as "Loan Agreement"), a copy of which is on file in the City Clerk's Office for the City of Las Cruces, New Mexico, and the definitions and terms of which are incorporated herein by this reference as if fully set forth herein, and which provides, among other things, that the Mortgagee will use Mortgagor Housing Trust Funds on their behalf for the development and new construction of the Property, and being more particularly described in the Scope of Work and Budget in **Attachment "A,"** and upon construction completion and occupancy, the Mortgagor will utilize the property for the rental of the Property to low-income income households at affordable rents; and

WHEREAS, to ensure that the new construction of the Property is completed and the Property is leased to Low Income households at affordable rents, the Mortgagor has executed a note in favor of Mortgagee in the principal sum of Four Million Dollars (\$4,000,000.00), which indebtedness is evidenced by the Mortgagor's promissory note dated of even date herewith (hereinafter referred to as "Note"), a copy of which is attached hereto as **Attachment "B"**, due and payable as provided in the Note.

This Mortgage secures the performance of the following obligations: (1) the indebtedness evidenced by the Note as disbursed by the City on behalf of the Mortgagor in accordance with the provisions set forth in this Note and all renewals, extensions and modifications thereof, and the performance of all covenants contained therein, and the payment of such amounts, if any, advanced, or costs incurred by Mortgagee in accordance herewith to protect the security of this Mortgage or in connection with the enforcement of this Mortgage or Note; and (2) the performance of the covenants, agreements and obligations of Mortgagor herein contained and is upon the statutory mortgage condition for the breach of which it is subject to foreclosure as provided by law.

For consideration paid, Mortgagor does hereby MORTGAGE, GRANT, BARGAIN, SELL, ASSIGN, GRANT A SECURITY INTEREST IN and CONVEY TO Mortgagee, its successors and assigns, all of Mortgagor's estate, right, title and interest in, to and under any and all of the following described property, whether now owned or hereafter held or acquired, with mortgage covenants.

- (a) All of Mortgagor's leasehold estate and interest in that certain parcel of real property situated in the City of Las Cruces, County of Dona Ana, and State of New Mexico, and being more particularly described on **Attachment "C"** attached hereto and made a part hereof.

Agenda Item #8.1.

- (b) All and each of the buildings and improvements, structures, additions, tenements, easements, hereditaments, and appurtenances belonging or in anywise appertaining to the aforesaid real property ("Real Property"), now existing or hereafter acquired, installed, or constructed and the revision or reversions, remainder and remainders rents, issues, and profits thereof and also all the estate, right, title, interest, property, claim and demand whatsoever of Mortgagor of, in, and to the same, and of, in and to every part and parcel thereof;
- (c) All right, title and interest of Mortgagor, if any, in and to the land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Real Property to the centerline thereof;
- (d) All right, title and interest of Mortgagor in all fixtures, fittings, appliances, apparatus, equipment, machinery, building materials, inventory and other articles of personal property and replacements thereof, now or at any time hereafter affixed to, attached to, placed upon or used in anyway in connection with the complete and comfortable use, enjoyment, occupancy or operation of the Real Property or the Development, together with any proceeds realized from the sale, transfer or conversion of any of the above (subject to the right of replacement described in the Note);
- (e) All proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including, without limitation, proceeds of insurance and condemnation awards or judgments, and any unearned premiums accrued, accruing or to accrue under any and all insurance policies now or hereafter obtained by Mortgagor;
- (f) To the extent assignable, any and all plans, specifications, site plans, drawings, renderings and schematics; however, characterized, from time to time prepared for use in connection with the construction and operation of the Development;
- (g) To the extent assignable, all contracts, agreements and understandings now or hereafter entered into, relating to or involving the performance of any work, the rendering of any services, the supply of any materials or the conduct of operations in the management of the Real Property and/or the Development including without limitation, construction contracts, architect agreements, development agreements, management agreements with respect to operations, franchise agreements and other similar agreements;
- (h) To the extent assignable, any and all permits, certificates, approvals and authorizations, however characterized, issued or in any way furnished, whether necessary or not, for the operation and use of the Real Property and/or the Development, including, without limitation, building permits, environmental certificates, certificates of occupancy, certificates of operation, room permits, elevator licenses, warranties and guaranties; and
- (i) All municipal or utility deposits made by or on behalf of Mortgagor or made in connection with the Real Property and/or the Development, together with all escrow accounts or reserves maintained or required to be maintained by Mortgagor hereunder, and any and all other assets, revenues and profits of any kind of the Development.
- (j) All of the property described in the foregoing subparagraphs (a) through (i) shall sometimes hereinafter be collectively referred to as the "Property". All of the assignments hereinabove referenced are subject to the right of the Mortgagor to collect, receive, apply, manage, and

use the rights assigned until the occurrence of an event of default hereunder. The maximum amount of unpaid indebtedness, exclusive of interest thereon, which may be outstanding at any time, is Four Million Dollars (\$4,000,000.00).

In addition to the other debt or obligation secured hereby, this Mortgage shall secure unpaid balances or advances made for the payment of taxes, tax increment payments, assessments, insurance premiums, and other costs incurred for the protection of the Real Property or the Development, if not paid by Mortgagor as required by law or this Mortgage.

Mortgagor represents and warrants that it has full right and authority to grant this Mortgage, and that it shall warrant and defend the lien and interest of the Mortgagee in the Property against all claims and demands whatsoever, except any encumbrances acceptable to Mortgagee, for the avoidance of doubt, Mortgagee hereby acknowledges that those encumbrances on the Property pursuant to or securing the Approved Financing (as defined in the Loan Agreement) is acceptable, and that Mortgagor shall maintain the priority of the lien of and the security interest granted by this Mortgage upon the property until the Mortgage is defeased as provided herein.

The Mortgagor, at its expense, shall cause this Mortgage and instruments supplemental hereto and financing statements and all necessary supplements appropriate continuation statements, to be recorded, registered, and filed in such manner and in such places as may be directed from time to time by Mortgagee as required in order to establish, preserve, and protect the lien of this Mortgage as a lien on all real property, fixtures, and interests therein included in the Property, and a valid security interest in all personal property, fixtures and interest therein included in the Property, including in each such case and without limitation, any such properties acquired after the execution hereof.

All property of every kind acquired by the Mortgagor after the date hereof which, by the terms hereof, is intended to be subject to the lien of this Mortgage, shall immediately upon the acquisition thereof by the Mortgagor, and without further mortgage or assignment, become subject to the lien of this Mortgage as fully as though now owned by the Mortgagor and specifically described herein. Mortgagor shall take such actions and execute such additional instruments as the Mortgagee shall reasonably require to further evidence or confirm the subjection to the lien of this Mortgage of any such after-acquired property.

Upon notification of the pending sale of any parcel comprising the Development, Mortgagee shall release and reconvey such parcel from the charge and lien of this mortgage subject to the condition concurrent of the consummation of such sale and the payment of principal from the proceeds of such sale as required by the Note. Further, Mortgagor shall modify the Mortgage, if required, to amend the legal description of the Real Property to conform to any replatting of the Real Property. Further, Mortgagee shall execute all documents and instruments necessary to subordinate this Mortgage to any mortgage securing the construction loan(s) for the Development.

This Mortgage constitutes a security agreement as to all or any part of the Property, which is of a nature that a security interest therein can be perfected under the Uniform Commercial Code. This Mortgage also constitutes a financing statement with respect to any and all property included in the Property, which is or may become fixtures.

Mortgagor shall pay promptly when due all taxes, tax increment payments, assessments, and other governmental charges on the property which, if not paid, may become a lien on the Property or any part thereof.

During construction of the Development, until issuance of Certificates of Occupancy for each unit and, if applicable, a letter of acceptance by the City for public infrastructure, Mortgagor, at its expense, shall keep or cause to be kept, the Property fully insured by a policy or policies of Builder's Risk and Fire Insurance (in an amount not less than the outstanding balances of the Loan evidenced by the Note and of any mortgage to which this Mortgage is subordinate) against fire with extended coverage and in good order and condition, ordinary wear and tear excepted, and shall make all necessary or appropriate repairs, replacements, and renewals thereof. All policies of insurance required by this paragraph shall be endorsed to indicate Mortgagee as an insured Mortgagee.

In the event of any damage or injury to the Development, the Mortgagor agrees that it shall either repay its obligations under the Note in full, or it shall take any and all actions necessary to restore the Development substantially to its condition prior to the damage or injury and shall apply any proceeds of such insurance coverage to the extent necessary to the costs of such restoration.

If the Mortgagor shall fail to make any payments or perform any act required to be paid or performed hereunder or under the Note, Mortgagee may (but shall be under no obligation to do so), upon five (5) days written notice to the Mortgagor and to the Lender of any mortgage loan to which this Mortgage is subordinate, make such payment or perform such act for the account of and at the expense of Mortgagor. All payments so made by the Mortgagee and all costs, fees and expenses incurred in connection therewith shall, together with interest thereon as provided herein, be additional indebtedness secured by this Mortgage, to the extent permitted by law, and shall be paid by the Mortgagor to the Mortgagee on demand. In any action brought to collect such indebtedness, or to foreclose this Mortgage, the Mortgagee shall be entitled to the recovery of such expenses in such action except as limited by law or judicial order or decision rendered in any such proceedings.

Notwithstanding any other provisions of this Mortgage, the Note, or the Loan Agreement, upon any failure by Mortgagor to pay when due any obligation under the Note, or failure to pay any other obligation under the Note, and such failure is not cured as provided in the Loan Agreement, after receipt of written notice from the Mortgagee, such failure to pay or cure shall constitute an immediate default entitling the Mortgagee to exercise any remedy hereafter described in this paragraph, or elsewhere in this Mortgage or the Loan Agreement. Upon any failure to observe or perform any other obligation under this Mortgage, which has not been remedied or cured within ten (10) days after receipt of written notice thereof from Mortgagee, or for such longer period as the Mortgagee shall agree to in writing, then the Mortgagee at its option may declare a default to have occurred hereunder. Subject to the foregoing provisions, with respect to either a failure to make payment when due or any other default, the remedies available to Mortgagee include at any time at its election to exercise any or all or any combination of the remedies conferred upon or reserved to it under this Mortgage, the Note, the Loan Agreement, or now or hereafter existing at law or in equity. Without limitation, the Mortgagee may declare the entire Loan Amount of the Note immediately due and payable without notice or demand, the same being expressly waived by the Mortgagor; may proceed at law or equity to collect all amounts secured by this Mortgage and due hereunder, whether at maturity or by acceleration; may foreclose the lien of this Mortgage as against all or any part of the Property; and may exercise any rights, powers, and remedies it may have as a secured party under the Uniform Commercial Code, or other similar laws in effect from time to time.

Each right, power, and remedy of the Mortgagee provided for in the Loan Agreement, the Note, and Mortgage, now or hereafter existing at law or in equity, shall be cumulative and concurrent and shall be in addition to every other right, power, or remedy provided for in this

Agenda Item #8.1.

Mortgage, the Loan Agreement, or the City's Land Use Restriction Agreement, now or hereafter existing at law or in equity, and the exercise or beginning of exercise or partial exercise by the Mortgagee of any one or more of such rights, powers, or remedies shall not preclude the simultaneous or later exercise by the Mortgagee of any or all such rights, power or remedies.

No failure by the Mortgagee to insist upon the strict performance of any provision of the Loan Agreement, Note or this Mortgage, or to exercise any right, power, or remedy consequent upon a breach hereof, shall constitute a waiver of any such provision or of any remedy for such breach. No waiver of any breach shall affect or alter this Mortgage, and the Mortgage shall continue in full force and effect with respect to any other then existing or subsequent breach.

PROVIDED, however, that if the Mortgagor shall well and truly pay to Mortgagee, its successors and assigns, not less than the total of the indebtedness secured hereby and shall fully keep and perform all the conditions, covenants and agreements to be kept and performed by Mortgagor under this Mortgage, then this Mortgage shall be void; otherwise this Mortgage shall remain in full force and effect in law and equity forever.

The existence and lien of this Mortgage shall not impede or affect the right of Mortgagor from time to time with respect to all or a portion of the Real Property, to dedicate public areas by subdivision plat or otherwise, including streets, easements and park areas, grant to public utilities and other agencies entitled thereto ordinary and necessary easements, and apply for and obtain zoning acceptable to Mortgagor.

Unless Mortgagee or Mortgagor gives written instructions to the other party of a change in the person or address set forth below, all notices, demands or requests permitted or required to be given under the provisions of this Mortgage or the Loan Agreement shall be hand-delivered or mailed, registered or certified mail, return receipt requested to the following addresses:

Mortgagee:

City of Las Cruces
Attn: Housing & Neighborhood Revitalization Manager
700 N. Main St.
Las Cruces, New Mexico 88001

Mortgagor:

Peachtree Canyon Apartments LLLP, a New Mexico limited liability limited
partnership
113 E. 1st Ave.
Truth or Consequences, NM 87901
Attention: Steven Rice

With a copy to:

Law Office of Mark Berry
1 Wren
Littleton, CO 80127

Agenda Item #8.1.

In the event of foreclosure of this Mortgage, the period of redemption shall be three months in lieu of the statutory redemption period of nine months.

IN WITNESS, WHEREOF, Mortgagor, Peachtree Canyon Apartments, LLLP, hereunto
duly authorized has each caused this instrument to be executed on this the _____ day of _____
_____ 2024.

SIGNATURE PAGE TO FOLLOW

Mortgagor/Owner/Borrower:

Peachtree Canyon Apartments, LLLP, a New Mexico limited liability limited partnership

By: Peachtree Canyon Management, LLC, a New Mexico limited liability company Its: General Partner

By: PTC One LLC,
a New Mexico limited liability company
Its: Manager and Member

By: New Mexico Housing and Community Development Corporation,
a New Mexico nonprofit corporation
Its: Sole Member and Manager

By: _____
Steven Rice, President

ATTACHMENT “A”

SCOPE OF WORK AND BUDGET

The new construction of Peachtree Canyon Apartments, a 144-unit Low Income Housing Tax Credit project, containing 72 1-BR, 54 2-BR, and 18 1-BR units. All 144 units are rent restricted to households with income up to 60% of area median income. Site amenities will include a community building featuring an office, lounge, exercise room, secure package drop off. Outdoor amenities include a pool, pickle ball courts, walking paths, playground areas, landscaped courtyards and picnic areas. Funding is provided from the City of Las Cruces Telshor funds and ARPA funds, Dona Ana County ARPA funds, Mortgage Finance Authority HOME funds, NM Housing Trust Funds, and National Housing Trust Funds,

Project Name:	Peachtree Canyon Apartments	
Total Units:	144	Low Income Units:

Date: 5/28/2024

*Round figures to nearest dollar

--CONTINUED ON NEXT PAGE--

- 1) Subtotal from Section I. Schedule "D"
- 2) Subtotal from Section II. Schedule "D"
- 3) Subtotal from Section III. Schedule "D"

- 4) Subtotal from Section IV. Schedule "D"
5) Subtotal from Section V. Schedule "D"
6) Subtotal from Section VI. Schedule "D"
7) Subtotal from Section VII. Schedule "D"

Page 1 of 4

Page 3 of 4

[illegible]

Agenda Item #8.1

Project Name: Pedernales Canyon Apartments Date: 5/28/2024
Total Units: 144 Low Income Units: 144

*Round figures to nearest dollar

	TOTAL ACTUAL COST	COMMERCIAL	RESIDENTIAL	FEDERAL HTC REQUESTS ONLY		
				RESIDENTIAL COSTS ONLY		
				ACQUISITION BASIS	REHAB/ NEW CONSTRUCTION BASIS	Rehab/NC Projects enter entire NC + Rehab amount in column to the left and enter rehab
Consultant Fee	-					
Relocation Consultant	-					
SUBTOTAL	4,454,577	-	4,454,577	-	4,454,577	-
Total Development Cost (TDC)	40,622,555	-	40,622,555	-	38,572,857	-

*The amount of developer fee included in 30 percent basis will be proportional to acquisition cost (not including land) divided by total development cost (TDC). If the project just has land as acquisition, then there will not be a split in the developer fee. If you have any basis eligible acquisition costs, then the developer fee will be split based on the percentage of acquisition basis vs rehab basis. For example, if basis eligible acquisition costs are 1/4 of TDC, 1/4 of developer fee will be included in 30% basis. No deductions are made from TDC for the purpose of calculating the developer fee split.

**PROMISSORY NOTE
(CITY OF LAS CRUCES HOUSING TRUST FUND)
PEACHTREE CANYON APARTMENTS**

\$4,000,000.00

Las Cruces, New Mexico

_____, 2024

FOR VALUE RECEIVED, the undersigned Peachtree Canyon Apartments, LLLP, a New Mexico limited liability limited partnership ("Borrower") with a principal address of 113 E. 1st Ave, Truth or Consequences, NM 87901, hereby promises to pay to the order of the City of Las Cruces, a New Mexico municipal corporation, with a principal address of 700 N. Main St., Las Cruces, NM 88001 ("Holder"), a principal amount of Four Million Dollars and No Cents (\$4,000,000.00), plus interest thereon pursuant to Section 2 below.

1. Borrower's Obligation.

This promissory note (the "Note") evidences Borrower's obligation to pay Holder the principal amount of up to Four Million Dollars and No Cents (\$4,000,000.00), for the funds loaned to Borrower by Holder pursuant to the City of Las Cruces Housing Trust Fund Loan Agreement between Borrower and Holder of even date herewith (the "Loan Agreement"). All capitalized terms not otherwise defined in this Note have the meanings set forth in the Loan Agreement.

2. Interest.

a. Subject to the provisions of Subsection (b) below, this Note bears simple interest at a rate Three percent (3%) per annum from the date of disbursement until full repayment of all principal.

b. If a Default occurs, interest will accrue on all amounts due under this Note at the Default Rate until such Default is cured by Borrower or waived by Holder.

3. Term and Repayment Requirements.

Payments here under shall be made in the amount of the greater of: (i) 42.85% of any positive annual Net Cash Flow as defined in the Borrower's operating agreement after payments of items 9.1(a)(i) through (vi) of the Partnership Agreement, as determined and certified by the independent accounting firm preparing Borrower's annual audited financial statements; or (ii) \$500.00 per year. Any repayment required by this paragraph shall be due within 180 days after the close of the Development's fiscal year. Any and all amounts of principal or interest outstanding upon the maturity of the Loan shall be then due and payable.

Payments received by the city shall be credited first against accrued interest and then against outstanding principal. The Borrower shall provide the City with any documentation

Agenda Item #8.1.

reasonably requested by the City to substantiate the Borrower's determination of Residual Receipts.

4. No Assumption. This Note is not assumable by the successors and assigns of Borrower without the prior written consent of Holder, except as provided in the Loan Agreement.

5. Security. This Note is secured by the Mortgage and Security Instrument wherein the Borrower is the Mortgagor, and the City is the Mortgagee.

6. Terms of Payment.

a. All payments due under this Note shall be paid in currency of the United States of America, which at the time of payment is lawful for the payment of public and private debts.

b. All payments on this Note shall be paid to Holder at the City of Las Cruces, 700 N. Main St., Las Cruces, NM 88001, Attention: Treasury Department with copy to Housing & Revitalization Manager, or to such other place as the Holder of this Note may from time to time designate.

c. All payments on this Note shall be without expense to the Holder, and the Borrower agrees to pay all costs and expenses, including re-conveyance fees and reasonable attorney's fees and other professional service fees and costs of the Holder, incurred in connection with the payment of this Note and the release of any security hereof.

d. Notwithstanding any other provision of this Note, or any instrument securing the obligations of the Borrower under this Note, if, for any reason whatsoever, the payment of any sums by the Borrower pursuant to the terms of this Note would result in the payment of interest which would exceed the amount that the Holder may legally charge under the laws of the State of New Mexico, then the amount by which payments exceed the lawful interest rate shall automatically be deducted from the principal balance owing on this Note, so that in no event shall the Borrower be obligated under the terms of this Note to pay any interest which would exceed the lawful rate.

e. Upon recordation of the Mortgage and Security Instrument and the Land Use Restriction Agreement, this Note will be nonrecourse to the Borrower, pursuant to and except as provided in Section 2.9 of the Loan Agreement.

7. Default.

a. Upon the occurrence of a Default after any applicable notice and opportunity to cure rights, the entire unpaid principal balance, together with all interest thereon, and together with all other sums then payable under this Note and the Land Use Restriction Agreement will, at the option of Holder, become immediately due and payable without further demand.

Agenda Item #8.1.

b. Holder's failure to exercise the remedy set forth in Subsection 7(a) above or any other remedy provided by law upon the occurrence of a Default does not constitute a waiver of the right to exercise any remedy at any subsequent time in respect to the same or any other Default. The acceptance by Holder of any payment that is less than the total of all amounts due and payable at the time of such payment does not constitute a waiver of the right to exercise any of the foregoing remedies or options at that time or at any subsequent time or nullify any prior exercise of any such remedy or option, without the express consent of Holder, except as and to the extent otherwise provided by law.

8. Waivers.

a. The Borrower hereby waives diligence, presentment, protest and demand, and notice of protest, notice of demand, notice of dishonor and notice of non-payment of this Note. The Borrower expressly agrees that this Note, or any payment hereunder may be extended from time to time, and that the Holder may accept further security or release any security for this Note, all without in any way affecting the liability of the Borrower.

b. No extension of time for payment of this Note or any installment hereof made by agreement of Holder with any person now or hereafter liable for payment of this Note will operate to release, discharge, modify, change, or affect the original liability of Borrower under this Note, either in whole or in part.

c. The obligations of the Borrower under this Note shall be absolute, and the Borrower waives any and all rights to offset, deduct or withhold any payments or charges due under this Note for any reason whatsoever.

9. Miscellaneous Provisions.

a. All notices to the Holder or the Borrower shall be given in the manner and at the addresses set forth in the Loan Agreement, or to such addresses as the Holder and the Borrower may therein designate.

b. The Borrower promises to pay all costs and expenses, including reasonable attorney's fees and other professional service fees and costs, incurred by the Holder in the enforcement of the provisions of this Note, regardless of whether suit is filed to seek enforcement.

c. This Note may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification, or discharge is sought.

d. This Note shall be governed by and construed in accordance with the laws of the State of New Mexico. The times for the performance of any obligations hereunder shall be strictly construed, time being of the essence.

e. This document, together with the Loan Documents, contains the entire agreement between the parties as to the Loan. It may not be modified except upon written consent of the parties.

SIGNATURE PAGE FOLLOWS

Borrower:

Peachtree Canyon Apartments, LLLP,
a New Mexico limited liability limited
partnership

By: Peachtree Canyon Management, LLC, a
New Mexico limited liability company Its:
General Partner

By: PTC One LLC,
a New Mexico limited liability company
Its: Manager and Member

By: New Mexico Housing and
Community Development Corporation,
a New Mexico nonprofit corporation
Its: Sole Member and Manager

By: _____
Steven Rice, President

ATTACHMENT “C”

Legal Description of the Property

Lot 1 of Peachtree Canyon, a summary subdivision of land within the City of Las Cruces, Dona Ana County, New Mexico, as the same appears on the official plat filed as instrument #2414766 on July 15, 2024, in the office of the County Clerk of Dona Ana County, New Mexico.

AKA 4936 Peachtree Hills Road, Las Cruces, NM 88012

**CITY OF LAS CRUCES
HOUSING TRUST FUND
LAND USE RESTRICTION AGREEMENT**

Made in Las Cruces, New Mexico

Date: _____, 2024

This Land Use Restriction Agreement (the "Agreement") is made by **PEACHTREE CANYON APARTMENTS, LLLP**, a New Mexico limited liability limited partnership ("Owner") with a principal address of 113 E. 1ST Ave., Truth or Consequences, NM 87901, in favor of the **CITY OF LAS CRUCES**, a municipal corporation ("City") with a principal address of 700 N. Main Street, Las Cruces, NM 88001.

1. Recitals

A. The Owner will develop a 144-unit Low-Income Housing Tax Credit ("LIHTC") apartment complex.

B. The Owner is the beneficial owner of that certain real estate ("Real Property") in Dona Ana County, New Mexico, which is more particularly described in Exhibit "A" attached hereto and made a part hereof and, upon the issuance by Doña Ana County, New Mexico of its multifamily housing revenue bonds (the "Bonds") in connection with the Real Property, Owner will hold a leasehold interest therein while the Bonds are outstanding.

C. The City has loaned funds under an Affordable Housing Trust Fund Loan Agreement to the Owner to benefit the Real Property of the Owner.

D. In consideration for the assistance given by the City for the benefit of the Owner, the City and Owner have agreed to certain restrictions on the use and rental of the real property, as specified herein, in order to implement the policies and obligations of City's Affordable Housing General Oversight Ordinance and Affordable Housing Trust Fund, with such restrictions surviving the foreclosure of the Project by Senior Lenders.

2. Definitions

"Affordability Period" means the 20 years beginning on the date that the City of Las Cruces issues a final certificate of occupancy for the Property that the Property shall be designated as affordable housing for extremely low and low-income households.

"Annual Gross Income" means the anticipated total income from all sources, as defined in 24 CFR Part 5.609 to be received by the Family Head and spouse and by each additional member of the household during a twelve-month period.

"City's Median Income" means the median income for the City of Las Cruces, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development from time to time and published in the Federal Register.

"City Assisted Units" means the 144 revenue producing units at the Property, which shall be known as Peachtree Canyon Apartments.

"Nspire" means the standards set forth in 24 CFR 5.703 to live in safe, habitable dwellings.

"Project" or "Development" means Peachtree Canyon Apartments.

Agenda Item #8.1.

"Section 8 Fair Market Rent" means that rent established by the U.S. Department of Housing and Urban Development as authorized under 24 CFR Part 882.

Except as otherwise expressly provided herein, all capitalized terms shall have the meaning given in the Affordable Housing Trust Fund Loan Agreement.

3. Land Use Restriction Covenants

During the term of this Agreement as set forth in Paragraph E below:

A. Use of Property. The Real Property shall be used as, and only for, residential rental purposes.

B. Income Qualification. The Owner or its assignee shall determine the annual income of each household occupying or seeking to occupy any of the 144 revenue-producing units at the Project prior to occupancy. Tenants occupying units shall meet the following income targeting criteria:

1. 6 units will be for households with annual gross incomes at or below 30% of Area Median Income ("AMI"),

2. 138 units will be for households with annual gross incomes at or below 60% AMI.

3. LIHTC Income levels are published annually by the New Mexico Mortgage Finance Authority.

C. Rent Determination. All 144 revenue-producing units in the Project will be rent-restricted units with rents amounts based on the Housing Credit Maximum Rents published annually by the New Mexico Mortgage Finance Authority. If utilities are not included in the rent, an allowance must be made using HUD-approved utility allowance levels.

D. Tenant Selection and Re-Certification. The Owner or its Assignee shall undertake the initial review of income eligibility of prospective tenants for all 144 revenue-producing units in the Project. In determining income eligibility, the Owner acknowledges that the City shall examine rent and income calculations and tenant files on up to 10% of the units on an annual basis for monitoring compliance. All documentation including, but not necessarily limited to, a tenant's application, verifications, proposed rent, and lease terms shall be kept in tenant files for the entire 20-year Affordability Period for the purpose of monitoring compliance.

E. Maintenance of Tenant Files and Re-verification. During the 20-year Affordability Period, the Owner shall re-verify tenant eligibility annually with similar documentation as submitted at initial lease-up. This information must be maintained in the tenants' files and made available for review by the City.

F. Lease Provisions. Each household in a revenue-producing unit will have an executed lease with the Owner.

G. Property Standards Requirements. The Project will meet all current HUD-required inspection protocol, including but not necessarily limited to National Standards for the Physical Inspection of Real Estate ("Nspire") protocol developed by the U.S. Department of Housing & Urban Development to ensure that housing is safe and habitable to live in during the affordability period.

Agenda Item #8.1.

Peachtree Canyon Apartments, LLLP,
a New Mexico limited liability limited partnership

By: Peachtree Canyon Management, LLC,
a New Mexico limited liability company
Its: General Partner

By: PTC One LLC, a New Mexico limited liability company
Its: Manager and Member

By: New Mexico Housing and Community Development Corporation,
a New Mexico nonprofit corporation
Its: Sole Member and Manager

By:
Steven Rice, President

EXHIBIT “A”

Legal Description of Real Property

Lot 1 of Peachtree Canyon, a summary subdivision of land within the City of Las Cruces, Dona Ana County, New Mexico, as the same appears on the official plat filed as instrument #2414766 on July 15, 2024, in the office of the County Clerk of Dona Ana County, New Mexico.

AKA 4936 Peachtree Hills Road, Las Cruces, NM 88012

**CITY OF LAS CRUCES
AMERICAN RESCUE PLAN ACT
LAND USE RESTRICTION AGREEMENT**

Made in Las Cruces, New Mexico

Date: _____, 2024

This Land Use Restriction Agreement (the “Agreement”) is made by NEW MEXICO HOUSING AND COMMUNITY DEVELOPMENT CORPORATION (NMHCDC) New Mexico non-profit corporation, as sole member and manager of PTC One, LLC, the Member and Manager of Peachtree Canyon Management, LLC, as General Partner of Peachtree Canyon Apartments LLLP, a New Mexico limited liability limited partnership (“Owner”) with a principal address of 113 E. 1ST Ave., Truth or Consequences, NM 87901, in favor of the **CITY OF LAS CRUCES**, a municipal corporation (City) with a principal address of 700 N. Main Street, Las Cruces, NM 88001.

1. Recitals

A. The Owner will develop a 144-unit Low-Income Housing Tax Credit (“LIHTC”) apartment complex.

B. The Owner is the beneficial owner of that certain real estate ("Real Property") in Dona Ana County, New Mexico, which is more particularly described in Exhibit "A" attached hereto and made a part hereof and, upon the issuance by Doña Ana County, New Mexico of its multifamily housing revenue bonds (the “Bonds”) in connection with the Real Property, Owner will hold a leasehold interest therein while the Bonds are outstanding.

C. The City has granted funds under the American Rescue Plan Act (“ARPA”), Coronavirus State and Local Fiscal Recovery Funds (“SLFRF”) Agreement to the owner to benefit the Real Property of the Owner.

D. In consideration for the assistance given by the City for the benefit of the Owner, the City and Owner have agreed to certain restrictions on the use and rental of the real property, as specified herein, in order to implement the policies and obligations under the American Rescue Plan Act in conjunction with the City’s General Oversight Ordinance and Affordable Housing Trust Fund, with such restrictions surviving the foreclosure of the Project by Senior Lenders.

2. Definitions

“Affordability Period” means the 20 years beginning on the date that the City of Las Cruces issues a final certificate of occupancy for the Property that the Property shall be designated as affordable housing for extremely low and low-income households.

"Annual Gross Income" means the anticipated total income from all sources, as defined in 24 CFR Part 5.609 to be received by the Family Head and spouse and by each additional member of the household during a twelve-month period.

"City's Median Income" means the median income for the City of Las Cruces, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development from time to time and published in the Federal Register.

Agenda Item #8.1.

"City ARPA Assisted Units" means the 144 revenue producing units at the Property, which shall be known as Peachtree Canyon Apartments.

"Nspire" means the standards set forth in 24 CFR 5.703 to live in safe, habitable dwellings.

"Project" or "Development" means Peachtree Canyon Apartments.

"Section 8 Fair Market Rent" means that rent established by the U.S. Department of Housing and Urban Development as authorized under 24 CFR Part 882.

Except as otherwise expressly provided herein, all capitalized terms shall have the meaning given in the Affordable Housing Trust Fund Loan Agreement.

3. Land Use Restriction Covenants

During the term of this Agreement as set forth in Paragraph E below:

A. Use of Property. The Real Property shall be used as, and only for, residential rental purposes.

B. Income Qualification. The Owner or its assignee shall determine the annual income of each household occupying or seeking to occupy any of the 144 revenue-producing units at the Project prior to occupancy. Tenants occupying units shall meet the following income targeting criteria:

1. 6 units will be for households with annual gross incomes at or below 30% of Area Median Income ("AMI"),

2. 138 units will be for households with annual gross incomes at or below 60% AMI.

3. LIHTC Income levels are published annually by the New Mexico Mortgage Finance Authority.

C. Rent Determination. All 144 revenue-producing units in the Project will be rent-restricted units with rents amounts based on the Housing Credit Maximum Rents published annually by the New Mexico Mortgage Finance Authority. If utilities are not included in the rent, an allowance must be made using HUD-approved utility allowance levels.

D. Tenant Selection and Re-Certification. The Owner or its Assignee shall undertake the initial review of income eligibility of prospective tenants for all 144 revenue-producing units in the Project. In determining income eligibility, the Owner acknowledges that the City shall examine rent and income calculations and tenant files on up to 10% of the units on an annual basis for monitoring compliance. All documentation including, but not necessarily limited to, a tenant's application, verifications, proposed rent, and lease terms shall be kept in tenant files for the entire 20-year Affordability Period for the purpose of monitoring compliance.

E. Maintenance of Tenant Files and Re-verification. During the 20-year Affordability Period, the Owner shall re-verify tenant eligibility annually with similar documentation as submitted at initial lease-up. This information must be maintained in the tenants' files and made available for review by the City.

F. Lease Provisions. Each household in a revenue-producing unit will have an executed lease with the Owner.

Agenda Item #8.1.

G. Property Standards Requirements. The Project will meet all current HUD-required inspection protocol, including but not necessarily limited to National Standards for the Physical Inspection of Real Estate (“Nspire”) protocol developed by the U.S. Department of Housing & Urban Development to ensure that housing is safe and habitable to live in during the affordability period.

Agenda Item #8.1.

Peachtree Canyon Apartments, LLLP,
a New Mexico limited liability limited partnership

By: Peachtree Canyon Management, LLC,
a New Mexico limited liability company
Its: General Partner

By: PTC One LLC, a New Mexico limited liability company
Its: Manager and Member

By: New Mexico Housing and Community Development Corporation,
a New Mexico nonprofit corporation
Its: Sole Member and Manager

By:
Steven Rice, President

EXHIBIT “A”

Legal Description of Real Property

Lot 1 of Peachtree Canyon, a summary subdivision of land within the City of Las Cruces, Dona Ana County, New Mexico, as the same appears on the official plat filed as instrument #2414766 on July 15, 2024, in the office of the County Clerk of Dona Ana County, New Mexico.

AKA 4936 Peachtree Hills Road, Las Cruces, NM 88012



25-016

City Council Action and Executive Summary

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

District:	☐ 1 ☐ 2 ☐ 3 ☐ 4 ☒ 5 ☐ 6 ☐ N/A		
1st Reading:		Adopted:	August 5, 2024
Drafter:	Isaias Amaya	Department:	City Manager's Office
Program:	Housing and Neighborhood Services	Line of Business:	Housing and Neighborhood Services
Title:	A RESOLUTION APPROVING AN EXCEPTION TO THE HOME REHABILITATION HANDBOOK FOR THE RESIDENCE LOCATED ON CALICO DR.		

TYPE OF ACTION: ☒ Administrative ☐ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:
Approve an exception to the Home Rehabilitation Handbook.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
The City of Las Cruces (City) has received program funds from the U.S. Department of Housing and Urban Development (HUD) under Title I of the Housing and Community Development Act of 1974 which created the Community Development Block Grant (CDBG) Program. The CDBG Program provides the City the opportunity to administer a federally funded Home Rehabilitation (HR) Program in accordance with the goals of the City's Consolidated Plan, a comprehensive planning document that outlines affordable housing and community development needs. The HR program is managed in accordance with the Council-adopted Home Rehabilitation Program Handbook (Handbook), as amended, on January 18, 2022, through Resolution 22-098.

Home Rehabilitation client HR 2013 of Calico Dr. applied for and was determined eligible to receive a benefit up to 95% of the appraised value of the proposed home. The homeowner currently has a mortgage of approximately \$113,109. Based on HUD income guidelines the homeowner is considered very low-income at 42% of the average median income. The home is a stick-built construction in need of weatherization and accessibility improvements.

Home Rehab program staff reviewed the project scope and structural survey and has recommended replacement of windows, roof coating, and exterior stucco wall repairs. Due to the homeowner's medical conditions and disability, the master bath will be converted into an accessible unit with a roll-in shower stall. The current home market value has been appraised at \$270,000. The resident was determined eligible to receive up to \$85,000, which would be provided in the form of a forgivable loan. Total project estimated construction costs are approximately \$50,000 including contingency funds for unforeseen or unexpected expenses.

City Council approval is being requested for an exception to the Handbook. The applicant's fixed income brings the debt-to-income ratio to 62% which exceeds the 42% allowed by the handbook. If approved, the quality of life for the homeowner will be improved by providing an energy-efficient home and accessible living environment.

SUPPORT INFORMATION:

[ATTACHMENT "A" Project Cost Breakdown](#)

PLAN(S):

City Council Strategic Plan, Department Strategic Business Plan, 2021-2025 Consolidated Plan, Elevate Las Cruces

COMMITTEE/BOARD REVIEW:

None

DOES THIS AMEND THE BUDGET?:

☐ Yes

☒ No

BUDGET / FISCAL IMPACT:

BUDGETED AMOUNT:

\$315,483.00

AVAILABLE AMOUNT:

\$315,483.00

EXPENDITURE AMOUNT:

\$50,000

Funding Source(s):

20430034-780150-23034 \$315,483.00

Overall Budget Impact:

Neutral Impact, expenses has matching revenue source (HUD funding)

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes

☒ No

Does this action align with Elevate Las Cruces?

☒ Yes

☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve an exception to the Home Rehabilitation Handbook. Allowing the applicant's debt to income ratio to exceed the 42% allowed by the handbook.

2. Vote "No"; this will not approve the Resolution nor grants an exception to the Handbook. Such action will leave the homeowner ineligible for assistance.

3. Vote to "Amend"; this will allow City Council to Amend the Resolution and would require further direction to staff from City Council.

4. Vote to "Table"; this would require further direction from City Council.

RESOLUTION 25-016

A RESOLUTION APPROVING AN EXCEPTION TO THE HOME REHABILITATION HANDBOOK FOR THE RESIDENCE LOCATED ON CALICO DR.

The City Council is informed that:

WHEREAS, the City of Las Cruces has received program funds from the U.S. Department of Housing and Urban Development (HUD) under Title I of the Housing and Community Development Act of 1974 which created the Community Development Block Grant (CDBG) Program; and

WHEREAS, the CDBG Program provides the City the opportunity to administer a federally funded Home Rehabilitation (HR) Program in accordance with the goals of the City's Consolidated Plan, a comprehensive planning document that outlines affordable housing and community development needs; and

WHEREAS, through Resolution 22-098 City Council approved the Home Rehabilitation Program Handbook (Handbook), as amended, which provides guidelines for the program; and

WHEREAS, HR client HR2013 of Calico Dr. applied for and was determined eligible to receive a forgivable grant up to 95% of the appraised value of the home; and

WHEREAS, the house is in need of weatherization and accessibility improvements; and

WHEREAS, the combination of debt to income ratio exceeds the allowable 42% by 20%; and

WHEREAS, the approval will improve the homeowner's quality of life by providing an energy-efficient home and accessible living environment; and

WHEREAS, the approval of an exception to the Handbook allows the homeowner's debt-to-income ratio to exceed the allowed 42% to 62%.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT the approval of the weatherization and accessibility improvements to the residence for HR 2013 as specified by the Handbook is hereby granted and approved.

(II)

THAT the exception to the debt-to-income ratio not to exceed 42% as specified by the Handbook is hereby granted and approved.

(III)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

Mayor

ATTEST:

City Clerk

Moved by:

Seconded by:

AYES

NAYS

Project Cost Breakdown

Appraised Value of Home	\$270,000.00
Mortgage	\$113,109.00
Usable Equity in Home (95% LTV)	\$143,391.00

Amount Requesting for Funding	\$50,000.00

Construction Contract Amount	\$39,144.38
Contingency, Relocation Cost	\$7,855.62
Soft Costs	\$3,000.00
Total Estimated Projected Cost	\$50,000.00



**3064; Council
Bill 24-022**

City Council Action and Executive Summary

Type of Action:
☐ Resolution
☒ Ordinance
☐ TIDD Resolution

District:	☒ 1 ☒ 2 ☒ 3 ☒ 4 ☒ 5 ☒ 6 ☐ N/A					
1st Reading:	February 20, 2024		Adopted:	August 5, 2024		
Drafter:	Erika Jaquez		Department:	Financial Services		
Program:	Treasury		Line of Business:	Revenue Management		

Title:	AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AND SUBSIDY AGREEMENT (“LOAN AGREEMENT”) BY AND BETWEEN THE CITY OF LAS CRUCES, NEW MEXICO (“GOVERNMENTAL UNIT”) AND THE NEW MEXICO FINANCE AUTHORITY (“FINANCE AUTHORITY”), IN THE TOTAL AMOUNT OF FIFTEEN MILLION THREE HUNDRED THOUSAND DOLLARS (\$15,300,000), EVIDENCING A SPECIAL LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A MAXIMUM REPAYABLE PRINCIPAL AMOUNT OF NO MORE THAN TWELVE MILLION TWO HUNDRED EIGHTY THOUSAND NINE HUNDRED FORTY-NINE DOLLARS (\$12,280,949), TOGETHER WITH INTEREST, AND ADMINISTRATIVE FEES THEREON, AND TO ACCEPT A LOAN SUBSIDY OF NO MORE THAN THREE MILLION NINETEEN THOUSAND FIFTY-ONE DOLLARS (\$3,019,051), FOR THE PURPOSE OF FINANCING THE COSTS OF A NEW WELL, ASSOCIATED IMPROVEMENTS OF THE WELL INCLUDING CONNECTING TO THE JOINT UTILITY SYSTEM OF THE GOVERNMENTAL UNIT, AND REHABILITATION OF WATER STORAGE TANKS; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL, ADMINISTRATIVE FEES AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE NET REVENUES OF THE JOINT UTILITY SYSTEM OF THE GOVERNMENTAL UNIT; SETTING AN INTEREST RATE FOR THE LOAN; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT.
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TYPE OF ACTION: ☐ Administrative ☒ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:
Authorize issuance of debt.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
A proposed resolution approved at the August 21, 2023, City Council meeting authorized City staff to submit an application for financial assistance from NMFA for the acquisition, construction, and improvement of the water system.

Approval of the Ordinance authorizes the execution and delivery of a loan agreement between the City and NMFA. The City will borrow no more than \$12,280,949 with interest and administrative fees and a loan subsidy

Agenda Item #8.3.

in the amount of no more than \$3,019,051 to finance water system projects. The revenue pledged to finance the water system projects comes from the net revenues of the Joint Utility System.

SUPPORT INFORMATION:

[EXHIBIT "A" - DW-6255 Loan Agreement](#)

[ATTACHMENT "A" - Redlined Ordinance DW-6255](#)

PLAN(S):

Department Strategic Business Plan

COMMITTEE/BOARD REVIEW:

None

DOES THIS AMEND THE BUDGET?:

☐ Yes

☒ No

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes

☒ No

Does this action align with Elevate Las Cruces?

☒ Yes

☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Ordinance and will allow the City to accept the loan from NMFA and proceed with water system projects.
2. Vote "No"; this will not approve the Ordinance and will not allow the City to accept the loan from NMFA and use this funding mechanism to finance water system projects.
3. Vote to "Amend"; this could delay the execution and delivery of the loan from NMFA and the water system projects, and require Council direction.
4. Vote to "Table"; this could delay the financing opportunity, increase the projected cost of the water system projects, and require Council direction.

REFERENCE INFORMATION:

Resolution 24-020

ORDINANCE 3064; COUNCIL BILL 24-022

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AND SUBSIDY AGREEMENT (“LOAN AGREEMENT”) BY AND BETWEEN THE CITY OF LAS CRUCES, NEW MEXICO (“GOVERNMENTAL UNIT”) AND THE NEW MEXICO FINANCE AUTHORITY (“FINANCE AUTHORITY”), IN THE TOTAL AMOUNT OF FIFTEEN MILLION THREE HUNDRED THOUSAND DOLLARS (\$15,300,000), EVIDENCING A SPECIAL LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A MAXIMUM REPAYABLE PRINCIPAL AMOUNT OF NO MORE THAN TWELVE MILLION TWO HUNDRED EIGHTY THOUSAND NINE HUNDRED FORTY-NINE DOLLARS (\$12,280,949), TOGETHER WITH INTEREST, AND ADMINISTRATIVE FEES THEREON, AND TO ACCEPT A LOAN SUBSIDY OF NO MORE THAN THREE MILLION NINETEEN THOUSAND FIFTY-ONE DOLLARS (\$3,019,051), FOR THE PURPOSE OF FINANCING THE COSTS OF A NEW WELL, ASSOCIATED IMPROVEMENTS OF THE WELL INCLUDING CONNECTING TO THE JOINT UTILITY SYSTEM OF THE GOVERNMENTAL UNIT, AND REHABILITATION OF WATER STORAGE TANKS; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL, ADMINISTRATIVE FEES AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE NET REVENUES OF THE JOINT UTILITY SYSTEM OF THE GOVERNMENTAL UNIT; SETTING AN INTEREST RATE FOR THE LOAN; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT.

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

The City Council is informed that:

WHEREAS, the Governmental Unit is a legally and regularly created, established, duly organized and existing incorporated home rule municipality under and pursuant to the laws of the State and more specifically, Article X, Section 6 of the State Constitution and the Municipal Code, NMSA 1978, §§ 3-1-1 through 3-66-11, as amended; and

WHEREAS, the Governmental Unit has created the System as provided in the Master Ordinance; and

WHEREAS, the Master Ordinance governs the issuance of Bonds or similar obligations by the Governmental Unit payable from the Net System Revenues of the System; and

WHEREAS, the Master Ordinance authorizes the Governmental Unit to adopt Supplemental Ordinances authorizing the issuance of additional Subordinated Bonds payable from the Net Revenues of the System; and

WHEREAS, this Council Bill No. 24-022; Ordinance No. 3064, is a Supplemental Ordinance authorized by the Master Ordinance for the purpose of entering into the Loan Agreement with the Finance Authority, which Loan Agreement constitutes a System Bond within the meaning of the Master Ordinance; and

WHEREAS, the Governing Body has determined and hereby determines that the Project may be financed with amounts borrowed under the Loan Agreement and that it is in the best interest of the Governmental Unit and the public it serves that the Loan Agreement be executed and delivered and that the financing of the Project take place by executing and delivering the Loan Agreement; and

Agenda Item #8.3.

WHEREAS, the Governing Body has determined that it may lawfully pledge the Pledged Revenues for the payment of amounts due under the Loan Agreement; and

WHEREAS, other than as described on the Term Sheet, the Pledged Revenues have not heretofore been pledged to secure the payment of any obligation which is currently outstanding; and

WHEREAS, there have been presented to the Governing Body, and there presently are on file with the City Clerk, this Ordinance and the form of the Loan Agreement; and

WHEREAS, the Governing Body hereby determines that the Project to be financed by the Loan Agreement is to be used for governmental purposes of the Governmental Unit; and

WHEREAS, all required authorizations, consents and approvals in connection with (i) the use and pledge of the Pledged Revenues to the Finance Authority (or its assigns) for the payment of amounts due under the Loan Agreement, (ii) the use of the proceeds of the Loan Agreement to finance the Project, and (iii) the authorization, execution and delivery of the Loan Agreement, which are required to have been obtained by the date of the Ordinance have been obtained or are reasonably expected to be obtained prior to the Closing Date.

NOW, THEREFORE, Be it Ordained by the Governing Body of the City of Las Cruces:

(I)

Section 1. Definitions. Capitalized terms defined in this Section 1, for all purposes, shall have the meaning herein specified, unless the context clearly requires otherwise (such meanings to be equally applicable to both the singular and the plural forms of the terms defined) and any term not defined herein shall have the definition given it by the Master Ordinance or the Loan Agreement:

“Administrative Fee” or “Administrative Fee Component” means the 0.25% annual fee payable to the Finance Authority as 0.125% of the Aggregate Repayable Disbursements then outstanding as a part of each Loan Agreement Payment for the costs of originating and servicing the Loan.

“Aggregate Disbursements” means, at any time after the Closing Date, the sum of all Disbursements.

“Aggregate Forgiven Disbursements” means the amount of subsidy provided in the form of principal forgiveness, and shall at any time after the Closing Date be equal to the product of the subsidy times the Aggregate Disbursements, up to the Maximum Forgiven Principal.

“Aggregate Repayable Disbursements” means, at any time after the Closing Date, the Aggregate Disbursements less the Aggregate Forgiven Disbursements.

“Approved Requisition” means a requisition in the form of Exhibit “C” to the Loan Agreement, together with supporting documentation submitted to and approved by the Finance Authority pursuant to Section 4.2 of the Loan Agreement.

“Authorized Officers” means the Mayor, City Manager, City Financial Services Director, City Treasurer, and City Clerk of the Governmental Unit.

“City Charter” means the home rule charter of the Governmental Unit submitted to the Governing Body on January 7, 1985 and approved by the voters of the Governmental Unit on March 5, 1985, as amended and supplemented.

“Closing Date” means the date of execution, delivery and funding of the Loan Agreement authorized by this Ordinance.

Agenda Item #8.3.

“Debt Service Account” means the debt service account established in the name of the Governmental Unit and administered by the Finance Authority to pay the Loan Agreement Payments under the Loan Agreement as the same become due.

“Disbursement” means an amount caused to be paid by the Finance Authority for an Approved Requisition for costs of the Project.

“DWSRLF Act” means the general laws of the State, particularly the Drinking Water State Revolving Loan Fund Act, NMSA 1978, §§ 6-21A-1 through 6-21A-9; NMSA 1978, §§ 3-31-1 through 3-31-12, the home rule charter of the City under Article X Section 6 of the State Constitution, and the Master Ordinance; all as amended; and enactments of the Governing Body relating to the Loan Agreement, including this Ordinance.

“Drinking Water State Revolving Loan Fund” means the drinking water state revolving loan fund established by the DWSRLF Act.

“Environmental Protection Agency” means the Environmental Protection Agency of the United States.

“Final Loan Agreement Payment Schedule” means the schedule of Loan Agreement Payments due on the Loan Agreement following the Final Requisition, as determined on the basis of the Aggregate Repayable Disbursements.

“Final Requisition” means the final requisition of moneys to be submitted by the Governmental Unit, which shall be submitted by the Governmental Unit on or before the date provided for in Section 4.1(b) of the Loan Agreement.

“Finance Authority” means the New Mexico Finance Authority, created by the New Mexico Finance Authority Act, NMSA 1978, §§ 6-21-1 through 6-21-31, as amended.

“Finance Authority Bonds” means drinking water state revolving loan fund revenue bonds, if any, issued hereafter by the Finance Authority and related to the Loan Agreement and the Loan Agreement Payments.

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

“Governing Body” means the duly organized City Council of the Governmental Unit, or any successor governing body of the Governmental Unit.

“Governmental Unit” means the City of Las Cruces, Doña Ana County, New Mexico.

“Gross Revenues” means “Gross Revenues” as defined in Section 1.01 of the Master Ordinance.

“Herein,” “hereby,” “hereunder,” “hereof,” “hereinabove” and “hereafter” refer to this entire Ordinance and not solely to the particular section or paragraph of this Ordinance in which such word is used.

“Interest Component” means the portion of each Loan Agreement Payment paid as interest accruing on the Aggregate Repayable Disbursements then outstanding, calculated from the date of each Disbursement.

“Interest Rate” means the rate of interest on the Loan Agreement, which includes the Administrative Fee, as shown on the Term Sheet.

“Loan” means the funds to be loaned to the Governmental Unit by the Finance Authority pursuant to the Loan Agreement, up to the Maximum Principal Amount.

Agenda Item #8.3.

“Loan Agreement” means the loan and subsidy agreement and any amendments or supplements thereto, including the exhibits attached to the loan and subsidy agreement.

“Loan Agreement Payment” means, collectively, the Principal Component, the Interest Component, and the Administrative Fee Component to be paid by the Governmental Unit as payment on the Aggregate Repayable Disbursements under the Loan Agreement, as shown on Exhibit “B” thereto.

“Master Ordinance” means Ordinance No. 1593, Council Bill 97- 035 adopted by the Governing Body on December 18, 1996, as amended by Ordinance No. 2750, Council Bill No. 15-031 adopted by the Council on April 8, 2015 and Ordinance No. 2837, Council Bill No. 18- 013 adopted by the Council on January 16, 2018.

“Maximum Forgiven Principal Amount” means the maximum amount of loan subsidy available in the form of principal forgiveness to be applied proportionally at the time of each Disbursement to the Governmental Unit, up to 19.7% of the Maximum Principal Amount. The Maximum Forgiven Principal Amount is three million nineteen thousand fifty-one dollars (\$3,019,051).

“Maximum Principal Amount” means fifteen million three hundred thousand dollars (\$15,300,000).

“Maximum Repayable Principal Amount” means the maximum amount of Aggregate Repayable Disbursements repayable by the Governmental Unit pursuant to the Loan Agreement. The Maximum Repayable Principal is twelve million two hundred eighty thousand nine hundred forty-nine dollars (\$12,280,949).

“Net Revenues” or “Net Revenues of the System” means the Gross Revenues of the System owned and operated by the Governmental Unit after deducting Operation and Maintenance Expenses of the System as defined in Section 1.01 of the Master Ordinance.

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

“Operation and Maintenance Expenses” means “Operation and Maintenance Expenses” as defined in Section 1.01 of the Master Ordinance.

“Ordinance” means this Council Bill No. 24-022; Ordinance No. 3064 adopted by the Governing Body of the Governmental Unit on August 5, 2024, approving the Loan Agreement and pledging the Pledged Revenues to the payment of the Loan Agreement Payments as shown on the Term Sheet to the Loan Agreement, as supplemented from time to time in accordance with the provisions hereof.

“Parity Bonds” means any obligations of the Governmental Unit now outstanding or hereafter issued or incurred, payable from or secured by first lien, but not an exclusive first lien, pledged of the Pledged Revenues, including any such obligations shown on the Term Sheet.

“Pledged Revenues” means the Net Revenues of the System of the Governmental Unit pledged to payment of the Loan Agreement Payments pursuant to this Ordinance and described on the Term Sheet.

“Project” means financing the costs of a new well, associated improvements of the well including connecting to the System, and rehabilitation of water storage tanks, as further described in the Term Sheet.

“State” means the State of New Mexico.

Agenda Item #8.3.

“Subordinated Bonds” means the Loan Agreement and any bonds or other obligations of the Governmental Unit now outstanding or hereafter issued or incurred with a lien on the Pledged Revenues subordinate to the lien created by the Parity Bonds, including any such obligations shown on the Term Sheet.

“System” means the joint water, sanitary sewer and natural gas utility system of the Governmental Unit as defined in Section 1.01 of the Master Ordinance.

“Term Sheet” means Exhibit “A” to the Loan Agreement.

“Unrequisitioned Principal Amount” means the amount, if any, by which the Maximum Principal Amount exceeds the Aggregate Disbursements at the time the Governmental Unit submits the certificate of completion required pursuant to Section 6.3 of the Loan Agreement.

Section 2.Ratification. All action heretofore taken (not inconsistent with the provisions of this Ordinance) by the Governing Body and officers of the Governmental Unit directed toward the acquisition and completion of the Project, the pledge of the Pledged Revenues to payment of amounts due under the Loan Agreement, and the execution and delivery of the Loan Agreement shall be, and the same hereby is, ratified, approved and confirmed.

Section 3.Authorization of the Project and the Loan Agreement. The acquisition and completion of the Project and the method of financing the Project through execution and delivery of the Loan Agreement and the other documents related to the transaction are hereby authorized and ordered. The Project is for the benefit and use of the Governmental Unit and the public whom it serves.

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

A.The Project is needed to meet the needs of the Governmental Unit and the public whom it serves.

B.Moneys available and on hand for the Project from all sources other than the Loan Agreement are not sufficient to defray the cost of acquiring and constructing the Project.

C.The Pledged Revenues may lawfully be pledged to secure the payment of amounts due under the Loan Agreement.

D.It is economically feasible and prudent to defray, in whole or in part, the costs of the Project by the execution and delivery of the Loan Agreement.

E.The Project and the execution and delivery of the Loan Agreement in the Maximum Principal Amount pursuant to the DWSRLF Act to provide funds for the financing of the Project are necessary or advisable in the interest of the public health, safety, and welfare of the residents and the public served by the Governmental Unit.

F.The Governmental Unit will acquire and construct the Project, in whole or in part, with the net proceeds of the Loan.

G.Other than as described on the Term Sheet, the Governmental Unit does not have any outstanding obligations payable from Pledged Revenues which it has incurred or will incur prior to the initial execution and delivery of the Loan Agreement.

H.The net effective interest rate on the Maximum Principal Amount does not exceed the current market rate, which is the maximum rate permitted by federal law.

Section 5.Loan Agreement - Authorization and Detail.

Agenda Item #8.3.

A.Authorization. This Ordinance has been adopted by the affirmative vote of at least three-fourths (3/4) of all of the members of the Governing Body. For the purpose of protecting the public health, conserving the property, and protecting the general welfare and prosperity of the public served by the Governmental Unit and acquiring and constructing the Project, it is hereby declared necessary that the Governmental Unit, pursuant to the DWSRLF Act, execute and deliver the Loan Agreement evidencing a special limited obligation of the Governmental Unit to pay a principal amount of twelve million two hundred eighty thousand nine hundred forty-nine dollars (\$12,280,949) and interest thereon, and to accept a loan subsidy in the amount of three million nineteen thousand fifty-one dollars (\$3,019,051) and the execution and delivery of the Loan Agreement is hereby authorized. The Governmental Unit shall use the proceeds of the Loan and subsidy (i) to finance the acquisition and completion of the Project and (ii) to pay the Administrative Fee and Expenses of the Loan Agreement and the costs of issuance of the Bonds, if any. The Project will be owned by the Governmental Unit.

B.Detail. The Loan Agreement shall be in substantially the form of the Loan Agreement presented at the meeting of the Governing Body at which this Ordinance was adopted. The Loan shall be in an amount not to exceed the Maximum Principal Amount of fifteen million three hundred thousand dollars (\$15,300,000). The Aggregate Repayable Disbursements shall be payable in installments of principal due on May 1 of the years designated in the Final Loan Agreement Payment Schedule and bear interest payable on May 1 and November 1 of each of the years designated in the Final Loan Agreement Payment Schedule, at the Interest Rate designated in the Loan Agreement, including Exhibit "A" thereto.

Section 6.Approval of Loan Agreement. The form of the Loan Agreement as presented at the meeting of the Governing Body at which this Ordinance was adopted is hereby approved. Authorized Officers are hereby individually authorized to execute, acknowledge, and deliver the Loan Agreement with such changes, insertions and omissions as may be approved by such individual Authorized Officers, and the City Clerk is hereby authorized to affix the seal of the Governmental Unit on the Loan Agreement and attest the same. The execution of the Loan Agreement by an Authorized Officer shall be conclusive evidence of such approval.

Section 7.Special Limited Subordinated Obligation. The Loan Agreement shall be secured by the pledge of the Pledged Revenues as set forth in the Loan Agreement and shall be payable solely from the Pledged Revenues with a lien thereon subordinate to the lien of the Parity Bonds, and on a parity with the Subordinated Bonds. The Loan Agreement, together with interest thereon and other obligations of the Governmental Unit thereunder, shall be a special, limited obligation of the Governmental Unit, payable solely from the Pledged Revenues as provided in this Ordinance, and the Loan Agreement shall not constitute a general obligation of the Governmental Unit or the State, and the holders of the Loan Agreement may not look to any general or other fund of the Governmental Unit for payment of the obligations thereunder. Nothing contained in this Ordinance nor in the Loan Agreement, nor any other instruments, shall be construed as obligating the Governmental Unit (except with respect to the application of the Pledged Revenues) or as imposing a pecuniary liability or a charge upon the general credit of the Governmental Unit or against its taxing power, nor shall a breach of any agreement contained in this Ordinance, the Loan Agreement, or any other instrument impose any pecuniary liability upon the Governmental Unit or any charge upon its general credit or against its taxing power. The Loan Agreement shall never constitute an indebtedness of the Governmental Unit within the meaning of any State constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability of the Governmental Unit or a charge against its general credit or taxing power. Nothing herein shall prevent the Governmental Unit from applying other funds of the Governmental Unit legally available therefor to payments required by the Loan Agreement, in its sole and absolute discretion.

Section 8.Disposition of Proceeds; Completion of Acquisition and Completion of the Project.

A.Debt Service Account; Disbursements. The Governmental Unit hereby consents to creation of the Debt Service Account to be held and maintained by the Finance Authority as provided in the Loan Agreement.

The proceeds derived from the execution and delivery of the Loan Agreement shall be disbursed promptly upon receipt of an Approved Requisition (as defined in the Loan Agreement).

Agenda Item #8.3.

Until the acquisition and completion of the Project or the date of the Final Requisition, the money disbursed pursuant to the Loan Agreement shall be used and paid out solely for the purpose of acquiring and constructing the Project in compliance with applicable law and the provisions of the Loan Agreement.

B.Prompt Completion of the Project. The Governmental Unit will complete the Project with all due diligence.

C.Certification of Completion of the Project. Upon the acquisition and completion of the Project, the Governmental Unit shall execute and send to the Finance Authority a certificate stating that the completion of and payment for the Project has been completed.

D.Finance Authority Not Responsible for Application of Loan Proceeds. The Finance Authority shall in no manner be responsible for the application or disposal by the Governmental Unit or by its officers of the funds derived from the Loan Agreement or of any other funds herein designated.

Section 9.Deposit of Pledged Revenues; Distributions of the Pledged Revenues and Flow of Funds.

A.Deposit of Pledged Revenues. Pledged Revenues shall be paid directly by the Governmental Unit to the Finance Authority on a parity with the outstanding Subordinated Bonds in an amount sufficient to pay the Loan Agreement Payments, and other amounts due under the Loan Agreement, as provided in Section 5.2 of the Loan Agreement.

B.Termination on Deposits to Maturity. No payment shall be made into the Debt Service Account if the amount in the Debt Service Account totals a sum at least equal to the total amount of Loan Agreement Payments to become due as to principal, interest on, Administrative Fees and any other amounts due under the Loan Agreement, in which case moneys in such account in an amount at least equal to such principal, interest, and Administrative Fee requirements shall be used solely to pay such obligations as the same become due, and any moneys in excess thereof in such accounts shall be transferred to the Governmental Unit and used as provided in Section 9.C of this Ordinance.

C.Use of Surplus Revenues. After making all the payments required to be made by this Section and any payments required by outstanding Parity Bonds, and Subordinated Bonds, any moneys remaining in the Debt Service Account shall be transferred to the Governmental Unit on a timely basis and applied to any other lawful purpose, including, but not limited to, the payment of any Parity Bonds, or Subordinated Bonds, or purposes authorized by the Governmental Unit, the Constitution and laws of the State, as the Governmental Unit may from time to time determine as provided in the Master Ordinance.

Section 10.Lien on Pledged Revenues. Pursuant to this Ordinance and the Loan Agreement, the Pledged Revenues are hereby authorized to be pledged, and are hereby pledged, and the Governmental Unit grants a lien on the Pledged Revenues and security interest therein, for the payment of the principal, interest, Administrative Fees, and any other amounts due under the Loan Agreement, subject to the uses thereof permitted by and the priorities set forth in this Ordinance. The Loan Agreement constitutes an irrevocable lien, but not necessarily an exclusive lien, on the Pledged Revenues as set forth herein and therein, and the Governmental Unit shall not create a lien on the Pledged Revenues superior to that of the Loan Agreement except as provided in the Master Ordinance.

Section 11.Authorized Officers. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Ordinance, the Loan Agreement and all other transactions contemplated hereby and thereby. Authorized Officers are hereby individually authorized to do all acts and things required of them by this Ordinance and the Loan Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this Ordinance and the Loan Agreement including, but not limited to, the execution and delivery of closing documents and reports in connection with the execution and delivery of the Loan Agreement.

Agenda Item #8.3.

Section 12.Amendment of Ordinance. Prior to the Closing Date, the provisions of this Ordinance may be supplemented or amended by ordinance of the Governing Body with respect to any changes which are not inconsistent with the substantive provisions of this Ordinance. After the Closing Date, this Ordinance may be amended, only with the prior written consent of the Finance Authority, by Authorized Officers of the Governmental Unit without receipt of the Governing Body of any additional consideration only when such amendment does not affect the terms of payment of the loan component of the Loan Agreement.

Section 13.Ordinance Irrepealable. After the Closing Date, this Ordinance shall be and remain irrepealable until all obligations due under the Loan Agreement shall be fully discharged, as herein provided.

Section 14.Severability Clause. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 15.Repealer Clause. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 16.Effective Date. Upon due adoption of this Ordinance, it shall be recorded in the book of the Governmental Unit kept for that purpose, authenticated by the signatures of the Mayor and City Clerk, and the title and general summary of the subject matter contained in this Ordinance (set out in Section 17 below) shall be published in a newspaper which is of general circulation in the Governmental Unit, and the Ordinance shall be in full force and effect thereafter, in accordance with law; provided, however, that if recording is not required for the effectiveness of this Ordinance, this Ordinance shall be effective upon adoption of this Ordinance by the Governing Body.

Section 17.General Summary for Publication. Pursuant to the general laws of the State, the title and a general summary of the subject matter contained in this Ordinance shall be published in substantially the following form:

[Form of Summary of Ordinance for Publication.]

City of Las Cruces, New Mexico
Notice of Adoption of Ordinance

Notice is hereby given of the title and of a general summary of the subject matter contained in Council Bill No. 24-022; Ordinance No. 3064, duly adopted and approved by the City Council of the City of Las Cruces, New Mexico, on August 5, 2024. A complete copy of the Ordinance is available for public inspection during normal and regular business hours in the office of the City Clerk, 700 N Main Street, Las Cruces, New Mexico 88001.

The title of the Ordinance is:

CITY OF LAS CRUCES, DOÑA ANA COUNTY, NEW MEXICO
COUNCIL BILL NO. 24-022; ORDINANCE NO. 3064

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AND SUBSIDY AGREEMENT ("LOAN AGREEMENT") BY AND BETWEEN THE CITY OF LAS CRUCES, NEW MEXICO ("GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY ("FINANCE AUTHORITY"), IN THE TOTAL AMOUNT OF FIFTEEN MILLION THREE HUNDRED THOUSAND DOLLARS (\$15,300,000), EVIDENCING A SPECIAL LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A MAXIMUM REPAYABLE PRINCIPAL AMOUNT OF NO MORE THAN TWELVE MILLION TWO HUNDRED EIGHTY THOUSAND NINE HUNDRED FORTY-NINE DOLLARS (\$12,280,949), TOGETHER WITH INTEREST, AND ADMINISTRATIVE FEES THEREON, AND TO ACCEPT A LOAN SUBSIDY OF NO MORE THAN THREE MILLION NINETEEN THOUSAND FIFTY-ONE DOLLARS (\$3,019,051), FOR THE PURPOSE OF

Agenda Item #8.3.

FINANCING THE COSTS OF A NEW WELL, ASSOCIATED IMPROVEMENTS OF THE WELL INCLUDING CONNECTING TO THE JOINT UTILITY SYSTEM OF THE GOVERNMENTAL UNIT, AND REHABILITATION OF WATER STORAGE TANKS; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL, ADMINISTRATIVE FEES AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE NET REVENUES OF THE JOINT UTILITY SYSTEM OF THE GOVERNMENTAL UNIT; SETTING AN INTEREST RATE FOR THE LOAN; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT.

A general summary of the subject matter of the Ordinance is contained in its title.

This notice constitutes compliance with NMSA 1978, § 6-14-6, as amended.

[End of Form of Summary of Ordinance for Publication.]

Section 18. Execution of Agreements. The City of Las Cruces through its Governing Body agrees to authorize and execute all such agreements with the New Mexico Finance Authority as are necessary to consummate the Loan contemplated herein and consistent with the terms and conditions of the Loan Agreement and this Ordinance.

(II)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS

\$15,300,000 Maximum Principal Amount

Maximum Forgiven Principal Amount \$3,019,051

Maximum Repayable Principal Amount \$12,280,949

**DRINKING WATER STATE REVOLVING LOAN FUND SUBORDINATE LIEN
LOAN AND SUBSIDY AGREEMENT**

dated

September 13, 2024

by and between the

NEW MEXICO FINANCE AUTHORITY

and the

**CITY OF LAS CRUCES,
DOÑA ANA COUNTY, NEW MEXICO**

**DRINKING WATER STATE REVOLVING LOAN FUND
SUBORDINATE LIEN LOAN AND SUBSIDY AGREEMENT**

This SUBORDINATE LIEN LOAN AND SUBSIDY AGREEMENT (the “Loan Agreement”), dated September 13, 2024, is entered into by and between the **NEW MEXICO FINANCE AUTHORITY** (the “NMFA”), and the **CITY OF LAS CRUCES**, Doña Ana County, New Mexico (the “Governmental Unit”), an incorporated home rule municipality duly organized and existing under the laws of the State of New Mexico (the “State”).

WITNESSETH:

Capitalized terms used in the following recitals of this Loan Agreement and not defined in the first Paragraph above or in these recitals shall have the same meaning as defined in the Master Ordinance or Article I of this Loan Agreement, unless the context requires otherwise.

WHEREAS, the NMFA is authorized, pursuant to the Drinking Water State Revolving Loan Fund Act, NMSA 1978, §§ 6-21A-1 through 6-21A-9, as amended (the “DWSRLF Act”) to implement a program to permit qualified local authorities, such as the Governmental Unit, to enter into agreements with the NMFA to provide financial assistance in the acquisition, design, construction, improvement, expansion, repair and rehabilitation of drinking water supply facilities as authorized by the Safe Drinking Water Act (“SDWA”); and

WHEREAS, a portion of the Loan/Grant funds made available under this Loan Agreement pursuant to the DWSRLF Act and the Safe Drinking Water Act may be forgiven and, if forgiven, will not be required to be repaid; and

WHEREAS, the Governing Body of the Governmental Unit has determined that it is in the best interests of the Governmental Unit and the public it serves that the Governmental Unit enter into this Loan Agreement with the NMFA and accept a loan and subsidy from the NMFA to finance the costs of the Project, as more fully described on the Term Sheet attached hereto as Exhibit “A”; and

WHEREAS, the Project appears on the Drinking Water Fundable Priority List; and

WHEREAS, the Project has been planned and authorized in conformity with the Intended Use Plan; and

WHEREAS, the NMFA, the New Mexico Environment Department (the “Department”), or other appropriate agency or entity on behalf of the NMFA, pursuant to an agreement between such agency or entity and the NMFA) shall have determined that the Governmental Unit’s Project plans and specifications comply with the provisions of 42 U.S.C. Section 300j-12 and the requirements of the laws and regulations of the State governing the construction and operation of drinking water systems prior to disbursement of any proceeds of the Loan for construction; and

WHEREAS, a portion of the funds made available under this Loan Agreement pursuant to the DWSRLF Act and the SDWA are federal funds categorized as CFDA 66.468; and

WHEREAS, pursuant to information provided by the Governmental Unit and environmental review by applicable State and federal agencies, and in accordance with 40 C.F.R. Sections 6.204, 6.300(c)(1), and 6.301(f), and pursuant to the environmental review process of the State, the NMFA has determined that the Project meets the requirements for a Categorical Exclusion as defined in the State Environmental Review Process (SERP) for the Drinking Water State Revolving Loan Fund; and

WHEREAS, pursuant to 42 U.S.C. 300j-12(a)(3), the New Mexico Environment Department Drinking Water Bureau has determined that the Governmental Unit has sufficient technical, managerial and financial capability to operate the Project for its useful life and ensure compliance with the requirements of the SDWA; and

WHEREAS, the Governmental Unit has created the System as defined in the Master Ordinance; and

WHEREAS, the Master Ordinance governs the issuance of Bonds or similar obligations by the Governmental Unit payable from the Net Revenues of the System; and

WHEREAS, the Master Ordinance authorizes the Governmental Unit to adopt Supplemental Ordinances authorizing the issuance of System Bonds; and

WHEREAS, the Governmental Unit has adopted Council Bill No. 24-022; Ordinance No. 3064 as a Supplemental Ordinance to the Master Ordinance authorizing this Loan Agreement, and this Loan Agreement constitutes a System Bond within the meaning of the Master Ordinance.

NOW, THEREFORE, for and in consideration of the premises and the mutual promises and covenants herein contained, the NMFA and the Governmental Unit agree:

ARTICLE I

DEFINITIONS

Capitalized terms defined in this Article I, for all purposes, shall have the meaning specified in the Master Ordinance or this Article I wherever used in this Loan Agreement, including the foregoing recitals, unless the context clearly requires otherwise (such meanings to be equally applicable to both the singular and the plural forms of the terms defined). Capitalized terms defined in the foregoing recitals, if not defined in this Article I, shall have the same meaning as therein stated when used in this Loan Agreement, unless the context clearly requires otherwise.

“Administrative Fee” or “Administrative Fee Component” means the 0.25% annual fee payable to the NMFA as 0.25% of the Aggregate Repayable Disbursements then outstanding as a part of each Loan Agreement Payment for the costs of originating and servicing the Loan.

“Aggregate Disbursements” means, at any time after the Closing Date, the sum of all Disbursements.

Agenda Item #8.3.

“Aggregate Forgiven Disbursements” means the amount of subsidy provided in the form of principal forgiveness, and shall at any time after the Closing Date be equal to the product of the subsidy times the Aggregate Disbursements, up to the Maximum Forgiven Principal Amount.

“Aggregate Program Amount” means, with respect to this Loan Agreement, the sum of the Aggregate Repayable Disbursements and the Aggregate Forgiven Disbursements up to the Maximum Principal Amount.

“Aggregate Repayable Disbursements” means, at any time after the Closing Date, the Aggregate Disbursements less the Aggregate Forgiven Disbursements.

“Approved Requisition” means a requisition in the form of Exhibit “C” to this Loan Agreement, together with the required supporting documentation set out in Exhibit “C” submitted to and approved by the NMFA pursuant to Section 4.2 of this Loan Agreement.

“Authorized Officers” means, with respect to the Governmental Unit, the Mayor, City Manager, City Financial Services Director, City, Treasurer and City Clerk thereof; and with respect to the NMFA, any one or more of the Chairperson, Vice-Chairperson, Secretary and Chief Executive Officer, and any other officer or employee of the NMFA designated in writing by an Authorized Officer of the NMFA.

“City Charter” means the home rule charter of the Governmental Unit submitted to the Governing Body on January 7, 1985 and approved by the voters of the Governmental Unit on March 5, 1985, as amended and supplemented.

“Closing Date” means the date of execution and delivery of this Loan Agreement as shown on the Term Sheet.

“Debt Service Account” means the debt service account established in the name of the Governmental Unit and administered by the NMFA to pay the Loan Agreement Payments under this Loan Agreement as the same become due.

“Debt Service Requirements” shall have the meaning set forth in Section 1.01 of the Master Ordinance.

“Department” means the New Mexico Environment Department.

“Disbursement” means an amount caused to be paid by the NMFA for an Approved Requisition for costs of the Project, calculated on the basis of the amount of such Approved Requisition.

“Drinking Water Fundable Priority List” means the list of drinking water projects compiled by the Department pursuant to the Memorandum of Understanding and the Intended Use Plan.

“DWSRLF Act” means the general laws of the State, particularly the Drinking Water State Revolving Loan Fund Act, NMSA 1978, §§ 6-21A-1 through 6-21A-9, the Municipal Code,

Agenda Item #8.3.

NMSA 1978, §§ 3-2-1-1 through 3-66-11, the City Charter adopted under Article X Section 6 of the State Constitution, the Master Ordinance, all as may be amended from time to time; and enactments of the Governing Body relating to this Loan Agreement including the Ordinance.

“Drinking Water State Revolving Loan Fund” means the drinking water state revolving loan fund established by the DWSRLF Act.

“Environmental Protection Agency” or “EPA” means the United States Environmental Protection Agency.

“Event of Default” means one or more events of default as defined in Section 10.1 of this Loan Agreement.

“Final Loan Agreement Payment Schedule” means the schedule of Loan Agreement Payments due on this Loan Agreement following the Final Requisition, as determined on the basis of the Aggregate Repayable Disbursements.

“Final Requisition” means the final requisition of moneys to be submitted by the Governmental Unit, which shall be submitted by the Governmental Unit on or before the date provided for in Section 4.1(b) of this Loan Agreement.

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

“Generally Accepted Accounting Principles” means the officially established accounting principles applicable to the Governmental Unit consisting of the statements, determinations and other official pronouncements of the Government Accounting Standards Board, Financial Accounting Standards Board, Federal Accounting Standards Board or other principle-setting body acceptable to the NMFA establishing accounting principles applicable to the Governmental Unit.

“Governing Body” means the duly organized City Council of the Governmental Unit, or any successor governing body of the Governmental Unit.

“Gross Revenues” means “Gross Revenues” as defined in Section 1.01 of the Master Ordinance.

“Herein,” “hereby,” “hereunder,” “hereof,” “hereinabove” and “hereafter” refer to this entire Loan Agreement and not solely to the particular section or paragraph of this Loan Agreement in which such word is used.

“Independent Accountant” means (i) an accountant employed by the State and under the supervision of the State Auditor, or (ii) any certified public accountant or firm of such accountants duly licensed to practice and practicing as such under the laws of the State, appointed and paid by the Governmental Unit who (a) is, in fact, independent and not under the domination of the

Agenda Item #8.3.

Governmental Unit, (b) does not have any substantial interest, direct or indirect, with the Governmental Unit, and (c) is not connected with the Governmental Unit as an officer or employee of the Governmental Unit, but who may be regularly retained to make annual or similar audits of the books or records of the Governmental Unit.

“Intended Use Plan” means the current plan prepared by the NMFA and the Department and approved by the Environmental Protection Agency pursuant to 42 U.S.C. Section 300j-12(b) and 40 CFR §35.3555 which establish criteria for extending drinking water improvements financial assistance to qualifying public drinking water utility systems.

“Interest Component” means the portion of each Loan Agreement Payment paid as interest accruing on the Aggregate Repayable Disbursements then outstanding, calculated from the date of each Disbursement.

“Interest Rate” means the rate of interest on this Loan Agreement, which includes the Administrative Fee, as shown on the Term Sheet.

“Interim Period” means the period no greater than twenty-seven (27) months, or a longer period as may be approved by the NMFA as provided in Section 4.1(b) of this Loan Agreement, beginning on the Closing Date, during which the NMFA will disburse moneys to the Governmental Unit to pay costs of the Project, unless extended pursuant to Section 4.1(b) of this Loan Agreement.

“Interim Loan Agreement Payment Schedule” means the anticipated schedule of Loan Agreement Payments due on this Loan Agreement following the Final Requisition, assuming disbursement of the entire Aggregate Program Amount within twenty-seven (27) months of the Closing Date. The Interim Loan Agreement Payment Schedule is attached hereto as Exhibit “B”.

“Loan” means the funds to be loaned to the Governmental Unit by the NMFA pursuant to this Loan Agreement, up to the Maximum Principal Amount.

“Loan Agreement” means this loan and subsidy agreement and any amendments or supplements hereto, including the exhibits attached to this loan agreement.

“Loan Agreement Payment” means, collectively, the Principal Component, the Interest Component, and the Administrative Fee Component to be paid by the Governmental Unit as payment on the Aggregate Repayable Disbursements under this Loan Agreement, as shown on Exhibit “B” hereto.

“Loan Agreement Payment Date” means each date a Loan Agreement payment is due on this Loan Agreement as shown on the Interim Loan Agreement Payment Schedule, attached hereto as Exhibit “B” or in the Final Loan Agreement Payment Schedule.

“Loan Agreement Term” means the term of this Loan Agreement as provided under Article III of this Loan Agreement.

Agenda Item #8.3.

“Master Ordinance” means Ordinance No. 1593, Council Bill 97- 035 adopted by the Governing Body on December 18, 1996, as amended by Ordinance No. 2750, Council Bill No. 15-031 adopted by the Council on April 8, 2015 and Ordinance No. 2837, Council Bill No. 18-013 adopted by the Council on January 16, 2018.

“Maximum Annual Debt Service Requirements” shall have the meaning established in Section 1.01 of the Master Ordinance under the definition of Debt Service Requirements.

“Maximum Forgiven Principal Amount” means the maximum amount of loan subsidy available in the form of principal forgiveness to be applied proportionally at the time of each Disbursement to the Governmental Unit, up to 19.7% of the Maximum Principal Amount. The Maximum Forgiven Principal Amount is three million nineteen thousand fifty-one dollars (\$3,019,051).

“Maximum Principal Amount” means fifteen million three hundred thousand dollars (\$15,300,000).

“Maximum Repayable Principal Amount” means the maximum amount of Aggregate Repayable Disbursements made to the Governmental Unit pursuant to this Loan Agreement. The Maximum Repayable Principal Amount is twelve million two hundred eighty thousand nine hundred forty-nine dollars (\$12,280,949).

“Memorandum of Understanding” means the current memorandum of understanding by and between the NMFA and the Department pursuant to the DWSRLF Act describing and allocating duties and responsibilities in connection with the Drinking Water State Revolving Loan Fund program.

“Net Revenues” or “Net Revenues of the System” means the Gross Revenues of the System owned and operated by the Governmental Unit minus Operation and Maintenance Expenses as defined in Section 1.01 of the Master Ordinance.

“NMFA Act” means NMSA 1978, §§ 6-21-1 through 6-21-31, as amended.

“NMFA Bonds” means drinking water state revolving loan fund revenue bonds, if any, issued hereafter by the NMFA and specifically related to this Loan Agreement and the Loan Agreement Payments.

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

“Operating Agreement” means the operating agreement entered into between the NMFA and the Environmental Protection Agency, Region 6, for the Drinking Water State Revolving Loan Fund program.

“Operation and Maintenance Expenses” means “Operation and Maintenance Expenses” as defined in Section 1.01 of the Master Ordinance.

“Ordinance” means Council Bill No. **[CITY PLEASE CONFIRM] [24-022]**; Ordinance No. **[CITY PLEASE CONFIRM][3064]** adopted by the Governing Body of the Governmental Unit on August 5, 2024, approving this Loan Agreement and pledging the Pledged Revenues to the payment of the Loan Agreement Payments as shown on the Term Sheet, as supplemented from time to time.

“Parity Obligations” or “Parity Bonds” means any obligations of the Governmental Unit now outstanding or hereafter issued or incurred, payable from or secured by a pledge of the Pledged Revenues pursuant to the Master Ordinance and issued with a first lien (but not an exclusive first lien) on the Pledged Revenues, including any such obligations shown on the Term Sheet.

“Permitted Investments” means securities which are at the time legal investments of the Governmental Unit for the money to be invested, and as defined in the Master Ordinance.

“Pledged Revenues” means the Net Revenues of the System of the Governmental Unit pledged to the payment of the Loan Agreement Payments by the Ordinance and this Loan Agreement and described in the Term Sheet.

“Principal Component” means the portion of each Loan Agreement Payment paid as principal on this Loan Agreement, based upon the Aggregate Repayable Disbursements, as shown on Exhibit “B” attached to this Loan Agreement.

“Project” means financing the costs of a new well, associated improvements of the well including connecting to the System, and rehabilitation of water storage tanks, as further described on the Term Sheet.

“Safe Drinking Water Act” means 42 U.S.C. §§ 300f et seq.

“Service Area” means the area served by the System, whether situated within or without the limits of the Governmental Unit.

“State Environmental Review Process” or “SERP” means the environmental review process adopted by the NMFA, as required by and approved by the Environmental Protection Agency, pursuant to the Operating Agreement.

“Subordinated Obligations” or “Subordinated Bonds” means this Loan Agreement and any bonds or other obligations of the Governmental Unit now outstanding or hereafter issued or incurred pursuant to the Master Ordinance with a lien on the Pledged Revenues on parity with the lien created by this Loan Agreement and subordinate to any other outstanding Parity Obligations having a lien on the Pledged Revenues, including any such obligations shown on the Term Sheet.

“System” means the joint water, sanitary sewer and natural gas utility system of the Governmental Unit defined in, created by and operated pursuant to the Master Ordinance.

“System Bonds” means any bonds and other similar indebtedness issued pursuant to the Master Ordinance payable solely or primarily from the Pledged Revenues, including this Loan Agreement, Parity Obligations and other Subordinate Obligations.

“Term Sheet” means Exhibit “A” attached to this Loan Agreement.

“Unrequisitioned Principal Amount” means the amount, if any, by which the Maximum Principal Amount exceeds the Aggregate Disbursements at the time the Governmental Unit submits the certificate of completion required pursuant to Section 6.3 of this Loan Agreement.

ARTICLE II

REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.1 Representations, Covenants and Warranties of the Governmental Unit. The Governmental Unit represents, covenants and warrants as follows:

(a) Binding Nature of Covenants; Enforceability. All representations, covenants, stipulations, obligations and agreements of the Governmental Unit contained in this Loan Agreement shall be deemed to be the representations, covenants, stipulations, obligations and agreements of the Governmental Unit to the full extent authorized or permitted by law, and such representations, covenants, stipulations, obligations and agreements shall be binding upon the Governmental Unit and its successors and enforceable in accordance with their terms, and upon any board or body to which any powers or duties affecting such representations, covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Loan Agreement, all rights, powers and privileges conferred and duties and liabilities imposed upon the Governmental Unit by the provisions of this Loan Agreement and the Ordinance shall be exercised or performed by the Governmental Unit or by such members, officers, or officials of the Governmental Unit as may be required by law to exercise such powers and to perform such duties.

(b) Authorization of Loan Agreement and Readiness to Proceed. The Governmental Unit is an incorporated home rule municipality, a political subdivision of the State, and is duly organized and existing under the statutes and laws of the State, including specifically Article X, Section 6 of the State Constitution and the Municipal Code, NMSA 1978, §§ 3-1-1 through 3-66-11, as amended. The Governmental Unit is a local authority as defined in the DWSRLF Act. The Governmental Unit is authorized to enter into the transactions contemplated by this Loan Agreement and to carry out its obligations hereunder. The Governmental Unit has duly authorized and approved the execution and delivery of this Loan Agreement and the other documents related to the transaction. The Governmental Unit has met all readiness to proceed requirements of the NMFA and has met and will continue to meet all requirements of law applicable to this Loan Agreement.

(c) Use of Loan Agreement Proceeds. Pursuant to Section 26.01 of the Master Ordinance, the Governmental Unit shall proceed without delay in applying the Aggregate Program

Amount, pursuant to Section 6.1 of this Loan Agreement to the acquisition and completion of the Project and to no other purpose, as follows:

(i) The Governmental Unit shall, within two (2) years after the Closing Date, have completed the acquisition of the Project, and shall within twenty-seven (27) months after the Closing Date have requisitioned the Aggregate Program Amount, or such portion thereof as shall be necessary to complete the Project, unless an extension is agreed to pursuant to Section 4.1(b) of this Loan Agreement.

(d) Payment of Loan Agreement Payments. Pursuant to Section 26.02 of the Master Ordinance, the Governmental Unit meets and will continue to meet the requirements established by the Master Ordinance and the NMFA to assure sufficient Pledged Revenues to operate and maintain the System for its useful life and repay the Loan. The Governmental Unit shall promptly pay Loan Agreement Payments, as specified in the Interim Loan Agreement Payment Schedule or the Final Loan Agreement Payment Schedule, as applicable, according to the true intent and meaning of this Loan Agreement on a parity with the outstanding Parity Obligations.

(e) Acquisition and Completion of Project; Compliance with Laws. The Project will be acquired and completed so as to comply with all applicable ordinances, resolutions and regulations, if any, and any and all applicable laws relating to the acquisition and completion of the Project and to the use of the Pledged Revenues.

(f) Necessity of Project. The acquisition and completion of the Project under the terms and conditions provided for in this Loan Agreement is necessary, convenient and in furtherance of the governmental purposes of the Governmental Unit and is in the best interests of the Governmental Unit and the public it serves.

(g) Legal, Valid and Binding Obligation. The Governmental Unit has taken all required action necessary to authorize the execution and delivery of this Loan Agreement. This Loan Agreement constitutes a legal, valid and binding special obligation of the Governmental Unit enforceable in accordance with its terms.

(h) Loan Agreement Term. The Loan Agreement Term does not exceed the anticipated useful life of the Project.

(i) Use of Project. During the Loan Agreement Term, the Project will at all times be used for the purpose of benefiting the Governmental Unit and the public it serves.

(j) No Breach or Default Caused by Loan Agreement. Neither the execution and delivery of this Loan Agreement and the other documents related to this transaction, nor the fulfillment of or compliance with the terms and conditions in this Loan Agreement and the other documents related to this transaction, nor the consummation of the transactions contemplated herein, conflicts with or results in a breach of terms, conditions or provisions of any restriction or any agreement or instrument to which the Governmental Unit is a party or by which the Governmental Unit is bound or any laws, ordinances, governmental rules or regulations or court

or other governmental orders to which the Governmental Unit or its properties are subject, or constitutes a default under any of the foregoing.

(k) Irrevocable Enactments. While this Loan Agreement remains outstanding and unpaid, any ordinance, resolution or other enactment of the Governing Body applying the Pledged Revenues for the payment of this Loan Agreement shall be irrevocable until this Loan Agreement has been paid in full as to both principal and interest, and shall not be subject to amendment or modification in any manner which would in any way jeopardize the timely payment of Loan Agreement Payments.

(l) Outstanding and Additional Debt. Except for the Parity Obligations and Subordinated Obligations described on the Term Sheet, there are currently no outstanding bonds, notes or other obligations of the Governmental Unit which are payable from and secured by a lien on the Pledged Revenues. The Governmental Unit may issue additional System Bonds (Parity Obligations and Subordinate Obligations) in conformance with the requirements of the Master Ordinance and Section 5.4 hereof.

(m) No Litigation. To the knowledge of the Governmental Unit after due investigation, no litigation or proceeding is pending or threatened against the Governmental Unit or any other person affecting the right of the Governmental Unit to execute or deliver this Loan Agreement and the other documents related to this transaction or to comply with its obligations under this Loan Agreement and documents related to the transaction. Neither the execution and delivery of this Loan Agreement and the other documents related to the transaction by the Governmental Unit nor compliance by the Governmental Unit with the obligations under this Loan Agreement and the other documents related to the transaction, requires the approval of any regulatory body, or any other entity, which approval has not been obtained or which is not reasonably expected to be obtained.

(n) No Event of Default. No event has occurred and no condition exists which, upon the execution and delivery of this Loan Agreement and the other documents related to the transaction, would constitute an Event of Default on the part of the Governmental Unit under this Loan Agreement and the other documents related to the transaction.

(o) Existing Pledges; Pledged Revenues Not Budgeted. Except as described on the Term Sheet the Pledged Revenues have not been pledged or hypothecated in any manner for any purpose at the time of execution and delivery of this Loan Agreement. The portion of the Pledged Revenues necessary to pay the Loan Agreement Payments, as and when due, is not needed or budgeted to pay current or anticipated operational or other expenses of the Governmental Unit.

(p) Expected Coverage Ratio. The Pledged Revenues on an ongoing basis during each year of the Loan Agreement Term the City shall comply with the requirements of the Rate Covenant set out in Section 2.2 (a) of this Loan Agreement.

(q) Governmental Unit's Existence. The Governmental Unit will maintain its legal identity and existence so long as this Loan Agreement is unpaid, unless another political subdivision, State agency or other entity by operation of law succeeds to the liabilities, rights and

duties of the Governmental Unit under this Loan Agreement without adversely affecting to any substantial degree the privileges and rights of the NMFA.

(r) Continuing Disclosure. The Governmental Unit covenants that it shall provide continuing disclosure to the NMFA, as the NMFA may require, that shall include, but not be limited to: Project documents, annual audits, operational data required to update information in any disclosure documents used in connection with assignment or securitizing this Loan Agreement or the Loan Agreement Payments by issuance of Bonds by the NMFA, and notification of any event deemed material by the NMFA and communicated to the Governmental Unit in writing. For the purposes of this Loan Agreement, a material event shall include, without limitation, any violation by the Governmental Unit or alleged violation by the Governmental Unit asserted by a state or federal agency of appropriate jurisdiction, of federal law, regulation, or policy which governs or applies to participants in the Drinking Water State Revolving Loan Fund program of which the City has knowledge.

(s) Notice of Additional Obligations. For so long as the Loan Agreement is outstanding, the Governmental Unit shall notify the NMFA of the approval by the Governmental Unit of the issuance of any Parity Obligations or Subordinate Obligations before the Governmental Unit's Governing Body adopts a supplemental ordinance related to the issuance of such Parity Obligations or Subordinate Obligations (the "Notice Requirements") unless such Parity Obligations or Subordinate Obligations are being purchased by the NMFA. Notification to the NMFA of the posting of an Official Statement for such additional Parity Obligations or Subordinate Obligations or a material event notice on the Electronic Municipal Marketplace Access (EMMA) regarding the issuance of such additional Parity Obligations or Subordinate Obligations shall constitute notice of the final terms and conditions of the additional Parity Obligations or Subordinate Obligations. The obligations of the Governmental Unit under the Notice Requirements are for the benefit of the NMFA as lender under the Agreement. Specific performance by court order to compel the Governmental Unit to comply with its obligations under the Notice Requirements shall be the exclusive remedy available to the NMFA or any other Owner. If the additional Parity or Subordinate Obligations meet the requirements of the Master Ordinance and the Loan Ordinance or this Loan Agreement, the Governmental Unit's breach of its obligations under the Notice Requirements will not be considered an "event of default" under the Ordinance or this Loan Agreement, and none of the other rights and remedies provided by the Ordinance and this Loan Agreement will be available to the NMFA or other Owners with respect to such a breach.

(t) Construction Requirements. The Governmental Unit shall require any contractor hired by it in connection with the construction of the Project to post a performance and payment bond as provided by NMSA 1978, § 13-4-18, as amended.

Section 2.2 Protective Covenants Regarding Operation of the System. The Governmental Unit further represents, covenants and warrants as follows:

(a) Rate Covenant. Pursuant to Section 26.03 of the Master Ordinance, the Governmental Unit covenants that it will at all times fix, charge and collect such rates and charges as shall be required in order that in each Fiscal Year in which the Loan is outstanding (i) the Gross

Revenues shall be sufficient to provide for the payment of the Debt Service Requirements on all Outstanding System Bonds as and when the same become due and payable, to maintain the funds and accounts established in the Master Ordinance, to provide for the payment of expenses of administration, Operation and Maintenance Expenses of the System which may be necessary to preserve the same in good repair and working order, including the necessary reserves therefor and all other payments necessary to meet ongoing legal obligations to be paid at that time; and (ii) the Pledged Revenues shall at least equal the greater of (a) 125% of the Debt Service Requirements of the outstanding Parity Bonds in such Fiscal year or (b) 115% of the Debt Service Requirements on the Parity Bonds Outstanding and the Subordinated Bonds Outstanding in such Fiscal Year, including this Loan Agreement.

Failure by the City to comply with the foregoing Rate Covenant in any Fiscal Year will not constitute an event of default under the Master Ordinance, the Loan Ordinance or this Loan Agreement so long as the Governmental Unit, within 180 days after the end of any such Fiscal Year, adopts the schedule of rates and charges recommended or approved by a Consulting Engineer which would bring the City into compliance with the Rate Covenant set forth above. The Governmental Unit is also required under the Master Ordinance in each Fiscal Year to complete a review of its financial condition for the purpose of estimating whether the Pledged Revenues for such Fiscal Year and for the next succeeding Fiscal Year will be sufficient to comply with the Rate Covenant set forth above and shall by resolution make a determination with respect thereto. If the Governmental Unit determines that the Pledged Revenues may not be so sufficient, it shall forthwith cause the Consulting Engineer to make a study for the purpose of recommending a schedule of fees, rates and charges for the System which, in the opinion of the Consulting Engineer, will cause sufficient Gross Revenues to be collected in such Fiscal Year to comply with the Rate Covenant set forth above and will cause additional Gross Revenues to be collected in such Fiscal Year sufficient to eliminate the amount of any deficiency at the earliest practicable time within such Fiscal Year. The Governmental Unit shall as promptly as practicable adopt and place in effect the schedule of fees, rates and charges recommended or approved by the Consulting Engineer pursuant to the Master Ordinance. In the alternative to establishing fees, rates and charges necessary to meet the Rate Covenant set forth above, the Governmental Unit may implement reductions in Operation and Maintenance Expenses for the System in an amount sufficient to meet the Rate Covenant.

(b) Efficient Operation. Pursuant to Section 26.06 of the Master Ordinance, the Governmental Unit will maintain the System in efficient operating condition and make such improvements, extensions, enlargements, repairs and betterments to the System as may be necessary or advisable for its economical and efficient operation at all times and sufficient to supply reasonable public and private demands for System services within the Service Area of the System.

(c) Records. Pursuant to Section 26.07 of the Master Ordinance, so long as this Loan Agreement remains outstanding, proper books of record and account will be kept by the Governmental Unit in accordance with Generally Accepted Accounting Principles as issued by the Governmental Accounting Standards Board, separate from all other records and accounts, showing complete and correct entries of all transactions relating to the System. However, pursuant to

NMSA 1978, § 6-14-10(E), as amended, records with regard to the ownership or pledge of Utility Revenue Bonds are not subject to inspection or copying.

(d) Right to Inspect. Pursuant to Section 26.08 of the Master Ordinance, the NMFA, or its duly authorized agents, shall have the right to inspect at all reasonable times the Project and all records, accounts and data relating to the Project, the Pledged Revenues, and the System.

(e) Audits. Pursuant to Section 26.09 of the Master Ordinance, within one hundred eighty (180) days following the close of each Fiscal Year, the Governmental Unit will cause an audit of the books and accounts of the System to be made by an Independent Accountant and the audit to be made available for inspection by the NMFA upon the release of the audit by the New Mexico State Auditor. Each audit of the System shall comply with Governmental Accounting Standards Board.

(f) Billing Procedure. Pursuant to Section 26.10 of the Master Ordinance, bills for water, natural gas, and sanitary sewer utility services or facilities, or any combination thereof, furnished by or through the System shall be rendered to customers on a regular basis each month following the month in which the service was rendered and shall be due as required by the applicable ordinance, resolution, regulation or policy of the Governmental Unit. To the extent permitted by law, if a bill is not paid within the period of time required by such ordinance, resolution, regulation or policy, water, natural gas and sewer utility services shall be discontinued as required by Governmental Unit ordinance, resolution, regulation, or policy, and the rates and charges due shall be collected in a lawful manner, including, but not limited to, the cost of disconnection and reconnection. Water, natural gas and sanitary sewer utility services may be billed jointly with each other, provided that each such joint bill shall show separately the water, natural gas and sanitary sewer utility charges.

(g) Charges and Liens Upon System. Pursuant to Section 26.11 of the Master Ordinance, the Governmental Unit will pay when due from Gross Revenues or other legally available funds all taxes and assessments or other municipal or governmental charges, lawfully levied or assessed upon the System and will observe and comply with all valid requirements of any municipal or governmental authority relating to the System. The Governmental Unit will not create or permit any lien or charge upon the System or the Gross Revenues except as permitted by the Master Ordinance, or it will make adequate provisions to satisfy and discharge within sixty (60) days after the same accrue, all lawful claims and demands for labor, materials, supplies or other objects, which, if unpaid, might by law become a lien upon the System or the Gross Revenues. However, the Governmental Unit shall not be required to pay or cause to be discharged, or make provision for any tax assessment, lien or charge before the time when payment becomes due or so long as the validity thereof is contested in good faith by appropriate legal proceedings and there is no adverse effect on the NMFA.

(h) Insurance. Pursuant to Section 26.12 of the Master Ordinance, subject, in each case, to the condition that insurance is obtainable at reasonable rates and upon reasonable terms and conditions, in its operation of the System, the Governmental Unit will procure and maintain or cause to be procured and maintained commercial insurance or provide Qualified Self

Insurance with respect to the facilities constituting the System and public liability insurance in the form of commercial insurance or Qualified Self Insurance and, in each case, in such amounts and against such risks as are, in the judgment of the Governing Body, prudent and reasonable taking into account, but not being controlled by, the amounts and types of insurance or self-insured programs provided by entities which operate water, sanitary sewer and natural gas utility systems such as the System. "Qualified Self Insurance" means insurance maintained through a program of self insurance or insurance maintained with a fund, company or association in which the Governmental Unit may have a material interest and of which the Governmental Unit may have control, either singly or with others. Each plan of Qualified Self Insurance shall be established in accordance with law, shall provide that reserves be established or insurance acquired in amounts adequate to provide coverage which the Governmental Unit determines to be reasonable to protect against risks assumed under the Qualified Self Insurance plan, including any potential retained liability in the event of the termination of such plan of Qualified Self Insurance. In the event of property loss or damage to the System, insurance proceeds shall be used first for the purpose of restoring or replacing the property lost or damaged and thereafter, and any remainder may be used to redeem Utility Revenue Bonds or be treated as Gross Revenues and used as provided in Article XVIII of the Master Ordinance in any legally permissible manner.

(i) Competing Utility System. Pursuant to Section 26.13 of the Master Ordinance, unless contrary to any provision of, or required by, applicable law, as long as this Loan Agreement is outstanding, the Governmental Unit will not grant any franchise or license to a competing water, sanitary sewer and natural gas utility system, or permit any person, association, firm or corporation to sell water, sanitary sewer and natural gas utility services or facilities to any consumer, public or private, within the Service Area of the System; provided however, that nothing shall prevent the Governmental Unit from annexing land into its boundaries solely due to the fact that there is a competing utility system or person, association, firm or corporation providing such utility services or facilities within or for the land to be annexed.

(j) Alienating System. Pursuant to Section 26.14 of the Master Ordinance, except as permitted by Section 26.14 of the Master Ordinance, while this Loan Agreement is outstanding, the Governmental Unit shall not transfer, sell or otherwise dispose of the System, except that the Governmental Unit may dispose of inadequate, obsolete or worn out property. For purposes of this Section, any transfer of an asset over which the Governmental Unit retains or regains substantial control shall not, for so long as the Governmental Unit has such control, be deemed a disposition of the System.

(k)

(l) Competent Management. Pursuant to Section 26.16 of the Master Ordinance, the Governmental Unit shall employ experienced and competent personnel to manage the System.

(m) Performing Duties. Pursuant to Section 26.17 of the Master Ordinance, the Governmental Unit will faithfully and punctually perform all duties with respect to the System required by the Constitution and laws of the State and the regulations, policies, resolutions or ordinances and resolutions of the Governmental Unit relating to the System and this Loan

Agreement, including, but not limited to, making and collecting reasonable and sufficient rates and charges for services rendered or furnished by the System as required by the Master Ordinance and by this Loan Agreement and the proper segregation and application of the Gross Revenues.

(n) Other Liens. Pursuant to Section 26.18 of the Master Ordinance, except for any Parity and Subordinated Obligations listed in the Term Sheet, there are no liens or encumbrances of any nature whatsoever, on or against the System or the Gross Revenues or Pledged Revenues on parity with, subordinate or senior to the lien of this Loan Agreement.

Section 2.3 Representations, Covenants and Warranties of the NMFA. The NMFA represents, covenants and warrants for the benefit of the Governmental Unit:

(a) Legal Status and Authorization of Loan Agreement. The NMFA is a public body politic and corporate constituting a governmental instrumentality, separate and apart from the State, duly organized and created under and pursuant to the laws of the State, particularly the NMFA Act. The NMFA has all necessary power and authority to enter into and perform and observe the covenants and agreements on its part contained in this Loan Agreement and has duly authorized the execution and delivery of this Loan Agreement.

(b) No Breach or Default Caused by Loan Agreement. Neither the execution and delivery of this Loan Agreement, nor the fulfillment of or compliance with the terms and conditions of this Loan Agreement, nor the consummation of the transactions contemplated in this Loan Agreement, conflicts with or results in a breach of the terms, conditions and provisions of any restriction or any agreement or instrument to which the NMFA is a party or by which the NMFA is bound or constitutes a default under any of the foregoing and will not conflict with or constitute a violation of any constitutional or statutory provision or order, rule, regulation, decree or ordinance of any court, government or governmental authority having jurisdiction over the NMFA, or its property and which conflict or violation will have a material adverse effect on the NMFA or the financing of the Project.

(c) No Litigation. To the knowledge of the NMFA, there is no litigation or proceeding pending or threatened against the NMFA or any other person affecting the right of the NMFA to execute or deliver this Loan Agreement or to comply with its obligations under this Loan Agreement. To the knowledge of the NMFA, neither the execution and delivery of this Loan Agreement by the NMFA, nor compliance by the NMFA with its obligations under this Loan Agreement, requires the approval of any regulatory body, or any other entity, which approval has not been obtained.

(d) Legal, Valid and Binding Obligation. This Loan Agreement constitutes a legal, valid and binding obligation of the NMFA enforceable in accordance with its terms.

ARTICLE III

LOAN AGREEMENT TERM

The Loan Agreement Term shall commence on the Closing Date and shall not terminate until the Governmental Unit's obligations under this Loan Agreement have been paid in full or provision for payment of this Loan Agreement has been made pursuant to Article VIII hereof.

ARTICLE IV

LOAN; APPLICATION OF MONEYS

Section 4.1 Application of Loan Agreement Proceeds.

(a) On the Closing Date, the amount shown on the Term Sheet as the Aggregate Program Amount shall be made available for disbursement by the NMFA to the Governmental Unit pursuant to Section 6.2 of this Loan Agreement at the request of the Governmental Unit and as needed by the Governmental Unit to implement, acquire and construct the Project.

(b) The Final Requisition shall be submitted by the Governmental Unit within twenty seven (27) months following the Closing Date, except only as otherwise approved in writing by an Authorized Officer of the NMFA, based on the Governmental Unit's demonstration, to the reasonable satisfaction of the Authorized Officer of the NMFA, that unanticipated circumstances beyond the control of the Governmental Unit resulted in delaying the acquisition and completion of the Project, and submission of the Governmental Unit's Final Requisition.

Section 4.2 Disbursements; Approval of Payment Requests. The Governmental Unit shall transmit payment requisitions in the form attached to this Loan Agreement as Exhibit "C" and the supporting documentation required pursuant to Exhibit "C" to the NMFA. The NMFA or its designee shall review each requisition for compliance with (i) the Project's construction plans and specifications and (ii) all applicable state and federal laws, rules and regulations, and shall approve or disapprove the requisition accordingly. The NMFA shall cause an Approved Requisition to be paid from the Drinking Water State Revolving Loan Fund.

ARTICLE V

LOAN TO THE GOVERNMENTAL UNIT; PAYMENTS BY THE GOVERNMENTAL UNIT

Section 5.1 Loan to the Governmental Unit; Payment Obligations Limited to Pledged Revenues; Pledge of Pledged Revenues. The NMFA hereby lends to the Governmental Unit and the Governmental Unit hereby borrows from the NMFA an amount not to exceed the Maximum Principal Amount. The Governmental Unit promises to pay, but solely from the sources pledged herein, the Loan Agreement Payments as herein provided. Subject to the superior lien of any Parity Obligations and in accordance with the priority of payment provisions set forth in Article XXVIII of the Master Ordinance, the Governmental Unit does hereby grant a lien on and a security interest in and does hereby convey, assign and pledge unto the NMFA and unto its successors in trust forever all right, title and interest of the Governmental Unit in and to (i) the Pledged Revenues to the extent required to pay the Loan Agreement Payments on a parity with any Subordinated Obligations, (ii) the Debt Service Account, and (iii) all other rights hereinafter granted, for the securing of the Governmental Unit's obligations under this Loan Agreement, including payment

of the Loan Agreement Payments, provided, however, that if the Governmental Unit, its successors or assigns, shall pay, or cause to be paid, all Loan Agreement Payments at the time and in the manner contemplated by this Loan Agreement, or shall provide as permitted by Article VIII of this Loan Agreement for the payment thereof, and shall pay all other amounts due or to become due under this Loan Agreement in accordance with its terms and provisions then, upon such final payment, this Loan Agreement and the rights created thereby shall terminate; otherwise, this Loan Agreement shall remain in full force and effect. The Loan Agreement Payments shall, in the aggregate, be sufficient to pay the Aggregate Repayable Disbursements, as set forth in the Interim Loan Agreement Payment Schedule or the Final Loan Agreement Payment Schedule, as applicable.

Within five (5) days after each payment of an Approved Requisition during the Interim Period, the NMFA shall recalculate on the basis of the Aggregate Repayable Disbursements to that date the Interest Component and Administrative Fee Component next coming due as set out in Section 5.2(a)(i) of this Loan Agreement and shall provide written notice to the Governmental Unit of the recalculated Interest Component and Administrative Fee Component. Within thirty (30) days after the final Disbursement, the NMFA shall provide a Final Loan Agreement Payment Schedule. The schedule of Loan Agreement Payments, assuming the disbursal of the entire Aggregate Program Amount within twenty-seven (27) months after the Closing Date, identified as the Interim Loan Agreement Payment Schedule, is attached to this Loan Agreement as Exhibit “B”. The NMFA shall provide a Final Loan Agreement Payment Schedule following the final Disbursement which shall supersede the schedule attached as Exhibit “B”.

The pledge of the Pledged Revenues and the lien thereon shall be effective upon the Closing Date. The Governmental Unit and the NMFA acknowledge and agree that the sources of the Loan Agreement Payments of the Governmental Unit hereunder are limited to the Pledged Revenues, and that the Loan Agreement shall constitute a special, limited obligation of the Governmental Unit. No provision of this Loan Agreement shall be construed or interpreted as creating a general obligation or other indebtedness of the Governmental Unit or the State within the meaning of any constitutional or statutory debt limitation. No provision of this Loan Agreement shall be construed to pledge or to create a lien on any class or source of Governmental Unit moneys other than the Pledged Revenues, nor shall any provision of this Loan Agreement restrict the future issuance of any bonds or obligations payable from any class or source of Governmental Unit moneys other than the Pledged Revenues. In addition, to the extent not required for the payments under Article XVIII of the Master Ordinance, the Pledged Revenues may be utilized by the Governmental Unit as provided in the Master Ordinance for any other purposes permitted by law.

Section 5.2 Payment Obligations of Governmental Unit. The Debt Service Account shall be established and held by the NMFA or its designee on behalf of the Governmental Unit. All Loan Agreement Payments received by the NMFA or its designee pursuant to this Loan Agreement, shall be accounted for and maintained by the NMFA or its designee in the Debt Service Account, which account shall be kept separate and apart from all other accounts of the NMFA. The amounts on deposit in the Debt Service Account shall be expended and used by the NMFA only in the manner and order of priority specified herein.

(a) In accordance with Article XVIII of the Master Ordinance, as a subordinate charge and lien, but not an exclusive subordinate charge and lien, on the Pledged Revenues (on a parity with the lien on the Pledged Revenues created by any outstanding Subordinated Obligations), the Governmental Unit shall remit to the NMFA and the NMFA shall collect and deposit into the Debt Service Account from the Governmental Unit the Pledged Revenues, in the manner specified herein.

(i) Payment of Interest Component and Administrative Fee Component during Interim Period.

(A) During the Interim Period, the Interest Component and Administrative Fees shall accrue on the amount of Aggregate Repayable Disbursements, from the date of each Disbursement.

(B) During the Interim Period the Governmental Unit shall monthly, commencing on the first day of the month next following the first payment by the NMFA of an Approved Requisition, pay to the NMFA for deposit into the Debt Service Account such amount as is necessary, in monthly installments, to pay the Interest Component and Administrative Fee Component on the Aggregate Repayable Disbursements as of each Loan Agreement Payment Date.

(ii) Loan Agreement Payments Following the Interim Period. After the Interim Period, the Governmental Unit shall pay to the NMFA for deposit into the Debt Service Account the following amounts:

(A) Interest and Administrative Fee Components. Monthly, commencing on the first day of the month next following the final Disbursement, the Governmental Unit shall pay to the NMFA for deposit into the Debt Service Account an amount in equal monthly installments which is necessary to pay the first maturing Interest Component and Administrative Fee Component coming due on this Loan Agreement and monthly thereafter, commencing on each Loan Agreement Payment Date, one-sixth (1/6) of the amount necessary to pay the next maturing Interest Component and Administrative Fee Component on this Loan Agreement as described in the Final Loan Agreement Payment Schedule.

(B) Principal Payments. Monthly, commencing on the first day of the month next following the final Disbursement, the Governmental Unit shall pay to the NMFA for deposit into the Debt Service Account an amount in equal monthly installments which is necessary to pay the first maturing Principal Component; and thereafter on the first day of each month thereafter, one-twelfth (1/12) of the amount which is necessary to pay the next maturing Principal Component on this Loan Agreement during the Loan Agreement Term, as described in the Final Loan Agreement Payment Schedule.

(iii) Method of Payment. The Governmental Unit shall transfer each month to the NMFA, from Pledged Revenues, the amounts set forth in Subsections (i)(B), (ii)(A) and (ii)(B) of this Section 5.2(a) during the time that this Loan Agreement is outstanding, provided, that in the event of any default in making the Loan Agreement Payments by the Governmental Unit, the NMFA shall be entitled to seek payment of the amounts due through any of the remedies provided in Article X of this Loan Agreement, but solely from available Pledged Revenues.

(b) In the event that the balance of payments held in the Debt Service Account should exceed the amount needed to cover Loan Agreement Payments then due, the NMFA shall use the balance of the Pledged Revenues received, at the request of the Governmental Unit (i) to credit against upcoming Loan Agreement Payments, or (ii) to distribute to the Governmental Unit for any other purpose permitted by law.

Section 5.3 Manner of Payment. All payments of the Governmental Unit hereunder shall be paid in lawful money of the United States of America to the NMFA or its designee at the address designated in Section 11.1 of this Loan Agreement. The obligation of the Governmental Unit to make payments hereunder, from and to the extent of the available Pledged Revenues, shall be absolute and unconditional in all events, except as expressly provided hereunder, and payment hereunder shall not be abated through accident or unforeseen circumstances. Notwithstanding any dispute between the Governmental Unit, the NMFA or its designee, any vendor or any other person, the Governmental Unit shall make all deposits hereunder, from and to the extent of the available Pledged Revenues, when due and shall not withhold any deposit hereunder pending final resolution of such dispute, nor shall the Governmental Unit assert any right of set-off or counterclaim against its obligation to make such deposits required hereunder.

Section 5.4. Additional Obligations Payable from Pledged Revenues.

A. Additional Parity Obligations Permitted. No provision of this Loan Agreement shall be construed in such a manner as to prevent the issuance by the Governmental Unit of additional Parity Obligations payable from Pledged Revenues, nor to prevent the issuance of bonds or other obligations refunding all or a part of this Loan Agreement; provided, however, that before any such additional Parity Obligations are actually issued, the requirements of Section 24.02 of the Master Ordinance must be satisfied and no default shall exist in connection with any covenants or requirements of the Ordinance of this Loan Agreement. In making the computations required by this Section and the Master Ordinance, the calculations related to any Variable Rate Bonds shall be in accordance with Section 24.06 of the Master Ordinance. Pursuant to Section 24.02 of the Master Ordinance as supplemented by the Ordinance and this Loan Agreement, Parity Obligations may be issued for the System purposes including, but not limited to, (i) financing the Costs of a Project (as defined in the Master Ordinance); or (ii) providing additional funds for deposit into a Reserve Account or the Replacement Fund and paying the costs incident to the issuance of such Parity Bonds or any combination of the foregoing.

The tests required in this Section 5.4(A) shall be performed without adjustment for payments to or withdrawals from the Rate Stabilization Fund or interest accrued (other than amounts representing capitalized interest) in the Acquisition Fund. Except as permitted herein and by Article XXV of the Master Ordinance, prior to the issuance of additional Parity Obligations, the City shall be current in making all deposits required by Article XVIII of the Master Ordinance and Section 5.2 hereof, and the following test shall be satisfied:

a. a certificate prepared by an Authorized Officer of the Governmental Unit showing that the Pledged Revenues for the Historic Test Period (as defined in the Master Ordinance) were at least equal to 125% of the maximum combined annual Debt Service Requirements for all Outstanding Parity Obligations after the issuance of the proposed Parity Obligations, or

b. a certificate prepared by a Consulting Engineer showing that:

(i) the Pledged Revenues for the Historic Test Period were at least equal to 115% of the maximum combined annual Debt Service Requirements for all Outstanding Parity Obligations immediately preceding the issuance of the proposed additional Parity Obligations;

(ii) for each Fiscal Year during the period from the date of delivery of such certificate until the latest estimated Completion Date of the Project being financed, the Consulting Engineer estimates that the City will be in compliance with the Rate Covenant (as defined in the Master Ordinance and as supplemented in Section 2.2(a) of this Loan Agreement); and

(iii) the estimated Pledged Revenues for each of the three Fiscal Years immediately following the latest estimated Completion Date for the specified Project to be financed with proceeds of the proposed additional Parity Obligations, as certified to the Consulting Engineer by an Authorized Officer of the Governmental Unit will be at least equal to 125% of the maximum combined annual Debt Service Requirements for all Outstanding Parity Obligations which will be Outstanding immediately after the issuance of the proposed additional Parity Obligations.

For purposes of subsections b.(ii) and (iii) above, in estimating Pledged Revenues, the Consulting Engineer may take into account (1) reasonable Gross Revenues from specified Projects expected to become available, (2) any increase in fees, rates, charges, rentals or other sources of Gross Revenues which have been approved by the Governmental Unit and will be in effect during the period for which the estimates are provided, and (3) any other increases in Gross Revenues for such period which the Consulting Engineer certifies to be reasonable for purposes of such certificate. With respect to Operation and Maintenance Expenses, the Consulting Engineer shall use such assumptions as the Consulting Engineer believes to be reasonable, and taking into account, (i) historical Operation and Maintenance Expenses, (ii) Operation and Maintenance Expenses associated with the specified Projects and (iii) such other factors, including inflation and changing operations or policies of the Governmental Unit, as the Consulting Engineer believes to be appropriate. The Consulting Engineer shall include in the certificate or in a separate accompanying report a description of the assumptions used and the calculations made in determining the estimated Pledged Revenues and shall also set forth the calculations of the maximum combined annual Debt Service Requirements, which calculations may be based upon information provided by another Consulting Engineer or Consultant.

For purposes of preparing the certificate or certificates described above, the Consulting Engineer or Consulting Engineers may rely upon financial statements prepared by the Governmental Unit which have not been subject to audit by an independent certified public accountant if audited financial statements for the Fiscal Year or period are not available; provided, however, that an Authorized Officer of the Governmental Unit shall certify as to their accuracy and that such financial statements were prepared substantially in accordance with generally accepted accounting principles, subject to year-end adjustments.

c. Certificates. In determining whether additional Parity Obligations may be issued, a written certificate or opinion of a Consulting Engineer in compliance with this Section 5.4 shall be conclusively presumed to be accurate in determining the right of the Governmental Unit to authorize, issue, sell and deliver the additional Parity Obligations.

B. Additional Subordinate Obligations Permitted; Additional Parity Obligations Test for Benefit of Subordinate Bonds. Nothing contained in this Loan Agreement shall be construed to prevent the Governmental Unit from issuing additional Subordinated Obligations pursuant to the provisions of Section 24.05 of the Master Ordinance if no default shall exist under this Loan Agreement. In making the computations required by this Section and the Master Ordinance, the calculations related to any Variable Rate Bonds shall be in accordance with Section 24.06 of the Master Ordinance. Subordinate Obligations may be issued for System purposes including, but not limited to, (i) financing the Costs of a Project; or (ii) providing additional funds for deposit into a Reserve Account or the Replacement Fund and paying the costs incident to the issuance of such Subordinated Obligations or any combination of the foregoing.

The tests required in this Section 5.4(B) and in Section 24.05 of the Master Ordinance shall be performed without adjustment for payments to or withdrawals from the Rate Stabilization Fund or interest accrued (other than amounts representing capitalized interest) in the Acquisition Fund. Except as permitted herein and by Section 5.5 and Article XXV of the Master Ordinance, prior to the issuance of additional Parity Obligations or Subordinate Obligations, the City shall be current in making all deposits required by Article XVIII of the Master Ordinance and Section 5.2 hereof and the following test shall be satisfied:

(a) A certificate prepared by an Authorized Officer of the Governmental Unit showing that the Pledged Revenues for the Historic Test Period were at least equal to 115% of the maximum combined annual Debt Service Requirements for all Outstanding Parity Obligations and Subordinate Obligations after the issuance of the proposed Parity Obligations or Subordinated Obligations, or

(b) A certificate prepared by a Consulting Engineer showing that:

(i) The Pledged Revenues for the Historic Test Period were at least equal to 100% of the maximum combined annual Debt Service Requirements for all Outstanding Parity Obligations and Subordinated Obligations immediately preceding the issuance of the proposed additional Parity Obligations or Subordinated Obligations;

(ii) For each Fiscal Year during the period from the date of delivery of such certificate until the latest estimated Completion Date of the Project being financed, the Consulting Engineer estimates that the Governmental Unit will be in compliance with the Rate Covenant; and

(iii) The estimated Pledged Revenues for each of the three Fiscal Years immediately following the latest estimated Completion Date for the specified Project to be financed with the proceeds of the proposed additional Parity Obligations or Subordinate Obligations, as certified to the Consulting Engineer by an Authorized Officer of the Governmental Unit will be at least equal to 115% of the maximum combined annual Debt Service Requirements

for all Outstanding Parity Obligations and Subordinated Obligations which will be Outstanding immediately after the issuance of the proposed additional Parity Obligations or Subordinated Obligations.

For purposes of subsection (b)(ii) and (b)(iii) above, in estimating Pledged Revenues, the Consulting Engineer may take into account (1) reasonable Gross Revenues from specified Projects expected to become available, (2) any increase in fees, rates, charges, rentals or other sources of Gross Revenues which have been approved by the Governmental Unit and will be in effect during the period for which the estimates are provided, and (3) any other increases in Gross Revenues for such period which the Consulting Engineer certifies to be reasonable for purposes of such certificate. With respect to Operation and Maintenance Expenses, the Consulting Engineer shall use such assumptions as the Consulting Engineer believes to be reasonable, and taking into account, (i) historical Operation and Maintenance Expenses, (ii) Operation and Maintenance Expenses associated with the specified Projects and (iii) such other factors, including inflation and changing operations or policies of the Governmental Unit, as the Consulting Engineer believes to be appropriate. The Consulting Engineer shall include in the certificate or in a separate accompanying report a description of the assumptions used and the calculations made in determining the estimated Pledged Revenues and shall also set forth the calculations of the maximum combined annual Debt Service Requirements, which calculations may be based upon information provided by another Consulting Engineer or Consultant.

For purposes of preparing the certificate or certificates described above, the Consulting Engineer or Consulting Engineers may rely upon financial statements prepared by the Governmental Unit which have not been subject to audit by an independent certified public accountant if audited financial statements for the Fiscal Year or period are not available; provided, however, that an Authorized Officer of the Governmental Unit shall certify as to their accuracy and that such financial statements were prepared substantially in accordance with generally accepted accounting principles, subject to year-end adjustments.

In determining whether additional Parity Obligations or Subordinated Obligations may be issued pursuant to this Section 5.4(B) and Section 24.05 of the Master Ordinance, a written certificate or opinion of a Consulting Engineer shall be conclusively presumed to be accurate in determining the right of the City to authorize, issue, sell and deliver the additional Parity Obligations or Subordinate Obligations.

C. Senior Obligations Prohibited. In accordance with Section 24.04 of the Master Ordinance, the Governmental Unit shall not issue Senior Obligations payable from the Pledged Revenues having a lien on the Pledged Revenues prior and superior to the lien thereon of the Parity Obligations for so long as the Parity Obligations are Outstanding.

Section 5.5 Refunding Obligations Payable from Pledged Revenues. Nothing contained in this Loan Agreement shall be construed to prevent the issuance of Refunding Obligations in accordance with Article XXV of the Master Ordinance if no default shall exist under this Loan Agreement.

A. Refunding Obligations Authorized. If at any time after the Closing Date, while this Loan Agreement, or any part thereof, is outstanding, the Governmental Unit shall find it desirable to refund any Outstanding System Bonds or other outstanding obligations payable from the Pledged Revenues, this Loan Agreement, such System Bonds or other obligations, or any part thereof, may be refunded, regardless of whether the priority of the lien for the payment of the refunding System Bonds on the Pledged Revenues is changed, except as provided in Section 24.04 of the Master Ordinance and subsections (b)(c)(and (d) of Article XXV of the Master Ordinance which are recited in subparagraph C of Section 5.4 hereof and in subparagraphs (B)(C) and (D) of this Section 5.5.

(b) Limitations Upon Issuance of Refunding Parity Obligations. No refunding bonds or other refunding obligations payable from the Pledged Revenues shall be issued as Parity Obligations unless:

(i) There is delivered a certificate of an Authorized Officer of the Governmental Unit showing that the combined Debt Service Requirements on all Outstanding Parity Obligations for any Fiscal Year after the issuance of refunding Parity Obligations will not exceed the combined Debt Service Requirements for such Fiscal Year on all Outstanding Parity Obligations authorized prior to the issuance of such refunding Parity Obligations by more than ten percent (10%) in any such Fiscal Year, and the Governmental Unit is in current compliance with the Rate Covenant; or

(ii) The refunding Parity Obligations are issued in compliance with Section 5.4(A) and Section 5.4(B) of this Loan Agreement which recite Sections 24.02 and 24.05 of the Master Ordinance.

(c) Limitations Upon Issuance of Refunding Subordinate Obligations. No refunding bonds or other refunding obligations shall be issued as Subordinate Obligations unless:

(i) there is delivered a certificate of the Authorized Officer of the Governmental Unit showing that the combined Debt Service Requirements on all Outstanding Parity Obligations and Subordinated Obligations for any Fiscal Year after the issuance of refunding Subordinated Obligations will not exceed the combined Debt Service Requirements for such Fiscal Year on all Outstanding Parity Obligations and Subordinated Obligations authorized prior to the issuance of such refunding Subordinated Obligations by more than ten percent (10%) in any such Fiscal Year, and the Governmental Unit is in current compliance with the Rate Covenant, or

(ii) The refunding Subordinate Obligations are issued in compliance with Section 5.4 B hereof which recites Section 24.05 of the Master Ordinance.

(d) Limitation Upon Issuance of Any Refunding System Bonds. Any refunding System Bonds shall be issued with such details as the City Council of the Governmental Unit may provide by appropriate proceedings but without impairment of any contractual obligation imposed upon the Governmental Unit by any proceedings authorizing the issuance of any unrefunded portion of the series of System Bonds or other obligations payable from Pledged Revenues to which the refunding was applicable.

Section 5.6 Investment of Governmental Unit Funds. Money on deposit in the Debt Service Account created hereunder may be invested by the NMFA or its designee in Permitted Investments at the written direction of the Governmental Unit or, in the absence of such written direction of the Governmental Unit, at the discretion of the NMFA. Any earnings on Permitted Investments shall be held and administered in the Debt Service Account and utilized in the same manner as the other moneys on deposit therein for the benefit of the Governmental Unit.

Section 5.7 Governmental Unit May Budget for Payments. The Governmental Unit may, in its sole discretion, but without obligation and subject to the Constitution of the State, governing laws, and its budgetary requirements, make available properly budgeted and legally available funds to defray any insufficiency of Pledged Revenues to pay Loan Agreement Payments; provided, however, the Governmental Unit has not covenanted and cannot covenant to make such funds available and has not pledged any of such funds for such purpose.

ARTICLE VI

THE PROJECT

Section 6.1 Subordinate Lien Loan Agreement to Acquire and Complete the Project. The Governmental Unit hereby agrees that in order to effectuate the purposes of this Loan Agreement and to effectuate the acquisition and completion of the Project, it shall make, execute, acknowledge and transmit any contracts, orders, receipts, writings and instructions with any other persons, firms or corporations and, in general do all things which may be requisite or proper to acquire and complete the Project.

The Governmental Unit agrees to acquire and complete the Project through the application of moneys to be disbursed by the NMFA pursuant to Section 6.2 of this Loan Agreement.

Section 6.2 Disbursements. So long as no Event of Default shall occur and the requirements of Section 4.2 are satisfied, the NMFA or its designee shall disburse moneys to pay a requisition upon receipt and approval by the NMFA or its designee of a requisition substantially in the form of Exhibit "C" attached hereto signed by an Authorized Officer of the Governmental Unit, with required supporting documentation.

Section 6.3 Completion of the Acquisition of the Project. Upon completion of the acquisition of the Project, which shall occur no later than two (2) years after the Closing Date, unless a later date is approved as provided in Section 4.1(b) of this Loan Agreement, an Authorized Officer of the Governmental Unit shall deliver a certificate to the NMFA, substantially in the form of Exhibit "D" attached hereto, stating that, to his or her knowledge, the acquisition of the Project has been completed and the Project has been accepted by the Governmental Unit, and all costs

have been paid, except for any reimbursements requested pursuant to requisitions submitted prior to the end of the Interim Period. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being.

Section 6.4 Unrequisitioned Amounts. In the event that, (1) at the time of the delivery of the certificate of completion required by Section 6.3 hereof, there remains an Unrequisitioned Principal Amount, or (2) the NMFA shall not have received a Final Requisition, by the date that is twenty seven (27) months from the Closing Date, unless an extension is approved pursuant to Section 4.1(b) of this Loan Agreement, then the Governmental Unit shall have no right or title to the Unrequisitioned Principal Amount, nor any right to pledge, encumber or draw upon such Unrequisitioned Principal Amount, and the NMFA will not approve, honor, or enforce any requisition upon such Unrequisitioned Principal Amount pursuant to this Loan Agreement.

ARTICLE VII

COMPLIANCE WITH LAWS AND RULES; OTHER COVENANTS

Section 7.1 Further Assurances and Corrective Instruments. The NMFA and the Governmental Unit agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Project or of the Pledged Revenues, or for otherwise carrying out the intention hereof. Authorized Officers are authorized to execute, acknowledge and deliver any such supplements and further instruments.

Section 7.2 NMFA and Governmental Unit Representatives. Whenever under the provisions hereof the approval of the NMFA or the Governmental Unit is required, or the Governmental Unit or the NMFA is required to take some action at the request of the other, such approval or such request shall be given for the NMFA or for the Governmental Unit by an Authorized Officer of the NMFA or the Governmental Unit, as the case may be, and any party hereto shall be authorized to rely and act on any such approval or request.

Section 7.3 Compliance with Court Orders. During the Loan Agreement Term, the Governmental Unit and the NMFA shall observe and comply promptly with all current and future orders of all courts having jurisdiction over the parties hereto, the Project or the Pledged Revenues.

Section 7.4 Compliance with Applicable State and Federal Laws. During the Loan Agreement Term, the Governmental Unit shall comply with all applicable ordinances, resolutions, and regulations of the Governmental Unit and all applicable State and federal laws, including, without limitation, the following:

(a) For all contracts, the Governmental Unit shall comply with the New Mexico Procurement Code, NMSA 1978, §§ 13-1-28 through 13-1-199, as amended, or its local procurement ordinances and regulations, as applicable.

(b) For all construction contracts awarded in excess of \$10,000, the Governmental Unit shall comply with Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 12, 1967, and as supplemented in Department of Labor regulations (41 C.F.R. chapters 40 and 60). In addition, for all contracts, the Governmental Unit shall comply with all State laws and regulations and all executive orders of the Governor of the State pertaining to equal employment opportunity.

(c) For all contracts awarded for construction or repair, the Governmental Unit shall comply with the Copeland “Anti-Kickback” Act (18 U.S.C. § 874) as supplemented in Department of Labor regulations (29 C.F.R. part 3).

(d) For all contracts the Governmental Unit shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with section 362 of the Energy Policy and Conservation Act (42 U.S.C. § 6322).

(e) For all contracts and subcontracts in excess of \$2,000 the Governmental Unit shall comply with applicable standards of the Davis-Bacon Wage Act (40 U.S.C. § 3141 et seq.), as amended and supplemented, relating to wages paid to laborers and mechanics employed by contractors and sub-contractors on a Project funded directly by or assisted in whole or in part by and through the Governmental Unit, and the requirements of section 1450(e) of the Safe Drinking Water Act (42 U.S.C.300j-9(e)), and shall include the contract clauses set out in the Environmental Protection Agency publication entitled “Wage Rate Requirements Under the Clean Water Act, Section 513 and the Safe Drinking Water Act Section 1450(e)”.

(f) For all contracts, the Governmental Unit shall comply with the requirements of Executive Order 13502 on Use of Project Agreements for Federal Construction Projects.

(g) For all contracts, the Governmental Unit shall comply with the requirements of Executive Order 13627 on Strengthening Protections Against Trafficking in Persons in Federal Contracts.

(h) For all contracts, the Governmental Unit shall comply with all federal requirements applicable to the Loan (including those imposed by P.L. 113-76, 2014 Consolidated Appropriations Act, Section 436 and related SRF Policy Guidelines) which the Governmental Unit understands includes, among other, requirements that all of the iron and steel products used in the Project are to be produced in the United States (“American Iron and Steel Requirement”) unless (i) the Governmental Unit has requested and obtained a waiver from the NMFA pertaining to the Project or (ii) the NMFA has otherwise advised the Governmental Unit in writing that the American Iron and Steel Requirement is not applicable to the Project.

(i) For all contracts, the Governmental Unit shall comply with all record keeping and reporting requirements under the Clean Water Act/Safe Drinking Water Act, including any reports required by a Federal agency or the NMFA such as performance indicators of program deliverables, information on costs and project progress. The Governmental Unit

understands that (i) each contract and subcontract related to the Project is subject to audit by appropriate federal and state entities and (ii) failure to comply with the Clean Water Act/Safe Drinking Water Act and this Loan Agreement may be a default under this Loan Agreement.

(j) The Governmental Unit shall comply with the requirement of the June 3, 2015 Guidelines for Enhancing Public Awareness of SRF Assistance Agreements issued by the Environmental Protection Agency relating to signage, posters, advertisements, website or press releases indicating that financial assistance was received from the Environmental Protection Agency for the Project.

(k) The Governmental Unit agrees to comply with all applicable New Mexico State cybersecurity laws and requirements and ensure that any connections between the Governmental Unit's network or information system and Environmental Protection Agency networks used by the recipient to transfer data under this Loan Agreement, if any, are secure. If a connection does not go through the Environmental Information Exchange Network or Environmental Protection Agency's Central Data Exchange, the Governmental Unit agrees to contact the Environmental Protection Agency Project Officer (PO) and work with the designated Environmental Protection Agency Regional/Headquarters Information Security Officer to ensure that the connections meet Environmental Protection Agency security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the Governmental Unit into systems operated and used by Environmental Protection Agency's regulatory programs for the submission of reporting and/or compliance data. The Governmental Unit is subject to monitoring as deemed necessary by the NMFA or the State of New Mexico under 2 CFR 200.331. In regard to this section a "connection" is defined as a dedicated persistent interface between an Agency IT system and an external IT system for the purpose of transferring information. Transitory, user-controlled connections such as website browsing are excluded from this definition.

(l) If the Governmental Unit gathers geospatial data, as defined in 43 U.S.C. §2801(2018), during the life of the Project it must consistent with the Federal Geographic Data Committee endorsed standards.

(m) The Governmental Unit, as well as any contractors and subcontractors working with the Governmental Unit in this Project, shall comply with federal anti-discrimination law requirements, pursuant to 40 C.F.R. 35.3575(a)(c), including Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, et seq., EPA's regulations 40 CFR §7.30 and 40 CFR §7.35, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, et seq., the Age Discrimination Act of 1975, 42 U.S.C. §6102 which laws prohibit discrimination in the provision of services or benefits on the basis of race, color, national origin, sex, disability or age in programs or activities receiving federal assistance.

The NMFA or its designee shall have the right to review all contracts, work orders and other documentation related to the Project that it deems necessary to assure compliance with applicable laws, rules and regulations, and may conduct such review as it deems appropriate prior to disbursing funds for payment of an Approved Requisition.

Section 7.5 Lien Status. The Loan Agreement Payments constitute an irrevocable subordinate lien (but not necessarily an exclusive subordinate lien) upon the Pledged Revenues with a lien thereon on a parity with the Subordinated Obligations. The Governmental Unit covenants that the Loan Agreement Payments and any Subordinated Obligations herein authorized to be issued and from time to time outstanding shall be equitably and ratably secured by a subordinate lien on the Pledged Revenues and shall not be entitled to any priority one over the other in the application of the Pledged Revenues regardless of the time or times of the issuance of such obligations, it being the intention of the Governmental Unit that there shall be no priority between the Loan Agreement Payments and any such Subordinated Obligations regardless of the fact that they may be actually issued and delivered at different times.

Section 7.6 Expeditious Completion. The Governmental Unit shall complete the Project with all practical dispatch.

ARTICLE VIII

PREPAYMENT OF LOAN AGREEMENT PAYMENTS

The Governmental Unit is hereby granted the option to prepay the Principal Component of this Loan Agreement in whole or in part on any day without penalty or prepayment premium, beginning one (1) year after the Closing Date. The Governmental Unit may designate the due date or due dates of the Principal Component or portions thereof being prepaid in the event of a partial prepayment. Any such prepayment shall include accrued interest to the redemption date of the corresponding Bonds to be redeemed, if any, and notice of intent to make such prepayment shall be provided to the NMFA or its designee by the Governmental Unit no less than forty-five (45) days prior to the prepayment date. The NMFA or its designee shall recalculate the Loan Agreement Payments due under this Loan Agreement in the event of a partial prepayment in a manner which is consistent with the manner in which the Bonds, if any, are prepaid.

ARTICLE IX

INDEMNIFICATION

From and to the extent of the available Pledged Revenues and to the extent permitted by law, the Governmental Unit shall and hereby agrees to indemnify and save the NMFA and its designee, if any, harmless against and from all claims, by or on behalf of any person, firm, corporation or other legal entity arising from the acquisition or operation of the Project during the Loan Agreement Term, from: (i) any act of negligence of the Governmental Unit or breach of any covenant or warranty by the Governmental Unit hereunder; and (ii) the incurrence of any cost or expense in connection with the acquisition or operation of the Project in excess of the Loan Agreement proceeds and interest on the investment of the Loan Agreement proceeds. The Governmental Unit shall indemnify and save the NMFA and its designee, if any, harmless, from and to the extent of the available Pledged Revenues and to the extent permitted by law, from any such claim arising as aforesaid from (i) or (ii) above, or in connection with any action or proceeding brought thereon and, upon notice from the NMFA or its designee, shall defend the NMFA or its designee, if any, in any such action or proceeding.

ARTICLE X

EVENTS OF DEFAULT AND REMEDIES

Section 10.1 Events of Default Defined. Any one of the following shall be an Event of Default under this Loan Agreement:

(a) Failure by the Governmental Unit to pay any amount required to be paid under this Loan Agreement on the date on which it is due and payable; or

(b) Failure by the Governmental Unit to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Loan Agreement, other than as referred to in paragraph (a), for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Governmental Unit by the NMFA or its designee, if any, unless the NMFA or its designee, as applicable, shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice can be wholly cured within a period of time not materially detrimental to the rights of the NMFA or its designee but cannot be cured within the applicable thirty (30) day period, the NMFA or its designee will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Governmental Unit within the applicable period and diligently pursued until the failure is corrected; and provided, further, that if by reason of force majeure the Governmental Unit is unable to carry out the agreements on its part herein contained, the Governmental Unit shall not be deemed in default under this paragraph (b) during the continuance of such inability (but force majeure shall not excuse any other Event of Default); or

(c) Any warranty, representation or other statement by or on behalf of the Governmental Unit contained in this Loan Agreement or in any instrument furnished in compliance with or in reference to this Loan Agreement is false or misleading in any adverse material respect; or

(d) A petition is filed against the Governmental Unit under any bankruptcy, moratorium, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, and is not dismissed within thirty (30) days after such filing, but the NMFA shall have the right to intervene in the proceedings to protect the NMFA's interests; or

(e) The Governmental Unit files a petition in voluntary bankruptcy or seeking relief under any provision of any bankruptcy, moratorium, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, or consents to the filing of any petition against it under any such law; or,

(f) The Governmental Unit admits insolvency or bankruptcy or its inability to pay its debts as they become due or is generally not paying its debts as such debts become due, or becomes insolvent or bankrupt or makes an assignment for the benefit of creditors, or a custodian (including, without limitation, a receiver, liquidator or trustee) of the Governmental Unit for any

of its property is appointed by court order or takes possession thereof and such order remains in effect or such possession continues for more than thirty (30) days, but the NMFA shall have the right to intervene in the proceedings to protect its interests.

Section 10.2 Remedies on Default. Whenever any Event of Default has occurred and is continuing and subject to Section 10.3 hereof, the NMFA may take any or all of the following actions as may appear necessary or desirable to collect the payments then due and to become due or to enforce performance of any agreement of the Governmental Unit in this Loan Agreement:

(a) By mandamus or other action or proceeding or suit at law or in equity to enforce the rights of the NMFA under this Loan Agreement against the Governmental Unit, and compel the Governmental Unit to perform or carry out its duties under the law and the agreements and covenants required to be performed by it contained herein; or

(b) By suit in equity enjoin any acts or things which are unlawful or violate the rights of the NMFA; or

(c) Intervene in judicial proceedings that affect this Loan Agreement or the Pledged Revenues; or

(d) Cause the Governmental Unit to account as if it were the trustee of an express trust for all of the Pledged Revenues and Aggregate Disbursements; or,

(e) Take whatever other action at law or in equity may appear necessary or desirable to collect amounts then due and thereafter to become due under this Loan Agreement or enforce any other of its rights thereunder.

Section 10.3 Limitations on Remedies. A judgment requiring a payment of money entered against the Governmental Unit may reach only the available Pledged Revenues.

Section 10.4 No Remedy Exclusive. Subject to Section 10.3 of this Loan Agreement, no remedy herein conferred upon or reserved to the NMFA is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder as now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the NMFA to exercise any remedy reserved in this Article X, it shall not be necessary to give any notice, other than such notice as may be required in this Article X.

Section 10.5 Waivers of Events of Default. The NMFA may in its discretion waive any Event of Default hereunder and the consequences of an Event of Default by written waiver; provided, however, that there shall not be waived (i) any Event of Default in the payment of principal of this Loan Agreement at the date when due as specified in this Loan Agreement, or (ii) any default in the payment when due of the interest on this Loan Agreement, unless prior to such waiver or rescission, all arrears of interest, with interest at the rate borne by this Loan Agreement

on all arrears of payment of principal and all expenses of the NMFA, in connection with such Event of Default shall have been paid or provided for. Such waiver shall be effective only if made by written statement of waiver issued by the NMFA. In case of any such waiver or rescission, or in case any proceeding taken by the NMFA on account of any such Event of Default shall have been discontinued or abandoned or determined adversely, then and in every such case, the NMFA shall be restored to its former position and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other Event of Default, or impair any right consequent thereon.

Section 10.6 No Additional Waiver Implied by One Waiver. In the event that any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver shall be in writing and limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 10.7 Agreement to Pay Attorneys' Fees and Expenses Related to Defaults. In the event that the Governmental Unit should default under any of the provisions hereof and the NMFA employs attorneys or incurs other expenses for the collection of payments hereunder, or the enforcement of performance or observance of any obligation or agreement on the part of the Governmental Unit contained in this Loan Agreement, the Governmental Unit agrees that it shall on demand therefor pay to the NMFA the fees of such attorneys and such other expenses so incurred, to the extent that such attorneys' fees and expenses may be determined to be reasonable by a court of competent jurisdiction; provided, however, that the obligation of the Governmental Unit under this Section shall be limited to expenditures from and to the extent of the available Pledged Revenues.

ARTICLE XI

MISCELLANEOUS

Section 11.1 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered as follows:

If to the Governmental Unit, then to:

City of Las Cruces
Attn: Treasurer
700 N Main Street
Las Cruces, New Mexico 88001

If to the NMFA, then to:

New Mexico NMFA
Attention: Chief Executive Officer
207 Shelby Street

Santa Fe, New Mexico 87501

And if to NMFA's designated servicing agent for this Loan Agreement, if any, at the address to be provided by the servicing agent. The Governmental Unit and the NMFA may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 11.2 Binding Effect. This Loan Agreement shall inure to the benefit of and shall be binding upon the NMFA, the Governmental Unit and their respective successors and assigns, if any.

Section 11.3 Amendments. This Loan Agreement may be amended only with the written consent of the NMFA and the Governmental Unit, except as provided in Section 4.1(b) of this Loan Agreement. The consent of the NMFA for amendments not affecting the terms of payment of the loan component of this Loan Agreement may be given by an Authorized Officer of the NMFA. The execution of any such consent by an Authorized Officer of the NMFA shall constitute his or her determination that such amendment does not affect the terms of payment of the loan component of this Loan Agreement, unless such change results in a decrease in the payment amount of the loan component.

Section 11.4 No Liability of Individual Officers, Directors or Trustees. No recourse under or upon any obligation, covenant or agreement contained in this Loan Agreement shall be had against any member, employee, director or officer, as such, past, present or future, of the NMFA, either directly or through the NMFA or against any officer, employee, director or member of the Governing Body, past, present or future, as an individual so long as such individual was acting in good faith. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such officer, employee, director or member of the Governing Body or of the NMFA is hereby expressly waived and released by the Governmental Unit and by the NMFA as a condition of and in consideration for the execution of this Loan Agreement.

Section 11.5 Severability. In the event that any provision of this Loan Agreement, other than the requirement of the Governmental Unit to pay hereunder, shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 11.6 Execution in Counterparts. This Loan Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.7 Assignment by the NMFA. This Loan Agreement (except as to the Administrative Fee) may be assigned and transferred by the NMFA to a trustee, which right to assign and transfer is hereby acknowledged and approved by the Governmental Unit.

Section 11.8 Compliance with Governing Law. It is hereby declared by the Governing Body that it is the intention of the Governmental Unit by the execution of this Loan Agreement to

Agenda Item #8.3.

comply in all respects with the provisions of the New Mexico Constitution and statutes as the same govern the pledge of the Pledged Revenues to payment of all amounts payable under this Loan Agreement.

Section 11.9 Applicable Law. This Loan Agreement shall be governed by and construed in accordance with the laws of the State.

Section 11.10 Captions. The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Loan Agreement.

[Signature pages follow.]

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the NMFA, on behalf of itself has executed this Loan Agreement, which was approved by the NMFA’s Board of Directors on October 26, 2023 as amended by its approval on May 30, 2024, in its corporate name by its duly authorized officers; and the Governmental Unit has caused this Loan Agreement to be executed in its corporate name and the seal of the Governmental Unit affixed hereto and attested by duly authorized officers. All of the above are effective as of the date first above written.

NEW MEXICO FINANCE AUTHORITY

By _____
Marquita D. Russel, Chief Executive Officer

Prepared for Execution by Officers of the NMFA:

VIRTUE & NAJJAR, PC
As Loan Counsel to the NMFA

By _____
Richard L. C. Virtue

Approved for Execution by Officers of the NMFA:

By _____
Daniel C. Opperman, Chief Legal Officer

CITY OF LAS CRUCES,
DOÑA ANA COUNTY, NEW MEXICO

By _____
Eric Enriquez, Mayor

[SEAL]

ATTEST:

By _____
Christine Rivera, City Clerk

EXHIBIT “A”

TERM SHEET

**LOAN NO. DW-6255
TO THE CITY OF LAS CRUCES, DOÑA ANA COUNTY, NEW MEXICO**

Governmental Unit:	City of Las Cruces, New Mexico.
Project Description:	Financing the costs of a new well, associated improvements of the well including connecting to the System, and rehabilitation of water storage tanks, and shall include such other related work and revisions necessary to complete the Project.
Pledged Revenues:	Net Revenues of the System.
Currently Outstanding Parity Obligations:	City of Las Cruces Joint Utility System Refunding Revenue Bonds, Series 2014A; City of Las Cruces Joint Utility System Improvement Revenue Bonds, Series 2014B; City of Las Cruces Joint Utility System Refunding and Improvement Revenue Bonds, Series 2015; City of Las Cruces Joint Utility System Improvement Revenue Bonds, Series 2015A; City of Las Cruces Joint Utility System Improvement Revenue Bonds, Series 2016; City of Las Cruces Joint Utility System Improvement Revenue Bonds, Series 2017 (PPRF-4222); City of Las Cruces Joint Utility System Improvement and Refunding Revenue Bonds Series 2020; and City of Las Cruces Joint Utility System Improvement Revenue Bonds, Series 2020A (PPRF-5236).

Agenda Item #8.3.

Currently Outstanding Subordinate Obligations on Parity with this Loan Agreement:	City of Las Cruces Subordinate Lien Joint Utility System Refunding Revenue Bonds, Series 2018; and City of Las Cruces Subordinate Lien Joint Utility System Improvement Revenue Bonds, Series 2020B (PPRF-5237). 2023 Subordinate Lien Clean Water State Revolving Fund Loan Agreement and Note between the City and the New Mexico Environment Department	
Authorizing Legislation:	Governmental Unit Council Bill No. [CITY PLEASE CONFIRM][24-022] ; Ordinance No. [CITY PLEASE CONFIRM][3064] adopted August 5, 2024.	
Closing Date:	September 13, 2024	
Interest Rate:	0.250% (which includes the Administrative Fee)	
Total Funding (Maximum Principal Amount):		\$15,300,000.00
Program Fund:	\$15,300,000.00	
Cost of Issuance:	\$ 0.00	
Total Repayable (Maximum Repayable Principal Amount):		\$12,280,949.00
Repayable Project Fund:		
Repayable Cost of Issuance:	\$12,280,949.00	
	\$ 0.00	
Total Forgiven (Maximum Forgiven Principal Amount):		\$3,019,051.00
Project Subsidy Fund:	\$3,019,051.00	
Subsidy Cost of Issuance:	\$ 0.00	
Total Funding (Maximum Principal Amount):		\$15,300,000.00
Forgiven Percent:	19.7%	
Disadvantaged Status:	Severely Disadvantaged	
First Interest Payment Date:	[November 1, 2024]	

Agenda Item #8.3.

First Principal and Interest Payment Date: **[May 1, 2027]**

First Debt Service Interest Payment Date: **[November 1, 2024]**

Final Payment Date: **[May 1, 2046]**

EXHIBIT “B”

LOAN AGREEMENT PAYMENT SCHEDULE

[SEE ATTACHED]

[ATTACH INTERIM DEBT SERVICE SCHEDULE]

EXHIBIT “C”

FORM OF REQUISITION

RE: \$15,300,000 Loan Agreement by and between the NMFA and the City of Las Cruces, New Mexico (the “Loan Agreement”)

TO: DW@nmfa.net
New Mexico Finance Authority
207 Shelby Street
Santa Fe, New Mexico 87501
Attn: Drinking Water

LOAN NO. DW-6255

CLOSING DATE: September 13 2024

You are hereby authorized to disburse to the City of Las Cruces, New Mexico or its payee with regard to the above-referenced Loan Agreement the following:

REQUISITION NUMBER:		☐ Interim Request ☐ Final Request
AMOUNT OF PAYMENT:	\$	

For Period (work encumbered) _____ to _____

PURPOSE OF PAYMENT: _____

- ☐ This is a request of REIMBURSEMENT of incurred and paid project expenses. (Attach proof of payment, e.g. check stubs, and corresponding invoices)
- ☐ This is a request of DIRECT PAYMENT to vendor or service provider of incurred project expenses. (Attach invoices)

PAYEE INFORMATION

NAME:	
CONTACT NAME:	
ADDRESS:	
PHONE NUMBER:	
FAX NUMBER:	
E-MAIL ADDRESS:	

WIRING INFORMATION

BANK NAME:	
ACCOUNT NUMBER:	
ROUTING NUMBER:	

- ☐ Check here if bank account information is new or has changed.
- ☐ Check here if bank account information is still current.

Each obligation, item of cost or expense mentioned herein is for costs of the Project, is due and payable, has not been the subject of any previous requisition and is a proper charge for requisition and payment.

Each obligation, item of cost or expense mentioned herein is not for costs related to the purchase of land or easement.

All representations contained in the Loan Agreement and the related closing documents remain true and correct and the City of Las Cruces, New Mexico is not in breach of any of the covenants contained therein.

If this is the final requisition, payment of costs of the Project is complete or, if not complete, the City of Las Cruces, New Mexico understands its obligation to complete the acquisition and installation of the Project and shall complete the acquisition and installation of the Project from other legally available funds.

Capitalized terms used herein, are used as defined or used in the Loan Agreement.

DATED:_____ By:_____

Authorized Officer

(Print name and title)

EXHIBIT “D”

FORM OF CERTIFICATE OF COMPLETION

RE: \$15,300,000 Loan Agreement by and between the NMFA and the City of Las Cruces, New Mexico (the “Loan Agreement”)

Loan No. DW-6255

Closing Date: September 13, 2024

TO: NEW MEXICO FINANCE AUTHORITY

I, _____, the _____ of the
[Name] [Title or position]

City of Las Cruces, hereby certify as follows:

1. The project described in the Loan Agreement (the “Project”) was completed and placed in service on _____, 20____.
2. The total cost of the Project was \$ _____.
3. Cost of the Project paid from the Loan was \$ _____.
4. The portion of the Maximum Principal Amount unexpended for the Project is \$ _____.
5. The Project was completed and is and shall be used consistent with and subject to the covenants set forth in the Loan Agreement.

This certificate shall not be deemed to prejudice or affect any rights of or against third parties which exist at the date of this certificate or which may subsequently come into being.

CITY OF LAS CRUCES, NEW MEXICO

By: _____

Its: _____

CITY OF LAS CRUCES, DOÑA ANA COUNTY, NEW MEXICO
COUNCIL BILL NO. 24-022~~ORDINANCE~~ _____; ~~ORDINANCE NO. 3064~~COUNCIL
BILL 24 _____

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AND SUBSIDY AGREEMENT ("LOAN AGREEMENT") BY AND BETWEEN THE CITY OF LAS CRUCES, NEW MEXICO ("GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY ("FINANCE AUTHORITY"), IN THE TOTAL AMOUNT OF FIFTEEN MILLION THREE HUNDRED THOUSAND DOLLARS (\$15,300,000), EVIDENCING A SPECIAL LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A MAXIMUM REPAYABLE PRINCIPAL AMOUNT OF NO MORE THAN TWELVE MILLION TWO HUNDRED EIGHTY THOUSAND NINE HUNDRED FORTY-NINE DOLLARS (\$12,280,949), TOGETHER WITH INTEREST, AND ADMINISTRATIVE FEES THEREON, AND TO ACCEPT A LOAN SUBSIDY OF NO MORE THAN THREE MILLION NINETEEN THOUSAND FIFTY-ONE DOLLARS (\$3,019,051), FOR THE PURPOSE OF FINANCING THE COSTS OF A NEW WELL, ASSOCIATED IMPROVEMENTS OF THE WELL INCLUDING CONNECTING TO THE JOINT UTILITY SYSTEM OF THE GOVERNMENTAL UNIT, AND REHABILITATION OF WATER STORAGE TANKS; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL, ADMINISTRATIVE FEES AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE NET REVENUES OF THE JOINT UTILITY SYSTEM OF THE GOVERNMENTAL UNIT; SETTING AN INTEREST RATE FOR THE LOAN; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT.

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

WHEREAS, the Governmental Unit is a legally and regularly created, established, duly organized and existing incorporated home rule municipality under and pursuant to the laws of the State and more specifically, Article X, Section 6 of the State Constitution and the Municipal Code, NMSA 1978, §§ 3-1-1 through 3-66-11, as amended; and

WHEREAS, the Governmental Unit has created the System as provided in the Master Ordinance; and

WHEREAS, the Master Ordinance governs the issuance of Bonds or similar obligations by the Governmental Unit payable from the Net System Revenues of the System; and

WHEREAS, the Master Ordinance authorizes the Governmental Unit to adopt Supplemental Ordinances authorizing the issuance of additional ~~Parity Obligations~~Subordinated Bonds payable from the Net Revenues of the System; and

WHEREAS, this ~~Council Bill No. 24-022~~ordinance _____; Ordinance No. 3064 ~~council bill 24-_____~~, is a Supplemental Ordinance authorized by the Master Ordinance for the purpose of entering into the Loan Agreement with the Finance Authority, which Loan Agreement constitutes a System Bond within the meaning of the Master Ordinance; and

WHEREAS, the Governing Body has determined and hereby determines that the Project may be financed with amounts borrowed under the Loan Agreement and that it is in the best interest of the Governmental Unit and the public it serves that the Loan Agreement be executed and delivered and that the financing of the Project take place by executing and delivering the Loan Agreement; and

WHEREAS, the Governing Body has determined that it may lawfully pledge the Pledged Revenues for the payment of amounts due under the Loan Agreement; and

WHEREAS, other than as described on the Term Sheet, the Pledged Revenues have not heretofore been pledged to secure the payment of any obligation which is currently outstanding; and

WHEREAS, there have been presented to the Governing Body, and there presently are on file with the City Clerk, this Ordinance and the form of the Loan Agreement; and

WHEREAS, the Governing Body hereby determines that the Project to be financed by the Loan Agreement is to be used for governmental purposes of the Governmental Unit; and

WHEREAS, all required authorizations, consents and approvals in connection with (i) the use and pledge of the Pledged Revenues to the Finance Authority (or its assigns) for the payment of amounts due under the Loan Agreement, (ii) the use of the proceeds of the Loan Agreement to finance the Project, and (iii) the authorization, execution and delivery of the Loan Agreement, which are required to have been obtained by the date of the Ordinance have been obtained or are reasonably expected to be obtained prior to the Closing Date.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAS CRUCES, DOÑA ANA COUNTY, NEW MEXICO:

(I)

Section 1. Definitions. Capitalized terms defined in this Section 1, for all purposes, shall have the meaning herein specified, unless the context clearly requires otherwise (such meanings to be equally applicable to both the singular and the plural forms of the terms defined) and any term not defined herein shall have the definition given it by the Master Ordinance or the Loan Agreement:

Agenda Item #8.3.

“Administrative Fee” or “Administrative Fee Component” means the 0.25% annual fee payable to the Finance Authority as 0.125% of the Aggregate Repayable Disbursements then outstanding as a part of each Loan Agreement Payment for the costs of originating and servicing the Loan.

“Aggregate Disbursements” means, at any time after the Closing Date, the sum of all Disbursements.

“Aggregate Forgiven Disbursements” means the amount of subsidy provided in the form of principal forgiveness, and shall at any time after the Closing Date be equal to the product of the subsidy times the Aggregate Disbursements, up to the Maximum Forgiven Principal.

“Aggregate Repayable Disbursements” means, at any time after the Closing Date, the Aggregate Disbursements less the Aggregate Forgiven Disbursements.

“Approved Requisition” means a requisition in the form of Exhibit “C” to the Loan Agreement, together with supporting documentation submitted to and approved by the Finance Authority pursuant to Section 4.2 of the Loan Agreement.

“Authorized Officers” means the Mayor, City Manager, City Financial Services Director, City Treasurer, and City Clerk of the Governmental Unit.

“City Charter” means the home rule charter of the Governmental Unit submitted to the Governing Body on January 7, 1985 and approved by the voters of the Governmental Unit on March 5, 1985, as amended and supplemented.

“Closing Date” means the date of execution, delivery and funding of the Loan Agreement authorized by this Ordinance.

“Debt Service Account” means the debt service account established in the name of the Governmental Unit and administered by the Finance Authority to pay the Loan Agreement Payments under the Loan Agreement as the same become due.

“Disbursement” means an amount caused to be paid by the Finance Authority for an Approved Requisition for costs of the Project.

“DWSRLF Act” means the general laws of the State, particularly the Drinking Water State Revolving Loan Fund Act, NMSA 1978, §§ 6-21A-1 through 6-21A-9; NMSA 1978, §§ 3-31-1 through 3-31-12, the home rule charter of the City under Article X Section 6 of the State Constitution, and the Master Ordinance; all as amended; and enactments of the Governing Body relating to the Loan Agreement, including this Ordinance.

“Drinking Water State Revolving Loan Fund” means the drinking water state revolving loan fund established by the DWSRLF Act.

“Environmental Protection Agency” means the Environmental Protection Agency of the United States.

Agenda Item #8.3.

“Final Loan Agreement Payment Schedule” means the schedule of Loan Agreement Payments due on the Loan Agreement following the Final Requisition, as determined on the basis of the Aggregate Repayable Disbursements.

“Final Requisition” means the final requisition of moneys to be submitted by the Governmental Unit, which shall be submitted by the Governmental Unit on or before the date provided for in Section 4.1(b) of the Loan Agreement.

“Finance Authority” means the New Mexico Finance Authority, created by the New Mexico Finance Authority Act, NMSA 1978, §§ 6-21-1 through 6-21-31, as amended.

“Finance Authority Bonds” means drinking water state revolving loan fund revenue bonds, if any, issued hereafter by the Finance Authority and related to the Loan Agreement and the Loan Agreement Payments.

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

“Governing Body” means the duly organized City Council of the Governmental Unit, or any successor governing body of the Governmental Unit.

“Governmental Unit” means the City of Las Cruces, Doña Ana County, New Mexico.

“Gross Revenues” means “Gross Revenues” as defined in Section 1.01 of the Master Ordinance.

“Herein,” “hereby,” “hereunder,” “hereof,” “hereinabove” and “hereafter” refer to this entire Ordinance and not solely to the particular section or paragraph of this Ordinance in which such word is used.

“Interest Component” means the portion of each Loan Agreement Payment paid as interest accruing on the Aggregate Repayable Disbursements then outstanding, calculated from the date of each Disbursement.

“Interest Rate” means the rate of interest on the Loan Agreement, which includes the Administrative Fee, as shown on the Term Sheet.

“Loan” means the funds to be loaned to the Governmental Unit by the Finance Authority pursuant to the Loan Agreement, up to the Maximum Principal Amount.

“Loan Agreement” means the loan and subsidy agreement and any amendments or supplements thereto, including the exhibits attached to the loan and subsidy agreement.

“Loan Agreement Payment” means, collectively, the Principal Component, the Interest Component, and the Administrative Fee Component to be paid by the Governmental Unit as payment on the Aggregate Repayable Disbursements under the Loan Agreement, as shown on Exhibit “B” thereto.

“Master Ordinance” means Ordinance No. 1593, Council Bill 97- 035 adopted by the Governing Body on December 18, 1996, as amended by Ordinance No. 2750, Council Bill No. 15-031 adopted by the Council on April 8, 2015 and Ordinance No. 2837, Council Bill No. 18-013 adopted by the Council on January 16, 2018.

“Maximum Forgiven Principal Amount” means the maximum amount of loan subsidy available in the form of principal forgiveness to be applied proportionally at the time of each Disbursement to the Governmental Unit, up to 19.7% of the Maximum Principal Amount. The Maximum Forgiven Principal Amount is three million nineteen thousand fifty-one dollars (\$3,019,051).

“Maximum Principal Amount” means fifteen million three hundred thousand dollars (\$15,300,000).

“Maximum Repayable Principal Amount” means the maximum amount of Aggregate Repayable Disbursements repayable by the Governmental Unit pursuant to the Loan Agreement. The Maximum Repayable Principal is twelve million two hundred eighty thousand nine hundred forty-nine dollars (\$12,280,949).

“Net Revenues” or “Net Revenues of the System” means the Gross Revenues of the System owned and operated by the Governmental Unit after deducting Operation and Maintenance Expenses of the System as defined in Section 1.01 of the Master Ordinance.

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

“Operation and Maintenance Expenses” means “Operation and Maintenance Expenses” as defined in Section 1.01 of the Master Ordinance.

“Ordinance” means this Council Bill No. 24-022~~Ordinance~~_____; Ordinance No. 3064~~Council Bill 24-_____~~ adopted by the Governing Body of the Governmental Unit on August 5~~March 18~~, 2024, approving the Loan Agreement and pledging the Pledged Revenues to the payment of the Loan Agreement Payments as shown on the Term Sheet to the Loan Agreement, as supplemented from time to time in accordance with the provisions hereof.

~~“Parity Obligations” means any obligations of the Governmental Unit under the Loan Agreement and any other obligations now outstanding or hereafter issued or incurred, payable from or secured by a pledge of the Pledged Revenues and issued with a lien on the Pledged Revenues on a parity with the Loan Agreement, including any such obligations shown on the Term Sheet.~~

“Parity Bonds” means any obligations of the Governmental Unit now outstanding or hereafter issued or incurred, payable or secured by first lien, but not an exclusive fire lien, pledge of the Pledged Revenues, including any such obligations shown on the Term Sheet.

“Pledged Revenues” means the Net Revenues of the System of the Governmental Unit pledged to payment of the Loan Agreement Payments pursuant to this Ordinance and described on the Term Sheet.

“Project” means financing the costs of a new well, associated improvements of the well including connecting to the System, and rehabilitation of water storage tanks, as further described in the Term Sheet.

“Senior Obligations” means any bonds or other obligations of the Governmental Unit now outstanding or hereafter issued or incurred, payable from or secured by a pledge of the Pledged Revenues and issued with a lien on the Pledged Revenues superior to the lien created by the Loan Agreement, including any such obligations shown on the Term Sheet.

“State” means the State of New Mexico.

“Subordinated Bonds Obligations” means the Loan Agreement and any bonds or other obligations of the Governmental Unit now outstanding or hereafter issued or incurred with a lien on the Pledged Revenues subordinate to the lien created by the ~~Loan Agreement and subordinate to any other outstanding Parity Obligations having a lien on the Pledged Revenues Bonds,~~ including any such obligations shown on the Term Sheet.

“System” means the joint water, sanitary sewer and natural gas utility system of the Governmental Unit as defined in Section 1.01 of the Master Ordinance.

“Term Sheet” means Exhibit “A” to the Loan Agreement.

“Unrequisitioned Principal Amount” means the amount, if any, by which the Maximum Principal Amount exceeds the Aggregate Disbursements at the time the Governmental Unit submits the certificate of completion required pursuant to Section 6.3 of the Loan Agreement.

Section 2. Ratification. All action heretofore taken (not inconsistent with the provisions of this Ordinance) by the Governing Body and officers of the Governmental Unit directed toward the acquisition and completion of the Project, the pledge of the Pledged Revenues to payment of amounts due under the Loan Agreement, and the execution and delivery of the Loan Agreement shall be, and the same hereby is, ratified, approved and confirmed.

Section 3. Authorization of the Project and the Loan Agreement. The acquisition and completion of the Project and the method of financing the Project through execution and delivery of the Loan Agreement and the other documents related to the transaction are hereby authorized and ordered. The Project is for the benefit and use of the Governmental Unit and the public whom it serves.

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

A. The Project is needed to meet the needs of the Governmental Unit and the public whom it serves.

B. Moneys available and on hand for the Project from all sources other than the Loan Agreement are not sufficient to defray the cost of acquiring and constructing the Project.

C. The Pledged Revenues may lawfully be pledged to secure the payment of amounts due under the Loan Agreement.

D. It is economically feasible and prudent to defray, in whole or in part, the costs of the Project by the execution and delivery of the Loan Agreement.

E. The Project and the execution and delivery of the Loan Agreement in the Maximum Principal Amount pursuant to the DWSRLF Act to provide funds for the financing of the Project are necessary or advisable in the interest of the public health, safety, and welfare of the residents and the public served by the Governmental Unit.

F. The Governmental Unit will acquire and construct the Project, in whole or in part, with the net proceeds of the Loan.

G. Other than as described on the Term Sheet, the Governmental Unit does not have any outstanding obligations payable from Pledged Revenues which it has incurred or will incur prior to the initial execution and delivery of the Loan Agreement.

H. The net effective interest rate on the Maximum Principal Amount does not exceed the current market rate, which is the maximum rate permitted by federal law.

Section 5. Loan Agreement - Authorization and Detail.

A. Authorization. This Ordinance has been adopted by the affirmative vote of at least three-fourths (3/4) of all of the members of the Governing Body. For the purpose of protecting the public health, conserving the property, and protecting the general welfare and prosperity of the public served by the Governmental Unit and acquiring and constructing the Project, it is hereby declared necessary that the Governmental Unit, pursuant to the DWSRLF Act, execute and deliver the Loan Agreement evidencing a special limited obligation of the Governmental Unit to pay a principal amount of twelve million two hundred eighty thousand nine hundred forty-nine dollars (\$12,280,949) and interest thereon, and to accept a loan subsidy in the amount of three million nineteen thousand fifty-one dollars (\$3,019,051) and the execution and delivery of the Loan Agreement is hereby authorized. The Governmental Unit shall use the proceeds of the Loan and subsidy (i) to finance the acquisition and completion of the Project and (ii) to pay the Administrative Fee and Expenses of the Loan Agreement and the costs of issuance of the Bonds, if any. The Project will be owned by the Governmental Unit.

B. Detail. The Loan Agreement shall be in substantially the form of the Loan Agreement presented at the meeting of the Governing Body at which this Ordinance was adopted. The Loan shall be in an amount not to exceed the Maximum Principal Amount of fifteen million three hundred thousand dollars (\$15,300,000). The Aggregate Repayable Disbursements shall be payable in installments of principal due on May 1 of the years designated in the Final Loan Agreement Payment Schedule and bear interest payable on May 1 and November 1 of each of the years designated in the Final Loan Agreement Payment Schedule, at the Interest Rate designated in the Loan Agreement, including Exhibit "A" thereto.

Section 6. Approval of Loan Agreement. The form of the Loan Agreement as presented at the meeting of the Governing Body at which this Ordinance was adopted is hereby approved. Authorized Officers are hereby individually authorized to execute, acknowledge and deliver the Loan Agreement with such changes, insertions and omissions as may be approved by such individual Authorized Officers, and the City Clerk is hereby authorized to affix the seal of the Governmental Unit on the Loan Agreement and attest the same. The execution of the Loan Agreement by an Authorized Officer shall be conclusive evidence of such approval.

Section 7. Special Limited Obligation. The Loan Agreement shall be secured by the pledge of the Pledged Revenues as set forth in the Loan Agreement and shall be payable solely from the Pledged Revenues with a lien thereon subordinate to the lien of the Parity Bonds, and on a parity with the Subordinated Bonds. The Loan Agreement, together with interest thereon and other obligations of the Governmental Unit thereunder, shall be a special, limited obligation of the Governmental Unit, payable solely from the Pledged Revenues as provided in this Ordinance, and the Loan Agreement shall not constitute a general obligation of the Governmental Unit or the State, and the holders of the Loan Agreement may not look to any general or other fund of the Governmental Unit for payment of the obligations thereunder. Nothing contained in this Ordinance nor in the Loan Agreement, nor any other instruments, shall be construed as obligating the Governmental Unit (except with respect to the application of the Pledged Revenues) or as imposing a pecuniary liability or a charge upon the general credit of the Governmental Unit or against its taxing power, nor shall a breach of any agreement contained in this Ordinance, the Loan Agreement, or any other instrument impose any pecuniary liability upon the Governmental Unit or any charge upon its general credit or against its taxing power. The Loan Agreement shall never constitute an indebtedness of the Governmental Unit within the meaning of any State constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability of the Governmental Unit or a charge against its general credit or taxing power. Nothing herein shall prevent the Governmental Unit from applying other funds of the Governmental Unit legally available therefor to payments required by the Loan Agreement, in its sole and absolute discretion.

Section 8. Disposition of Proceeds; Completion of Acquisition and Completion of the Project.

A. Debt Service Account; Disbursements. The Governmental Unit hereby consents to creation of the Debt Service Account to be held and maintained by the Finance Authority as provided in the Loan Agreement.

Agenda Item #8.3.

The proceeds derived from the execution and delivery of the Loan Agreement shall be disbursed promptly upon receipt of an Approved Requisition (as defined in the Loan Agreement).

Until the acquisition and completion of the Project or the date of the Final Requisition, the money disbursed pursuant to the Loan Agreement shall be used and paid out solely for the purpose of acquiring and constructing the Project in compliance with applicable law and the provisions of the Loan Agreement.

B. Prompt Completion of the Project. The Governmental Unit will complete the Project with all due diligence.

C. Certification of Completion of the Project. Upon the acquisition and completion of the Project, the Governmental Unit shall execute and send to the Finance Authority a certificate stating that the completion of and payment for the Project has been completed.

D. Finance Authority Not Responsible for Application of Loan Proceeds. The Finance Authority shall in no manner be responsible for the application or disposal by the Governmental Unit or by its officers of the funds derived from the Loan Agreement or of any other funds herein designated.

Section 9. Deposit of Pledged Revenues; Distributions of the Pledged Revenues and Flow of Funds.

A. Deposit of Pledged Revenues. Pledged Revenues shall be paid directly by the Governmental Unit to the Finance Authority on a parity with the outstanding ~~Parity Obligations~~ Subordinated Bonds -in an amount sufficient to pay the Loan Agreement Payments, and other amounts due under the Loan Agreement, as provided in Section 5.2 of the Loan Agreement.

B. Termination on Deposits to Maturity. No payment shall be made into the Debt Service Account if the amount in the Debt Service Account totals a sum at least equal to the total amount of Loan Agreement Payments to become due as to principal, interest on, Administrative Fees and any other amounts due under the Loan Agreement, in which case moneys in such account in an amount at least equal to such principal, interest, and Administrative Fee requirements shall be used solely to pay such obligations as the same become due, and any moneys in excess thereof in such accounts shall be transferred to the Governmental Unit and used as provided in Section 9.C of this Ordinance.

C. Use of Surplus Revenues. After making all the payments required to be made by this Section and any payments required by outstanding Parity-~~Obligations~~ Bonds, and ~~Subordinate-Obligations~~ Subordinated Bonds, any moneys remaining in the Debt Service Account shall be transferred to the Governmental Unit on a timely basis and applied to any other lawful purpose, including, but not limited to, the payment of any Parity-~~Obligations~~ Bonds, or ~~Subordinate-Obligations~~ Subordinated Bonds, or purposes authorized by the Governmental Unit,

the Constitution and laws of the State, as the Governmental Unit may from time to time determine as provided in the Master Ordinance.

Section 10. Lien on Pledged Revenues. Pursuant to this Ordinance and the Loan Agreement, the Pledged Revenues are hereby authorized to be pledged, and are hereby pledged, and the Governmental Unit grants a lien on the Pledged Revenues and security interest therein, for the payment of the principal, interest, Administrative Fees, and any other amounts due under the Loan Agreement, subject to the uses thereof permitted by and the priorities set forth in this Ordinance. The Loan Agreement constitutes an irrevocable ~~first~~ lien, but not necessarily an exclusive ~~first~~ lien, on the Pledged Revenues as set forth herein and therein, and the Governmental Unit shall not create a lien on the Pledged Revenues superior to that of the Loan Agreement ~~without except as provided in the express prior written approval of the Finance Authority~~ Master Ordinance.

Section 11. Authorized Officers. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Ordinance, the Loan Agreement and all other transactions contemplated hereby and thereby. Authorized Officers are hereby individually authorized to do all acts and things required of them by this Ordinance and the Loan Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this Ordinance and the Loan Agreement including, but not limited to, the execution and delivery of closing documents and reports in connection with the execution and delivery of the Loan Agreement.

Section 12. Amendment of Ordinance. Prior to the Closing Date, the provisions of this Ordinance may be supplemented or amended by ordinance of the Governing Body with respect to any changes which are not inconsistent with the substantive provisions of this Ordinance. After the Closing Date, this Ordinance may be amended, only with the prior written consent of the Finance Authority, by Authorized Officers of the Governmental Unit without receipt of the Governing Body of any additional consideration only when such amendment does not affect the terms of payment of the loan component of the Loan Agreement.

Section 13. Ordinance Irrepealable. After the Closing Date, this Ordinance shall be and remain irrepealable until all obligations due under the Loan Agreement shall be fully discharged, as herein provided.

Section 14. Severability Clause. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 15. Repealer Clause. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 16. Effective Date. Upon due adoption of this Ordinance, it shall be recorded in the book of the Governmental Unit kept for that purpose, authenticated by the signatures of the Mayor and City Clerk, and the title and general summary of the subject matter contained in this Ordinance (set out in Section 17 below) shall be published in a newspaper which is of general circulation in the Governmental Unit, and the Ordinance shall be in full force and effect thereafter, in accordance with law; provided, however, that if recording is not required for the effectiveness of this Ordinance, this Ordinance shall be effective upon adoption of this Ordinance by the Governing Body.

Section 17. General Summary for Publication. Pursuant to the general laws of the State, the title and a general summary of the subject matter contained in this Ordinance shall be published in substantially the following form:

[Remainder of page intentionally left blank.]

[Form of Summary of Ordinance for Publication.]

City of Las Cruces, New Mexico
Notice of Adoption of Ordinance

Notice is hereby given of the title and of a general summary of the subject matter contained in Council Bill No. 24-022~~Ordinance _____~~; Ordinance No. 2064~~Council Bill 24 _____~~, duly adopted and approved by the Governing Body of the City of Las Cruces, New Mexico, on March 18, 2024. A complete copy of the Ordinance is available for public inspection during normal and regular business hours in the office of the City Clerk, 700 N Main Street, Las Cruces, New Mexico 88001.

The title of the Ordinance is:

CITY OF LAS CRUCES, DOÑA ANA COUNTY, NEW MEXICO
COUNCIL BILL NO. 24-022~~ORDINANCE _____~~; ORDINANCE NO. 3064~~COUNCIL BILL 24 _____~~

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AND SUBSIDY AGREEMENT (“LOAN AGREEMENT”) BY AND BETWEEN THE CITY OF LAS CRUCES, NEW MEXICO (“GOVERNMENTAL UNIT”) AND THE NEW MEXICO FINANCE AUTHORITY (“FINANCE AUTHORITY”), IN THE TOTAL AMOUNT OF FIFTEEN MILLION THREE HUNDRED THOUSAND DOLLARS (\$15,300,000), EVIDENCING A SPECIAL LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A MAXIMUM REPAYABLE PRINCIPAL AMOUNT OF NO MORE THAN TWELVE MILLION TWO HUNDRED EIGHTY THOUSAND NINE HUNDRED FORTY-NINE DOLLARS (\$12,280,949), TOGETHER WITH INTEREST, AND ADMINISTRATIVE FEES THEREON, AND TO ACCEPT A LOAN SUBSIDY OF NO MORE THAN THREE MILLION NINETEEN THOUSAND FIFTY-ONE DOLLARS (\$3,019,051), FOR THE PURPOSE OF FINANCING THE COSTS OF A NEW WELL, ASSOCIATED IMPROVEMENTS OF THE WELL INCLUDING CONNECTING TO THE JOINT UTILITY SYSTEM OF THE GOVERNMENTAL UNIT, AND REHABILITATION OF WATER STORAGE TANKS; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL, ADMINISTRATIVE FEES AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE NET REVENUES OF THE JOINT UTILITY SYSTEM OF THE GOVERNMENTAL UNIT; SETTING AN INTEREST RATE FOR THE LOAN; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT.

A general summary of the subject matter of the Ordinance is contained in its title.
This notice constitutes compliance with NMSA 1978, § 6-14-6, as amended.

[End of Form of Summary of Ordinance for Publication.]

Section 18. Execution of Agreements. The City of Las Cruces through its Governing Body agrees to authorize and execute all such agreements with the New Mexico Finance Authority as are necessary to consummate the Loan contemplated herein and consistent with the terms and conditions of the Loan Agreement and this Ordinance.

(II)

THAT City staff is authorized to do all deeds as necessary in the accomplishment of the herein above.

[Remainder of page intentionally left blank.]



City Council Action and Executive Summary

**3077; Council
Bill 25-006**

Type of Action:
☐ Resolution
☒ Ordinance
☐ TIDD Resolution

District:	☒ 1 ☒ 2 ☒ 3 ☒ 4 ☒ 5 ☒ 6 ☐ N/A					
1st Reading:	July 15, 2024			Adopted:		August 5, 2024
Drafter:	Brad Douglas			Department:		Legal
Program:	Office of Director			Line of Business:		Office of Director
Title:	AN ORDINANCE REPEALING AND REPLACING CHAPTER 19, SECTION 19-6. - POSSESSION, DELIVERY, MANUFACTURE, OR DELIVERY OF DRUG PARAPHERNALIA OF THE LAS CRUCES MUNICIPAL CODE (LCMC), 1997 AS AMENDED.					

TYPE OF ACTION: ☐ Administrative ☒ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:
To repeal and replace Section 19-6 in conformance with state statute.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
Effective May 18, 2022, NMSA 1978, Section 30-31-25.1. "Possession, delivery or manufacture of drug paraphernalia prohibited; exceptions" was amended by the New Mexico Legislature, reducing the offense from a petty misdemeanor to a penalty assessment. The City of Las Cruces desires uniformity and consistency between state and local law for similar conduct so this ordinance will repeal the existing law codified in the Las Cruces Municipal Code and replace with the current state statute.

SUPPORT INFORMATION:
[Exhibit "A" - Section 19-6](#)

PLAN(S):
Elevate Las Cruces

COMMITTEE/BOARD REVIEW:
None

DOES THIS AMEND THE BUDGET?:
☐ Yes
☒ No

Does this action amend the Capital Improvement Plan (CIP)?
☐ Yes
☒ No

Agenda Item #8.4.

Does this action align with Elevate Las Cruces?

☒ Yes

☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve repealing and replacing Section 19-6 of the Las Cruces Municipal Code.
2. Vote "No"; this will not approve repealing and replacing Section 19-6 of the Las Cruces Municipal Code, and the current code will remain in place.
3. Vote to "Amend"; this will require additional direction to staff.
4. Vote to "Table"; this will require additional direction to staff to bring back at a later date.

REFERENCE INFORMATION:

NMSA 1978, Section 30-31-25.1

ORDINANCE 3077; COUNCIL BILL 25-006

AN ORDINANCE REPEALING AND REPLACING CHAPTER 19, SECTION 19-6. - POSSESSION, DELIVERY, MANUFACTURE, OR DELIVERY OF DRUG PARAPHERNALIA OF THE LAS CRUCES MUNICIPAL CODE (LCMC), 1997 AS AMENDED.

The City Council is informed that:

WHEREAS, effective May 18, 2022, NMSA 1978, Section 30-31-25.1. "Possession, delivery or manufacture of drug paraphernalia prohibited; exceptions" was amended by the New Mexico Legislature, reducing the offense from a petty misdemeanor to a penalty assessment; and

WHEREAS, the City of Las Cruces desires uniformity and consistency between state and local law for similar conduct.

NOW, THEREFORE, Be it Ordained by the Governing Body of the City of Las Cruces:

(I)

THAT Chapter 19, Section 19-6. - Possession, Delivery, Manufacture, or Delivery of Drug Paraphernalia of the Las Cruces Municipal Code is hereby repealed and replaced with Exhibit "A", attached hereto and made part of this ordinance.

(II)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

Agenda Item #8.4.

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS

Sec. 19-6. - Possession, delivery, manufacture, or delivery of drug paraphernalia.

A. It is unlawful for a person to use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Controlled Substances Act. The provisions of this subsection do not apply to a person who is in possession of:

- (1) hypodermic syringes or needles for the purpose of participation in or administration of the Harm Reduction Act [24-2C-1 to 24-2C-6 NMSA 1978];
- (2) supplies or devices obtained pursuant to the Harm Reduction Act in accordance with rules established by the department of health for the harm reduction program; or
- (3) supplies or devices used for the testing of controlled substances or controlled substance analogs for dangerous adulterants.

B. It is unlawful for a person to deliver, possess with intent to deliver or manufacture with the intent to deliver drug paraphernalia with knowledge, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Controlled Substances Act. The provisions of this subsection do not apply to:

- (1) department of health employees or their designees while they are directly and immediately engaged in activities related to the harm reduction program authorized by the Harm Reduction Act; or
- (2) the sale or distribution of hypodermic syringes and needles by pharmacists licensed pursuant to the Pharmacy Act [Chapter [61](#), Article [11](#) NMSA 1978].

C. A person who violates the provisions of Subsection A of this section shall be issued a penalty assessment pursuant to L.C.M.C. Section 27-12-14.1 and is subject to a fine of fifty dollars (\$50.00). A person who violates the provisions of Subsection B of this section is guilty of a petty misdemeanor.



**3078; Council
Bill 25-007**

City Council Action and Executive Summary

Type of Action:
☐ Resolution
☒ Ordinance
☐ TIDD Resolution

District:	☒ 1 ☒ 2 ☒ 3 ☒ 4 ☒ 5 ☒ 6 ☐ N/A		
1st Reading:	July 15, 2024	Adopted:	August 5, 2024
Drafter:	Brad Douglas	Department:	Legal
Program:	Office of Director	Line of Business:	Office of Director
Title:	AN ORDINANCE AMENDING CHAPTER 21, SECTION 21-62. - PROHIBITED SOLICITATIONS AND 21-63. - STANDING OR LOITERING ON OR NEAR STREET OR HIGHWAY, OF THE LAS CRUCES MUNICIPAL CODE (LCMC) 1997 AS AMENDED.		

TYPE OF ACTION: ☐ Administrative ☒ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:

To amend the municipal code.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The City of Las Cruces has previously regulated solicitation activities by adoption of Ordinance No. 1916 and Ordinance No. 2879, adopted on May 20, 2002 and November 19, 2018, respectively, and codified as Sections 21-62 and 21-63 of the Las Cruces Municipal Code (LCMC). Recent judicial decisions from the United States Court of Appeals for the Tenth Circuit have clarified the standards by which municipalities may prohibit or regulate solicitation activities. In 2020 to 2023, the City of Las Cruces experienced a 150% increase in pedestrian fatalities and the State of New Mexico has been number one for pedestrian deaths per capita for the past seven years. The proposed changes were discussed at a Special Work Session on April 29, 2024, and it was determined appropriate to bring forward changes to Sections 21-62 and 21-63 of the LCMC.

SUPPORT INFORMATION:

- [Exhibit "A" - 21-62](#)
- [Exhibit "B" - 21-63](#)
- [Attachment "A" - 21-62 Final Redline Version](#)
- [Attachment "B" - 21-63 Final Redline Version](#)

PLAN(S):

Elevate Las Cruces

COMMITTEE/BOARD REVIEW:

None

DOES THIS AMEND THE BUDGET?:

- ☐ Yes
- ☒ No

Does this action amend the Capital Improvement Plan (CIP)?

- ☐ Yes
☒ No

Does this action align with Elevate Las Cruces?

- ☒ Yes
☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the amendments to Sections 21-62 and 21-63 of the Las Cruces Municipal Code.
2. Vote "No"; this will not approve the amendments to the Las Cruces Municipal Code and Sections 21-62 and 21-63 will remain as is.
3. Vote to "Amend"; this will require additional direction to staff.
4. Vote to "Table"; this will require additional direction to staff and delay implementation of Sections 21-62 and 21-63.

ORDINANCE 3078; COUNCIL BILL 25-007

AN ORDINANCE AMENDING CHAPTER 21, SECTION 21-62. - PROHIBITED SOLICITATIONS AND 21-63. - STANDING OR LOITERING ON OR NEAR STREET OR HIGHWAY, OF THE LAS CRUCES MUNICIPAL CODE (LCMC) 1997 AS AMENDED.

The City Council is informed that:

WHEREAS, the City of Las Cruces has previously regulated solicitation activities by adoption of Ordinance No. 1916 and Ordinance No. 2879, adopted on May 20, 2002 and November 19, 2018, respectively, and codified as Sections 21-62 and 21-63 of the Las Cruces Municipal Code (LCMC); and

WHEREAS, recent judicial decisions from the United States Court of Appeals for the Tenth Circuit have clarified the standards by which municipalities may prohibit or regulate solicitation activities; and

WHEREAS, the Governing Body has determined that unrestricted solicitation on roadways and within parking lots in the city have created dangerous conditions for persons engaging in solicitation activities, persons being solicited, and traffic generally; and

WHEREAS, from 2020 to 2023, the City of Las Cruces experienced a 150% increase in pedestrian fatalities; and

WHEREAS, the State of New Mexico has been number one for pedestrian deaths per capita for the past seven years; and

WHEREAS, the Governing Body has determined that the standards and restrictions specified herein are narrowly tailored to serve the city's significant governmental interests in establishing safe locations and standards for solicitation that leave open ample alternative channels for communication of information.

NOW, THEREFORE, Be it Ordained by the Governing Body of the City of Las Cruces:

(I)

THAT Sections 21-62 and 21-63 of the Las Cruces Municipal Code are hereby amended as indicated in Exhibit "A" and Exhibit "B", and attached hereto and made part of this ordinance.

(II)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

Agenda Item #8.5.

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS

Sec. 21-62. - Prohibited solicitations.

It shall be unlawful for any person to solicit money or other things of value, or to solicit the sale of goods or services in the manner described in subparagraphs (1) through (3) of this section.

Solicitation is prohibited as follows:

- (1) In an aggressive manner in a public area or on private property within the city limits;
- (2) On private property if the owner tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property; or
- (3) From any occupant of a motor vehicle that is in traffic on a public street with a posted speed limit of 30 miles per hour or greater, if the solicitation would cause any person to walk upon a portion of the roadway not clearly designated and/or marked for pedestrian foot traffic.

(Ord. No. 1916, § I, 5-20-02)

Sec. 21-63. - Standing or loitering on or near street or highway.

- (a) The purpose of this section is to prevent dangers to persons and property, to prevent traffic delays, and to avoid interference with traffic flow. Roadways that have center medians often are designed to handle specific traffic flow problems. Any delay or distraction may interfere with traffic planning and may present dangerous roadway conditions for drivers and pedestrians.
- (b) It shall be unlawful for any person to stand or loiter on a street or highway when such activity: (1) Causes the person performing the activity to enter onto the traveled portion of a street or highway where the posted speed limit is 30 miles per hour or greater;(2) The person performing the activity is located such that vehicles cannot move into a legal parking area safely;
- (c) It shall be unlawful for any person to stand or loiter on any highway included in the interstate system including any entrance to or exit from the highway.
- (d) It shall be unlawful for any person to stand or loiter on, access, use, occupy, assemble, or congregate on any median that is located on any roadway with a posted speed limit of 30 miles per hour or greater that does not possess a flat area of at least four feet in diameter.
- (e) For purposes of this section, the traveled portion of the street or highway shall mean that portion of the road normally used by moving motor vehicle traffic.

(Ord. No. 2879, § I, 11-19-18)

Sec. 21-62. - Prohibited solicitations.

It shall be unlawful for any person to solicit money or other things of value, or to solicit the sale of goods or services in the manner described in subparagraphs (1) through (35) of this section.

Solicitation is prohibited as follows:

- (1) In an aggressive manner in a public area or on private property within the city limits; ~~(2) In any public transportation vehicle, or bus station or stop;~~ (3) Within 15 feet of any entrance or exit of any bank or check cashing businesses or within 15 feet of any automated teller machine during the hours of operation of such bank, automated teller machine or check cashing business without the consent of the owner or other person legally in possession of such facilities. Provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility; ~~(24) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property; or (35) From any occupant of a motor vehicle that is in traffic on a public street~~ with a posted speed limit of 30 miles per hour or greater, if the solicitation would cause any person to walk upon a portion of the roadway not clearly designated and/or marked for pedestrian foot traffic., whether in exchange for cleaning the vehicle's windows, or for blocking, occupying, or reserving a public parking space, or directing the occupant to a public parking space; provided, however, that this paragraph shall not apply to services rendered in connection with emergency repairs requested by the occupants or passengers of such vehicle.

Sec. 21-63. - Standing or loitering on or near street or highway.

- (a) The purpose of this section is to prevent dangers to persons and property, to prevent traffic delays, and to avoid interference with traffic flow. Roadways that have center medians often are designed to handle specific traffic flow problems. Any delay or distraction may interfere with traffic planning and may present dangerous roadway conditions for drivers and pedestrians.
- (b) It shall be unlawful for any person to stand or loiter on a street or highway when such activity: (1) Causes the person performing the activity to enter onto the traveled portion of a street or highway where the posted speed limit is 30 miles per hour or greater. ~~(2) Involves the person performing the activity to be located upon any median area which separates traffic lanes for vehicular travel in opposite directions.~~ ~~(23)~~ The person performing the activity is located such that vehicles cannot move into a legal parking area safely.
- ~~(c)~~ It shall be unlawful for any person to stand or loiter on any highway included in the interstate system including any entrance to or exit from the highway.
- ~~(e)~~~~(d)~~ It shall be unlawful for any person to stand or loiter on, access, use, occupy, assemble, or congregate on any median that is located on any roadway with a posted speed limit of 30 miles per hour or greater that does not possess a flat area of at least four feet in diameter.
- ~~(d)~~~~(e)~~ For purposes of this section, the traveled portion of the street or highway shall mean that portion of the road normally used by moving motor vehicle traffic.

(Ord. No. 2879, § I, 11-19-18)



**3079; Council
Bill 25-008**

City Council Action and Executive Summary

Type of Action:
☐ Resolution
☒ Ordinance
☐ TIDD Resolution

District:	☒ 1 ☒ 2 ☒ 3 ☒ 4 ☒ 5 ☒ 6 ☐ N/A		
1st Reading:	July 15, 2024	Adopted:	August 5, 2024
Drafter:	Brad Douglas	Department:	Legal
Program:	Office of Director	Line of Business:	Office of Director
Title:	AN ORDINANCE ADDING CHAPTER 18, ARTICLE III - SHOPPING CART CONTAINMENT AND RETRIEVAL, TO THE LAS CRUCES MUNICIPAL CODE (LCMC), 1997 AS AMENDED.		

TYPE OF ACTION: ☐ Administrative ☒ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:
To add a new chapter to the Las Cruces Municipal Code.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
The City of Las Cruces has determined that the unauthorized removal of shopping carts, or parts thereof, on public and private property from retail establishments constitutes a nuisance, creates potential hazards to the health, welfare, and safety of the public, and interferes with pedestrian and vehicular traffic. The accumulation of wrecked, dismantled, and/or abandoned shopping carts on public and/or private property creates conditions that reduce property values and promote blight and neighborhood deterioration within the city. The purpose of this chapter is to make the removal of shopping carts from the premises of a business establishment a violation of this code. In addition, this chapter ensures that storeowners will take action to reduce the removal of shopping carts from a business establishment's premises. This chapter will require business establishment owners to facilitate in the retrieval of those shopping carts removed from the establishment's premises. Addition of this Chapter was discussed at the April 29, 2024, Special Work Session.

SUPPORT INFORMATION:
[Exhibit A - Revised Shopping Cart Containment and Retrieval Ordinance Final Version](#)

PLAN(S):
Elevate Las Cruces

COMMITTEE/BOARD REVIEW:
None

DOES THIS AMEND THE BUDGET?:
☐ Yes
☒ No

Agenda Item #8.6.

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes

☒ No

Does this action align with Elevate Las Cruces?

☒ Yes

☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the amendment to Chapter 18 of the Las Cruces Municipal Code.
2. Vote "No"; this will not approve the amendment to the Las Cruces Municipal Code and Chapter 18, Article III will not be added.
3. Vote to "Amend"; this will require additional direction to staff.
4. Vote to "Table"; this will require additional direction to staff and delay implementation of Chapter 18, Article III.

ORDINANCE 3079; COUNCIL BILL 25-008

AN ORDINANCE ADDING CHAPTER 18, ARTICLE III - SHOPPING CART CONTAINMENT AND RETRIEVAL, TO THE LAS CRUCES MUNICIPAL CODE (LCMC), 1997 AS AMENDED.

The City Council is informed that:

WHEREAS, the City of Las Cruces has determined that the unauthorized removal of shopping carts, or parts thereof, on public and private property from retail establishments constitutes a nuisance, creates potential hazards to the health, welfare, and safety of the public, and interferes with pedestrian and vehicular traffic; and

WHEREAS, the accumulation of wrecked, dismantled, and/or abandoned shopping carts on public and/or private property creates conditions that reduce property values and promote blight and neighborhood deterioration within the city; and

WHEREAS, the purpose of this chapter is to make the removal of shopping carts from the premises of a business establishment a violation of this code. In addition, this chapter ensures that storeowners will take action to reduce the removal of shopping carts from a business establishment's premises; and

WHEREAS, this chapter will require business establishment owners to facilitate in the retrieval of those shopping carts removed from the establishment's premises.

NOW, THEREFORE, Be it Ordained by the Governing Body of the City of Las Cruces:

(I)

THAT Chapter 18 of the Las Cruces Municipal Code is hereby amended to add Article III - Shopping Cart Containment and Retrieval, as indicated in Exhibit "A", and attached hereto and made part of this ordinance.

(II)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS

CHAPTER 18 – NUISANCES

ARTICLE III. - SHOPPING CART CONTAINMENT AND RETRIEVAL

SECTION 18-47. - APPLICABILITY

This article applies to:

- A. Every business in the City of Las Cruces that provides shopping carts for customer use on its business premises, and;
- B. Any person who removes or who is in possession of, or who has abandoned an off-site shopping cart.

SECTION 18-48. - DEFINITIONS

“Administrator” means the Director of Community Development or his/her designee.

“Business owner” or “Owner” means one or more persons or any legal entity doing business on behalf thereof, such as, but not limited to, a corporation, limited liability company, partnership or association, that owns a business that provides shopping carts for customer use on their premises.

“Off-site shopping cart” means a shopping cart that has been removed from the premises where it is used for shopping purposes in violation of the requirements of this article.

“Premises” means the entire area owned or under the control of a business owner, including the parking area, and for businesses in a shopping center or other development where common areas serve more than one business, the common area shared by the business with other businesses in the development.

“Shopping cart” or “Cart” means a basket or similar device which is mounted on wheels and is generally owned and used as part of a retail establishment and used by a customer for transporting goods within the retail establishment’s premises.

“Shopping Cart Plan” means a document submitted to the City by the business owner under Subsection 5(C) of this code.

SECTION 18-49. - PROHIBITIONS

- A. Prohibitions Applicable to Business Owners: It shall be unlawful and a violation of this Article for a business owner to:
 - 1. Fail to affix an identifying sign or engraved marker to each shopping cart;
 - 2. Fail to submit a shopping cart plan or request for exemption in conformance with Subsection 5(B) of this code;
 - 3. Fail to comply with a shopping cart plan approved by the City;

4. Allow or authorize a shopping cart to be removed from the premises, except to allow for shopping carts to be serviced or repaired by a qualified and licensed company off-site;
 5. Remove, disable, or otherwise render ineffective restraints designed to prevent removal of shopping carts or their off-premises operation, such as bollards, wheel locks, poles, or other methods.
 6. Enforcement: An owner who violates this article or any provision of the owner's approved shopping cart plan, or an owner of real property who allows off-site shopping carts to remain on real property shall be subject to the following enforcement procedures: (a) Revocation of an exemption under Subsection 5 of this code; (b) The requirement that the owner abide by the conditions of a new shopping cart plan, with terms to be dictated by the Administrator; (c) Imposition of a fine of not less than one hundred dollars (\$100.00), nor more than five hundred dollars (\$500.00) for a first violation, a fine of not less than two hundred dollars (\$200.00), nor more than five hundred dollars (\$500.00) for a second violation within a 365 day period, and a mandatory fine of five hundred dollars (\$500.00) for each additional violation within a 365 day period; (d) Procedures for abatement of a nuisance under Sections 18-5 and 18-7 of the Las Cruces Municipal Code; (e) Civil action for enforcement, including to abate a public nuisance by injunctive relief or any other court order; (f) Proceedings for revocation of a use or site development permit, if applicable.
 7. These enforcement procedures and penalties are cumulative with one another and any other remedy available at law or in equity and are not mutually exclusive. Any one or more of them may apply and be used or charged in response to a single violation of this article. At the discretion of the sentencing judge, any person convicted under this Article may perform community service in lieu of any fine imposed by the Court.
- B. Other Prohibitions: It shall be unlawful and a violation of this Article for any person to:
1. Remove a shopping cart from the retail premises where it is used for shopping purposes; or
 2. Possess an off-site shopping cart not subject to an exception identified in this Article; or
 3. Abandon an off-site shopping cart; or
 4. Alter, convert, or tamper with a shopping cart, or remove any part or portion thereof or remove, obliterate, or alter an identifying sign, mark, or serial numbers on a shopping cart.
 5. Exceptions: Shopping carts may be removed from retail premises for the purposes of maintenance, repair, or any other service, with the written permission of the Owner or his/her designee. Shopping carts may also be temporarily removed from the premises with the permission of the Owner or his/her designee for the purpose of transporting goods to any public mode of conveyance, so long as the shopping cart is immediately retrieved by an employee of the business and returned to the premises.

6. Enforcement: Prosecution as a petty misdemeanor under the authority of the Las Cruces Municipal Code, Sec. 1-10. A person who violates this provision shall be guilty of a petty misdemeanor. In lieu of any jail time and/or fine, the sentencing judge may order that the person perform community service, which by definition includes, but is not limited to, counseling and/or treatment for substance use disorders and/or mental health treatment.

SECTION 18-50. - SHOPPING CART IDENTIFICATION SIGNS

The business owner shall have a sign permanently affixed to each cart in a prominent and clearly visible location. The sign and/or engraved marker shall include all of the following information:

- A. The identity of the owner of the cart or the business, or both;
- B. The valid address and phone number of the business for returning the cart to the owner or business;
- C. If the business has more than one location within the city, an identifying store number;
- D. Notice to the public that the unauthorized removal of the cart from the premises or the unauthorized possession of the cart is a violation of the Las Cruces Municipal Code.

SECTION 18-51. - SHOPPING CART PLAN

- A. General Requirement: Each owner of a business shall effectively implement a shopping cart plan in accordance with this article. Each shopping cart plan shall be conspicuously posted at the place of business.
- B. Exemptions: A business owner is exempt from this article for two (2) years at a time if the owner submits an exemption request and meets all the following requirements:
 1. The business has effective restraints that prohibit any carts from exiting the premises or from operating off the premises. Examples of such effective restraints include but are not limited to: poles attached to carts to keep them from passing a certain point; electronic wheel locks on all carts which prevent wheels from rolling past the perimeter of the premises; physical constraints such as bollards; or continuous use of courtesy clerks to accompany customers and return the carts to the store; and
 2. The business secures all shopping carts during the hours the business is closed by storing carts inside or locking them outside, on the condition that the carts be immobilized if stored outside, or secured in such a manner that the carts are not accessible to the public.

- C. Contents of the Shopping Cart Plan: The shopping cart plan shall include all the following elements:
1. Name, address, and telephone number of the business, business owner, and the name and telephone number of the on-site manager.
 2. The number of on-site shopping carts and a description of how the business owner intends to comply with the requirements for sign identification on carts.
 3. Public Notices: A description of a customer education process by which the business owner will inform customers that the removal or off-site possession or abandonment of carts is a violation of state law and this Article. This information may include business signs posted in prominent places, flyers, warnings on shopping bags, direct mail, in-store announcements, or other means demonstrated to be effective. Public notice to customers shall include signage permanently affixed to each shopping cart that identifies the owner of the cart or the retailer, or both, as set forth in Section 4 of this code.
 4. Loss Prevention: A description of the measures that the business owner will implement to prevent the removal of shopping carts from the premises. These measures may include any of those listed in Subsection B of this section or use of security personnel to prevent removal, security deposit for use of a cart, or other measures demonstrated to be effective and approved by the City.
 5. Cart Retrieval: A plan for mandatory retrieval of off-site shopping carts occurring at least once a week, and within three (3) business days of notice from the City under Subsection A of this code. Cart retrieval may be done by the business owner, employees or agents of the business, or a cart retrieval service contracted for by the business owner or by a combination of owners, at owner expense. A business owner shall not be required to retrieve an off-site shopping cart in the immediate possession of any person.
 6. Implementation: The plan shall describe the measures the owner will take to prevent the removal of shopping carts from the premises, to retrieve off-site shopping carts on at least a weekly basis, and to modify these measures should they result in circumstances that would justify revocation of the plan set forth in Subsection G of this code.
- D. Administrator Review: Within 30 days of the submission of a shopping cart plan, the Administrator shall either approve or deny the plan, or request additional information needed to render a decision. If a plan is denied as being incomplete or inadequate, or if additional information is needed, the Administrator shall notify the owner in writing. The owner has 30 days from the date of receipt to submit the additional information or to submit a complete and adequate plan.

The Administrator may deny a proposed plan on any of the following grounds:

1. The plan fails to include the information required under this Article or fails to adequately address the required elements;
 2. The plan fails to meet the standards contained in Subsection C(5) of this section to prevent removal of shopping carts;
 3. If implementation of the plan would violate any state, local, or federal law(s);
 4. If the owner knowingly makes a false statement and/or omits material facts from the plan, or any amendment thereto.
- E. Plan Modification: The owner may submit a proposed plan modification to any previously approved shopping cart plan to address a material change in circumstances or to modify ineffective provisions. The Administrator shall review and consider the requested modification in the same manner set forth in Subsection D of this section.
- F. Biennial Renewal: Every two (2) years a business owner shall renew an exemption or a previously approved shopping cart plan, without modification, if no more than six (6) of the owner's shopping carts have been found off-site within the preceding 90 days. The owner shall submit a written application for renewal by July 1 of the year of renewal, together with the owner's sworn statement that no more than six (6) of the business' shopping carts have been found off-site within the preceding 90 day period.
- G. Denial or Revocation: The Administrator may revoke a plan approved under Subsection D of this section, deny a renewal request under Subsection F of this section, or revoke an exemption granted under Subsection B of this section if:
1. Any shopping cart belonging to the business has been found off-site on seven (7) or more occasions within a 90 day period; or
 2. The owner has failed to comply with any other provision of this Article; or
 3. The owner has knowingly made a false statement or failed to disclose material facts in an application, request for amendment, or any other report required or provided for under this Article.
 4. No such plan shall be revoked until the Community Development department director, or his/her designee notifies the business owner in writing that the revocation is pending and will become final in 30 days, unless the revocation is stayed by filing a request for a hearing with the Community Development department to appeal the decision. The City Council will act as the board for hearing such appeals. If no appeal request is filed within the 30-day notification period, the revocation decision shall become final.



**3080; Council
Bill 25-009**

City Council Action and Executive Summary

Type of Action:
☐ Resolution
☒ Ordinance
☐ TIDD Resolution

District:	☐ 1	☐ 2	☒ 3	☐ 4	☐ 5	☐ 6	☐ N/A
1st Reading:	August 5, 2024			Adopted:		August 19, 2024	
Drafter:	Vince Banegas			Department:		Community Development	
Program:	Community Planning			Line of Business:		Community Planning	
Title:	AN ORDINANCE APPROVING A ZONE CHANGE FROM R-1A (SINGLE-FAMILY MEDIUM DENSITY) TO R-2C (MULTI-DWELLING LOW DENSITY) FOR PROPERTY LOCATED AT 2795 N. ROADRUNNER PARKWAY. SUBMITTED BY TAFIQ HINDASH, AJ CONSTRUCTION, LLC ON BEHALF OF MOHAMED ASWAD, M.D., PROPERTY OWNER.						

TYPE OF ACTION: ☐ Administrative ☐ Legislative ☒ Quasi-Judicial

PURPOSE(S) OF ACTION:
Zone change.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
The City Council is required to review and take final action on zone changes pursuant to Section 38-10.B.2.b. and 38-13.A. of the 2001 Las Cruces Zoning Code, as amended. A zoning district is a specifically delineated area where land use regulation uniformly governs the use, placement, spacing, density, bulk, height, and size of building and/or land. That said, zoning districts may be conditioned through the proper process, thus modifying one or more of those land use variables.

The applicant originally requested a zone change from R-1a (Single-Family Medium Density) to R-4 (Multi-Dwelling High Density and Limited Retail & Office) for property approximately 5.00 acres in size and located at 2795 N. Roadrunner Parkway. The purpose of the zone change request was to accommodate a proposed 96-unit apartment complex at a density of 19.2 dwelling units per acre (du/ac). A conceptual site plan and elevations—although not required as part of the zone change request packet—was submitted reflecting multiple apartment buildings ranging from one to three stories in height. Ingress/Egress is proposed along both N. Roadrunner Parkway and Morning Star Drive. Conceptual building elevations show two facade designs reflecting one southwest in nature and the other more contemporary in the design. Please note that these conceptual documents are subject to change to follow the development of the site in the manner it is ultimately zoned to allow the property owner to proceed. It would be at that time (permit submittal) that final design, engineering, and other development analysis would be required and submitted for staff to review and consider.

The subject property is currently vacant and is adjacent to areas predominantly zoned R-1a and developed as single-family dwellings. Other uses and zones exist in the immediate area and consist of R-4C (Multi-Dwelling High Density and Limited Retail & Office - Conditional) - Church, O-2 (Office Professional - Limited Retail Service) - Offices, A-2 (Rural Agricultural) - Middle School, and A-1 (Flood Control) - Arroyo. Further north of the subject lot are properties zoned PUD (Planned Unit Development) and developed as offices and apartments.

Agenda Item #10.1.

The applicant carried out early notification procedures notifying surrounding property owners per the 2001 Las Cruces Zoning Code, as amended, about the proposed request. Due to the lack of substantive information regarding the proposal, a second notice was sent. This resulted in a neighborhood meeting hosted by Morning Star United Methodist Church. A significant number of attendees were opposed to the zone change request largely citing traffic/transportation related concerns including speeding, congestion, poor line of sight along Roadrunner Parkway, accidents, lack of proper signalization, on-street parking along Morning Star Drive related to school release, and pedestrian safety. Other concerns involving the potential for increased noise, a decrease in property values, and overall privacy concerns were also noted.

Several emails, phone calls, and a petition in opposition of the proposal have been received from area residents and said correspondence was included in this packet as Attachment "B". In large part, said correspondence echoes the concerns voiced at the neighborhood meeting.

During review of the proposal, staff did not find any health, safety, or welfare related issues that would prohibit further consideration of the proposed zone change. Community Development staff ultimately recommend conditional approval. Said conditions speak to mitigation measures to allow development opportunities of the subject property with an increased level of compatibility with the surrounding neighborhood. These conditions can be found in the case staff report (Attachment "B"). Key conditions cited include lowering the zone change designation from the requested R-4 to R-3C (Multi-Dwelling Medium Density - Conditional), decreasing the density allowed from 20 du/ac to 16 du/ac (max. 80 units), limiting the number of units per apartment building to eight as a means of addressing building bulk, and requiring landscape buffering for parking areas adjacent to the existing roadways.

The recommendation was made in light of substantial overall support from Elevate Las Cruces Comprehensive Plan and the various goals, policies, and actions contained therein which target the Suburban Neighborhood place type; the place type that encompasses the subject property and surrounding area. The Suburban Neighborhood place type is characterized by low-to-moderate density residential land uses intermixed with areas of commercial development. Predominant land uses include single-family and multi-family development, retail and office uses, and other ancillary institutional and public uses such as schools, parks, and places of worship. The place type states that multi-family development can be supported at a density range between 15-30 du/ac and 4-12 du/ac for single-family development. The proposal as presented by the applicant appears to be in alignment with this place type from a use and density perspective.

Regarding neighborhood compatibility and consistency, the comprehensive plan encourages proposed development when proximate to existing land uses to achieve a reasonable degree of development compatibility through the application of mitigation/design measures that address scale, form, aesthetics, site design, trip generation, and environmental/operational impacts. The conditions staff proposed were/are intended to address these issues. Ultimately, upon consideration of any such proposal by P&Z and/or City Council the respective body can make the determination as to whether a proposal and any related conditions attached thereto reach a compatibility threshold deemed reasonable for the surrounding area.

The application was to go before the Planning and Zoning Commission (P&Z) on April 23, 2024, but was postponed due to a notice error (posting deadline) related to the property sign the applicant is required to post on-site. Subsequently, the case was "re-noticed" and heard at the May 28, 2024, P&Z regular meeting. The meeting was heavily attended by area property owners/residents opposing the proposal and voicing various concerns similar to those that came out of the neighborhood meeting described herein. Ultimately, P&Z, by a vote of 4-1-0 (two Commission seats vacant) conditionally approved the zone change with conditions as outlined in Exhibit "B". In essence, the conditions outlined by staff were retained (two modified) as part of the vote with one new condition added. The condition added speaks to automobile parking for any multi-family development that takes place. As recommended, 1.5 auto parking stalls (APS) will be required for one-bedroom units and 2 APS will be required for any unit larger than one bedroom. The zoning district recommended for approval was reduced from the R-3C district staff proposed to R-2C (Multi-Dwelling Low Density - Conditional) with the maximum density being decreased from 16 du/ac (staff recommendation) to 12 du/ac. The decrease in density if approved, would allow a maximum of 60 units; a reduction of 36 units from the applicant's original request of 96.

Agenda Item #10.1.

On 6/11/24, an appeal of the P&Z conditional approval decision was submitted. This appeal and its merits will be addressed under separate cover.

SUPPORT INFORMATION:

[EXHIBIT "A" - VICINITY MAP](#)

[EXHIBIT "B" - CONDITIONS](#)

[EXHIBIT "C" - FINDINGS](#)

[ATTACHMENT "A" - DRAFT 4/28/24 P&Z MINUTES](#)

[ATTACHMENT "B" - 2795 RR PKWY STAFF REPORT](#)

PLAN(S):

Elevate Las Cruces

COMMITTEE/BOARD REVIEW:

P&Z

DOES THIS AMEND THE BUDGET?:

☐ Yes

☒ No

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes

☒ No

Does this action align with Elevate Las Cruces?

☒ Yes

☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Ordinance and affirm the P&Z recommendation. The subject property located at 2795 N. Roadrunner Parkway will be rezoned from R-1a (Single-Family Medium Density) to R-2C (Multi-Dwelling Low Density - Conditional).

2. Vote "No"; this will deny the Ordinance and will reject the recommendation made by P&Z. The current zoning designation of R-1a will remain. The applicant would be required to seek an alternative zone or variance in order to accomplish some form of multi-dwelling development.

3. Vote to "Amend"; this could allow the City Council to modify the Ordinance by adding or modifying conditions as deemed appropriate.

4. Vote to "Table"; this could allow the City Council to table/postpone the Ordinance and direct staff accordingly.

ORDINANCE 3080; COUNCIL BILL 25-009

AN ORDINANCE APPROVING A ZONE CHANGE FROM R-1A (SINGLE-FAMILY MEDIUM DENSITY) TO R-2C (MULTI-DWELLING LOW DENSITY) FOR PROPERTY LOCATED AT 2795 N. ROADRUNNER PARKWAY. SUBMITTED BY TAFIQ HINDASH, AJ CONSTRUCTION, LLC ON BEHALF OF MOHAMED ASWAD, M.D., PROPERTY OWNER.

The City Council is informed that:

WHEREAS, Tafiq Hindash - AJ Construction, LLC on behalf of Mohamed Aswad, M.D., has submitted a request for a zone change from R-1a (Single-Family Medium Density) to R-4 (Multi-Dwelling High Density and Limited Retail & Office); and

WHEREAS, the subject property is approximately 5.00 acres in size, vacant, and is proposed to be developed as a 96-unit apartment complex; and

WHEREAS, the subject property sits at the intersection of a minor arterial (N. Roadrunner Parkway) and local roadway (Morning Star Drive), along an established bus route, and within an area predominately zoned R-1a and developed as single-family homes excepting various parcels zoned in a manner that has allowed flood control, open space, a school, a church, and office related uses; and

WHEREAS, the area in question, as per Elevate Las Cruces Comprehensive Plan, falls within the Suburban Neighborhood place type characterized by low-to-moderate density residential land uses intermixed with areas of commercial development and which cites predominant land uses that may include single-family and multi-family development, retail and office uses, and other ancillary institutional and public uses such as schools, parks, and places of worship; and

WHEREAS, the proposed R-4 zone was deemed to be excessive with staff and P&Z and thus, P&Z recommended a lessor zoning district (R-2C) with various conditions in order to achieve greater harmony and consistency with the Suburban Neighborhood place type and compatibility with the surrounding neighborhood; and

WHEREAS, the recommendation by P&Z is considered to be consistent with and supported by the Elevate Las Cruces Comprehensive Plan via various goals, policies, and actions contained therein; and

WHEREAS, said recommendation is considered consistent with the purpose and intent of the 2001 Las Cruces Zoning Code, as amended; and

WHEREAS, the Planning and Zoning Commission, after consideration of the case, in a public hearing on May 28, 2024, recommended that a modified zone change request with appropriate conditions be approved by a vote of 4-1-0 (two Commission seats vacant).

NOW, THEREFORE, Be it Ordained by the Governing Body of the City of Las Cruces:

(I)

THAT the land reflected in Exhibit "A", attached hereto and made part of this Ordinance, is hereby zoned R-2C (Multi-Dwelling Low Density - Conditional).

(II)

THAT the zoning is conditioned as shown in Exhibit "B", attached hereto and made part of this Ordinance.

(III)

THAT the zoning is based on the findings contained in Exhibit "C", attached hereto and made part of this Ordinance.

(IV)

THAT the zoning of said property be shown accordingly on the City Zoning Atlas.

(V)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

Agenda Item #10.1.

APPROVED

ATTEST:

Moved by:

Seconded by:

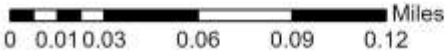
AYES

NAYS

EXHIBIT “A” – VICINITY MAP



Note: Subject property is outlined in red.



Legend

- | | |
|-----------------|------------------|
| Road Centerline | — Collector |
| Road Class | — Local Streets |
| | — Minor Arterial |
| | □ Owner Parcels |

EXHIBIT "B" - CONDITIONS

1. The zoning be changed to R-2C (Multi-Dwelling Low Density – Conditional) to accommodate residential development and increase compatibility with the surrounding neighborhood.
2. Uses shall be limited to either multi-family or single-family residential uses (primary) and shall exclude mobile home park use. Accessory/ancillary uses and structures are allowed in conjunction with said primary residential use and may include sheds, home occupations, and apartment related uses such as community/office building, recreation/exercise courts and related facilities.
3. Any Landscape buffers that may be required per Section 38-31 D-2 Matrix 1 shall be in addition to the landscaping requirements specified in Article IV of the Las Cruces Design Standards. Staff shall retain interpretive authority in meeting related requirements.
4. If multi-family development occurs, landscaping (softscape, hardscape, or combination of both) shall be used to buffer any parking lot areas adjacent to Morningstar Drive and N. Roadrunner Parkway. Elements like landscaped berms with short walls and/or decorative walls/fencing shall be used for said purpose.
5. Density shall be limited to 12 du/ac. (60 units max.)
6. No more than eight attached apartments/dwellings per building/grouping allowed.
7. Construction materials used for any multi-family development shall consist of natural materials or manufactured material made to look natural typically used in the construction of dwellings in the Las Cruces.
8. Parking calculations shall use 1.5 APS per one-bedroom unit; 2 APS for any unit larger than one bedroom.

EXHIBIT "C" - FINDINGS

1. The property owner has submitted a request to rezone a $\pm$ 5.00-acre tract of land to accommodate a 96-unit apartment complex.
2. A lesser zoning designation can be considered by both the Planning and Zoning Commission and City Council. If for example the R-4 district is deemed excessive, a change to R-3 or R-2, may be considered in greater alignment with the comprehensive plan and surrounding development.
3. The subject property falls within the Suburban Neighborhood Place Type. This place type classification is characterized by low-to-moderate density residential land uses intermixed with areas of commercial development. Predominant land uses include single-family and multi-family development, retail and office uses, and other ancillary institutional and public uses such as schools, parks, and places of worship. The request is consistent with the place type character.
4. The proposed zone change request is supported by the Elevate Las Cruces Comprehensive Plan and meets the purpose and intent of the 2001 Zoning Code, as amended (2001 Zoning Code, Section 38-2).
5. The surrounding area consists largely of single-family residential, quasi-institutional, office, institutional, and open space (flood control) with multi-family residential, and one other institutional use in the broader vicinity.
6. Zoning districts supporting surrounding uses include R-1a (Single-family Medium Density), A-1 (Flood Control), A-2 (Rural Agricultural), O-2 (Office, Professional-Limited Retail Service), PUD (Planned Unit Development), and R-4C (Multi-Dwelling High Density & Limited Retail and Office - Conditional).
7. Per Elevate, the development/redevelopment of property, when proximate to existing development, should consider design measures that bring about a greater level of compatibility to said development.



PLANNING AND ZONING COMMISSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
May 28, 2024 at 6:00 p.m.

BOARD MEMBERS PRESENT:

- Scott Kaiser, Chair
- Enrico Smith, Vice-Chair
- Connor Murray, Member
- Joaquin Acosta, Member (arrived 6:07)
- Vanessa Porter, Member

STAFF PRESENT:

- Larry Nichols, Director Community Development Department
- David Weir, Deputy Director Community Planning
- Adam Ochoa, Senior Planner/Building Inspection Supervisor
- Vincent Banegas, Interim Planner
- John Castillo, Planner
- Brad Douglas, City Attorney
- Becky Baum, Recording Secretary, RC Creations, LLC

1. CALL TO ORDER (6:00)

Kaiser: All right, good evening. It is 6:01, so we will go ahead and call this meeting to order. Welcome to the Planning and Zoning Commission for the City of Las Cruces. This is the May 28th meeting

2. APPROVAL OF MINUTES – April 23, 2024

- Kaiser: First order of business this evening is an approval of the minutes from the April meeting. Before we do that were there any comments, edits, or suggestions. No. All right, looking for a motion to approve.
- Smith: I move that we approve the minutes from the previous meeting.
- Porter: I second.
- Baum: Board Member Porter.
- Porter: Abstain.
- Baum: Board Member Smith.

1
2 Smith: Yes.
3
4 Baum: Board Member Murray.
5
6 Murray: Yes.
7
8 Baum: Chair Kaiser.
9
10 Kaiser: Yes.
11
12 Baum: Motion passes.
13

14 **3. CONFLICT OF INTEREST**

15
16 Kaiser: All right. Any conflicts of interest from the Commission this evening?
17 Seeing none.
18

19 **4. POSTPONEMENT**

20
21 Kaiser: Any postponements from staff?
22
23 Ochoa: None tonight, sir. No.
24
25 Kaiser: All right.
26

27 **5. ACCEPTANCE OF THE AGENDA**

28
29 Kaiser: And before we move to accept tonight's agenda, I would like to pull item 7.2
30 from the consent agenda. Just for a brief discussion. So with that change,
31 looking for a motion to approve tonight's agenda.
32
33 Smith: I move that we approve tonight's agenda.
34
35 Murray: I'll second.
36
37 Baum: Board Member Porter.
38
39 Porter: Yes.
40
41 Baum: Board Member Smith.
42
43 Smith: Yes.
44
45 Baum: Board Member Murray.
46

1 Murray: Yes.

2
3 Baum: Chair Kaiser.

4
5 Kaiser: Yes.

6
7 Baum: Motion passes.

8
9 **6. PUBLIC PARTICIPATION**

10
11 Kaiser: All right. Moving on to public participation. I know many of you are here to
12 speak this evening on several items. But this time will be reserved for those
13 that wish to speak on something that is not on tonight's agenda. Can I get
14 a raise of hands? I see one hand raised. A second hand. Okay, just one
15 hand raise. All right. The gentleman please come forward. I'll give you two
16 and a half minutes. And please state your name for the record.

17
18 Shervanick: Gregory Shervanick for the record. And Chair Kaiser I would like to give
19 you these photographs of ...

20
21 Kaiser: Bring them up. And then before you begin, do you swear or affirm that the
22 testimony you're about to give is the truth and nothing but the truth under
23 penalty of law?

24
25 Shervanick: I do.

26
27 Kaiser: Go ahead.

28
29 Shervanick: This evening, Commissioners, Mr. Chairman, City staff. I'd like to caution
30 you that as you get closer and closer to a work session with City Council
31 concerning Realize Las Cruces, the newest zoning change that the City of
32 Las Cruces will be doing. The first thing as I've observed, and I'm sure
33 you've observed in this chamber, that people come here and they say we
34 didn't know about it. And of course, we tell them that we post signs for
35 public participation. And we also send out letters. In front of you I've given
36 you two photographs. This case you've already heard. It's off of Mesquite
37 Street. You will notice that in the first photograph, the photograph was taken
38 from the curb, so you can see or not see what is on the sign. The second
39 photograph is at two times from that particular level, and you still can't really
40 read what's on that zoning change. So in order to stop individuals from
41 coming here and claiming that they didn't know or didn't have the right to
42 know, I'm suggesting that in the Realize Las Cruces document that this
43 statement as it now states 500 feet plus the size of the font on the signs be
44 changed. And included is a cue code so that anybody at any distance can
45 photograph it.

46

1 And then secondly, we've heard a lot about energy. We've also seen a lot
2 of car ports be brought into this chamber, and a decision made to them.
3 The more shade one has around an area increases or actually decreases
4 the urban heat. So I would consider you to not take down any more carports
5 as it helps our urban heat problem. And I want to thank you very much for
6 your time, as I have 30 seconds left.
7

8 Kaiser: Thank you. And I would like just to echo for those that are here this evening.
9 The Realize Las Cruces update to the development code is ongoing and
10 currently accepted and open for public comment. So if you would like to
11 you can go read the draft development code updates, these are what's been
12 proposed game, again draft form. And you can provide your input, your
13 perspective, your feedback on what you would like to see going forward.
14 This code dictates everything that we see in this room at these meetings.
15 So if there's things that you would like to see changed, for example, better
16 public noticing, this would be an opportunity to make those
17 recommendations in this process. And I believe the website to do that is
18 www.realizelascruces.com.
19

20 7. CONSENT AGENDA

21
22 **7.1 Case No. 24ZO5000050:** A request to approve an Infill Development Process
23 (IDP) proposal to allow an attached corner sign, wall mural, and wall sign for the
24 redevelopment of an existing commercial building. The subject property is located
25 at 340 N. Main Street, is zoned DDC-MS (Downtown Development Code-Main
26 Street) and located within the Downtown Development Code (DDC) Overlay
27 District. Submitted by Fluorescent Signs Inc., representative. Council District 1.
28

29 Kaiser: Okay, moving on to tonight's consent agenda. We've got one item
30 remaining, that's item 7.1. So looking for a motion to approve tonight's
31 consent agenda.
32

33 Smith: I move that we approve tonight's consent agenda.
34

35 Murray: Second.
36

37 Baum: Board Member Porter.
38

39 Porter: Yes.
40

41 Baum: Board Member Smith.
42

43 Smith: Yes.
44

45 Baum: Board Member Murray.
46

1 Murray: Yes.

2
3 Baum: Chair Kaiser.

4
5 Kaiser: Yes.

6
7 Baum: Motion passes.

8
9 **7.2 Case No. 24ZO0500052:** A request to approve a proposed zone change from A-
10 2 (Rural Agricultural, 1981 Zoning Code) to C-3 (Commercial High Intensity) on a
11 property encompassing 1.89 ± acres and located at 3098 E. University Avenue.
12 The zone change request seeks to bring the property into compliance with the
13 2001 Zoning Code as amended. Submitted by Maverik C-Store, representative.
14 City Council District 2.
15

16 Kaiser: Okay, moving on to item 7.2. I don't need a presentation from staff. I just
17 have a few questions/comments about it. For those in the audience this is
18 a request to approve a proposed zone change from A-2 to C-3 on University
19 Avenue. If you've been there recently, you'll notice there's a new gas
20 station. It's my understanding based on the staff report that this is to bring
21 the property into compliance. My first question is how did we allow a
22 structure and a business to be constructed prior to having the appropriate
23 land use in place.
24

25 Castillo: Good evening, Mr. Chair, Commission. To answer your question the
26 property is owned by the State of New Mexico. As part of our code, they do
27 exceed statutory regulation. So they don't have to follow our code. But in
28 order for them to have a business registration being inside our limits, as well
29 as other things that may not be regulated beyond our municipality, but at a
30 state level, for instance the sales of tobacco, they do need approval from
31 the municipality in order to do so.
32

33 Kaiser: And what would have been if this body decided we were not going to
34 approve the zone change.
35

36 Castillo: This body is a recommending body. So then it would go to City Council with
37 your recommendation of denial. Ultimately, City Council would make that
38 determination.
39

40 Kaiser: And if they denied it as well or upheld the denial.

41
42 Castillo: Mr. Chair, Commission. Then staff would have to seek how to get the land
43 use approved.
44

45 Weir: Mr. Chair. There's also an appeal process they could go through. They
46 could appeal that decision to District Court.

1
2 Kaiser: Okay. I guess the point I'm trying to make is what if they didn't win any of
3 those appeals. They didn't get the zone change approved, City Council
4 upheld the denial, and District Court upheld the denial. What happens
5 then? They've already constructed a nonconforming structure. So I'm just
6 trying to understand what happens. Everybody else in this room or in this
7 town has to come forward in the proper order. Just curious why this is
8 different.
9

10 Weir: Mr. Chairman, Commissioners. The issue is the issuance of a business
11 license or business registration. The construction of the building, the
12 property is owned by New Mexico State University, so they're an equal
13 subdivision of the state that the City is exempt from enforcing. They were
14 able to get a building permit from the State of New Mexico, the CID division.
15 And so then they've received a certificate of occupancy from the state. It's
16 not a permit that's even issued by the City of Las Cruces. So the issue
17 becomes again that business registration. It's really in the best interest of
18 the City to issue that so that we can receive the gross receipts from the
19 sales of items within that facility.
20

21 Kaiser: Thank you. That's helpful. To the point about it's in the City's best interest.
22 I guess there's a couple of statements that were presented in the staff report
23 that I find interesting. The first is that this location in town has been
24 identified as a town center place type in our Elevate Las Cruces
25 comprehensive plan. And we define that in the staff report as a place that
26 includes a mix of residential and nonresidential land uses that collectively
27 create a vibrant and walkable activity center. How does a gas station align
28 to that vision?
29

30 Castillo: Mr. Chair, Commission. The proposed town center that is there is also
31 known as Aggie Uptown, where a majority of that development will occur on
32 NMSU's property.
33

34 Kaiser: But how does the gas station align with the character of vibrant, walkable
35 activity center?
36

37 Castillo: Mr. Chair, Commission. The gas station is the first development to occur in
38 Aggie Uptown. I don't know if the NMSU representative is in council
39 chambers today to elude more to that as to how it would become a more
40 walkable, vibrant area.
41

42 Ochoa: Pardon me. I guess this is really their very initial phase of what is Aggie
43 Uptown. And with this phase they actually did build out their sidewalk into
44 the trail system that's existing sir. So they are going to be contributing
45 towards that connectivity with the rest of Aggie Uptown where that trail
46 system will be running through it as well. So that's why it could potentially

1 allow for a more pedestrian friendly area. Even though it is a gas station
2 which is auto centric, that's for sure, but it's also a convenience store that
3 people can walk to utilizing those trail systems, sire.
4

5 Kaiser: Very well. And then the, there's I guess, a couple of goals that were
6 identified as again further rationale for why this makes sense, this gas
7 station. Goal CP-2 says economic equity generate employment
8 opportunities that create economic security for all residents. And the sub
9 policy of that is CP-2.2, supports efforts to connect vulnerable populations
10 to job opportunities. I'm just wondering how we look at a gas station as
11 providing a genuine economic job security for residents of the City,
12 particularly vulnerable populations who are already disadvantaged and now
13 we're seeing here go stand at a gas station and breathe in the fumes all day
14 for your job. I don't need a response to that. Just an observation.
15

16 Then I'd like to point out goal CP-4, this is, diversification seek a balance of
17 business recruitment, retention, and expansion to diversify economic
18 opportunities. The sub policy CP-4.2 support efforts to be regionally and
19 nationally competitive in regard to retaining and growing businesses, jobs,
20 and students. I am struggling to see how a gas station really elevates this
21 area of town, particularly adjacent to a major university where I would think
22 student housing, the ability to walk to campus, to not require a car to get to
23 and from school on very tight budgets could be seen as really providing a
24 net positive in this particular location of the City. So those are just my
25 comments and questions this evening. Unfortunately, I will not be
26 supporting this recent application just because I don't think that the
27 evidence provided in the staff report really lives up to reality. I'll open it up
28 to other questions, comments from the Commission. But if there are none,
29 looking for a motion to approve.
30

31 Smith: I move that we approve, what's the number on this one, 7.2. Sorry.
32

33 Porter: I second.
34

35 Baum: Board Member Acosta.
36

37 Acosta: I vote yes based on staff recommendation.
38

39 Baum: Board Member Porter.
40

41 Porter: I vote yes on staff recommendation.
42

43 Baum: Board Member Smith.
44

45 Smith: Yes, based on staff recommendation.
46

1 Baum: Board Member Murray.

2
3 Murray: Yes, based off staff recommendation.

4
5 Baum: Chair Kaiser.

6
7 Kaiser: No, I do not believe that the evidence provided in the staff report holds up
8 to any scrutiny.

9
10 Baum: Motion passes.

11
12 **8. OLD BUSINESS**

13
14 **8.1 Case 22ZO0500156:** A request to approve a zone change from R-1a (Single-
15 Family Medium Density) to R-4 (Multi-Dwelling High Density & Limited Retail and
16 Office) for land ± 5.00 acres in size and located at 2795 N. Roadrunner Parkway.
17 Submitted by Tafiq Hindash – AJ Construction, LLC on behalf of Mohamed Aswad,
18 M.D., property owner. City Council District 3.

19
20 Kaiser: Okay, moving on to item 8.1. This is a request to approve a zone change
21 from R-1a to R-4 on, I believe it is Roadrunner Parkway.

22
23 Banegas: Good evening Commissioners. Vincent Banegas, interim planner for the
24 record, presenting tonight's case as it involves case number 22ZO0500156,
25 involving property at 2795 Roadrunner Parkway. The proposal that was
26 submitted for your consideration and recommendation up to City Council
27 involves a zone change from R-1a to R-4. The property is plus or minus
28 five acres in size. Is R-1a, which is our single-family medium density
29 residential district, much like several of the properties in that immediate
30 vicinity. The property is within the suburban place type which is one of
31 several place types identified in the Elevate Las Cruces comprehensive
32 plan. Characterized by low to moderate density residential land uses with
33 areas of commercial development. And it goes on to categorize the types
34 of land use that are predominant land uses in that place type as single-
35 family, multifamily, commercial, office, schools, parks, and places of
36 worship.

37
38 The property is currently vacant and was annexed back in 1979 with the
39 Western Development Annexation. It is not part of any master planned area
40 in the immediate vicinity. Staff thought at one point that it was part of the
41 High Range but High Range stops well short of that on the south. And it's
42 not part of any of the others adjacent to it. Utilities are readily available
43 adjacent to the site. And some significant terrain and grades exist on the
44 site which the developer or property owner and their engineer are well
45 aware of, and have already begun to take into consideration what they
46 would have to do to make things work should their proposal get approved.

1 It is a corner lot having frontage both along Roadrunner Parkway, and
2 Morningstar Drive. The surrounding land uses in that immediate vicinity
3 include single-family residential, quasi institutional with the church which is
4 northeast of the subject location. There's an office adjacent to that church.
5 And then a school. So you have an institutional use not too far away. You
6 also have further down of course some multifamily uses and flood control
7 property in the immediate vicinity. Further down below their vicinity you also
8 have the Doña Ana Community College further east of the location.

9
10 This is the zoning map that illustrates the location of the property outlined
11 in red, obviously showing the R-1a designation. In fact much of this area
12 that is shown in the light yellow is all R-1a. It is developed as you see here
13 through the creation of the properties. Roadrunner Parkway runs along the
14 east side and south, going south as it curves adjacent to the property.
15 Roadrunner Parkway is considered to be a minor arterial, pursuant to the
16 Mesilla Valley Metropolitan Planning Organizations thoroughfare map. And
17 Morningstar Drive, which is located here, crosses Roadrunner Parkway.
18 From the intersection with Roadrunner Parkway east, it is considered a
19 major collector, and from the intersection west it is considered a local road.
20

21 Others zoning districts in the immediate area is R-4C here, this covers the
22 church that I identified, some additional single-family homes, and
23 development up here in a planned unit development zone. And you see
24 just a little bit of the O-2 zone up in the corner for that office that I mentioned.
25

26 The aerial again showing the property outlined in red. You see a lot of the
27 development that has taken place in the surrounding area. Vast majority of
28 this portion obviously is the flood control for the arroyo.
29

30 So the original request regarding this proposal came in to staff as a zone
31 change from R-1 to R-4. R-4 is our multidwelling high density and limited
32 retail and office use or zone. It does allow for some commercial uses. It's
33 rather limited, as the name implies, and it does have limited office uses
34 beyond the residential scope. The development focus which isn't a specific
35 requirement of the zone change but nonetheless is often requested of
36 applicants, showed a conceptual site plan that proposed 96 apartment units.
37 It was an apartment complex that was illustrated on the site plan. Basing
38 that number of units in context to the acreage of the property put the
39 development proposal at 19.2 dwelling units per acre. That was the density
40 that they were targeting. There were some related accessory uses such as
41 the office building, some recreational courts, that kind of thing that were also
42 shown on the site plan. There were two points of ingress and egress for the
43 proposed development, one along each front edge. They did specify they
44 were dark targeting a primary frontage or ingress/egress along Morningstar
45 Drive and a secondary along Roadrunner. And one of the thoughts in
46 talking with the engineer was specifically to the point of the clear line of sight

1 that does not necessarily exist. As you stand adjacent to the property on
2 Roadrunner Parkway and looking north or as one travels north to south,
3 there is some obstruction in terms of the line of sight. Hence the need to
4 develop or consider primary ingress along Morningstar Drive.
5

6 The site plan also illustrated that there were going to be, it should read one,
7 two, and three story apartment buildings. There were groupings of eight
8 and 12 units together per building strewn about the site. The proposal when
9 it first came in was requested go through the early notification process
10 pursuant to code. The applicant had initiated that process. But staff was
11 visited by a resident in the area who received notice by the applicant and
12 presented the notice to me and it was evident that several points were not
13 addressed, which should have been addressed on the letter. As such, staff
14 requested the applicant go through that process again, and to hit certain
15 key points as identified per code.
16

17 The case came before this body or was to come before this body in April,
18 but due to a signposting error on the property, it was postponed till this
19 evening. And again, the applicant seeks a straight R-4 zone change. I think
20 in your packet I referred to a 40 dwelling unit per acre. The reality is it's a
21 minimum density of 10 dwelling units per acre with a maximum density
22 defined by the developer. Again, the concept plan they submitted was 19.2
23 dwelling units per acre. Staff would recommend that should the Planning
24 and Zoning Commission consider the straight R-4 request, that density be
25 nailed down, perhaps as a condition that should be considered. The use in
26 the R-4 does allow for single-family, multifamily, limited offers, quasi-public,
27 and institutional uses. There are some commercial uses that are also
28 authorized per the R-4 zoning district. And the single-family aspect would
29 have to come in the form of a subdivision type processes that would in most
30 likely terms come before this body for consideration and approval via
31 preliminary plan and final plat processes.
32

33 This was the conceptual site plan that was submitted to staff. You can see
34 there's a variety of different buildings that are clustered on the site. Again,
35 some of these have eight units, some have 12 units, some are one story,
36 two story, and some are three story units. They have office located here,
37 pools, etc., meeting areas on site. The parking, here's the primary ingress
38 for Morningstar Drive that was illustrated, again this is conceptual in nature
39 subject to change. And they had all their parking identified on the perimeter
40 or periphery of the site. They do show some landscaping to help buffer that
41 parking from the street or from adjacent views. They have a Morningstar
42 landscaping here as well. And they do show the parking abutting pretty
43 close to their property line. And they do recognize that due to the elevation
44 changes that are likely pursuant to any development taking place, they will
45 have to contend and engineer properly the grade changes as it abuts
46 adjoining property.

1
2 These were some conceptual elevations that were also submitted. They
3 had two options submitted and just kind of illustrating some of the ideas they
4 had in mind. One more modern than the other. And some floor plans that
5 just showed some of the groupings, the eightplex, twelve-plex and some of
6 the number of bedrooms that they could accommodate. Some of the photos
7 in the area that I took, this is just looking south along Roadrunner Parkway.
8 The property in question is here to your right. You could already see some
9 of the grade changes taking place from Morningstar Drive as it ramps up
10 here to flatter areas which go south. And this is at the intersection of
11 Morningstar Drive and Roadrunner Parkway. This is the line of sight issue
12 that I mentioned. That is certainly a concern with a lot of residents in the
13 area. It's very difficult to see oncoming traffic quickly enough in order to
14 make a determination as to whether to proceed with a straight thru drive or
15 turn left or right and that kind of thing. In fairness, this shot angle was taken
16 a little bit further back than what would normally happen as you approach
17 this intersection, but nonetheless, it is rather limited.

18
19 This is a shot just looking west on Morningstar Drive you can see some of
20 the adjoining properties and residential development adjacent to the
21 property at its western most side. Again, showing some of the topography
22 issues, grades that they're going to have to contend with and design around
23 or with. And some additional properties on the south side that are adjacent
24 to the subject property. And another.

25
26 So in terms of analysis, from the zone change perspective staff did not
27 identify any health, safety, or welfare issues identified or presented as part
28 of their development package. The requested R-4 zone would allow a
29 maximum density as defined by the applicant and at least pursuant to the
30 conceptual information presented came in at 19.2 dwelling units per acre.
31 This afforded them the 96 units they targeted. This and other development
32 requirements such as the R-4 maximum height allowance, which is 60 feet,
33 the unlimited number of apartment units that could be grouped per building,
34 those types of factors gave staff little cause for concern. And we deemed it
35 a little excessive for neighborhood compatibility considerations. As such,
36 conditions we felt were necessary to achieve a higher degree of consistency
37 and compatibility with the surrounding neighborhood and a little bit more for
38 development certainty. So the proposal is definitely consistent with the
39 suburban place type that's illustrated in the comprehensive plan. In that
40 place type it goes on to show or reflect the types of densities that either a
41 single-family development could propose or a multifamily development
42 could propose. And you can see if we're talking multifamily they're well
43 within range, 15 to 30 is what they list as a density range for the suburban
44 place type for multifamily uses.
45

1 Other supporting Elevate policy speaks to some of the many policy issues
2 that we've discussed in the past, development of vacant land, creation of
3 housing diversity, balance growth, integrating new development with
4 surrounding built environment, mixed use neighborhoods, things of that
5 sort. Those are common themes in terms of policy that are presented in
6 Elevate and those certainly play a role if you consider this proposal. Elevate
7 also speaks to consistency and compatibility, you're going to hear that word
8 a lot with this presentation. It speaks to the need for that when new
9 development is proximate to developed areas. Staff has recommended
10 conditions in an attempt to guide you if you deem higher development on
11 this property appropriate. The consistency and compatibility issue rest with
12 the Commission and rest with City Council, that is clearly identified in
13 Elevate and it is something that we don't have a cheat sheet if you will that
14 specifically says when something is or is not compatible, but you're going
15 to have to kind of go off of your heart, what you feel, what you see in terms
16 of site design, architecture, that kind of thing to help define what that means.
17 I know in terms of Realize Las Cruces, I know that's down the road, but
18 there will be a need in which to come up with a matrix if you will that will
19 help guide us a little bit further.
20

21 The case was noticed as per code. Staff received several phone calls, walk-
22 in inquiry, multiple e-mails, all opposed to the proposal. Two early
23 notification efforts resulted in one neighborhood meeting. It was hosted by
24 the Morningstar United Methodist Church, again just northeast, in the
25 northeast corner from this site. It was held on April 9th of this year and was
26 very well attended by the neighborhood. The concerns raised at that
27 meeting, it was broken up into two groupings if you will, two discussions and
28 concerns were traffic related to a large extent, speeding, congestion, poor
29 line of sight, accidents, signalization or lack thereof. The on street parking
30 issue and the safety issues that presents, property value decline, noise and
31 privacy were among several of the concerns identified. A petition to that
32 effect and it was submitted, that is part of your packet, that was included
33 and came in and I informed those submitting it that that would definitely be
34 included. So staff recommendation this evening is approval but with
35 conditions. And the condition speak to lowering the zoning district
36 designation from R-4 to R-3C. The C at the end of the R-3 speaks to
37 conditions that's, all that means. The conditions would be listed as follows.
38 If we go to the R-3C, that's automatically a drop down from the R-4. R-3
39 three allows height, buildable height that is consistent with the R-1a zone,
40 it lowers the number of units that can be grouped. And so it's that kind of
41 logic that tries to at least in staff's mind bring about more compatibility to the
42 surrounding area. Uses are also proposed to be limited to either multifamily
43 or single-family residential as a primary use and shall not include mobile
44 home parks. Mobile home parks are an allowed use, they have to go
45 through a process for approval, but not thinking mobile home park use
46 would be as compatible as site built. The proposal at least with this content

condition is to exclude those from consideration. Accessory uses and ancillary uses that are associated with residential uses would be allowed, sheds, for instance, home occupations, office buildings for the apartments if that happened, things of that nature would be okay. The density as proposed or recommended as a condition would be limited to 16 dwelling units, that would afford them 80 units down from the 96. Sixteen dwelling units as one dwelling unit more in terms of density than the R-2 zone which is even a lesser designated zoning district than R-3. This condition would allow one more dwelling unit per acre than the R-2. Any landscape buffers that are required, we have a matrix as it relates to differing land uses that don't go as far as what I was mentioning with Realize, but nonetheless it's part of our code. It is a requirement as part of the building permit. And it states that when you have differing land uses, in this case it would be multifamily if this got approved, adjacent to single-family uses then there would be landscaping needed. And it would take the form of either a 10 foot semi opaque buffer or a five foot opaque buffer. And those are defined from the ground level, at least on the opaque screen, from a ground level up to six feet, that would be opaque and then from six to 20 would be intermittent openings. And then on the semi opaque side, it's zero to three feet solid, and then from three to 20 intermittent openings. The five foot and the 10 foot speak to the width, so the landscaping that would go into those areas would be in addition to any site landscaping required for the development.

And then another condition which is condition number five is if multifamily development occurs because we are allowing two different types of residential development, the landscaping, hardscape, or combination thereof, that type of landscaping would be used to buffer any parking areas adjacent to Morningstar Drive and Roadrunner Parkway. And it goes on to speak about landscape berms and short walls and/or decorative walls, fencing to be used for that purpose. Condition six is no more than eight detached apartment dwellings per building cluster allowed. That follows specifically R-2 standards, but I felt it appropriate here since that was in line to an extent with what they had submitted. And then number seven is just speaking to aesthetics, construction materials used for the multifamily development shall consist of natural materials or manufacturing materials to look natural typically used in the construction of dwellings in the Las Cruces community.

The findings for this recommendation or staff's recommendation is as follows. The zone change request for five acres has been submitted for a 96 unit apartment complex. A lesser zoning designation can be considered by both the P&Z and City Council. If you deem R-4 is too excessive, change to R-3 or R-2 may be considered or you may consider conditions to restrict that use. The subject property is within the suburban place type. I've gone over that. The proposed zone change request is consistent with a lot of

1 policy that Elevate Las Cruces speaks to, it is also meeting the purpose and
2 intent of the 2001 Zoning Code as amended. The surrounding area consists
3 largely of single-family residential, quasi institutional, office, institutional,
4 open space, land uses and then broader vicinity of multifamily and other
5 institutional uses in that area. Zoning districts that are at play with those
6 uses are R-1a, A-1/A-2, O-2, PUD, and R-4C. So we do have instances
7 where R-4 is in the area. And finally per Elevate, speaking to the language
8 that reads as it relates to development of vacant property when proximate
9 to developed areas, that design consideration, aesthetic consideration
10 should be at play in determining compatibility and development.

11
12 So your options this evening Commissioners is to vote "yes" and approve,
13 in that sense it's the straight R-4 as presented by the applicant. You can
14 vote "no" to deny it. In that the packet that was presented speaks to
15 conditions, the denial would have to come with new findings that you would
16 have to provide or state for the record in your vote. If you vote "yes" with
17 conditions, you could certainly follow those recommended by staff, you
18 could add others that you feel are appropriate. And you can vote to table.
19 And that concludes staff's presentation on this matter. I stand for questions.
20 And I believe the applicant and representatives are in attendance, should
21 you wish for any questions to be directed to them.

22
23 Kaiser: Thank you. Does the applicant wish to make a presentation? All right,
24 seeing nothing. Sorry, do you wish to make presentation?

25
26 AUDIENCE MEMBER SPEAKING, NOT AT THE MICROPHONE.

27
28 Kaiser: Okay. Any questions or comments from the Commission? Commissioner
29 Smith.

30
31 Smith: I have one question for staff. In our packet, just for the benefit of the
32 Commission, you didn't really define the difference between R-3 and R-2.
33 It was noted in there but there was no definition, difference between the
34 two.

35
36 Banegas: So Mr. Chairman, Commissioner Smith. The definition of R-2, R-2 is our
37 multidwelling, low density residential zone. It allows up to 15 dwelling units
38 per acre. And when you start talking about groupings or the allowed number
39 of units per building - by now you would think I had all this memorized. In
40 the R-2 you are allowed eight, eight dwelling units to be grouped together
41 in a single building, as reflected here. So R-2 would allow eight here, eight
42 years, etc. In the R-3 that's our multidwelling, medium density residential
43 district. Both R-2 and R-3 allow 35 foot high buildings to be constructed.
44 The R-3 allows a total of 10 units to be grouped together in a building. And
45 what staff had recommended is eight as part of that. So you could always
46 restrict it even though you're going to a higher zone, you can restrict it. And

1 that's what we were recommending. R-4 takes it a notch higher. R-4 you
2 have a minimum of 10 dwelling units that have to be met, and a maximum
3 as defined by the developer. So they had requested, they were talking 96
4 units, they never really specifically requested a density, that's one of the
5 issues that if you go straight R-4 we need to nail that down. But there's no
6 limit as to the number of dwelling units that can be grouped in a building.
7 So it could be a massive building with you know 30, 40 units. That kind of
8 thing. Sixty feet is the height maximum for R-4.

9
10 Smith: Thank you.

11
12 Kaiser: Any other questions or comments? No. I do but I'm going to hold them till
13 after public comment because I think a lot of them are going to address
14 what we're going to hear this evening. But before we do, just as we're
15 listening to the conversation or participating in our own discussion, there's
16 a lot of conditions here, so I think when we do make the motion, we need to
17 be very clear that we're either approving with no conditions, just straight up
18 approving the request for the R-4. Or we're doing something different. If
19 we're accepting the conditions that staff has provided, we can state all of
20 them or if there's only certain ones that we want to take forward, I think we
21 just need to be as clear as possible with what we're approving tonight. So
22 just wanted to keep that in the forefront.

23
24 So with that, can I get a show of hands on who would like to speak on this
25 item this evening. All right. We're going to give everybody two and a half
26 minutes from this timer. We will be systematic here. Because I did not
27 remember exactly who just raised their hand, I'm just going to start here in
28 the front and we'll just work our way up the back and then we'll come onto
29 this side of the room and we'll come forward. So just wait your turn, we'll
30 get to you. And we'll go from there. Ma'am, please come forward. And
31 before everybody gets started, I will ask you to state your name so I can
32 swear you in.

33
34 Kemp: I didn't hear him. My name is Fran Kemp and I live on Stellar Way.

35
36 Kaiser: And do you swear or affirm that the testimony you're about to give is the
37 truth and nothing but the truth under penalty of law?

38
39 Kemp: I do.

40
41 Kaiser: Go ahead.

42
43 Kemp: There are 84 homes in our neighborhood, all of which rely on egress via
44 Stellar Way or Morningstar, therefore 96 apartments would more than
45 double the population density and vehicle traffic. We don't understand why
46 anyone could believe that adding an apartment complex wedged into the

1 neighborhood would not change things for the worse. The two exits from
2 this neighborhood have blind curves which you've seen in the pictures.
3 When I'm waiting at the intersection of Morningstar I frequently resort to
4 turning right, going south a block and doing a U-turn in order to go north.
5 We all built or bought our homes because it was zoned R-1. We don't
6 believe it's right to retroactively change the zoning in any neighborhood. We
7 feel this is a sort of bait and switch and will ruin the quality of the
8 neighborhood if it's allowed to be rezoned. And the bottom line is if you
9 must change the zoning in an existing neighborhood in order to build
10 something, it is by definition not compatible or consistent with existing
11 surrounding land use. Thank you.

12
13 Kaiser: Thank you. All right moving to the next row. We'll start over here to my left.

14
15 M. Brown: Good evening. My name is Myra Brown. I live at 2703 Scenic Circle. And
16 my house ... sorry.

17
18 Kaiser: Do you swear or ...

19
20 M. Brown: I swear.

21
22 Kaiser: The testimony you're about to give is the truth and nothing but the truth
23 under penalty of law?

24
25 M. Brown: I do sir.

26
27 Kaiser: Go ahead.

28
29 Brown: My first issue, Fran address, I want to address, I think what the gentleman
30 presented about offices and business was quite disingenuous. Directly
31 north, northeast there's the church, the Morningstar church, and there are
32 a couple of offices there. But that neighborhood is entirely residential. And
33 you have to go north to Northrise and pass that to come into any commercial
34 use. It is a residential, single-family neighborhood. And I believe it should
35 stay that way. Thank you.

36
37 Kaiser: Thank you.

38
39 Torrez: My name is Jesus Torrez.

40
41 Kaiser: And do you swear or affirm that the testimony you're about to give is the
42 truth and nothing but the truth under penalty of law?

43
44 Torrez: I hope to God.

45
46 Kaiser: Go ahead.

1
2 Torrez: First of all, I address, I'm going to address myself because you're the
3 Commissioners and planning and zoning, they're in charge of that. The first
4 thing that I would ask all of you to consider on the change on this zoning is
5 the safety of the school children. That some of them walk every day to and
6 from school and they cross this very hazardous intersection. And where
7 they cross on Roadrunner and Morningstar there's no crosswalk. So I see
8 them running around to get across because of the traffic coming and going
9 from you know either way. That's the first that I'm asking, the protection of
10 the children that have to do that every day, every day. And I've seen them
11 running across that intersection. The other thing that I would ask you to
12 consider is the safety, protection, and well-being of the parents that every
13 morning during the school days have to fight that really congested
14 intersection to drop off their school kids, and then come back and pick them
15 up in the afternoon. Now the Methodist church, their Morningstar Methodist
16 church is doing everything they can to keep the kids in their parking lot and
17 the parents come in there to pick them up. Some of them stay there till 4:30
18 or 5:00, the parents get out of work, which is great. And the other thing is,
19 think of the safety, protection, and well-being of all the residents that have
20 been there for many years. Think about their safety, protection, and well-
21 being. You're the ones that are going to have the final say on these thing.
22 It's up to you to keep those you know persons and give that to priority. The
23 people that want to build these complex, they're not thinking about the
24 safety, protection, and well-being of anybody there. We want you to do that.
25 Thank you. God bless you.

26
27 Kaiser: Thank you. Continuing down that row. Continuing over. All right, we're
28 going to go to the next row.

29
30 Bein: My name is Sandra Bein.

31
32 Kaiser: And do you swear or affirm that the testimony you're about to give is the
33 truth and nothing but the truth in our penalty of law?

34
35 Bein: Yes, I do.

36
37 Kaiser: Go ahead.

38
39 Bein: Thank you for this opportunity to speak. I live on Asteroid Court. And my
40 home and backyard are directly behind the property that we're speaking of.
41 My four foot rock wall separates my property from this piece of property. As
42 are many of my neighbors and even others living several miles away, I'm
43 firmly opposed to the rezone to accommodate the apartment complex. This
44 neighborhood is a single-family residential area and an apartment complex
45 does not fit into the neighborhood and it would create many issues. Some
46 we've heard, some we have not yet. But these include traffic and noise

would be substantially increased, parking is a huge concern. I'm concerned about an increase in car accidents in the area. And as the gentleman before me spoke of the proximity of Camino Real Middle School, and its effect on the children and the traffic. Exiting and entering that road, it's already an issue and as we know there's already a blocked view. What about the stability of the homes that encircle the piece of property that the construction would take place on. Other concerns include trash increase and dumpsters and water runoff and flooding. The height of a multifamily story, multistory buildings will look into existing home yards, as well as block the view of the mountains for some. The property is zoned for a single-family home, not a multifamily apartment building. It would not be compatible to the current neighborhood. It would have a negative impact on those of us that live in the neighborhood and whose expectations is that only single-family homes would be built which is what it's currently zoned. For all of these reasons, and in alliance with the purpose and intent of the zoning ordinance 38.2 in which the consideration of the general welfare of the community and purpose of improving citizens quality of life, and in particular 38.2 L which states ensure the development proposals are sensitive to the character of existing neighborhoods. Please consider the negative impacts upon the community that already exists and did not grant a zoning change. And all of these issues would still be of concern with the current staff's recommendation. So I'm asking you to please reconsider even that recommendation and let the zoning remain as it is for single-family homes. Thank you very much.

Kaiser: All right, continuing down that row.

Truxal: My name is Carolyn Truxal.

Kaiser: And do you swear or affirm that the testimony you're about to give is the truth and nothing but the truth under penalty of law?

Truxal: I do.

Kaiser: Go ahead.

Truxal: This my husband Jose. We live on Morningstar. You've already heard how difficult it is getting in and out. Looking at your own regulations and even the document put together for this meeting, everything says it should be consistent, it should be compatible. There is nothing but single-family housing in this neighborhood. Nothing. You have to cross the street or go a quarter mile away to get out of single-family housing. There is nothing to prevent the owner from building single-family housing. As Ms. Kemp pointed out, baiting and switching. If he wanted to build apartments, why didn't he buy something already zoned R-4. We have no objection to houses being built. But this is unconscionable the amount of aggravation

1 that he is going to add to our daily lives with doubling, more than doubling
2 the number of people and vehicles in our neighborhood. Thank you.

3
4 Kaiser: Thank you.

5
6 Miranda: I'd like say something.

7
8 Kaiser: Before you do, please state your name for the record.

9
10 Miranda: Orlando Miranda.

11
12 Kaiser: And do you swear or affirm that the testimony you're about to give is the
13 truth and nothing but the truth under penalty of law?

14
15 Miranda: I do.

16
17 Kaiser: Go ahead.

18
19 Miranda: I just want to say a couple of things. I know it's kind of late in the year but
20 have if you guys ever had a chance to go by there when school is on. You
21 see that traffic. The traffic is backed up from the entrance to the school all
22 the way back to Morningstar for these people picking up their kids. And the
23 same thing on Roadrunner the other way. I mean it's backed up. You have
24 to wait to get out of there. It's hard. The blind spots are there. I mean
25 sometimes I had to pull out a little bit to see if anybody's coming. And then
26 there they are, you know you don't see them then you do see them. So
27 there's that. Plus I've had had experience, I live on Morningstar and I have
28 had experience. You know I woke up one morning, I was showering and I
29 was covered in soap and the water stopped. I said what the heck. I asked
30 my wife, go check it out. So she checked out, a neighbor of ours, the
31 waterline was broken and there was flooding there. And a neighbor of ours,
32 he turned off the water. I said well I'm turning it on. So that at least if it's
33 off. So I went to see what's going on. You could see, I don't know where
34 that traffic came from but you could see somebody pulled a U-turn and you
35 could see the tire tracks come over the water meter and into my yard. You
36 can see the tire tracks in the grass, just to make a U-turn there on
37 Morningstar to go back to Roadrunner. So that's really basically, I would
38 say I agree with all these people. I read, I'm there part of the neighborhood.
39 And yes, you know the traffic is really bad. It's just, I mean you could, if you
40 ever get a chance like you said, I know it's the end of the year, go by just
41 and check out when school is on and off, and you'll understand what we're
42 talking about. And that's all I have to say.

43
44 Kaiser: Thank you. Continuing down this row. Anybody else in his row? Okay,
45 we're going to head out to the next row. It's okay.

46

Agenda Item #10.1.

1 Morales: Hi.
2
3 Kaiser: Please state your name for the record.
4
5 Morales: Anita Morales.
6
7 Kaiser: And do you swear or affirm that the testimony you're about to give is the
8 truth and nothing but the truth under penalty of law?
9
10 Morales: Yes, I do.
11
12 Kaiser: Go ahead.
13
14 Morales: Okay, I just would like to reiterate what everybody else has been saying. I
15 don't think this zoom change should go through. I think it should remain R-
16 1a. And the reason I think it should remain R-1a is because first of all, I feel
17 that 80 to 96 apartments is going to create an overcrowding in that area.
18 And you're talking anywhere, if you have two adults per unit, let's say we
19 take 80 to 96 units, you're going to have 160 adults, and you're going to
20 have a 160 adults to 192 adults. Now, this doesn't even include children.
21 Who knows how many children will be in this complex. But once again,
22 overcrowding to me is just going to be a major concern in this area. Also,
23 when it comes to the parking spaces, let's just say we take the R-3C zoning.
24 Okay, you have 80 units, 1.5 required parking spaces per unit, that's 120
25 required parking spaces. But if you have two adults per 80 units, that's 160
26 adults. Well, where are those additional 40 adults going to park? Now I've
27 done some research on other existing apartment complexes around the
28 area. And they are almost to full capacity. So you can imagine our little
29 area over there would turn into a parking lot. And it would be very difficult
30 to get in and out onto Roadrunner from either Morningstar or Stellar Way.
31 So I would really hope that you deny this zone change because we are very
32 concerned about some of these changes. Also, since I have a few more
33 minutes, I've got a question because I don't understand this. On here it
34 says AJ Construction is the construction company but when I looked into it,
35 the address doesn't match AJ construction it matches the Taj, T-A-J
36 Construction. I don't understand that. Thank you.
37
38 Kaiser: Thank you.
39
40 Banegas: Mr. Chairman. He was on the far side. He was just asking me to pull up a
41 map here.
42
43 Kaiser: Understood. The aerial. That's all I can.
44
45 Apodaca: Good evening chambers. Good evening. My name is Gilbert Apodaca.
46

1 Kaiser: And do you swear or affirm that the testimony you're about to give is the
2 truth and nothing but the truth under penalty of law?
3
4 Apodaca: Yes, it is.
5
6 Kaiser: Go ahead.
7
8 Apodaca: I live at the corner of Roadrunner and Stellar Way. Where are we at here?
9 Right there. Okay. Okay, so right here where the arrow is correct. Okay, I
10 live on, there's my house. Okay. I welcome you to my house. I will go with
11 you personally. I'll meet you. You tell me a day and a time and I'll walk you
12 through the neighborhood. I've been there since 2002. I'm a retired police
13 detective from the Las Cruces Police Department. I recognize the traffic.
14 We're just going to add more fuel to the fire with this traffic. Has anybody
15 been on Roadrunner? Have you approached the school headed north?
16 Have you checked your speed limit? We're all probably doing over 45 guys.
17 It's easy to do. I do it. We already have blinking lights there to slow the
18 traffic down. That's my concern, for the safety of the kids. I walk through
19 there too. I've got to run across the street. The last meeting police
20 department said they didn't have a school crossing guard. So these kids
21 are crossing by themselves. So now we're going to add apartments. We're
22 going to add people there that are not going to be there forever. They're
23 there for six to, or one year. They're not going to take care of these places.
24 I don't know if you all have rentals, I have had rentals and they don't take
25 care of these places. More than likely we don't even know who's moving in.
26 Who were they bringing? We have our neighborhood. We all keep it safe.
27 We don't know who these people, who they're going to be. We haven't even
28 addressed the lighting pollution for the parking lot. Is it going to be gated?
29 I'd like to show you on the map there where the, right here is Roadrunner.
30 So what's going to happen is people fly down Roadrunner, right, so they're
31 going to say, I'm going to take a left on Stellar Way and head down. I don't
32 know if you all have been to Stellar Way, but it's a downhill roadway. It goes
33 straight down to this gentleman's house that just mentioned. It goes straight
34 down. What's going to happen, you're going to now make Roadrunner,
35 Roadrunner two there, because people are going to be flying down Stellar
36 Way. There's a lot of kids playing. And then they're going to go on
37 Morningstar to come in the back way. You understand what I'm saying?
38
39 Kaiser: I do. And unfortunately that's time. So I'm going to have to ...
40
41 Apodaca: Okay.
42
43 Kaiser: Have to cut you off.
44
45 Apodaca: One last thing. We're going to run into an issue with all the parking on the
46 street on Morningstar outside the complex.

1
2 Kaiser: Okay. Thank you.
3
4 D. Bishop: Okay. I'll raise my right hand. I swear to tell the truth.
5
6 Kaiser: Can you please state your name for the record?
7
8 D. Bishop: Pardon?
9
10 Kaiser: Can you please state your name for the record?
11
12 D. Bishop: Yes, Daniel Bishop.
13
14 Kaiser: All right. And you swear to affirm the testimony you're about to give is the
15 truth and nothing but the truth under penalty of law?
16
17 D. Bishop: I do.
18
19 Kaiser: Go ahead.
20
21 D. Bishop: Okay. Thanks for the time that we have here. My house is 2895 which is
22 about right in here. Okay, well, I'm living with you then. Okay, so anyways,
23 Morningstar, right across, right across there's a ramp that you go into right
24 there. I'd have that many people all the time coming back and forth right in
25 front of my house. Okay. What will happen is it'll drastically initiate the
26 decline of the peaceful habitation of our neighborhood having this much
27 traffic in there and population increase. How it'll do that it'll by several
28 methods, one would create increased vehicular traffic. Based on what
29 we've been told, could be anywhere between 200 to 300 additional
30 automobiles parked throughout that area, in the Morningstar and
31 accompanying side streets. Three of those streets are cul-de-sacs, just
32 what that's going to look like. Morningstar at where we are isn't a through
33 street. It ends right there. There's the other cul-de-sac. There's a third one.
34 So we got that. I gotta take and hurry up here. We're going to have
35 increased pedestrian traffic throughout that small neighborhood by at least
36 100 to 200 potential people coming and going day and night. My dogs are
37 going to go nuts. Anyways, I'm going to have to deal with trying to get in
38 and out of that place from my own driveway. And then on top of that, we're
39 going to have the potential for increased crime. I know nobody wants to
40 hear that. Burglaries, vandalisms, that's already been happening from time
41 to time, and the property values will sink. And then at that point, my
42 personal opinion is it's good old fashion greed all around if this thing goes
43 through. Thank you.
44
45 Kaiser: Thank you. Please state your name for the record.
46

Agenda Item #10.1.

1 J. Bishop: I'm Joyce Bishop.

2

3 Kaiser: And do you swear or affirm that the testimony you're about to give is the
4 truth and nothing but the truth under penalty of law?

5

6 J. Bishop: Yes.

7

8 Kaiser: Go ahead.

9

10 J. Bishop: Okay. I would like to read some, a letter from one of our neighbors that
11 couldn't make it here due to health reasons. He says my wife and I will be
12 unable to attend the hearing due to physical limitations. My wife and I chose
13 to move to Las Cruces in '97 where we purchased a newly constructed
14 house on Morningstar Drive in part of the area's residential zoning status.
15 Since '97 Roadrunner Parkway has become a very busy thoroughfare in the
16 vicinity of its intersection with Morningstar Drive. The area of the issue and
17 case, in the said case. It is at times extremely difficult, even dangerous for
18 current residents to enter the Roadrunner Parkway from Morningstar Drive
19 due to its location on a curve that severely limits visibility, both the left and
20 the right. Entering Roadrunner Parkway from Morningstar Drive in normal
21 circumstances rather difficult due to the volume of traffic on the former.
22 Much of it clearly moving at speeds dangerously in excess of the posted
23 limit. During the morning and afternoon rush hours, traffic on Roadrunner
24 Parkway becomes very heavy making access for Morningstar Drive slow,
25 difficult, and dangerous. Waits of three to five minutes per car are not
26 uncommon. An additional 100 or more vehicles attempting to enter
27 Roadrunner Parkway from the proposed development, for the proposed
28 development would create a near impossible situation and has the potential
29 to become extremely dangerous. The wait times increase when Camino
30 Real school is in session, the sheer increase in the number of cars bringing
31 students to the school with drivers frequently standing still on Roadrunner
32 Parkway and occasionally backed up past Morningstar Drive, creates a very
33 dangerous situation. Some drivers waiting for students in the afternoon also
34 park on Morningstar Drive, adding more congestion. The dangers
35 associated with increased school traffic and backed up cars are
36 exacerbated by the numbers of students on foot in the area, especially in
37 the afternoon classes and at the school. For the above reasons of
38 potentially dangerous traffic congestion, the upzoning requested in this
39 case, essentially a commercial enterprise with a total of 100 units in a zone
40 currently designed for single-family residences would clearly constitute an
41 excessive deviation from neighborhood conformity and necessitate a
42 departure from the almost three decades long established character and
43 aesthetics of the Morningstar Drive neighborhood. They vote no.

44

45 Kaiser: Thank you.

46

1 J. Bishop: Thank you.

2
3 Kaiser: Okay, I've lost track of what row we're in. I think we're going one, two, three,
4 four, fifth row back.

5
6 Kever: My name is Patricia Kever.

7
8 Kaiser: And do you swear or affirm that the testimony you're about to give is the
9 truth and nothing but the truth under penalty of law?

10
11 Kever: I certainly do. And I always tell the truth.

12
13 Kaiser: Go ahead.

14
15 Kever: My focus at this meeting is to get the City Planning and Zoning Commission
16 to make a decision in the best interest of the existing communities
17 surrounding the property under consideration. We've made it clear that we
18 are strongly opposed to having the property rezoned R-4. Its already zoned
19 R-1, and single-family homes can be built there with no objection.
20 According to the report of the City of Las Cruces and the planning and
21 zoning staff document that Mr. Banegas has shared with us, on page four it
22 says under neighborhood character and compatibility, it states the request
23 R-4 zoning standards could create increased impact to the surrounding
24 neighborhood. These are the very concerns that we've been trying to bring
25 to your attention that were mentioned in your own staff report. We have the
26 kind of neighborhood that you want to have in Las Cruces. We look out for
27 each other, we recognize each other, we recognize each other's cars, we
28 know who belongs in the neighborhood and who shouldn't be there. On
29 page seven of that report it states that under consistence and purpose with
30 the intent of the zoning ordinance that the intent of the zoning code is to
31 encourage the most appropriate use of the land and general welfare of the
32 community. The appropriate use would be R-1 because that's what it is and
33 should stay that way. Each citizen should be, I'm sorry, for the welfare and
34 community and the purpose of improving each citizens quality of life. That's
35 your words. Putting apartments at this property would not have this effect.
36 The subset cue on that paragraph says to mitigate conflicts among
37 neighbors. Just the proposal, just a consideration of this idea has created
38 more conflict and anxiety than that neighborhood has seen in 27 years. On
39 page nine it states R-4 allows substantially more residential density and
40 land uses than the surrounding R-1 district. Your words again. As a result
41 a decreased level of compatibility would exist. That's exactly our position.
42 And decreased level of compatibility would exist. By attempting to quote
43 back to you your own staff report, I'm trying to convince the Commission to
44 look at the community's greater good. The objections that we are making
45 are not just those of concerned neighborhood but legitimate issues
46 discovered by your own staff. Your job as Planning and Zoning Commission

1 is to protect the existing neighborhood citizens from the encroachment of
2 rezoning and that's what we're hoping you will do. Thank you.

3
4 Kaiser: Thank you.

5
6 Tierney: I'm Pete Tierney.

7
8 Kaiser: And do you swear or affirm that the testimony you're about to give is the
9 truth and nothing but the truth under penalty of law?

10
11 Tierney: Yes, I do.

12
13 Kaiser: Go ahead.

14
15 Tierney: I do not live in the neighborhood. But I attend Morningstar United Methodist
16 Church. At our church, we've decided to go ahead and be good community
17 members. Approximately a year ago, we went out to the community asking
18 how we could be better community members and what actions we could
19 take to support the community. One of the questions was, do you have any
20 concerns? Out of the seven individuals that I surveyed, five of them
21 mentioned the concern about safety, traffic safety. I went back to our
22 committee and thought, is this unusual? Everyone agreed that this was
23 unusual to have such a significant number of people bring up traffic
24 concerns. So it's decided to go back to the community and find out if those
25 five individuals represented the community at large. On two occasions, I
26 went to the homes of the 82 to 90 residents there. What I found was 60
27 some responded to my request for information. Five individuals out of that
28 60-some said they had no issues with traffic. Everyone else indicated they
29 have had or currently had issues with traffic. Now move forward to this
30 meeting today. You gentlemen and ladies are considering the possibility of
31 increasing the number of residents in that neighborhood. There's already
32 currently traffic concerns, severe traffic concerns. It's only going to
33 exasperate the situation if you change the zoning and allow the apartment
34 complex to be placed at that site. Thank you for your time.

35
36 Kaiser: Thank you. All right going up to the next row. I think we're on row six.
37 Starting over here. Coming across. All right we're going to row seven.
38 Gentlemen with the black shirt. Watch your step.

39
40 Williams: My name is Michael Williams.

41
42 Kaiser: And do you swear or affirm that the testimony you're about to give is the
43 truth and nothing but the truth under penalty of law?

44
45 Williams: Yes, I do.

46

1 Kaiser: Go ahead.

2
3 Williams: I'd like to address what some of the planners was talking about earlier. I
4 thought they was talking about this section was not in the master plan. But
5 when you talk about master Plan you got to look at the overall plan. So if
6 you look at the plan, and you see this little red block. What do you all see?
7 Las Cruces do not have enough green space. Did the planning commission
8 ever considered trying to land exchange? Take it away, build a park. Look
9 for the nearest park is about a mile and a half away, which is Veteran Park.
10 You see all these houses. We do not have any parks there. You got to
11 school. They talking about traffic. We need to really look at this before we
12 vote to try to recondition R-3 or R-4. We need to look at Las Cruces as a
13 whole. Green space. We don't need more apartment. If you look at
14 Roadrunner you got several other apartments complex being built. You're
15 going to have a thoroughfare going through Roadrunner. The main thing is
16 we got to look at Las Cruces as a whole. Look at your master plan. Your
17 master plan did not include this. He talked about it was four, it was Northrise
18 it was excluded. So before we vote tonight, let's look at it. Can we try to do
19 a land exchange? Can we put a park in this area? What can we do with
20 our master plan to make sure that we have the right suit? If you build
21 something that's 60 feet high, you're going to destroy everything in that view
22 in that area. Everything. So why destroy something that's beautiful. And
23 just look at trying to get this in our master plan. We know traffic. We know
24 the infrastructure. We know all that. Let's go green. Let's not try to build
25 something else. Let's go with the land. And that's all I have to say. Thank
26 you.

27
28 Kaiser: Thank you. All right, going to the next row. Or, yes, whoever's next, come
29 on down. Please state your name for the record.

30
31 Martinez: Good evening. My name is Gloria Martinez.

32
33 Kaiser: And do you swear or affirm that the testimony you're about to give is the
34 truth and nothing but the truth under penalty of law?

35
36 Martinez: I do.

37
38 Kaiser: Go ahead.

39
40 Martinez: Okay, I would like to express my strong opposition to the proposed zoning
41 changes from R-1a to R-4. As a resident of this area I have a vested interest
42 in ensuring that any developments in our vicinity align with the existing
43 character and needs of the community. The proposed change to R-4 zoning
44 which permits multidwelling high density along with retail, office space,
45 proposes concerns regarding the impact it would have on our
46 neighborhoods and the surrounding area. First and foremost, the proposed

high density housing would likely result in increased traffic congestion on an already strained roadway. Roadrunner and Morningstar are vital arteries for our community and any significant uptick in traffic volumes could not only impede residents daily commute, but also compromise pedestrians and cyclists safety. While we're transitioning from single-family medium density to multidwelling high density threatens the tranquility and character of our neighborhood. The R-1a zoning was established to maintain a sense of spaciousness, privacy among homes, fostering a peaceful residential atmosphere. Introducing high density housing along with potential commercial establishments could disrupt this balance, leading to noise pollution, decreased privacy, and a diminished quality of life for certain residents. Additionally, I'm concerned about the strain that such a development would place on existing infrastructure and resources, including water, sewage, and public services. Our community's infrastructure is designed to support a certain population density, and a sudden influx of residents due to high density housing could overwhelm these systems leading to service disruptions and increased costs for taxpayers. In light of these concerns, I urge the Planning and Zoning Commission to carefully consider the implications of the proposal changes and to prioritize interests and well-being of the existing community. I respectfully request that you deny the request to rezone the aforementioned property. Thank you.

Kaiser: Thank you.

Ortega: Hi. My name is Vincent Ortega.

Kaiser: And do you swear or affirm that the testimony you're about to give is the truth and nothing but the truth under penalty of law?

Ortega: I do.

Kaiser: Go ahead.

Ortega: My husband and I live on Quasar Drive adjacent to the property. And having anything taller than a one story home built there would really destroy the view that we have of the mountains. And asking you to deny the request for a zoning change. We're currently between low, on Roadrunner between Lohman and Northrise, if I counted correctly there were eight very large apartment complexes already. All of those are about a mile from the proposed site of this apartment complex. I think you have achieved diversity in housing on Roadrunner Parkway. I don't think you need another apartment complex. When we moved to this home about 14 years ago, we moved there because it was a quiet neighborhood. And it is a neighborhood. And like everyone else that has said there, you know we pretty much know everybody, we take care of each other. You know our

1 next door neighbor is an elderly woman and we take care of her and you
2 know turn on her air conditioner and put her trash out. But that, I don't think
3 that the lives of 84 households should be sacrificed for the financial windfall
4 of one person. That's not what America is about. To answer Anita's
5 question earlier about Taj Construction. The builder that was selected to
6 build his apartment complex has had four different business names since
7 he started apparently the construction business. In 2011 he was Taj
8 Construction, I'm sorry, 2005 he was Taj Construction, changed into Taj
9 Construction Incorporated up until 2011, then he changed it again to Taj
10 and Arc in 2011. That was cancelled in February of 2023. That same time
11 there was a, the company filed for bankruptcy with only one creditor. And
12 that was from a civil suit. That doesn't make sense.

13
14 Nichols: Mr. Chairman. If I may please, point of order. We're discussing the zone
15 change tonight. We're not discussing the contractor and his previous
16 names. Please stay on topic.

17
18 Ortega: I was trying to answer Anita's question about that. But I respectfully ask you
19 to deny the zone change.

20
21 Kaiser: Thank you. All right. I think that was the last row so anybody else on this
22 side who wishes to speak that hasn't done so already? I believe you've
23 already spoken, sir.

24
25 AUDIENCE MEMBER SPEAKING, NOT AT THE MICROPHONE.

26
27 Kaiser: Let me go around to the folks that haven't spoken yet. And if there's time
28 we'll come back. All right, we will start from the back on this side of the
29 room, last row.

30
31 Highsmith: My name is Joni Highsmith.

32
33 Kaiser: And do you swear or affirm that the testimony you're about to give is the
34 truth and nothing but the truth under penalty of law?

35
36 Highsmith: I do.

37
38 Kaiser: Go ahead.

39
40 Highsmith: And my first point is just a question to you guys. When I'm moved to Las
41 Cruces, and I live over by Rolling Hill, across the street, my brother ...

42
43 Kaiser: I don't mean to interrupt. Can you just get closed to the mic so we can
44 hear? Thank you.

1 Highsmith: Yes. Okay. And my daughter lives on Scenic Circle. Both times when we
2 bought houses, we looked at the zoning, because we wanted to know what
3 kind of neighborhood we are buying into. So it really makes me question
4 what is the advantage to changing it for anyone in Las Cruces? I went up
5 Northrise, I mean Morningstar there is plenty of commercial land that is
6 available there. So there's not a benefit to the town to build on to that,
7 there's only a benefit to the one individual. I walk a lot of times past the
8 church and across the street because my grandkids live there. And I will
9 tell you that I have to pick up my dachshund and I have to run across the
10 street. I know that there's a crosswalk down by the school, but people don't
11 stop. And it's very scary to walk there. We get caught in the traffic. It's just
12 not safe. This week, there was one accident already right coming down
13 Roadrunner. And there was, today I almost got hit coming back out after
14 dropping off, picking up my grandkids. So there's no, it's not safe, it isn't to
15 the betterment of Las Cruces. And there's plenty other commercial land
16 currently available. If we were out of that in that area, then maybe it would
17 make sense. Thank you.

18
19 Kaiser: Thank you. All right, last row, coming down the row, the front of that.

20
21 D. Davidson: Good evening. My name is Davis Davidson.

22
23 Kaiser: And do you swear or affirm that the testimony you're about to give is the
24 truth and nothing but the truth under penalty of law?

25
26 D. Davidson: Absolutely, sir.

27
28 Kaiser: Go ahead.

29
30 D. Davidson: I brought my daughter here tonight to talk to you guys about her experience
31 walking home from that school. The main point I'd like to make though,
32 before I let her speak to you, is that no one's brought up, there's a single
33 egress from that school. That middle school has one road in and one way
34 out. The line making left hand turns coming in is amazing at times. I mean
35 it just goes all the way back up the hill on Roadrunner. And I think until
36 that's addressed there's no way we can add more traffic into that funky
37 intersection area right there on a blind S turn. I'd like to thank Commissioner
38 Smith for clarifying on the R-2 point, because I think that opened a lot of our
39 eyes. R-4 is a ridiculous jump from what it is now. And just looking at what
40 R-2 would do is substantial to our neighborhood. And I think that that just
41 seeing the difference between what it is now and R-2 is extreme. And R-4
42 is just out of the question. There are already hundreds of units going in right
43 now right down the road. This residential area, our neighborhood is, already
44 has a lot of the multiuse aspects that our master plan includes. It has high
45 density multiunit, big, big, big apartment complexes. We're already dealing
46 with that traffic. So our community, our little community right in there has

1 already accepted these large developments. This is just not the place for
2 it. I've heard a couple of people say they don't want these people coming
3 in because of crime. I don't agree with that. Where are those people? We
4 were in Roadrunner for a long time in an apartment after some traumatic
5 experiences. Where are those people? And I'm not worried about the
6 crime. I'm not worried about any of that stuff. I'm worried about the safety
7 of our children, right. The biggest thing I want to point out to you is you've
8 heard not a single positive reason to do this tonight, not one. The only
9 reason to do this is to make a very wealthy individual from out of town
10 wealthier at the expense of our entire community. Do I grudge that man a
11 dime? Nope. I would love to think that I get there or we all get there,
12 whatever. But we don't do it sacrificing an entire neighborhood and the
13 safety of children and a church that's already overwhelmed trying to serve
14 its community. It's just not the appropriate place to do that. And so that's
15 all I had to say. I appreciate your guys' time. And this is my daughter.

16
17 Kaiser: Thank you. And before you tell your story, can see your name for the
18 record?

19
20 L. Davidson: My name is Lily Davidson.

21
22 Kaiser: And do you swear or affirm that the testimony you're about to give is the
23 truth and nothing but the truth under penalty of law?

24
25 L. Davidson: I do.

26
27 Kaiser: Go ahead.

28
29 L. Davidson: So I was at Camino Real Middle School last year and I can just tell you from
30 walking home it was very scary. Kids shouldn't have to go through this even
31 more with another apartment complex. We already have enough in our
32 neighborhood going on. And the fact that you guys are considering this and
33 stuff like that, it's a little overwhelming because it was terrifying walking
34 home. Like going from one place to another just to get home and worrying
35 about risking your life is a little concerning because there's that cross, like
36 that intersection right there and no one dares to even stop when there's kids
37 crossing they don't consider stopping and it's scary. Yes, thank you.

38
39 Kaiser: Thank you. Okay, coming down to the next row.

40
41 Bressette: Glenn Bressette. 2673 Stellar Way.

42
43 Kaiser: And do you swear or affirm that the testimony you're about to give is the
44 truth and nothing but the truth under penalty of law?

45
46 Bressette: I do, sir.

1
2 Kaiser: Okay. Go ahead.
3
4 Bressette: Like Anita said you know words can be spoken and everything else. I have
5 a picture I'd like to show you from May 16th. Morningstar, which you're
6 looking at up there, I have a beautiful picture as well. Approach.
7
8 Kaiser: Yes, please do.
9
10 Bressette: So everybody, so when they speak of traffic, and just like the children talking
11 about crossing the road, that's what we deal with on a weekly basis. And
12 now you're talking about adding over 100 vehicles to that intersection. We
13 oppose.
14
15 Kaiser: Thank you. If you'd like your phone back we'll give it back to you. All right
16 I think we're in one, two, three, four, five, the sixth row back. Anybody else
17 in that row? All right. Coming to the next row in front. All right, seeing none.
18 Next row, fourth row. Third row. Second row. Gentleman over there.
19 Depending on how you count half ways, one, two who knows?
20
21 Denman: My name's Richard Denman.
22
23 Kaiser: And do you swear or affirm that the testimony your about to give is the truth
24 and nothing but the truth under penalty of law?
25
26 Denman: I do.
27
28 Kaiser: Go ahead.
29
30 Denman: I live on the east side of Roadrunner. My house actually fronts up to that
31 thing. So this whole area. So my first concern is a personal one. When I
32 bought the house seven years ago, I looked at the zoning because I saw it
33 was vacant, saw that it was all zoned for additional housing. I thought I got
34 no problem; they'll be like my house; they'll be the same height. My problem
35 with putting a two story apartment complex back there is then all that area
36 is going to be looking into my backyard. But I have a swimming pool. That's
37 a personal issue. And I know that not everybody has that particular issue.
38 But I want to address this from the perspective now of what I see as the
39 objective of having a zoning plan. We have a zoning plan that is worked
40 out for years with all kinds of details and all kinds of things with the purpose
41 being that both the developers can see where they are going to work, and
42 the individuals can see what's going to happen in their area. The problem
43 becomes when we keep changing the zoning code or the definition or
44 something so that we can facilitate the development for an individual or
45 group. That's a problem. I actually served on the variance committee for
46 zones for a while. And I had a real estate agent at one point in time come

1 in asking for a variance. And they came in and said, hey, I put up this thing
2 and I've already got it in there and I want to keep that. And we voted it
3 down. Why? They were a real estate agent. They knew what the zoning
4 was. They knew that they shouldn't get it approved just because, oh well I
5 already put it up. But it was outside of the code. Is the City, is the
6 commissioner, is the council, are we going to follow our rules and laws and
7 apply them equally or are we going to decide based on what we want
8 something else to do? I think the traffic has already been talked about. But
9 I have been in my backyard and heard the two cars come together on
10 multiple occasions because they curve that you see when they're coming
11 down Roadrunner, that actually affects people more coming from the west
12 side crossing. So where this apartment complex comes, if they want to
13 come out and turn left to go up Roadrunner, they're going to go into what is
14 essentially an almost completely blind intersection. And what right now
15 applies mostly of people coming off Morningstar, from the apartment
16 complex on the east of Morningstar and turning south on Roadrunner, those
17 are the cars that have been involved so far. Now we're going to duplicate
18 that. Thank you.

19
20 Kaiser: Thank you. All right, gentlemen in the front. You're last.

21
22 Griffin: So, my name is Richard Griffin.

23
24 Kaiser: And do you swear or affirm that the testimony you're about to give is the
25 truth and nothing but the truth under penalty of law?

26
27 Griffin: Quote from Scarface. I tell the truth even when I lie.

28
29 Kaiser: Be honest, that's all I ask.

30
31 Griffin: Yes.

32
33 Kaiser: Go ahead.

34
35 Griffin: Look, there we go. My honest opinion is I've been there the longest.
36 Twenty-eight years going on 29 years. I bought my property. They told me
37 it was R-1. They weren't going to change. You got some pictures of some
38 flooding. I watched it all happen in that neighborhood. Watch every one of
39 these guys kids grow. I've got grandkids living with me now. I have two
40 autistic grandchildren. I'm disabled. I can't get my car out onto Roadrunner
41 without a five minute wait. The traffic is horrendous. I talk to you, right.
42 Asked you if you could put in a stop sign. It's an alternative roadway.
43 They're not going to put a stop sign. They're not going to put anything to
44 heed all the traffic and accident. You're not going to let them put an exit on
45 Roadrunner are you? Is the blind intersection. Come on, you can say it.
46 We all know it. You're not. All that traffic's coming on my street. Directly

1 across the street from my house. My house is not over here where Gill's is
2 at. That's my house, the second house. So I get an Organ view right now.
3 Beautiful view. It's going to turn into, what, dumpsters, according to the plan
4 from the developer. He came in and took dirt without a permit. Made a
5 mess of the street. He doesn't clean his property. He doesn't maintenance
6 the property. We do. We all pick up trash. So I just want to point that when
7 I bought my property, it was R-1. You want to put a church, fine. I can't
8 stop that. Somebody already tried. They wanted a daycare. Every one of
9 these neighbors here has signed a petition. You've got the petition. Tw
10 hundred signatures that people don't want this in that neighborhood. I don't
11 want it. I don't want to look at a three story building. That's a building that
12 tall. Would you want that across the street from your house where you had
13 peace and quiet and tranquility for 30 years, 28, 29. No. Not one of you
14 would want that. There's plenty of apartment buildings there. We don't
15 need it. We don't need the traffic. I can have my kids, grandkids go out in
16 my front yard right now. When they build something, houses that fine, we
17 don't, we're not opposing houses. But do we want 100 units? Now he's
18 downsized it to 80. So please consider, we don't need this. We bought, I
19 bought and built R-1. That's what this neighborhood is, is R-1.
20

21 Kaiser: Thank you.

22
23 Griffin: Thank you for your time.

24
25 Kaiser: Thank you. Okay, is there anybody else in the audience who has not yet
26 spoken and wishes to speak? Gentlemen in the far back.
27

28 J. Brown: My name is Jeffrey Brown.

29
30 Kaiser: And do you swear or affirm that the testimony you're about to give is the
31 truth and nothing but the truth under penalty of law?
32

33 J. Brown: I do.

34
35 Kaiser: Go ahead.
36

37 J. Brown: This overwhelmingly affects the people who live west of Roadrunner and
38 you've seen much testimony about that this evening. But the same traffic
39 hazards affect the neighborhood east of Roadrunner because two of the
40 three exists out of that neighborhood go onto the blind curve, which is like
41 the Indianapolis 500. And the third is Morningstar which is overwhelmingly
42 crowded, especially when the middle school is either starting, when people
43 are also going to work, or when the middle school is letting out. It's a really
44 tough situation for the people west, but it also affects this traffic and the
45 safety questions of people living east of Roadrunner. To add 80 or 96 units

1 it simply expand the problems for those people as well. So just a brief
2 reminder, this affects more than just one neighborhood. Thank you.
3
4 Kaiser: Thank you.
5
6 Griffin: Can I make one more point?
7
8 Kaiser: I'm sorry, we've got to move forward. I can't because if I let you go I've got
9 to let everybody else.
10
11 Griffin: I'll just say it. And I don't want to be out of order.
12
13 Kaiser: Sir, we need to close public comment so that we can make the decision.
14
15 Griffin: I know just one. There was a ...
16
17 Kaiser: I cannot, sir ...
18
19 Griffin: Eighty miles an hour on Roadrunner. Eighty miles an hour. Eighty.
20
21 Kaiser: Okay, is there anybody else in the audience who has not spoken
22 on this item and wishes to do so? This is the last call. All right, seeing none.
23 We'll close public comment. We'll come back to the Commission. Any
24 comments, thoughts, questions?
25
26 Porter: I have a thought. I'm sorry. I just wanted to say you know that I commend
27 all of you guys for coming together and standing up, bringing in the youth's
28 voice because it's not heard very often. So I appreciate that. And just
29 standing up for your community. Thank you.
30
31 Kaiser: Commissioner Acosta. Do you have any comments? Commissioner Smith
32 is willing to wait. We can come back to you. Commissioner Smith, go for
33 it.
34
35 Smith: All right. Thank you all for coming tonight. And I definitely appreciate and
36 understand your concerns. So I have a number of notes here. All right I
37 just want to say that I have a number of issues with this proposal also and
38 this project. I have lived in Las Cruces now for 26 years. Ms. Apodaca may
39 not remember me but 20 years ago I was a Las Cruces police officer. And
40 I bring that up because the gentleman presented the photo of the vehicle,
41 the yellow vehicle that had crashed, I'm assuming that was on Morningstar,
42 I mean correction, maybe it was on Roadrunner. And I had to, you know
43 had a flashback because of when I was a rookie cop I responded to a crash
44 on Northrise. And at the time Northrise was a newly built road. There were
45 not the businesses and residents that are there now. So it was basically a
46 nice area for people to speed, particularly if you had a high speed car that

1 could drive really fast. So I respond to a crash there, young man. And he
2 had critical injuries. And so that was 20 years ago. And so I'm very familiar
3 with this area. I have children and I have friends that lived in that area. It's
4 continued to live there. I have a friend who is a former pastor of Morningstar
5 United Methodist Church, so I'm very familiar with that area. I'm familiar
6 with the traffic issues. I have never been there when school lets out but you
7 know I can imagine with the volume of traffic that is there on a regular basis,
8 on a normal basis, I could imagine what it's like you know on the school day.
9 So saying all that, I have a number of issues with this project. And it does
10 apply to you know what you know, our charter is here, what our duties are
11 here as Commissioners. And it is to protect the compatibility, the livability
12 of the neighborhoods. And you know to go from R-1 to R-4 is an extreme
13 as one of the gentlemen stated, move to make. You know when you're
14 talking about putting 80, 96, 100 apartments in that particular area. There's
15 just, it's hard for me to fathom how that could be a positive fate. I'm very
16 sensitive and aware of the need for housing in this City, affordable housing.
17 But there's a part of me that feels like the developer is exploiting the livability
18 and compatibility, the just the establishment of that neighborhood to build
19 apartments, not for affordable housing, not for young families that are
20 struggling trying to find a decent place to live in town. But for people who
21 can afford to live in a, I won't say luxury but definitely higher end apartment
22 buildings, based on accessibility, proximity to Northrise and the commercial
23 buildings, the shopping, the entertainment that there and continue to come
24 in.

25
26 So as another of the you know concerned citizens stated, you know who is
27 it going to benefit. And you know it's hard to sit here as a resident and also
28 as a Commissioner and try to understand the side of the developer with the
29 impact, the negative impact that it's going to have on this neighborhood.
30 We want. We live in society now. We even live in a town now where it is
31 difficult for children to walk to school. I live downtown. I live near Cruces.
32 High. I drive through there often and during school. Parents line up on the
33 side of the road to drop their high school kids off. When I was in high school,
34 we walked. I mean you know we walked through snow with you know with
35 no shoes on. But I am really that old. But that, every time I see that I think
36 why are parents concerned about dropping the kids off, high school kids off.
37 They're concerned about the safety of walking. So I can imagine with a
38 middle school and a church that there is even more concern. Because one
39 is, I mean Roadrunner is, it's a highway. It's you know you go for Highway
40 70 over toward you know Lohman where shopping retail to Northrise,
41 people drive fast. I've seen it. I've experienced it. It happens. So all or
42 your concerns are more than valid. We want a City that's livable. That's
43 safe. A community where you can actually walk in your neighborhood. If
44 you bring in a project of this size it will affect everyone in that community.
45 And it is not going to allow for the continued livability and enjoyment of that
46 community. And that's not something that I think that I can support because

1 I want my neighborhood downtown to continue to be a viable, livable,
2 compatible City, I mean neighborhood with the people in my community.
3 And although I have traffic issue, we had traffic issues downtown, what this
4 project would do to your neighborhood would, it's a pales in comparison.
5

6 I have one more point. There are other areas where a need for apartment
7 complex of this size would serve the City. I don't, you know I haven't, we
8 haven't had a presentation from the developer. But I would like to
9 understand how and why this location was chosen, and what positive
10 attributes that he feels that having this many apartments could bring to that
11 area because it appears to me that there's a total disregard for the people.
12 Thank you.
13

14 Kaiser: Commissioner Murray. Did you have any comments?

15
16 Murray: No, I'm good. Can City staff kind of talk more into why this specific lot was
17 not designed or subdivided with the original master plan? Because looking
18 at what the City does and everything else in Metro Verde and some Sonoma
19 areas, it seems like we all delineate like, hey, this is going to be a
20 commercial lot, this is going to be reserved for R-4 multifamily. So I don't
21 know how that kind of evolved in this specific location.
22

23 Banegas: Mr. Chairman, Commissioner Murray. The lot in question was a standalone
24 lot for many years outside the development of what you see around it. My
25 understanding is, I haven't researched that far back, but my understanding
26 was at one point it may have even been under control by one of the federal
27 agencies, at least in part, and then released for development. But
28 regardless, it was a standalone even prior to annexation. And then when
29 the City came in and annexed this area, you know it remained separate and
30 apart. The areas around it, they went through the master plan stages,
31 preliminary plat, final plat. But this was never incorporated or absorbed,
32 because by then it was privately owned, and they didn't want to participate
33 for whatever reason. But it stands alone and it does share the zoning that
34 you see for many of the lots around it. But that's the most I could tell you
35 about that.
36

37 Murray: Okay. Thank you. I guess my other comments, I'll hold on to, kind of want
38 to get the Commission's thoughts. If you want to make a condition to this
39 or if you're more or less to decline it all together. I do think what City staff
40 has presented is well beyond what should exist. But it's kind of coming
41 down to a compromise whether it stay R-1a or it goes up slightly to add to
42 more housing.
43

44 Kaiser: Does the applicant wish to speak to any of what Commissioner Smith and
45 Commissioner Murray alluded to as far as the design choices that you all

1 are choosing to make? And before you begin, please state your name for
2 the record. Please state your name for the record.

3
4 Aswad: Muhammad Aswad.

5
6 Kaiser: And you swear or affirm that the testimony you're about to give is the truth
7 and nothing but the truth under penalty of law?

8
9 Aswad: Yes, I do.

10
11 Kaiser: Please go ahead, sir.

12
13 Aswad: Thank you. So I have been living in Las Cruces for the last nine years. I
14 live in the neighborhood. I drive on Roadrunner back and forth every day.
15 My children go to school in the area. So I'm very much familiar with the
16 area. I came to here from New York, and I lived in Chicago before and I
17 know what the traffic looks like. But we don't have like really heavy traffic on
18 Roadrunner. And even I drive in the morning during the school hours. I
19 know there's little traffic around the school, but there is nothing like New
20 York or Chicago traffic. So I am this ...

21
22 MANY AUDIENCE MEMBERS SHOUTING OUT.

23
24 Kaiser: Please refrain. Please let him speak.

25
26 Aswad: So I understand the concerns of the neighbors. And we had meeting in the
27 church like two months ago with Mr Banegas. And we addressed most of
28 these issues. I know they're concerned about like decrease in value of the
29 houses around the area when you build apartment complex. And you could
30 research that decrease in value of the apartments, in the houses is caused
31 by crime in the neighborhood or not maintaining the neighborhood well. But
32 not building apartment complexes in the neighborhood. And this is well
33 established in the research. And I think building nice apartment complex
34 with recreational areas and nice landscape would be a positive addition to
35 the community, and would improve the commercial motion in the
36 neighborhood, the shops and restaurants, and so forth. And we should not
37 forget this land is going to be developed one day whether houses or
38 apartments, even if you develop like R-1 houses, it's going to be like almost
39 30 houses. And the concern about traffic. And even sometimes in private
40 houses you might have four or five cars for each house. You might have
41 more cars, than if you have for apartments. I mean my neighbor next door
42 has five cars in his driveway. So I mean, even if you ...

43
44 MANY AUDIENCE MEMBERS SHOUTING OUT.

45
46 Kaiser: Excuse me. Excuse me.

1
2 MANY AUDIENCE MEMBERS SHOUTING OUT.

3
4 Kaiser: Please no yelling from the audience.

5
6 Aswad: So I mean ...

7
8 MANY AUDIENCE MEMBERS SHOUTING OUT.

9
10 Aswad: I mean even if you have like private house you might have three cars for
11 each house. Times 30 houses, that's like 120 cars, which is the same thing
12 that we estimated for apartment complex. So I think it would be a positive
13 addition to the community. And we recognize, I mean I have friends looking
14 for rent in Las Cruces. And it's been very difficult to rent. So I mean we
15 can, I mean we participate in solving the issue of housing in Las Cruces.
16 It's going to be mixed neighborhood. And I think it'll be positive for the
17 community and for the neighborhood.

18
19 Kaiser: Thank you. Before you go, can you talk a little bit more about the decision
20 to land on, I guess at this point about 100 units, let's just round up, 100
21 units? Can you talk a little bit about from your perspective why that's your
22 target for this particular lot?

23
24 Aswad: I mean me and the contractor we figured out like how we are going to
25 develop the land and buildings, each building how many house. And we
26 estimated that's going to be like almost 96 apartments. And with the
27 discussion with Mr. Banegas and we are okay like putting it down to 80
28 apartments, which would benefit 80 families in Las Cruces. And the height
29 of the building is going to be 35 feet, which is what's the code for the
30 neighbors. And it's not going to be higher than what the code permit in the
31 neighborhood.

32
33 Kaiser: And are these a mix of one bedroom, two bedroom, three bedroom?

34
35 Aswad: One bedroom, two bedroom, three bedrooms. So it would house a lot of
36 families in this area.

37
38 Kaiser: Certainly. Thank you. Don't go far, there might be additional questions, but
39 I think I'll give my thoughts and perspective here since I hadn't yet done so.
40 First, I want to thank everybody for participating tonight. Your feedback, it's
41 part of the process. We appreciate it. There's a couple of points I want to
42 hit on. So I'll try to be organized in my thoughts here. The first one, traffic
43 and the issues that were raised around safety. The State of New Mexico is
44 one of the deadliest in the country for pedestrians and cyclists. We've been
45 that way for quite some time. That is going to remain the same regardless
46 of whether or not this project goes through tonight. That being said, it

1 doesn't have to be like this. The concerns that you all raised tonight is
2 exactly how that road was engineered. That's how they built it. That's how
3 they designed it. They designed it for the efficiency and the expediency of
4 drivers and nobody else. The young woman who talked about her
5 experience walking home from middle school, awful, horrible. I think the
6 quote was something about risking your life to walk home. That nobody
7 should have to risk their life to walk home. That is the reality that we live in.
8 The statistics back it up. You all see it, live it every single day. That will not
9 change regardless of whether or not we approve or deny this project tonight.
10 That is the condition in which that roadway was designed. So I understand
11 the concern. I hear it. I experience it in my own day to day. I go out for
12 run, I get close calls on every single one, if not multiple in a single run. In
13 the middle of crosswalks, drivers don't care. Just today riding my bike to
14 this very meeting, I almost got run over from behind because somebody
15 was blocking the bike lane and I had to swerve into traffic. That reality
16 exists. And it angers me to the core that we live in a place that we do not
17 respect anybody outside of an automobile.

18
19 But again, the reality is this project, whether we deny it, it's not going to
20 solve the problem. These are issues we have to take up with the City
21 Council, with the design development code that's being updated. I mean
22 the reality is staff may hate me for saying this, but you all need to come to
23 City Council, explain it to the commission, to the City Councilors. There's a
24 way forward when it comes to traffic safety. There is. We see it in other
25 places across the country. We see it in other developed countries. We can
26 solve the problem. But this project isn't going to change a thing. In fact, it
27 actually gives people an opportunity to walk somewhere, to walk to school.
28 If we don't build apartments or housing in this location, they have to go
29 somewhere, they're going to go somewhere that's going to require them to
30 drive to drop their students off to this very middle school, increasing traffic.
31 Giving families an opportunity to allow their kids to walk to school, yes, we
32 have to address the safety concern. But if you don't even give them the
33 opportunity to walk, we don't make any progress. Traffic doesn't happen in
34 a vacuum. We are all traffic. Every time we get in our automobile we are
35 traffic. If we give people opportunities to get out of their automobile, there's
36 less traffic.

37
38 We need housing. We need it desperately. We need a variety of different
39 types of housing in this City. If it's not here, where then? Where does it
40 go?

41
42 MANY AUDIENCE MEMBERS SHOUTING OUT.

43
44 Kaiser: To the point about luxury housing. It's an interesting point, Commissioner
45 Smith. I certainly agree to some level that luxury apartments is not always
46 what we need built. But there's a lot of studies out there that show that

1 when you build luxury housing, those that are able to move up you know
2 into a luxury apartment opens up a space for more affordable apartment for
3 a family that can afford it. So there is evidence out there and research to
4 suggest that yes, well, this may not specifically meet the definition of you
5 know income, limited rents or moderate income rents, it still creates a
6 pathway for affordable housing options in this community. I myself have
7 experienced this very issue moving to Las Cruces just a few years ago. We
8 wanted to rent so we could get to know the neighborhoods and we can get
9 to know the community. We wanted to rent in a place that we would see
10 ourselves potentially buying a home where we could afford it. We could not
11 find apartments that we would want to live in if they were even available.
12 We need more of this housing desperately.

13
14 The idea that these are just going to be strangers moving into the
15 neighborhood. We don't know who they are. We haven't met them. We'll
16 never get to know them. It just couldn't be further from the truth to be
17 honest. We don't know who's going to buy the house next door. There's
18 no way to know that. I don't know who's going to buy my neighbor's
19 detached single-family home whenever they decide to sell it. We can't
20 control who buys and rents in the City. All that we can do is provide options
21 for them to experience the same neighborhoods that we all want to live in.
22 I lived in an apartment for almost nine years before I moved here to the City
23 of Las Cruces. And I had friends, I knew my neighbors that lived in
24 townhomes, rowhouses, detached single-family, in my own neighborhood.
25 So this idea that you're just never going to know these people, they're going
26 to be in and out, they're transients, just simply can't be further from the truth.

27
28 There wasn't really much discussion about property values, but I think there
29 was some it's certainly in the comments that we received as part of our
30 packet. The data doesn't back that up. Building apartments doesn't
31 devalue single-family detached homes. In fact, I was just poking around
32 Zillow before this meeting this evening and there's a home currently for sale
33 that abuts their backyard, abuts a development, an apartment complex
34 that's on the market right now for almost half a million dollars, in Sonoma
35 Ranch, off of Sonoma Ranch, in between Sonoma Ranch and Roadrunner
36 Parkway. That same house, I just looked briefly at the houses for sale
37 around where this project is, there's some that are a little bit more
38 expensive, there's some that a little cheaper. So the idea that building this
39 apartment complex is going to cause your property values to plummet just
40 isn't born by the data.

41
42 Finally, two final points I'll make. One, kind of thinking about change.
43 Communities change, they grow, they shrink. This community wasn't the
44 same community it was 50 years ago. It's not going to be the same
45 community it is now in 50 years. Things change. At one point where you
46 all are living was in the desert. Someone decided to come in, zone it R-1a

1 and subdivide it, make their money, you all are now products of that
2 decision. So why is it that that developer however many years ago was
3 allowed to do it and this developer is not?
4

5 MANY AUDIENCE MEMBERS SHOUTING OUT.
6

7 Kaiser: I'll also I guess add just my general perspective, and I know there's going
8 to be many people that disagree with me in this room. But Commissioner
9 Smith, you alluded to this idea of facilitating community, respecting
10 community. And that's all absolutely true. But I also don't subscribe to this
11 idea that the people here and now are the only ones that have input into
12 what happens in this community. That there's people who are not yet here
13 that we also have to consider. People will continue to move here. People
14 want to live here. I think Forbes just identified Las Cruces as a top City to
15 retire. Where are these people going to live? They have to live somewhere.
16 We need to provide options for people to live. And so ,...
17

18 MANY AUDIENCE MEMBERS SHOUTING OUT.
19

20 Kaiser: I will end my thoughts there. I'm certainly open to other compromises if
21 there's other alternatives to get to a decision tonight, I'm certainly open to
22 discussing that.
23

24 Smith: I have just two comments and one question for you, sir. First comment. I
25 lived in New York City for eight years. And just last year, last November, I
26 spent a week there. And I was staying in Chinatown. I walked everywhere,
27 other than riding the subway. And while I was there during the week you
28 know there were families taking their kids to school. And they were walking
29 them to school. And this is New York City in Chinatown. I don't know if
30 you've spent any time in Chinatown. It's pretty congested.
31

32 Aswad: I know.
33

34 Smith: And so that comment about living in Chicago, living in New York City is not
35 really germane to this project in this area. Because as much traffic as you
36 have in New York City, it's still a walkable City.
37

38 Aswad: In some areas. I mean ...
39

40 Smith: Yes, but yes if you live out, if you live out in another borough or if you live
41 outside you know in Long Island and you know Nassau County you're
42 driving. But as far as being in a community, there should still be the ability
43 for families and children to walk safely. And you know as my earlier
44 comments, you know I'm putting myself in a position of being a resident,
45 and even being a resident of that community.
46

1 Aswad: Sure.

2
3 Smith: And so you know I understand that as Commissioner Kaiser stated, you
4 know there is a need for housing, and there are people coming, and they
5 will continue to come. As my neighborhood has changed. You know I live
6 in a neighborhood that I mean houses have been there for a 100 years.
7 And it's still changing. And so that's the one comment I made about
8 *(inaudible)*.

9
10 And then as far as property values go, that was a very minor, very minor
11 issue with the people who came up and spoke. You know we can't really
12 determine exactly what property values are going to do, as Commissioner
13 Kaiser said, and he did a little research and he found that it has a very small
14 if any effect on property values. But the one thing that kept coming up and
15 I'm sure that there's a little concern about property values, but mostly
16 concern was about traffic and safety, about people, about children. And so
17 that seems to be the heart of this whole issue. And change does happen.
18 And this area will continue to grow all around. But I just, to have that type
19 of development, that type of density right in that area, it makes it difficult to
20 make that decision to go from R-1 to R-4. So I just wanted you to have an
21 understanding how I as one Commissioner sees this. You know it's like, it's
22 not an easy decision to be made. We're all going to sit here and make a
23 determination. But you know it's like I understand what you're trying to do.
24 But the negative impact is what's making this a difficult proposition at this
25 point.

26
27 Aswad: Can I respond to this? I mean we have to think is this for best public interest
28 or not. I mean this is what the, this is my point. I know I mean, the lot of
29 neighbors here, but there's a silent majority that they are still not here. So
30 I think I ...

31
32 MANY AUDIENCE MEMBERS SHOUTING OUT.

33
34 Kaiser: Excuse me. Excuse me. Excuse me. Please let him speak.

35
36 Aswad: I think for best public interest to have more affordable housing in the area.
37 So if you are like low income or middle income person, who should then get
38 out of the City in order to get housing, this is my point. So this is going to
39 be like mixed neighborhood. And you will have access to affordable
40 housing for low and middle income families.

41
42 Kaiser: So Commissioner Smith, just to address one point that you brought up. So
43 if we allow this to stay R-1a and Mr. Banegas please correct me if I'm wrong,
44 but it will be about eight dwelling units per acre maximum. So we're still
45 looking at what is that, 30 units. So is a real case saying that we're
46 comfortable putting 30 units at danger of our you know poor traffic situation

1 that we have, but we're not okay with 96? I'm just trying to understand.
2 We're fine with 30, but not 96. That's, it's really just the number. What is
3 the issue with that in particular?
4

5 Smith: It's not so much the you know the number. The number definitely has you
6 know an impact on how, as you stated you know it is unsafe. That road
7 was, Roadrunner was designed for car traffic. And it will continue to be that
8 way until, as you stated, the City makes some substantial changes in how
9 they design and develop roadways for both vehicular and also for
10 pedestrian and bicycle use. And I feel like we are taking a bad situation,
11 and we're about to make it better, I mean worse, excuse me worse. And it's
12 not about you know whether it goes from 30 to 96 or more. And that also
13 triggers a question that I have for Mr. Banegas, if this does go to, from R-1
14 to R-4 and the developer has said he only plans on building 96. Is he limited
15 to that? Can that change? Can he build more? If he decides to change his
16 plan, once he gets the approval, is there anything stopping him from building
17 more?
18

19 Banegas: Mr. Chairman, Commissioner Smith. In my presentation I had identified the
20 19.2 dwelling units per acre specified on the conceptual site plan. But in
21 the presentation also stated that we really need to nail that down. The R-4
22 district requires a minimum of 10 dwelling units per acre and a maximum as
23 defined by the applicant or developer. What I've stated is, is they have
24 suggested 19.2, but I think as part of the motion, as part of any condition,
25 that has to be identified and specified so that that can go forward as a
26 restriction.
27

28 Smith: All right. Thank you.
29

30 Murray: I'd just like to say that again this is a recommendation to the City Council
31 and they're going to make the final decision on whether this goes forward
32 or not. I'd just like to give my thoughts if we were to amend what City staff
33 has recommended to us. And this is not in order of how the presentation
34 has gone. And this is more in order of our packets so that the
35 Commissioners can follow through. Based on the proposed conditions, I
36 would consider reasonable an R-2C, receiving the conditional for number
37 one, of course follow number two which does not allow mobile home parks
38 or mobile home use as this is a single-family area. Skipping down to five, I
39 would think that 19.2 dwelling units per acre as excessive. Whereas 16 still
40 is excessive to me. And kind of looking at case studies of other areas in the
41 Sonoma East, Sonoma West area, if you look up 2035 El Prasido Drive this
42 is a 2.64 acre site also zoned R-3 and they did 32 units more or less that is
43 divided into five different buildings. So kind of just comparing and
44 contrasting there how that in that specific area would be different here. It's
45 like if we move the site we're probably going to get all the pushback once
46 again. So I would recommend 12 units per acre, which comes out to a

1 maximum of 60 if you multiply it by five, doing simple math. Number eight,
2 I would like to add which I would think is reflective of R-1a zoning and much
3 of the other zoning too, where it's a maximum height of two stories which in
4 R-1a, and correct me if I'm wrong City staff, is 35 feet. And then I do think
5 apartment buildings, if you have roommates and you have two bedrooms,
6 those two people are going to have their own cars, because that's how we
7 have decided to get from point A to point B. So I think for the two to three
8 bedroom units, I think it needs to be two spots per unit for those. Whereas
9 a one bedroom unit give or take 1.5 as given in the recommendation and in
10 City zoning code. So those are my thoughts. I think what's presented here
11 originally is too excessive and what is presented from City staff is also too
12 excessive for this specific location.
13

14 Kaiser: Just to clarify, you're adding two conditions. So one would be max two
15 stories. And then number nine is one and a half spaces for one bedroom,
16 and two spaces for two to three bedroom. Okay.
17

18 So I would be in support of something like that. My only concern with the
19 max two stories is with site conditions do we sort of kneecap the developers
20 ability to meet that maximum dwelling unit per acre just because we don't,
21 we haven't done the exercise right here to say that they could get that
22 number of units with two stories, if that makes sense.
23

24 So I'm just saying I think we should scratch the max two stories and just
25 have the 35 foot because if we put that condition on them and the site design
26 standards constrain what they can do and they can't go up, we kind of
27 kneecap the developer unintentionally. Since we haven't really looked at
28 the site design standards.
29

30 Murray: I personally would just cap that too, because if you're looking at Sonoma,
31 West and Sonoma, East every single apartment building is going to be
32 capped at two. The only apartment buildings I see that are three stories are
33 going to be at the university or elsewhere. So I think for the neighborhood
34 characteristics, I think capping at two make sense.
35

36 Banegas: Mr. Chairman. Just a point of information. In terms of some of the
37 conditions that staff had presented. The reason why we didn't go to a story
38 cap is the R-1a neighborhood could build to 35 feet. Very similar fashion to
39 what you're proposing Commissioner Murray. The allowance in terms of
40 stories is whatever the 35 foot can bear in the current R-1a area. So even
41 if someone has a one story home, they could submit a permit tomorrow and
42 seek to maximize the number of stories for their unit. And if that's three or
43 two and a half, you know a loft or something like that, so be it. They would
44 be allowed to do so. And so in similar fashion staff's thought was allow this
45 one to be the same. Apples for apples sort of thing.
46

1 Kaiser: And if, you're agree/disagree, you want to keep that conditioning in. Go from
2 here.
3
4 Murray: I guess I'm fine with three stories.
5
6 MANY AUDIENCE MEMBERS SHOUTING OUT.
7
8 Murray: But I mean it's the same thing as 35 feet. Because What's to say builds to
9 15 foot stories. So I don't know.
10
11 Weir: Mr. Chairman. point of order for staff. stories don't have a set number of
12 feet for that, it's how they design it. So from an administrative standpoint, a
13 maximum height is just easier for review of the building permit and issuance
14 of it. And I think that's one of the reasons the staff recommendation was at
15 35 feet, that's the height that's allowed in the R-1 districts that's adjacent to
16 it so that they won't go any higher than the adjacent properties and their
17 zoning.
18
19 Kaiser: So would you be okay leaving it at all one max height 35 feet.
20
21 Murray: I'd like to hear other Commissioners comments. But just looking and
22 thinking of single-family stories, say this doesn't go through if you still can
23 build or whoever purchased it, 40 single-family homes based on density, if
24 it's eight units per acre, correct. And personally here neighborhood
25 characteristics, I've never seen a three story single-family home. So I would
26 limit his ability to just keep it to two stories, that does not exceed 35 feet
27 overall. If that makes sense.
28
29 Kaiser: Yes. There are three story duplexes in Sonoma Ranch. We looked at one.
30 So it is possible. They do exist.
31
32 Banegas: And Point of information, Mr. Chairman, Commissioners. Just to clarify.
33 The eight dwelling units per acre going back to the R-1a density cap. That
34 is considered in the R-1a zone just so that we're all on equal playing here.
35 The R-1a allows one dwelling per lot. The reason why it speaks to an eight
36 dwelling unit per acre density is when a developer develops, for instance
37 five acres, 10 acres, what have you, and they are subdividing lots out to
38 create a single-family environment, we look at the perimeter of that lot as
39 part of the density calculation. So that's where the eight comes in. But
40 admittedly only one dwelling per lot is allowed. So I hope that helps clarify
41 the eight compared to the other densities.
42
43 Kaiser: Is there any other thoughts to the height? I think we need to go one way or
44 another to make a motion here. So do we want to keep it at 35 feet, which
45 is R-1a or cap it at two stories. Or we could just omit the condition, in which
46 case it just defaults to whatever the R-2 to which is 35 feet, correct.

1
2 Banegas: Correct.

3
4 Kaiser: I mean I think from a design perspective I think it gives them the maximum
5 flexibility to work within the framework. I think if we, my opinion is that
6 without looking at the site and doing an exercise, a charrette on it, given the
7 topography on it, it might be hard or might be more expensive to move the
8 amount of dirt that you need to be able to keep everything at two stories, in
9 which case we're just driving up the entire cost of the project which is going
10 to translate to the cost of the houses.

11
12 MANY AUDIENCE MEMBERS SHOUTING OUT.

13
14 Smith: Just for clarification. If we keep it at 35 feet, that would zone it at R-2.

15
16 Banegas: Mr. Chairman, Commissioner Smith. Thirty-five feet is the maximum height
17 allowed for the R-1a, R-2, R-3 districts. They're all 35. It jumps to 60 when
18 you get to the R-4.

19
20 Smith: All right. Thank you.

21
22 Murray: I guess just to simplify the 35 feet, because if you look at the townhouses
23 that are three stories, that third floor could be a rooftop deck more or less.
24 So I think it makes sense. And we just omit that because it's going to be R-
25 2 35 feet altogether.

26
27 Kaiser: Okay, so we'll scratch number eight. And then just go through it so we're
28 all on the same page and look for a motion to approve. We're going to
29 approve; we're going to make a motion to approve with the conditions.
30 Number one, that this is R-2C. The max density allowed will be 12 dwelling
31 units per acre, which would be a maximum of 60. And then all other
32 conditions remain and we'll add an eighth one which is the one and a half
33 spaces for one bedroom, and two spaces for two to three bedroom
34 apartments. So looking for a motion to approve with those conditions.

35
36 Murray: So I've said this once before and I'll say it again, but our decision here
37 whatever it's approve or deny, is a recommendation to the City Council. So
38 your voice has not stopped here. We're kind of limiting what the original
39 plan is from what City staff is, to making it something that's more
40 manageable for everybody involved. So in a month or so, the City Council
41 will hear this case, get the same presentation from staff, and your voice can
42 still be heard at that meeting. So I want to make that clear that this is not
43 final.

44
45 So with that I make a motion to approve with conditions item 8.1 with all
46 conditions that City staff have recommended with amendments to number

1 one, making it R-2C, number five limit 12 dwelling units per acre of 60 max
2 units, and adding a condition number eight, which says 1.5 parking spaces
3 per one bedroom units, whereas two and three bedrooms will require two
4 parking spaces per unit.
5
6 Kaiser: I'll second.
7
8 Banegas: Mr. Chairman. Just point of order. If you could just reiterate that on the
9 vote, findings or your position clearly stated would be very helpful.
10
11 Baum: Board Member Acosta.
12
13 Acosta: I vote yes to approve with conditions based on staff recommendation and
14 you know Commissioner debate here.
15
16 Baum: Board Member Porter.
17
18 Porter: I vote yes with staff recommendations and the new findings that the
19 Commissioners have stated.
20
21 Baum: Board Member Smith
22
23 Smith: I vote no to deny.
24
25 MANY AUDIENCE MEMBERS SHOUTING OUT.
26
27 Kaiser: Excuse me. Excuse me. Excuse me. Please refrain so we can take a vote.
28
29 Smith: This is not a decision that I made to accommodate the residents here. I
30 mean this is a decision that I've taken a lot of care to make. As my fellow
31 Commissioners stated, this is not the end, this is going forward to City
32 Council. But my reason for denying, I still continue to feel that this project
33 even with the conditions that have been laid out, is still going to have a
34 negative safety and traffic impact on that area of Las Cruces that is
35 continuing to grow around this neighborhood. And those are one of my
36 primary reasons for my vote.
37
38 Baum: Board Member Murray.
39
40 Murray: I vote to approve based on the staff recommendations for various reasons,
41 but I believe that the 80 and 96 is too excessive. I also believe that the
42 zoning code does not have correct parking considering if you have multiple
43 cars and/or roommates that have multiple cars. Therefore adding that
44 condition to limit additional parking on neighboring streets.
45
46 Baum: Chair Kaiser.

1
2 Kaiser: Yes, based on the discussion here tonight, specifically around the need for
3 additional housing and a mix of housing type in this City, and housing that
4 is located to give residents of all family units, shapes, and sizes the
5 opportunity to walk to services. So that is my vote this evening.
6

7 Baum: Motion passes.
8

9 **9. NEW BUSINESS**

10
11 **9.1 Case 24VO0500047:** A request to approve a variance of $\pm$ 23 feet to the required
12 25-foot front yard setback required for carports/garages in the R-1a (Single-
13 Family Medium Density) zoning district. The property is located at 4861 Garnet
14 Street and is $\pm$ 0.160 acres in size. Submitted by Harold Pozas, property owner.
15 Council District 5.
16

17 Kaiser: All right. We are moving on to new business this evening. Item number 9.1
18 is next on the agenda. For those of you who will be traveling home, safe
19 travels. Thank you for participating tonight. So staff we'll turn it over to you
20 for 9.1, a request to approve a variance of 23 feet in the front yard setback
21 on Garnet Street.
22

23 Banegas: Mr. Chairman, Commissioners. Vincent Banegas, interim planner for the
24 record presenting the second case here, first on new business, for a
25 variance request at 4861 Garnett Street. It is case 24VO0500047. It
26 involves property that is currently developed as a single-family lot. It is plus
27 or minus 0.16 acres in size. The property is zoned R-1a, which is single-
28 family medium density residential. And the house that sits on the property
29 was developed in 1987 according to assessor records. And there is
30 currently a metal carport that as identified by the applicant was constructed
31 in March of 2022 without a permit. The placement of the structure is plus
32 or minus two feet, some of the pictures would illustrate a little less distance
33 than two feet, but I'm going to say plus or minus two feet from the property
34 line. A significant portion, probably shy of 50% of the structure sits within a
35 12 foot utilities easement that exists along the front property line. With the
36 encroachment of the structure in that easement there is no existing
37 encroachment agreement that has been secured for that structure.
38

39 The zoning map is identified above. The property in question outlined in
40 this teal color hatched in red. You have Garnet Street here, you have
41 Emerald Street to the east, and Jade down here and Beryl, I believe it's
42 Beryl Street to the west. And so it sits in an area of Las Colinas. One of
43 the original areas actually that is zoned R-1a. The rest of Las Colinas
44 became a PUD, planned unit development, and was developed in
45 accordance with those guidelines. But this area in yellow follows the R-1a
46 standards.

1
2 You have some medium density residential zoning down below in the R-2
3 zone, and then you also have some R-3 further southeast. The property is
4 outlined again in teal on this aerial map. You can see that the surrounding
5 properties are largely entirely developed, at least in this photo shot. You
6 begin to see a little bit of the carport in question which I'll have photos that
7 show that more clearly.
8

9 So the request that came in is plus or minus 23 feet variance to the required
10 25 foot front yard setback for carports and garages in the R-1a zone. The
11 applicant justification for the variance request, as you can recall justification
12 is required to be based on hardships, there's three that are illustrated in the
13 code. And in this instance the applicant didn't specifically address or
14 demonstrate any hardship per the code, but does refer to some recent
15 medical related issues and hence medical bills and as a concern and the
16 use of the carport at present for some of the daughter's therapy. Physical
17 therapy, I would assume. The applicant states that he was aware of the
18 need for a permit and discussed the matter with the contractor who was
19 erecting the structure. He later learned that a permit was not secured. And
20 when he attempted to follow up to correct the situation, he was not
21 successful in doing so. Apparently the contractor that had put it up, if I recall
22 correctly, was either out of business or moved on. So it was difficult to get
23 resolution to that matter.
24

25 This is a site plan aerial combination here that was submitted by the
26 applicant. The primary structure, the single-family home is here. And you
27 see the carport in question here. This is that easement that I referred to,
28 the 12 foot utility easement. So you can see just shy of 50% sits within that
29 easement. And certainly looks like it's a little shy of two feet. But
30 nonetheless, the plus or minus perspective on the advertisement covers us
31 in terms of the variance request. And it is this structure that is in question.
32

33 A couple of photos or few photos that illustrate the existing carport. It's this
34 unit here, sits in the front driveway. From an angle shot you can kind of see
35 it poking well beyond the house. It's all metal. And it again has existed
36 since 2022. It's got a colored roof, it's not all just the shiny metallic, the
37 supports are but the roof at least has some color to it to help it I would
38 assume blend in with some of the portions of the home that are painted
39 dark. This shot here is looking at it east, as well as this one head on shot.
40

41 And notice was sent for this case pursuant to code. Staff received one
42 phone call regarding this case and it was inquiry only. They weren't sure
43 what it involved and so we discussed that and they didn't give any indication
44 whether they're in favor or opposed to the structure. Staff recommendation
45 and findings as it relates to this is a recommendation of denial. The findings
46 are that a garage carport is required to meet a minimum of 25 foot front yard

1 setback in the R-1a zone. The request does not appear to meet the criteria
2 for decisions, and that section specifically talks about specific hardships.
3 Again, it was not specifically stated which hardship they we're applying.
4 Staff is just assuming that it's a monetary hardship, one of the three that's
5 addressed. The carport itself was constructed without a permit. The carport
6 significantly encroaches into the 12 foot utilities easement and no
7 encroachment agreement has been received or submitted for. And then
8 accessory structures in that it is not attached to the house. Accessory
9 structures are not allowed in the front setback. And the reason why I have
10 attached and detached, if the structure is attached it's certainly able to be
11 heard by this body as a variance of setback as part of the primary structure.
12 If it is detached, it is flat out not allowed. So some of the conditions that I
13 will speak to as an option speak to requiring the structure to be physically
14 attached to the house. And towards that end, if the Commission feels that
15 approval could be warranted, staff has provided this slide that gives you an
16 opportunity for an alternate consideration on this issue. And that is to
17 conditionally approve the request. Monetary considerations are allowed to
18 be considered as a hardship. And in this case, staff considers the cost of
19 removal of the structure to further increase some monetary hardships that
20 have been recently placed on the family through the medical condition or
21 situation of the daughter. The structure does blend to some degree, small
22 degree, the roofline, for example, is pitched similar to the primary house.
23 And the structure is not enclosed. Usually, when we start seeing enclosed
24 structure that has more of an impact, visual impact from the roadway. And
25 in this case, it is not. And that could be a consideration or condition placed.
26 The carport is to be attached to the house, if you do see that approval is
27 warranted. A building permit should be secured even after the fact. There
28 may be additional fees associated with that permit. But nonetheless we
29 would be interested in ensuring that proper placement, at least proper
30 securing of the structure to the ground, the concrete, etc exists. And that
31 construction met some standard pursuant to building code. And
32 encroachment agreement will have to be secured and that is through our
33 City of Las Cruces land management. So those bullet points are conditions
34 that could be considered if you feel that conditional approval is warranted.

35
36 And your options this evening is to vote "yes." This would deny the request
37 pursuant to staff's recommendation. If you vote "no," you would be
38 approving the request, in which case you'll have to come up with findings of
39 fact that support your decision contrary to those presented by staff. You
40 could certainly use some or all of the conditions as the alternative
41 consideration slide showed which I'll pop back up. And vote with conditions,
42 same thing, and vote to table. And that concludes staff's presentation, Mr.
43 Chairman. The applicant, Mr. Pozas, is here. Hope I pronounced that
44 correctly. And he would be more than willing to speak on this issue or
45 answer any questions you may have. And that concludes staff's
46 presentation.

1
2 Kaiser: Thank you. And does the applicant wish to speak this evening? Yes, sir.
3 Please come forward. Please state your name for the record.

4
5 Pozas: Good evening. I'm Harold Pozas.
6

7 Kaiser: And do you swear or affirm that the testimony you're about to give is the
8 truth and nothing but the truth under penalty of law?
9

10 Pozas: I do.
11

12 Kaiser: Go ahead.
13

14 Pozas: So again it was built in 2022. Before it was built, before I gave the go signal
15 to the contractor I specifically asked him to make sure if it needs permit. I
16 was not aware it needs permit but I specifically asked the contractor that
17 this permit, I want the permit to be done, because I don't want any problems
18 in the future. Because it's a costly construction. So and it was my first time
19 building something like that. And it was my bad that I didn't confirm that it
20 was submitted like the permit itself. So I gave the go signal. He provided
21 me with a blueprint thinking that was a permit. So I gave the go signal. So
22 initially we built this for community engagement for family gatherings as well
23 to give additional shades. As you can see in the pictures there is no, without
24 the carport, so it's hot in Las Cruces in in New Mexico. So that was the
25 initial reasoning for that carport. However, this changed last year towards
26 the end of the year since my daughter was diagnosed with a rare condition
27 which is dermatomyositis which targets the skin and the muscles. She's 15.
28 And the other one is a juvenile rheumatoid arthritis. So every now and then
29 we have go to doctor's appointments and everything. But the
30 dermatomyositis is affecting her skin. So just a little bit of sun exposure to
31 sun, she's like a vampire. So whenever she goes out to go to doctor's
32 appointment, we did that shade. That's helping her big time. So it was,
33 originally from we want this carport, now we need it. So that's our situation
34 right now. It's more of my daughter. Again the hardship is there. We have
35 to pay a lot of bills. Last year, from June to December, we had to bring her
36 to the ER at least three times. But from June to October, through
37 December, they were under Medicaid for the longest time, my three kids.
38 Because of COVID it was extended, extended. And then come June of last
39 year was it was discontinued. So and then in October when we found out
40 about my daughter, so we had to bring her to the ER and medical bills are
41 piling up because of that. So that's number one as well. But the most
42 important one is my daughter needs it because whenever she goes out of
43 our house that is helping her.
44

45 Kaiser: Thank you.
46

1 Pozas; Thank you.

2
3 Kaiser: Any questions or comments from the Commission?

4
5 Smith: I'm not sure if I have a comment, or a question. But we've had a number of
6 these cases come before us. And it always comes back to the lack of
7 permit, of course. And you know we've had a number of companies that
8 have come in and you know and built these structures. And it really puts a
9 burden on this Commission because it's obvious that a permit is required,
10 these structures get built. And we end up you know denying a variance
11 because it just, there needs to be a communication between the
12 homeowner and the contractor and the City to make sure that this is done.
13 And I'm not quite sure how that can change. And you know so I'm very
14 sensitive to you know your daughter's condition. And, but I just want you to
15 know that each time one of these cases come before us you know it's
16 generally the same scenario. And so we have to make a decision based on
17 you know the violation of the code. And I just wish that, it seems like there
18 should be a solution. And I don't know if it's a simple solution or not, to
19 make sure that you know any residence that wants to have any type of
20 shade structure or shelter constructed has knowledge and understanding.
21 I know the onus is on you, as you stated it was your bad that you didn't
22 follow up. It happens. And but I just feel like that there needs to be, I guess
23 I'm making a comment not a question. But I just feel like there has to be
24 some type of process where the residents, the homeowner knows, number
25 one that it is required, and number two that it's, there needs to be a follow
26 up and have it in hand before they even you know break dirt or break
27 concrete. And I don't know if there's something that the City or staff codes
28 is looking into some way from campaign, some way of like if you want a
29 structure build, this is what you have to do. I'm sure there's something on
30 a website. I'm sure it's all there. So I just wonder if there's something that
31 can be done or is being done. This is a very common situation that occurs.

32
33 Banegas: Mr. Chairman, Commissioner Smith. Just a couple of statements to that
34 point. City staff has in some of the meetings that we've held, we hold a
35 planning review team meeting every week just about. And this issue has
36 come up as to how we can allow carports or garages to encroach not into
37 easements but encroach into the setback. And one of the thoughts we
38 came up with, we haven't followed through with it yet, but one of the
39 thoughts was to specify in code that certain elements, architectural style,
40 that kind of thing be incorporated into the design of these carports/garage.
41 so that it is more integral to the primary structure, it blends better, it's easier
42 for the neighbors to accept that kind of thing. Metal structures are still kind
43 of a bone of contention with some staff. And so we're looking into how we
44 can codify rules and regulations that would allow it. And to avoid going
45 through unnecessary approvals, that kind of thing.

46

1 We haven't looked at specifically any campaign to discuss the need for
2 permits with some of these companies that sell these structures. I will say
3 that several of them, those that sell sheds and those that sell these type of
4 structures are well aware of the need for a permit. I think unfortunately, the
5 campaign would have to target property owners because you're right,
6 ultimately it's the property owner that bears the brunt. But the folks that sell
7 these structures are often very much aware of the need for a permit. I think
8 they try to sell them, get them erected, and move on before you know the
9 issue comes up in terms of addressing applicable provisions for their
10 construction. Oftentimes, staff will get calls and they're very vague as to
11 location, and so on and so forth. And they're just after generalities. And
12 these are for companies. So you give them the information and you tell
13 them whether a permit is needed or not. And they'll get back to us. And
14 then sometimes we find out, yes there's a problem, codes will alert us for
15 instance and ask was a permit pulled etc. And so that's when we find out
16 there's this type of situation going on. But I could certainly take back the
17 issue to our planning review team. We do have Larry and David here;
18 they're hearing the message. And maybe we can launch a campaign for
19 better you know getting the word out to property owners to be aware that
20 permits are needed in certain instances.

21
22 Smith: Yes, just as stated in previous you know proposals or requests have come
23 before us. You know Las Cruces is getting hotter, sooner, longer. And this
24 is not going to be you know a situation that's going to slow down anytime
25 soon, especially if you know a neighbor within that neighborhood sees that
26 there's a structure up and they're like, well you know, that's something that
27 we should be doing too. And so it's just going to possibly exacerbate the
28 problem.

29
30 Banegas: And a point of information, Mr. Chairman, Commissioner Smith. The
31 variances by their very nature are case by case. Doesn't necessarily set a
32 precedent depending on the information provided, the circumstances, that
33 kind of thing. You certainly base your findings and your vote on the
34 information that you hear.

35
36 Kaiser: All right. Commissioner Acosta, did you have something you wanted to
37 say?

38
39 Acosta: Yes, for the applicant I just wanted to clarify the dermatitis condition that
40 was being referenced. And then I have a follow up question after that.

41
42 Pozas: So as far as dermatomyositis is a rare condition. Her antibodies is high, so
43 it's targeting those antibodies is kind of it should be the, if the person is sick
44 those antibodies will attack the virus or anything like that. So on her case,
45 it was her skin and the muscles are being targeted. So right now she
46 couldn't even walk, she couldn't and even stand up on her own. But prior

1 to that she was very active. She was part of the school volleyball team in
2 her school, but now she couldn't even stand up on their own. We be have
3 to carry her from sitting down position. We have to walk with her. She
4 couldn't even walk by herself.

5
6 Acosta: And forgive me this question feels you know a little misled. But what do you
7 do when you park everywhere else in town. When you take her to doctor's
8 appointments and everything like that, because we don't really have a lot of
9 shade coverage anywhere else.

10
11 Pozas: Right. So right now we are on the process of, it's kind of hard, because we
12 always park at the handicap parking without the proper what do call this
13 documentation. But we're in the process of doing that as well. But I park
14 like the nearest handicap parking just to offload my daughter. And after that
15 I'll go ahead and move my car to another spot. So that's what's going on
16 right now whenever we bring her to the doctor.

17
18 Acosta: Which inherently she is exposed to the sun at those points right.

19
20 Pozas: At those points, yes.

21
22 Ads Thank you.

23
24 Murray: I have one quick comment. If we were to approve this with conditions, I
25 would just recommend that we add to be removed when the property is sold
26 to another individual. So it's not grandfathered in, if that makes sense.

27
28 Kaiser: I'll have to refer to staff for point of order on that one.

29
30 Banegas: Mr. Chairman, Commissioner Murray. The variance runs with the land. I
31 guess you could specify that. I know we've required you know no enclosure
32 of carports. That kind of thing. And especially in the back patios, that kind
33 of thing. And it's hard to enforce. So I think if the applicant is willing to
34 accept that I would think that could be placed.

35
36 Kaiser: So both before we get there, is, part of the problem is there's the 12 foot
37 utility easement, right.

38
39 Banegas: Yes.

40
41 Kaiser: So if the utility needed to come in and do work, it's my understanding that
42 they have every right to rip up the carport and they're not responsible for
43 replacing it, correct.

44
45 Banegas: That's correct, Mr. Chairman. If approval is granted, even with the
46 conditions, they're still on the hook to get an encroachment agreement.

1 That'll be through the land management office here with the City. But you're
2 right, part of the encroachment agreement will specify that should work ever
3 need to occur within that easement, if they need to you know cut through
4 that carport, they'll do so and it'll be the property owners responsibility to
5 repair, replace whatever.
6

7 Kaiser: So I mean I'm comfortable adding, If staff thinks that that is a legit condition
8 of upon sale it needs to be removed. I'm comfortable adding that. I think
9 for me the unfortunate part is the utility easement kind of complicates things.
10 We could approve this. You could go try to get the approval from the utility
11 and they have every right to refuse your request. That being said, I mean
12 you know it is a little silly that you have a public right-of-way and then you
13 get an additional 12 foot easement on your front yard. I don't know why we
14 can't just put things under the street, which is a logical place for them.
15 Because if there wasn't a utility easement, I think it would be easier for us
16 perhaps to make an exception here. But you know that being said that there
17 are rules, like you said, you made a mistake. We all do. I completely
18 understand it. I certainly feel for your daughter, your family. You have a
19 garage. I don't know how that plays into if you can get a car in there you
20 know to get her in and out. That certainly seems to be an option for you.
21 So it's tough. I mean we've seen these, like Commissioners Smith said, a
22 number of times. It's not easy. It's just kind of is what it is, I guess.
23

24 To the point about education. I think to any extent that, especially since
25 we've seen a volume of these things, I think we always can be looking at
26 how we can get the word out. I think I actually saw something in the Bulletin
27 I want to say, after the last kind of round that we have in these that was like
28 reminder. So I don't know if that was intentional or not, but I think there was
29 some effort there. Certainly, I think if we can look around other examples,
30 especially desert communities where maybe we can find a better permanent
31 solution for this. I'm always a fan of planting trees. But I know you gotta
32 wait a while before you reap the benefits. But they're you know that's just
33 kind of where we are. So if there's any other comments or questions I think
34 we're looking for a motion to approve and it is an affirmative for the motion.
35

36 Smith: Real quick. I know it's been a long night. And taking a lot of air out of the
37 room here. Just a quick question. Is there any way that that carport could
38 be modified? I'm looking at it's basically what 27 feet is the length of that
39 carport or is that just the distance from the house to the sidewalk? And
40 maybe I think I'm looking at that incorrectly. How long is the carport?
41

42 Banegas: Approximately 20 feet is what I'm hearing from the applicant. But significant
43 portion, because this is the encroachment part, the ...
44

45 Smith: Okay.
46

Agenda Item #10.1.

1 Banegas: Yes.
2
3 Smith: Yes, so it would be unreasonable to, even if it's basically half the length just
4 enough shade for them to access the vehicle, it still would not be possible
5 to do that.
6
7 Banegas: Correct.
8
9 Smith: Okay. All right. Thank you.
10
11 Kaiser: Okay looking for a motion to approve.
12
13 Porter: I motion to approve.
14
15 Smith: I second.
16
17 Baum: Board Member Acosta.
18
19 Acosta: I vote to deny just based on looking at the site and the situation.
20
21 Baum: Board Member Porter.
22
23 Porter: I vote to deny based on staff recommendations.
24
25 Baum: Board Member Smith.
26
27 Smith: I vote yes with conditions. And the condition would be that ...
28
29 Kaiser: Sorry. Commissioner Smith. There were no conditions on the motion.
30
31 Smith: I thought they were in the presentation.
32
33 Banegas: Mr. Chairman, Commissioner Smith. The motion did not include any
34 conditions.
35
36 Smith: Okay, my apologies. Based on that, I deny.
37
38 Baum: Board Member Murray.
39
40 Murray: I vote to deny based on staff recommendation.
41
42 Baum: Chair Kaiser.
43
44 Kaiser: No, based on staff recommendation.
45
46 Baum: Motion fails.

1
2 Kaiser: All right. Thank you for coming out, sir.

3
4 Murray: Can I make a motion to suspend the rules of order to include 9.3, 9.4, and
5 9.5 to be heard together?
6

7 Kaiser: We've got 9.2 to go first. I know we all want to go home, but we're not quite
8 there. So with that we'll, but I guess briefly does anyone need a bio break?
9 Because we could pause for that. Do we need make a motion for that?
10 Okay. I'll make a motion to recess and return at 9:12. Is that enough time?
11 Okay. We're going to need a second that and vote.
12

13 Murray: I second.

14
15 Kaiser: Okay, so recess, 9:12. Be fast.
16

17 RECESS OF APPROXIMATELY 10 MINUTES.
18

19 Kaiser: We will call this meeting back to, I don't know non-recess.
20

21 Ochoa: Order.
22

23 Kaiser: Order. There you go.
24

25 **9.2 Case 23ZO0500027:** A request to approve a zone change from R-1a (Single-
26 Family Medium Density) to C-3 (Commercial High Intensity) for 5.00 + acres and
27 OS-R (Open Space-Recreation) for the remaining 43.75 + acres of a parcel located
28 at 2040, 2045, 2060 & 2065 E. Madrid Avenue. The proposed zone change aligns
29 with the Apodaca Blueprint. Submitted by Souder, Miller & Associates,
30 Representative. Council District 1.
31

32 Kaiser: Item 9.2, a request a zone change from R-1a to C-3 and open space on
33 Madrid Avenue.
34

35 Ochoa: Next zone change you have before you is for property located at 2040,
36 2045, 2060, and 2065 East Madrid Avenue. You all may be familiar with it.
37 But I'll just go through my presentation. Subject property is located on the
38 west side of Triviz Drive, directly north and south of East Madrid, that
39 intersection there. It is currently vacant or undeveloped, but it was
40 previously used for the City's stormwater levee system that we had a while
41 ago. Property encompasses roughly 48.75 acres in size and is currently
42 zoned R-1a single-family medium density. It does have frontage along a
43 minor arterial roadway which is what Triviz Drive is designated as. And a
44 major collector roadway which is East Madrid Avenue. And this area is
45 actually part of what is the Apodaca Blueprint Policy Plan.
46

1 Showing the zoning here, as you can see highlighted in yellow R-1a nothing
2 but R-1a surrounding this property. Interstate here to the east. Showing
3 here the actual vacant property. Again nothing but single-family to the west
4 and the interstate to the east. The applicant is seeking to rezone for roughly
5 about five acres of that property for C-3 commercial high intensity zoning
6 and the remaining 43.75 acres will be rezoned to what is OSR, open space
7 recreational. The C-3 areas are for future commercial development. They
8 will have to follow the Apodaca Blueprint Policy Plan which did actually want
9 this type of zoning in that area to have kind of a supportive commercial
10 zoning for that area. And the OSR areas will be for a park and other City
11 facilities. Staff did talk to Parks and Recreation, they are looking at doing
12 a, trying to keep it as natural as they can, removing some invasive species
13 that are there as well, of plants. But mostly keeping it as natural as they
14 can, some minor pocket parks here and there and trail system within that
15 area.

16
17 Staff did take a look at this. There's no public safety, health, or welfare
18 issues associated by staff. And we feel that there'd be no adverse offsite
19 impacts with the proposed zone change. The proposed zoning does align
20 with the adjacent what is the suburban neighborhood place type, because
21 you already have all your single-family development, now we need some
22 commercial and some open space for that area as well to make it more of
23 a complete neighborhood if you will. It is located along a minor material and
24 major collector roadway where C-3 zoning is encouraged. And those types
25 of roads are used to utilize to have access to parks. It is also supported by
26 the Apodaca Blueprint Plan and its future development map, which is seen
27 here. As you can see, the actual Apodaca Blueprint calls up for this to be
28 relatively untouched if you would just to be used as a park facility area with
29 some trail systems. And then the commercial right at the intersection of
30 what is Madrid and Triviz, three acre parcel to the north, and a two acre
31 parcel to the south.

32
33 Showing here this is what is being proposed by the applicant. The vast
34 majority of everything staying OSR. But those two small total of five acres
35 of a C-3 zoning. Subdivision here that actually created those lots showing
36 the two different lots that will be utilized for commercial. And the larger
37 tracts, as you can see here will be utilized for that OSR zoning designation.
38 Notice was sent out to all surrounding property owners within 500 feet. Staff
39 did receive four phone calls actually in support of the proposal zone change
40 and two phone calls just getting general information. We also had a
41 gentleman come in today, again asking some questions about the zone
42 change and he was totally supportive of it and he feels that it's a great
43 connection for what the Apodaca Park will have coming all the way down
44 Madrid when City does all those improvements to the roadways in that
45 surrounding area.

1 With that staff does recommend approval for the proposed zone change
2 based on the following findings. Located along a major collector and minor
3 arterial where C-3 zoning is encouraged. Will help ensure the subject
4 property remain sensitive to the character of the existing neighborhood. I'm
5 pretty sure you all remember this last time when we had that subdivision
6 before you all, neighborhoods very conscious of what is going on in their
7 area so we feel that this would be definitely sensitive to them. Additionally,
8 the proposal zone change is supported by the Apodaca Blueprint Policy
9 Plan and the future development map. And based upon staff's analysis, we
10 believe that it does meet the intent of Elevate Las Cruces as well as the
11 2001 Zoning Code as well. With that your options are one, to vote "yes"
12 and recommend approval for the proposal and change, two vote "no" and
13 deny. If you do vote to deny, you will have to provide new findings of fact.
14 Three to vote to amend or four, table and postpone and direct staff
15 accordingly. The applicant representative is here as well. He has a
16 presentation as well. And I stand for questions.

17
18 Kaiser: Thank you.

19
20 Murray: I just a general comment. Since we got so much opposition last time, I'm
21 assuming notification was resent out, which clarified what we were trying to
22 do the previous time.

23
24 Ochoa: Mr. Chair, Commissioner Murray. Yes. So the new letters that we sent out
25 was a little more clearer as to what was being presented at this time. It
26 actually flat out said zone change for just this area for C-3 and this large
27 area to stay OSR. I think as soon as people saw 43, almost 44 acres of
28 open space, I everybody is just happy to see that that was going to remain
29 open space. There was some consideration of staff allowing for single-
30 family very minor amount of single-family. But we decided just to keep it all
31 open space considering we had that large outcry from the neighborhood.

32
33 Kaiser: Any other questions, comments from the Commission? Paul why don't you
34 give your presentation and then I'll ask my questions.

35
36 Pompeo: Yes.

37
38 Kaiser: Please state your name for the record.

39
40 Pompeo: Paul Pompeo, Souder, Miller and Associates on behalf of the City of Las
41 Cruces.

42
43 Kaiser: And do you swear or affirm that the testimony you're about to give is the
44 truth and nothing but the truth under penalty of law?

45
46 Pompeo: Yes, I do.

1
2 Kaiser: Go ahead.

3
4 Pompeo: Good evening Mr. Chairman, Commission. I have a very brief presentation,
5 then I'll stand for questions. Once again, this project is located on the Villa
6 Mora Dam property that's owned by the City of Las Cruces on Triviz Drive.
7 This property lies within the Apodaca Blueprint area, which I'll speak a little
8 bit more in a minute, and is also located on that corner of Madrid and Triviz
9 Drive. The preliminary plat of 56.51 acres was previously approved by this
10 commission. Note the difference in acreage between the 56 and the 48
11 acres that's being zoned. The 56 takes into account additional right-of-ways
12 that are created on Triviz, the creation of the Madrid right-of-way, and also
13 the creation of the Fairbanks right-of-way to west. These new right-of-ways
14 will allow for future widening of Triviz, the reconstruction of Madrid Avenue.
15 And extension Fairbanks Drive. As noted by staff, this proposal and change
16 is five acres of C-3, followed by the remainder of the property minus the
17 right-of-ways which will be left open space recreational. As noted by staff,
18 this property lies within the Apodaca Blueprint Policy Plan area that was
19 adopted by the City Council on July 2, 2018. Here's the same depiction
20 showing the land uses and the uses of the property within that area. There's
21 a blow up of the intersection showing the commercial tract and also for
22 community uses to the south. With that, that completes my presentation,
23 Mr. Chairman. And I'd stand for questions by the Commission.

24
25 Kaiser: Thank you. Believe it or not you almost answered every single one of my
26 questions in the presentation.

27
28 Pompeo: I'm getting better, Mr. Chair.

29
30 Kaiser: But just to clarify. So the applicant is the City, correct.

31
32 Pompeo: Yes, Mr. Chair.

33
34 Kaiser: The way you were referring to the applicant in third person it had me unsure.
35 And then as far as the uses go for the C-3. I mean can you talk a little bit in
36 the City's perspective of what kinds of uses you want to see here? I'm just
37 a little concerned about the C-3 being a bit too aggressive based on my
38 understanding of Apodaca Blueprint. So whoever wants to answer it, but
39 probably staff.

40
41 Ochoa: I'll give it a stab. So, Mr. Chair, the reason C-3 is being used for the property
42 is because that is the only really zoning designation we could put that would
43 allow the commercial uses that we're looking for that area. But what we're
44 looking for in the way of the Apodaca Blueprint calls out it's supposed to be
45 like supportive commercial for not only the neighborhood, but like for the
46 parks as well. So nodes or buildings with you know, you can go get some

1 ice cream and go to the park, services that will be kind of affiliated with that
2 area is what we're looking for. The Apodaca Blueprint does call out a list of
3 actual uses there but really not big box and not only that since it is City
4 owned property, that's definitely something that we would be keeping an
5 eye on, making sure it aligns with policy. But if you feel that potentially that
6 may be an issue, a condition can always be added that it says that just
7 follows the guidelines of the Apodaca Blueprint Policy Plan to make sure
8 whatever does get developed there, we make sure that we're following that
9 policy plan and what's called out for it.

10
11 Kaiser: Yes. I think that is kind of my concern is that if the City wants to you know
12 offload those parcels for development that we could end up with a developer
13 who's like, C-3 this is great, I could do my car washes, I could do my you
14 know drive through this, drive through that, my regional bank, which really,
15 to me flies in the face of what is supposed to be here like what you just
16 described. So that's kind of my concern is that the C-3 just seems like it's
17 too wide a spectrum here. And I don't know how we control that. I don't
18 want to nitpick conditions here on what specific uses because I think there
19 should be some flexibility, you know some innovation, some you know just
20 not this rigid prescription. But I'm concerned that there's just open ended
21 C-3 we could end up with something that we don't want because we can't
22 control the developer once it's out of our hands.

23
24 Ochoa: Mr. Chair. Staff is aware of that. But like I said a condition that can be
25 placed on there is to follow the guidelines of the Apodaca Blueprint, which
26 clearly states what the vision of those two lots is. So that's definitely
27 something you could add as a condition to the zoning. So it can move
28 forward with a with a C-3C shall follow the Apodaca Blueprint outlines for
29 what the C-3 properties would it be allowed to be developed for.

30
31 Weir: Mr. Chair and Commissioner. That's what you did with the Royal Crossing
32 project. When you rezoned it you put the restriction on it that it would follow
33 all the guidance that was provided in the Apodaca Blueprint.

34
35 Ochoa: Correct.

36
37 Kaiser: Okay. I guess shame on me for not having the Apodaca Blueprint in front
38 of me. But is there any way that we can maybe review that briefly just so
39 that I know what I'm talking about? You have internet connection, right, and
40 pull it up.

41
42 Ochoa: Let's see here. Some ways down, let me get to that. So there are the two
43 there. Here we go. So this is kind of showing what those two, the Villa
44 Mora Plaza and then the development reserve. So it'd be these two right
45 here, sir, is kind of explaining what the character that we're looking for. As
46 you can see it does limit the total like square footage of buildings, talks about

1 the character what it should look like. Talks about, let's see here, how
2 building should be pushed close to Madrid to make it a little more like a
3 walkable type of area if you will.
4
5 Kaiser: Okay. Yes, I mean it'd be nice if it made described the types of uses just
6 like you had stated earlier about serving trail users, the adjacent
7 neighborhood. I just really don't want a bank; I don't want a drive-thru. I
8 mean that doesn't serve any purpose as far as I'm concerned with the
9 Apodaca Blueprint. And I think ...
10
11 Ochoa: Mr. Chair. There's also the options you add on additional conditions to strike
12 those uses from the permitted uses on the property. So issues with drive-
13 thrus, issues with banks, that's removed. Not to permit those uses in the C-
14 3 zoning sir, that's another condition that could be added as well.
15
16 Kaiser: Okay. It's just hard to sit here without you know a list that I could scratch.
17 But I think if you could just repeat exactly what you said six minutes ago,
18 we're golden.
19
20 Ochoa: Like for the ...
21
22 Kaiser: I think the point is it's small retail establishments that provide immediate
23 services to the neighborhood and trail users. So restaurants, coffee shops,
24 you know small retail, a bakery, things that you just would want on your day
25 to day that you could walk across the park and get.
26
27 Ochoa: Understood.
28
29 Weir: Mr. Chairman. Just more information. Since the City does own the
30 property, we could always place deed restrictions and strike out certain uses
31 before we sell the property. Since this is a zone change, the record of this
32 meeting will be provided to City Council. And they'll be aware of the concern
33 in the neighborhood scale intended for the properties.
34
35 Kaiser: Okay. I think as long as there's a condition that we just are consistent with
36 the Apodaca Blueprint, I think we just go with that, make it simple. So we
37 can leave tonight. I don't think, so I think in order to make this happen if
38 someone wants to ... yes, almost forgot. Thank you for reminding. Well go
39 to the public. Is there anybody in the public who wishes to speak tonight?
40 Please come down. Please state your name for the record.
41
42 Heath: My name is Cynthia Heath.
43
44 Kaiser: And do you swear or affirm that the testimony you're about to give is the
45 truth and nothing but the truth under penalty of law?
46

Agenda Item #10.1.

1 Heath: I do.
2
3 Kaiser: Go ahead.
4
5 Heath: Yes, I live on Fairfax and Triviz which is right across the street from where
6 they want to do all of this. And Triviz is a two lane street that they use like
7 a racetrack. Madrid, they just extended that street from Triviz to the other
8 little street that start with A, I can't think of the name right now. It's too late.
9 All of this that he's talking about commercial, there's no room for commercial
10 there. There's property there for commercial, but there's no entrance or
11 way to get in and out with all the traffic that runs up and down. You've got
12 Telshor on the other side of the highway that they use, like a racetrack
13 whenever they can. Triviz is same way on this side of the highway. You
14 know we need to know what kind of commercial buildings are going to go in
15 that space you know to just say, we going to use it for commercial purposes,
16 just like you said, we don't want a carwash there. You know if you're going
17 to have the parks here and you're going to have commercial there, what
18 kind of commercial are you going to have there? It has to be something
19 that's going to benefit the community not something that's just going to line
20 somebody's pockets by having big business. Thank you for listening.
21
22 Kaiser: Thank you. Anybody else in the audience wishes to speak on this item? All
23 right. Hearing none. I'll come back. And just to touch on one point that she
24 just brought up. The plan is to actually improve that intersection Triviz and
25 Madrid and include an actual connection to the multiuse trail. So I think
26 we're going to see some really great things come out of this particular
27 project. Commissioner Murray.
28
29 Murray: Would it make sense to table this so that we all have enough time to review
30 every allowed use in C-3 considering its extensive versus making a quick
31 decision tonight?
32
33 Kaiser: I'll defer to staff and maybe it is an option, but I don't know what that does
34 for the process.
35
36 Weir: Mr. Chair. Public Works as a grant that they need to move forward with the
37 project. If we could pull up the municipal code we can ... I got zapped. We
38 could go through those lists of C-2 uses and if you wanted to strike those. I
39 normally would agree with your request to table, but because there is
40 funding for the improvements to Madrid, our Public Works department has
41 asked us to try to be as efficient with this proposal as possible.
42
43 Nichols: Mr. Chair. If I may.
44
45 Kaiser: Yes.
46

- 1 Nichols: Every once in a while a project comes along that giving up more time is not
2 going to improve it. We have had this property being studied and coming
3 up with proposed land use. I think now, nearly four years now and as City
4 does have ownership, there is quite a bit of control on that. But as far as
5 saying that we need to know what type of commercial structures may go
6 there. The person has to know the zoning that would enable them to tell
7 you what kind. So the zoning has to come first. I would just state that I
8 think this item is ready for action.
9
- 10 Kaiser: Okay. Yes, we can go through and strike, I don't know we want to capture
11 that. How should we capture that?
12
- 13 Ochoa: Staff can make a list, sir, so that way when we basically print out this list
14 and do the strike throughs or whatever uses you feel that should not be
15 permitted on the property. So we start here with the residential related uses.
16 I'm guessing probably remove all those because we don't want residential,
17 just straight commercial. There's agricultural, institutional, childcare,
18 community buildings, hospital, library, recreational, there are a number of
19 recreational uses that could potentially go on there. Service uses. So this
20 is your office, is your accounting, art studios, bank bonding, I believe that's
21 one that you were, had feelings about removing, beauty salons, business
22 offices, consulting, credit reporting, medical offices, dental offices, real
23 estate, tax preparation, and we'll get into the retail land uses. So auto truck
24 parts, auto truck services, bar, pub, tavern, building materials ...
25
- 26 Murray: If I may. I think if we just start at the top and start crossing off we can
27 expedite it versus going through. If I do say myself.
28
- 29 Ochoa: Okay.
30
- 31 Kaiser: Yes, I mean I think the residential seems like we want this to be commercial,
32 primarily.
33
- 34 Murray: I mean I guess looking under the residential like what's wrong with a
35 greenhouse or community garden? What's wrong with exercise, courts,
36 tennis, that's not the proposed use?
37
- 38 Kaiser: I mean I don't disagree. But there's how you know 40-something acres of
39 park land that I think that seems like where I would place those if they were
40 to be incorporated.
41
- 42 Ochoa: Mr. Chair. Point of clarity. These are residential. So it's a green house, but
43 it's noncommercial. So in other words, it's a greenhouse associated with
44 that home is what it would be. So these are residential related.
45
- 46 AUDIENCE MEMBER NOT AT THE MICROPHONE.

1
2 Kaiser: Unfortunately, we've got to press forward.

3
4 AUDIENCE MEMBER NOT AT THE MICROPHONE.

5
6 Nichols: Excuse me. Madam, would you step up to the podium, please for your
7 question. Thank you.

8
9 Heath: I'm sorry. But if they already have it zoned as a R-1a and you want to
10 change it to a C-3. Everything around this area that you're talking about
11 developing is houses, homes are there. Just homes. You know then on
12 the other side you've got the highway. So you want to put commercial
13 between the highway and these homes. Have any of you ever been down
14 that street? Have you been down Triviz to see this area, this stretch of area
15 that they're talking about? I can understand the parks. That would be fine.
16 But to put commercial on Triviz, that's a terrible place to put it. It's a terrible
17 place to put it. Thank you.

18
19 Kaiser: Thank you.

20
21 Heath: Okay.

22
23 Kaiser: Understand.

24
25 Ochoa: So we got your residential uses, we'll strike through those. Agriculture,
26 veterinary facility, would it be okay with that there?

27
28 Smith: I guess this exercise that we're conducting to go through this entire list. I
29 refer back to Mr. Nichols who stated that this is City property, they have a
30 lot of control over the type of commercial business goes there. And I feel
31 like this is kind of a futile exercise to go through this entire list to strike out
32 what we as a Commission think should or should not be there. I feel like
33 we should vote on this, move it forward. And you know the type of
34 commercial businesses that want to develop their still have to go through
35 the permitting process through the City. And I just feel like we could be here
36 till midnight going through this and striking this out. So it's already been a
37 long enough night and we also have other applicants that are here waiting.

38
39 Kaiser: Yes, I mean I completely agree with the Commissioners. I just wished staff
40 would have articulated this a little bit better. And I mean it's there, it's in the
41 Apodaca Blueprint. It's not hard in my mind to just translate that over into
42 the staff report into the recommendation of like this is the vision, this is what
43 we want to see. And instead, we slap C-3 on it, and I understand that the
44 City currently has control over this, but at some point, you're going to
45 release it out to a developer and that may come at a time when none of us
46 are here. None of you are at the City. And we get a whole nother regime

1 that says no, I want another Mr. Carwash, because that I think is perfectly
2 allowed under the C-3. So I agree with Commissioner Smith. I mean, this
3 list is way too long. I don't want to be here going and nickel and diming this
4 thing. I just wish staff would have been a little bit more, just say what you
5 want, just, and then let us decide if we agree or not.
6

7 Ochoa: Okay. Again, for point of clarity Mr. Chair. Again, we do have the Apodaca
8 Blueprint still in place that could definitely guide the development of this
9 property as well. Plus with the condition that I believe that the Chair asked
10 for, I think that's something we can definitely put into effect as well.
11

12 Kaiser: So one option for us is we can just table the conversation and move it to the
13 end of the meeting so we can get through the next item on the agenda and
14 then those folks and go home and we can come to a conclusion on this one.
15 Does that still work? Okay, so we'll make a motion to table this item until
16 we hear the remaining items on the agenda.
17

18 Smith: I second.

19
20 Murray: I second.

21
22 Baum: Board Member Acosta.

23
24 Acosta: Yes.

25
26 Baum: Board Member Porter.

27
28 Porter: Yes.

29
30 Baum: Board Member Smith.

31
32 Smith: Yes.

33
34 Baum: Board Member Murray.

35
36 Murray: Yes.

37
38 Baum: Chair Kaiser.

39
40 Kaiser: Yes.

41
42 Baum: Motion passes.
43

44 **9.3 Case 24CS0500021:** A request to approve a master plan known as the Tierra
45 Hermosa Master Plan for property that encompasses 54.286 + acres, is zoned R-
46 1a (Single-Family Medium Density) and is located on the east side of Porter Drive,

1 south of Village Drive and north of Central Road. The master plan proposes mostly
2 a single-family residential development with 354 single-family townhome and
3 detached home lots with one tract of land dedicated for drainage, one tract
4 dedicated for a park and two lots for potential future commercial development
5 along Porter Drive. Submitted by GEM Surveying, representative. Council District
6 5.
7

8 Murray: Can I make a, what do I want to say, a suspension of the rules of order to
9 hear 9.3, 9.4, 9.5 together.
10

11 Kaiser: I'll second.
12

13 Nichols: Mr. Chair. If I may. I appreciate that motion. We have lost security here. I
14 thought we would be finished by nine. And the security guard has left. So
15 I've had to lock the exterior doors. But we need to, if we could go ahead
16 and move forward then that would help us with the security of the building.
17 Thank you.
18

19 Ochoa: And I believe we have a motion and a second. So we need a vote please.
20

21 Kaiser: We need a vote.
22

23 Baum: Board Member Acosta.
24

25 Acosta: Yes.
26

27 Baum: Board Member Porter.
28

29 Porter: Yes.
30

31 Baum: Board Member Smith.
32

33 Smith: Yes.
34

35 Baum: Board Member Murray.
36

37 Baum: Chair Kaiser.
38

39 Kaiser: Yes.
40

41 Baum: Motion passes.
42

43 Kaiser: All right, we will now hear items 9.3 to 9.5
44

45 Ochoa: Correct. This is the Tierra Hermosa, what is called the Tierra Hermosa a
46 master planned area, Phase 1 preliminary plat, and Phase 2 preliminary

1 plat. Current conditions in the master plan is located on the east side of
2 Porter Drive, south of Village Drive and north of Central. The entire area
3 encompasses roughly 54.286 acres in size and is currently zoned R-1a
4 which is single-family medium entity. It is vacant and undeveloped. Phase
5 1 preliminary plat located in the same location, same area, encompasses
6 14.745 acres in size, also zoned R-1a and vacant and undeveloped. And
7 finally Phase 2 located in the same area encompasses 13.029 acres in size
8 is zoned R-1a single-family medium density and also vacant/undeveloped.
9

10 Showing the subject property here. As you can see you all completely
11 zoned R-1a. Surrounded by R-1a zoning to the north, east, and south, and
12 some R-1a and to the south as well. Showing here as you can see just one
13 big, large vacant piece of property out here off of Porter Drive. What the
14 master plan is proposing is a 354 single-family lot subdivision, which will be
15 made up of not only townhome lots but also detached home lots as well. It
16 is also proposing one tract of land for drainage that will be dedicated to the
17 City, another tract of land for a park that will also be dedicated to the City.
18 And two tracts or lots that have direct frontage on the Porter for future
19 development, commercial development. That will require a zone change in
20 the future though, so right now it's just a placeholder with the master plan.
21 The proposed master plan is proposed to be developed in five sequential
22 phases.
23

24 Showing here the Tierra Hermosa Subdivision master planned area.
25 Showing here how that phasing area happens, the drainage issues in this
26 area, as well as where the road network will work through for this
27 subdivision. Commercial area is located here to the west, which is
28 essentially the last phase of the subdivision. The preliminary plat proposes
29 96 single-family residential lots made up of townhomes and detached
30 homes with one tract of drainage that will be dedicated to the City. All
31 internal and adjacent roadways requiring improvements to City standards
32 for access for this phase shall be developed with this phase. The proposed
33 preliminary plat does follow the Tierra Hermosa Master Plan.
34

35 Showing here that Phase 1 with those townhome lots to the north among
36 Village is where Phase 1. It will be accessed off of Village with internal
37 roadways in here and there's that one tract of land that will be dedicated for
38 a pond. Phase 2 preliminary plat proposes 76 single-family residential lots,
39 again made up of townhome lots and detached homes with one tract of land
40 for a park. All internal adjacent roadways requiring improvements to City
41 standards will be required with this phase. And the proposed preliminary
42 plat does follow the Tierra Hermosa master planned area. Shown here that
43 second phase essentially directly east of what is Phase 1. The additional
44 lots here and the park located here within the center of the actual
45 subdivision itself.
46

1 When staff took a look at this we did see there's no real life, safety, or
2 welfare issues identified with the master plans or the preliminary plats. The
3 master plan is considered part of the planning phase process where a
4 proposal is viewed as a conceptual tool. So that's really what a master plan
5 does is kind of just conceptually outline what the area is and how it's being
6 phased out and so forth like that. Preliminary platting process is to establish
7 quality site design as well. The proposed subdivision provides for a more
8 attainable housing in the area with townhomes, that's definitely a housing
9 type that has not existed in this area. A lot of R-1a but it's all detached
10 single-family homes. No attached single-family homes, which this would
11 solve that issue. It does provide for a range of housing in the area per
12 Elevate Las Cruces. And the commercial lots or tracks are located along a
13 principal arterial roadway where commercial zoning is encouraged.

14
15 Notice was sent out to all surrounding property owners within 500 feet of
16 the proposed subdivision. Staff did receive two phone calls seeking just
17 general information. But it, that's what I did the presentation but today staff
18 received two more phone calls actually in support, would like to see this
19 development happen for the roadway improvements to occur in the area,
20 not only to the widening of Porter and Village but also the actual
21 construction of Central as well.

22
23 The DRC did meet to review this proposed subdivision. The DRC does
24 review technical components of the subdivision including infrastructure,
25 utilities, and other public improvements. Lengthy discussion did occur
26 concerning outstanding comments that are needing to be resolved by the
27 applicant's design professionals. The roadway widths and designs for this
28 area. The resolving of drainage issues as well. After more very minor
29 discussion, DRC did unanimously recommend approval with conditions for
30 the proposed master plan and two preliminary plats. The conditions being
31 that that they would remove any reference to a street cross section within
32 the actual documents themselves, essentially just providing the width to
33 allow the City to design those cross sections at the time of development.
34 Two full wide driving lane shall be required on Central Road. And all
35 outstanding staff comments shall be addressed prior to the Planning and
36 Zoning Commission meeting, which they have been.

37
38 With that staff does recommend approval with those conditions for this
39 proposed master plan and two preliminary plats based on the following
40 findings. Proposed master plan meets the requirements of the master plan
41 as called out by the subdivision code. The proposed preliminary plats do
42 follow the Tierra Hermosa master plan. Preliminary plats meet the
43 requirements for preliminary plat as called out by the subdivision code. And
44 also based upon review by staff, the proposed master plan and preliminary
45 plats all comply with the 2001 Zoning Code as required and the City of Las
46 Cruces design standards. Additionally, with that also that the DRC did

1 recommend approval with conditions for the proposed master plan and
2 preliminary plats during a public meeting on May 8, 2024. With that your
3 options, one to vote "yes" and approve the proposals as recommended by
4 staff, two to vote "no" and deny, a denial would require additional findings
5 of facts by the Commission if they deemed to vote that way. Three to vote
6 and amend or four, table and postpone and direct staff and the applicants
7 accordingly. The applicants are here if you have any questions for them.
8 And I stand for questions.
9

10 Kaiser: Thank you. Does the applicant wish to say anything? All right. I like the
11 enthusiasm at 9:51.
12

13 Dickerson: I'm here for you.
14

15 Kaiser: Please state your name for the record.
16

17 Dickerson: My name is Marci Dickerson.
18

19 Kaiser: Do you swear or affirm that the testimony you're about to give is the truth
20 and nothing but the truth under penalty of law?
21

22 Dickerson: Yes, sir.
23

24 Kaiser: Go ahead.
25

26 Dickerson: My name is Marci Dickerson. And I am one of the three principals of the
27 Porter Road Investment Group. My other principals are with me, the
28 Spedalieri's as well as the Jackson, Johnsons behind me. What we're trying
29 to do here is something that is brand new to Las Cruces. We have
30 partnered with French Brothers, the City of Las Cruces, and even El Paso
31 Electric have all come together to bring Las Cruces something that we don't
32 have. Our average new home or resale is average of \$330,000 a home.
33 Now with 7% interest, most people, working families, can't afford that.
34 There is something called affordable housing as you all are well versed in,
35 then there is attainable housing. We intend to bring attainable housing to
36 Las Cruces. What is attainable housing? Attainable housing is basically
37 where working families can afford their house payment. The houses that
38 are going to be available by French Brothers, built by French Brothers in
39 this subdivision will all be between \$195,000 to \$250,000. That is amazing.
40 People can afford that. They can afford the dream of homeownership. They
41 can raise their children, not in a cramped apartment. They can afford all of
42 those things. And that is what we're bringing to the community.
43

44 We're installing a two acre park. The park, the majority of the park is going
45 to be for use for sports fields. We all know people don't need to travel and
46 travel and travel to get to play baseball and soccer and all the things that

our kids, I mean, we live and die by that. We are a baseball and soccer town. You know we're going to have those things. We're going to make sure we've met with the people in charge of parks to have a really good you know a really good environment there for not only is it are the people that live in our neighborhood, but the people in adjacent neighborhoods as well. We also with Central, we're going to solve right now, if the majority of this is in a flood zone. All of my engineers and the people behind me have worked really hard to work with the City not only to solve that problem, but to solve a major drainage problem in Phase 3 that we'll be back to talk to you about later. But really the biggest piece is this. We're going to bring attainable housing to our community. And all of those people that we talked about earlier today. I'm really glad we don't have apartments by the way, just want to say that. But all of those people that you all talked about today about this creating more housing, finding places for these people to go. That's what's going to happen in our subdivision. So I'm here for any questions. I also have my fabulous panel of experts with us who've been brought on to make this project happen. But we would appreciate you all allowing us to move forward. Our goal is to have houses ready for people to buy at the end of this year. Thank you.

Kaiser: Thank you. Any questions from the Commission? Commissioner Murray.

Murray: I just have a quick staff comment. So basically what we're approving tonight is the master plan. And then we're hearing Phase 1 and Phase 2 preliminary plats. And then later on, they'll come back with Phase 3, 4, 5.

Ochoa: Mr. Chair, Commissioner Murray. That is correct. Three, 4, and 5 will be coming back before you all at a later date. They will be coming in in sequential order essentially.

Murray: And then the improvements to Central Road. is that going to be like a paved street all the way through from the cul-de-sac on, forget what it is, all the way to Porter.

Ochoa: Chair, Commissioner Murray. They are essentially required to provide full improvements for Central just from the edge of their subdivision to Porter Road. So that portion of the Central will be done. The other connection, the City sees an issue with that because there is drainage issues that the City is trying to resolve out there, so it's a possibility some other additional improvements will be done by the City because we needed to take care of that issue ourselves.

Kaiser: Any other questions? Commissioner Smith.

Smith: I don't have a question. I have a comment. You know after our earlier I guess contentious presentation, I just want to state that it's a pleasant

1 surprise to see this type of plan in development, particularly in regard to
2 townhomes. Just as Ms. Dickerson stated, you know we do have a need
3 for housing. And I liked that you delineated between affordable and
4 attainable, because we do have a number of working families and
5 Commissioner Kaiser, I mean he basically you know he's a working man
6 with a working family, his spouse and he had a difficult time just trying to
7 find a place to rent, let alone purchase. So this is a great opportunity. I
8 think your presentation of this type of plan is what the City needs. And you
9 know as we go forward I hope that this is something that we can continue
10 to see in the future as you know the housing needs in Las Cruces continues
11 to grow.
12

13 Kaiser: I don't know that's I'd call myself a working man, but I do my best. Just a
14 quick, hopefully a quick question, seems like I opened some cans of worms
15 tonight. On Central, that is Central Avenue, it's my understanding that an
16 alternative right-of-way/cross section was proposed. But City staff's
17 position was they wanted a full of a larger right-of-way I guess, to have
18 flexibility to handle I guess the transportation infrastructure and the flood
19 infrastructure, if you will. But then we say but we have to have a 12 foot
20 minimum travel lane. I'm just not sure we have an opportunity here to
21 maybe do something a little bit different. We just heard a heated discussion
22 about traffic safety concerns. We have policies already on the books that
23 recommend smaller travel lanes to actually calm traffic. So I guess I'm just
24 wondering why on the one hand we want all of the flexibility to design this
25 however it makes sense, but then constrain ourselves by saying but we
26 have to have that 12 foot travel lane.
27

28 Ochoa: Mr. Chair. That was a condition that was placed on there by Fire
29 Department, just because the limit of the width of that road. Because the
30 DRC did approve it's actually a smaller cross section instead of a 50 foot
31 wide road to 40 feet. Because of that narrowing he still wanted to make
32 sure that their trucks would be able to maneuver, because it'll be used more
33 like a through road than an actual accessible road from the single-family
34 residential lot adjacent to it. He just wanted to make sure he had enough
35 room to maneuver if need be with if there's on street parking, whatever
36 people, somebody parks they'll be able to move around. That was the
37 reason for Fire to do that essentially.
38

39 Kaiser: Got it. It's concerning to say the least. I mean the reality is a 12 foot travel
40 lane, that's what our entire City has been built off of. And look at the results.
41 A straight road like Central Avenue, you better believe that's going to be a
42 racetrack on day. If it's not already. I just, it's frustrating. I think I mean to
43 hear everything that we heard tonight to have policies that say, this is an
44 alternative direction. We had an applicant who was actually willing to say
45 we want something different and we say, no we want the raceway. But
46 other than that I think this is a fantastic project.

1
2 Ochoa: Mr. Chair. That is your prerogative as all. That condition can be removed
3 by the Commission if you wish to.

4
5 Murray: If I can say myself. I'm like very familiar with this area because I have a
6 parcel for sale two lots over. So I will say right now Central is undeveloped,
7 as it is. And it's kind of difficult because, I don't necessarily see it becoming
8 a speedway, just on how they're doing it. The access is going to be from
9 the other side, on Porter and Village. And kind of where Central Ave. ends
10 where my lot that I have for sale, it's a cul-de-sac right now. So creating
11 that as a thruway is just going to be difficult. It will definitely be another exit
12 and entrance point, but I don't think it's going to turn into another 500
13 speedway or something.

14
15 Porter: If I can say something. I think that it's actually going to slow it down. I go
16 through Porter every single day. I live in that area. And you know there's
17 always on their four by fours, they're always doing something. And it's at
18 three in the morning sometimes. So actually building homes there would
19 actually slow down all of the noise, all of the speeding and everything. Just
20 because I've lived there so long. It's also going to help the flooding a lot
21 because we get really bad rain during July, and some of August, and there's
22 times where if you don't have a truck, you can't pass and that dirt is bad,
23 too. So it's very underdeveloped. There's nothing there but tumbleweeds
24 and all kinds of animals. So I really love the idea, especially of the attainable
25 housing, because that's kind of what we need right now. It seems like it's
26 been a common theme today.

27
28 Kaiser: Thanks. And I certainly you know appreciate the perspective. I think if you
29 look at the data, the data says wider travel lanes equal faster speeds. I
30 know in my own neighborhood, it's a residential neighborhood, we like to
31 say the local streets they're safe, right. They're not. I mean the safe local
32 streets in our neighborhood are essentially fair lane streets without cars
33 parked on the either side. So it's just, we had an opportunity, have an
34 opportunity to address some of these issues that we heard about tonight on
35 the front end. I think undercutting the flexibility that we sought on the one
36 hand by saying we need to have the 12 foot travel lanes; you know I would
37 like to strike that I know others may feel differently. But if that's something
38 that you'd be open to striking to give ... that doesn't say we can't build a 12
39 foot travel lanes, it just says that let's look at all the options available to us.
40 Yes, did you want to comment or anything? You don't have to.

41
42 Dickerson: Just one thing. All of Central will be done in Phase 3. And I do know that
43 Fire you know had said that, but I think one of the other things that we're all
44 kind of waiting to see, and trust me Phase 3 will start the minute, the
45 planning of that will start the minute we get the permit for this one. Is what
46 it's going to take for the drainage, the roads, and those types of things. You

1 know, bike lanes are considered. There's a lot of things that we're looking
2 into on that. But really the basic of it is going to be you know of course,
3 what is our public safety, which is going to be what Fire requires. But also
4 exactly what that drainage is going to look like to make sure that we really
5 have a safe place for the water to go, but as well for our people to come
6 and go from their homes. So I think that is you know a big importance. And
7 like I say will be addressed in the Phase 3 application. If you don't mind.

8
9 And then the second one, to let you guys know, that our Porter Road
10 Investments, which is our development company, as well as French Bare
11 both committed to the fact that if this one goes and we're able to do this,
12 especially in the time span that we need to, that the rest of the other
13 subdivisions that we're committed to doing will all be the same. We are
14 going to come in, French Brothers is taking a little less money on it. We
15 certainly are not making money like some of the big developers that I know
16 come before you, but it's because every single one of us believes in the
17 same thing, which is to build our communities with attainable housing. So
18 thank you. But I wanted to let you know that you know this is not the one
19 and done. So we hope to change the face of our community's housing.
20 Thank you.

21
22 Kaiser: Thank you. Any other comments, questions from the Commission? All
23 right. Anyone in the public who wishes to speak on this item? We
24 exhausted everybody. Yes, ma'am. Please come forward.

25
26 Stanley: My name is Robin Stanley.

27
28 Kaiser: And do you swear or affirm that the testimony you're about to give is the
29 truth and nothing but the truth under penalty of law?

30
31 Stanley: Yes.

32
33 Kaiser: Go ahead.

34
35 Stanley: I live on Payan Road, which is right before Central behind where this
36 subdivision is going to be. And I just want to say I think that it's a wonderful
37 plan. I'd love having Central paved, and so that Porter doesn't flood.
38 Because that water runs down Central now. And I have a river behind my
39 house going down when it rains in July and August. But I also wanted to
40 say I know, right now I've got three generations living in my house, because
41 they can't afford to live anywhere else. And I think it's really wonderful. So
42 that's all I wanted to say.

43
44 Kaiser: Thank you. Anybody else who wishes to speak on this item this evening?
45 All right. Seeing none. We'll come back to the Commission. There's no
46 additional comments, we'll have to re ...

Agenda Item #10.1.

1
2 Ochoa: Reinststate.
3
4 Kaiser: Reinststate. Thank you order so that we can do these one at a time.
5
6 Murray: I make a motion to reinststate order to hear 9.3, 9.4, 9.5 separately.
7
8 Porter: I second.
9
10 Baum: Board Member Acosta.
11
12 Acosta: Yes.
13
14 Baum: Board Member Porter.
15
16 Porter: Yes.
17
18 Baum: Board Member Smith.
19
20 Smith: Yes.
21
22 Baum: Board Member Murray.
23
24 Murray: Yes.
25
26 Baum: Chair Kaiser.
27
28 Kaiser: Yes.
29
30 Baum: Motion passes.
31
32 Kaiser: Okay, we will start with item 9.3. Looking for a motion to approve.
33
34 Murray: Before I make a motion are we in agreeance to appro with conditions as set
35 forward in the packet.
36
37 Kaiser: I mean I think you just make the motion if you want the conditions or not
38 make the motion. I'm fine with striking a 12 foot travel lane.
39
40 Murray: I make a motion to approve 9.3 with conditions as set forth in the packet.
41
42 Porter: I second.
43
44 Baum: Board Member Acosta.
45

1 Acosta: I vote yes to approve with conditions that we outlined based on staff
2 recommendation.
3
4 Baum: Board Member Porter.
5
6 Porter: Yes.
7
8 Baum: And your reasoning.
9
10 Porter: I vote yes with staff recommendations and just meant that we decided on.
11
12 Baum: Thank you. Board Member Smith.
13
14 Smith: I vote yes with conditions based on staff recommendation.
15
16 Baum: Board Member Murray.
17
18 Murray: Yes, based on staff recommendation.
19
20 Baum: Chair Kaiser.
21
22 Kaiser: Yes, based on staff recommendation and consistency with Elevate Las
23 Cruces.
24
25 Baum: Motion passes.
26
27 **9.4 Case 24CS0500022:** A request to approve a preliminary plat known as the Tierra
28 Hermosa Phase 1 Preliminary Plat for property that encompasses 14.745 + acres,
29 is zoned R-1a (Single-Family Medium Density) and is located on the east side of
30 Porter Drive, south of Village Drive and north of Central Road. The plat proposes
31 96 single-family townhome and detached home lots with one tract of land
32 dedicated for drainage. All proposed internal roads and adjacent roadways
33 requiring improvements providing access to Phase 1 shall be developed with this
34 phase. Submitted by GEM Surveying, representative. Council District 5.
35
36 Kaiser: All right looking for a motion to approve 9.4.
37
38 Murray: I make a motion to approve 9.4 with conditions based on the packet
39 provided by City staff.
40
41 Smith: I second.
42
43 Baum: Board Member Acosta.
44
45 Acosta: I vote yes to approve based on staff recommendation.
46

1 Baum: Board Member Porter.

2

3 Porter: I vote yes based on staff recommendations.

4

5 Baum: Board Member Smith.

6

7 Smith: I vote yes based on the staff recommendation.

8

9 Baum: Board Member Murray.

10

11 Murray: Yes, based on staff recommendation.

12

13 Baum: Chair Kaiser.

14

15 Kaiser: Yes, based on staff recommendation and consistency with Elevate Las
16 Cruces.

17

18 Baum: Motion passes.

19

20 **9.5 Case 224CS0500048:** A request to approve a preliminary plat known as the Tierra
21 Hermosa Phase 2 Preliminary Plat for property that encompasses 12.368 + acres,
22 is zoned R-1a (Single-Family Medium Density) and is located on the east side of
23 Porter Drive, south of Village Drive and north of Central Road. The plat proposes
24 76 single-family townhome and detached home lots with one tract of land
25 dedicated for a park. All proposed internal roads and adjacent roadways requiring
26 improvements providing access to Phase 2 shall be developed with this phase.
27 Submitted by GEM surveying, representative. Council District 5.

28

29 Kaiser: 9.5.

30

31 Murray: I make a motion to approve item 9.5 was conditions based on the packet as
32 provided by City staff.

33

34 Smith: I second.

35

36 Baum: Board Member Acosta.

37

38 Acosta: I vote yes to approve based on staff recommendation.

39

40 Baum: Board Member Porter.

41

42 Porter: I vote yes based on staff recommendations.

43

44 Baum: Board Member Smith.

45

46 Smith: I vote yes based on staff recommendation.

1
2 Baum: Board Member Murray.
3
4 Murray: I vote yes based on staff recommendation.
5
6 Baum: Chair Kaiser.
7
8 Kaiser: Yes, based on staff recommendation and consistency with Elevate Las
9 Cruces.
10
11 Baum: Motion passes.
12
13 Kaiser: All right. Thank you all for coming out this evening. Feel free to stick around
14 to continue to listen to us talk.
15
16 **9.2 Case 23ZO0500027: CONTINUATION.**
17
18 Kaiser: So, I guess now we're returning to item 9.2. And I do apologize to my
19 colleagues. I did not anticipate opening this can of worms. Personally, I
20 think, do we need to or we don't need to make a motion or anything to go
21 back to this item? No. Okay. Okay.
22
23 Ochoa: Point of order, Mr. Chair.
24
25 Kaiser: Yes.
26
27 Ochoa: I believe since you did vote to table it, you need a vote to un-table the item
28 so you can discuss it.
29
30 Murray: I'll make a motion to un-table item 9.2 for discussion.
31
32 Smith: I second.
33
34 Baum: Board Member Acosta.
35
36 Acosta: I vote yes.
37
38 Baum: Board Member Porter.
39
40 Porter: Yes.
41
42 Baum: Board Member Smith.
43
44 Smith: Yes.
45
46 Baum: Board Member Murray.

1
2 Murray: Yes.
3
4 Baum: Chair Kaiser.
5
6 Kaiser: Yes.
7
8 Baum: Motion passes.
9
10 Kaiser: I appreciate staff printing out this list. I kind of feel at this point what
11 Commissioner Smith said, I feel like we could spend the next two hours
12 going through all of this. I think my point really was just we know what we
13 want and I don't know why we just come out and say it, instead we put a
14 land use on here that I feel like just has so much that's not compatible with
15 what we want. And why we didn't maybe try to rein it in before we got to
16 the discussion tonight. I think that was really just the point that I was
17 making. So I think we can just simplify it and say, you know make it
18 consistent with Apodaca Blueprint. I think that's fine. You know I guess for
19 future reference if we can, if we have the vision, we know what we want to
20 see here, let's make it very clear so that we up here can just you know move
21 on, move it through a process. That would just be my suggestion for next
22 time. So I'm fine with just saying, putting the condition that the land uses
23 would be consistent with Apodaca Blueprint and we go forward from there.
24
25 Ochoa: Follow the guidelines of Apodaca Blueprint. Yes, sir. That's how staff will
26 administer this zoning basically, sir.
27
28 Kaiser: Okay.
29
30 Weir: Mr. Chairman. You stated a specific concern about drive-thrus and drive
31 uses, I'd recommend you make that a condition if that was truly one of your
32 big concerns.
33
34 Kaiser: Okay. Yes, I mean I think at a minimum not allowing drive-thru
35 establishments. I mean this is supposed to be pedestrian, serving the
36 neighborhood, serving trail users, I just don't think that there's any need for
37 drive-thrus here so if we can make that a condition.
38
39 Ochoa: If I may add on top of that, sir. If we are looking to try to get away from that,
40 not only drive-thrus but any type of stacking lane, because a carwash isn't
41 necessarily a drive-thru, it's a stacking lane, so any business associated
42 that has a drive-thru or stacking lane associated with it, sir.
43
44 Kaiser: There you go. That'll be our condition. So we need a motion to approve
45 with those conditions added.
46

1 Murray: I make a motion to approve item 9.2 with conditions that it follows the
2 guidelines stated in Apodaca Blueprint, that it does not include uses of
3 drive-thrus, stacking lanes, and I'm going to add gas stations or car washes.
4

5 Smith: I second.
6

7 Baum: Board Member Acosta.
8

9 Acosta: I vote yes to approve with conditions based on staff recommendation and
10 further discussion.
11

12 Baum: Board Member Porter.
13

14 Porter: I vote yes as long as it aligns with Apodaca Blueprint, does not include any
15 drive-thru lanes, stacking lanes, and gas stations.
16

17 Baum: Board Member Smith.
18

19 Smith: I vote yes with conditions as laid out through the earlier discussion.
20

21 Baum: Board Member Murray.
22

23 Murray: Yes with conditions based on the Apodaca Blueprint and discussions
24 tonight.
25

26 Baum: Chair Kaiser.
27

28 Kaiser: Yes, based on consistency with Apodaca Blueprint and our discussion here
29 this evening.
30

31 Baum: Motion passes.
32

33 **10. DISCUSSION** 34

35 Kaiser: All right. Where are we? Any discussion or staff announcements?
36

37 Murray: I have one quick comment on the apartment building, the Roadrunner. For
38 future cases of that sort, can we make sure that we include submitted site
39 plan for reference?
40

41 Ochoa: Yes, sir. Definitely make that note.
42

43 **11. STAFF ANNOUNCEMENTS** 44

45 Kaiser: Staff.
46

1 Weir: Mr. Chairman and Commissioners. Just wanted to inform you that on June
2 24, Freese Nichols, the consultants that are doing the Realize Las Cruces.
3 The update of the development code, we'll be presenting the revised draft
4 to the City Council. And I would encourage any of you that could make that
5 meeting. It's a work session at 1:00 p.m. here at City Council. It will be a
6 Monday. It'll be the fourth Monday of June. If you could attend to see that
7 presentation. And also hear City Council's observations and input. The
8 meeting will begin at 1:00 p.m. It's one of three items that will be scheduled
9 for that work session. And the agenda hasn't been set yet.

10
11 Murray: And since it's City Council it will be broadcasted on YouTube.

12
13 Weir: Yes.

14
15 Kaiser: So just to clarify, this is not a joint work session.

16
17 Weir: Currently it is not a joint work session. It's just the City Council since they
18 put it with the other items.

19
20 Kaiser: Okay. Wasn't the intent that there was going to be a joint work session. So
21 that's going to come later.

22
23 Weir: Yes, there is another work session they want to hold. I believe they will still
24 be in town and, is your June meeting the next day?

25
26 Kaiser: It is, yes.

27
28 Weir: We can invite them to come and present to you at your regular June
29 meeting.

30
31 Kaiser: Okay. But there's no intent to do a joint work session as part of the process.

32
33 Weir: Not right now.

34
35 Kaiser: Go it. Okay. Thank you.

36
37 **12. ADJOURNMENT (10:13)**

38
39 Kaiser: All right. Looking for a motion to adjourn.

40
41 Porter: I second.

42
43 Murray: I make a motion to adjourn tonight's meeting.

44
45 Smith: I second.

46

Agenda Item #10.1.

1 Kaiser: All in favor.

2

3 MOTION PASSES UNANIMOUSLY.

4

5 Kaiser: Meeting's adjourned.

6

7 Ochoa: Thank you folks. Appreciate your hard work.

8

9

10

11

12

13 _____
Chairperson



Planning & Zoning Commission 5/28/2024
**CASE 22ZO0500156: N. ROADRUNNER PARKWAY
REZONING**

STAFF CONTACT:	Vincent Banegas, (575) 528-3058, vbanegas@las-cruces.org
OWNER:	Mohamed Aswad, M.D.
REPRESENTATIVE:	Tafiq Hindash – AJ Construction, LLC
DISTRICT:	District #3
SITE ADDRESSES:	2795 N. Roadrunner Parkway
EXISTING ZONING:	R-1a (Single-Family Medium Density)
REQUEST:	Rezone from R-1a (Single-Family Medium Density) to R-4 (Multi-Dwelling High Density & Limited Retail and Office)
RELATED APPLICATIONS:	N/A
STAFF RECOMMENDATION:	Conditional Approval

SUMMARY OF CASE 22ZO0500156:
A request to approve the rezoning of property from R-1a (Single-Family Medium Density) to R-4 (Multi-Dwelling High Density & Limited Retail and Office), located at 2795 N. Roadrunner Parkway. The property is ± 5.00 acres in size and is within Council District 3. Submitted by Tafiq Hindash – AJ Construction, LLC on behalf of Mohamed Aswad, M.D., property owner.

- SUMMARY OF RECOMMENDATION:**
Staff is recommending **CONDITIONAL APPROVAL** based on the findings listed below:
- The property owner has submitted a request to rezone a ± 5.00-acre tract of land to accommodate a 96-unit apartment complex.
 - A lesser zoning designation can be considered by both the Planning and Zoning Commission and City Council. If for example the R-4 district is deemed excessive, a change to R-3 or R-2, may be considered in greater alignment with the comprehensive plan and surrounding development.

- The subject property falls within the Suburban Neighborhood Place Type. This place type classification is characterized by low-to-moderate density residential land uses intermixed with areas of commercial development. Predominant land uses include single-family and multi-family development, retail and office uses, and other ancillary institutional and public uses such as schools, parks, and places of worship. The request is consistent with the place type character.
- The proposed zone change request is supported by the Elevate Las Cruces Comprehensive Plan and meets the purpose and intent of the 2001 Zoning Code, as amended (2001 Zoning Code, Section 38-2).
- The surrounding area consists largely of single-family residential, quasi-institutional, office, institutional, and open space (flood control) with multi-family residential, and one other institutional use in the broader vicinity.
- Zoning districts supporting surrounding uses include R-1a (Single-family Medium Density), A-1 (Flood Control), A-2 (Rural Agricultural), O-2 (Office, Professional-Limited Retail Service), PUD (Planned Unit Development), and R-4C (Multi-Dwelling High Density & Limited Retail and Office - Conditional).
- Per Elevate, the development/redevelopment of property, when proximate to existing development, should consider design measures that bring about a greater level of compatibility to said development.

Proposed Conditions include:

1. Consider changing the zoning to R-3C (Multi-dwelling Medium Density-Conditional) to accommodate residential development and increase compatibility with the surrounding neighborhood.
2. Uses shall be limited to either multi-family or single-family residential uses (primary) and shall exclude mobile home park use. Accessory/ancillary uses and structures are allowed in conjunction with said primary residential use and may include sheds, home occupations, and apartment related uses such as community/office building, recreation/exercise courts and related facilities.
3. Any Landscape buffers that may be required per Section 38-31 D-2 Matrix 1 shall be in addition to the landscaping requirements specified in Article IV of the Las Cruces Design Standards.
4. If multi-family development occurs, landscaping (softscape, hardscape, or combination of both) shall be used to buffer any parking lot areas adjacent to Morningstar Drive and N. Roadrunner Parkway. Elements like landscaped berms with short walls and/or decorative walls/fencing shall be used for said purpose.
5. Density shall be limited to 16 du/ac. (80 units max.)
6. No more than eight attached apartments/dwellings per building/grouping allowed.
7. Construction materials used for any multi-family development shall consist of natural materials or manufactured material made to look natural typically used in the construction of dwellings in the Las Cruces community.

PROPOSAL AND LAND USE HISTORY

DETAILED DESCRIPTION:

The property owner is seeking rezoning from R-1a to R-4 to accommodate a development proposal consisting of a 96-unit apartment complex. Although not required for a zone change, the applicant submitted a conceptual site plan and elevations that reflect multiple apartment buildings ranging from two to three stories in height. Ingress/Egress is proposed along both N. Roadrunner Parkway and Morning Star Drive. Please be advised that the layout and design is conceptual, and staff won't know what the final layout/design will look like until the building permit stage. This assumes the necessary approvals are granted. It is at this stage where final design and engineering efforts will take place.

LAND USE HISTORY:

The subject property is vacant/undeveloped and was originally annexed via the Western Development Annexation in 1978. This annexation incorporated 1,555 acres of land. Per Ordinance 209, dated 1/15/1979, the annexed area received an initial zone of R-1 (now R-1a). Said zoning followed development requirements set forth in the 1965 Las Cruces Zoning Code. Areas surrounding the subject property were formally developed via planning and platting processes involving master plan, preliminary, and final plat requirements. It should be noted that the subject property remained a standalone parcel never being incorporated into adjacent developments consisting of Northrise Estates, The Ridge at Northrise, Roadrunner Park at Northrise, Poco Lomas, or the area further south called High Range.

In late 1989, a Special Use Permit (SUP) proposal was submitted seeking approval for a church with a daycare/school component. The case brought significant protest from the surrounding property owners and ultimately was denied by the Planning and Zoning Commission. To be clear, the church would have been allowed by right however, the ancillary uses involving the daycare/school is what required SUP consideration. No other attempt to develop the property has been proposed and as such, the property continues to be vacant.

ZONING DECISION CRITERIA AND POLICIES

POLICY	DOES IT COMPLY?
<u>Neighborhood Character and Compatibility</u>	Yes
<u>Elevate Las Cruces Comprehensive Plan</u>	Yes
<u>Thoroughfare Plans</u>	Yes
<u>Purpose and Intent of the Code: Section 38-2</u>	Yes
<u>Criteria for Decisions: Section 2-382</u>	Yes

NEIGHBORHOOD CHARACTER AND COMPATIBILITY:

In large part, the area surrounding the subject property consists of single-family development. Quasi-institutional (church), institutional (middle school), office, and open space/flood control, are in the nearby vicinity. Given the land use and zoning pattern described, development following the requested R-4 zoning standards could create increased impacts to the surrounding neighborhood in terms of character, compatibility, and traffic. At minimum, conditions limiting the maximum density of the R-4 district currently set at 40 du/ac should be considered. Should the Commission feel it appropriate to allow multi-dwelling development at this location, additional conditions like those proposed by staff, which include restricting non-residential land uses, and aligning development potential and its' related design to that seen in the vicinity. This would help achieve greater compatibility with the neighborhood character.

COMPLIANCE WITH ELEVATE LAS CRUCES COMPREHENSIVE PLAN:

According to the Future Development Map in the Elevate Las Cruces Comprehensive Plan, the subject parcel falls within the Suburban Neighborhood Place Type. This place type is characterized as providing low and moderate density residential land uses intermixed with areas of commercial development. In context to the requested zone change and proposed apartment use as cited by the property owner, both elements could be considered consistent with the place type character identified (see Represented Land Uses and Representative Zoning Districts for the Suburban Place Type).

The following goals, policies, and actions from Elevate Las Cruces are relevant to the proposed zone change:

Suburban Place Type Description

- Suburban Neighborhood: Supports a gross density of 4-12 dwelling units per acre for single-family and 15-30 dwelling units per acre for multi-family.

Community Environment

- Goal: CE-1: Balanced Growth – Encourage efficient land use development patterns that accommodate projected growth in a sustainable manner.
 - Policy CE-1.1, Create consistency between the Elevate Las Cruces Future Development Program Recommendations and development regulations.
 - Action: CE1.1.5, Consider the appropriateness of future development proposals with place type designations and their relationship with surrounding land uses.
 - Policy: CE-1.2, Promote investment within older areas of the city through redevelopment.
 - Action: CE-1.2.1, Facilitate infill and/or higher density mixed use development in the downtown and at key activity centers and along transit corridors.
 - Action: CE-1.2.3 – Partner with property owners of vacant land for infill opportunities.

- Goal: CE-4: Complete Neighborhoods – Develop mixed-use neighborhoods that incorporate a wide range of recreational, commercial, employment, and civic uses.
 - Policy: CE-4.1, Encourage a variety of housing types into new and redeveloping neighborhoods to provide options for all ages and incomes throughout the city.
 - Action CE- 4.1.1, Promote a diversity of residential building types, lot sizes, density ranges, and architectural styles in new neighborhoods.
 - Action CE- 4.1.2, Promote transitions between residential development types at intersecting streets and alleys.
- Goal: CE-5: Building and Site Design – Establish standards to integrate new development with surrounding built and natural features while mitigating long-term natural resource and climate impacts.
 - Policy: CE-5.1, Promote building form and scale that complements surrounding neighborhoods and creates strong linkages between the development, site, the street, and other public grounds.
 - Action CE- 5.1.2, Provide gradual transitions between developments with residential lots of varying size and building heights.
 - Action CE- 5.1.4, Encourage the orientation of new buildings to face each other across public streets, parks, and civic spaces.
 - Action CE- 5.1.6, Encourage building arrangement on development sites that frame the street.
 - Action CE- 5.1.8, Retain variation in residential facades to provide visual interest and discourage monotony.
 - Action CE- 5.1.9, Incorporate form elements such as façade and roofline articulation, access, fenestration, and variable building materials, where necessary to provide visual interest.
 - Action CE- 5.1.11, Provide direct pedestrian access from street-facing facades, provide multiple pedestrian access points between the building and the street within each block.
 - Policy: CE-5.2, Utilize building materials that accentuate the city's cultural and historic heritage and natural surroundings.
 - Action CE- 5.2.1, Promote the construction of residential building that blend with the surrounding landscape by incorporating scale, form, materials, and color that is complementary to the area.
 - Action CE- 5.2.2, Utilize a mix of brick, stucco, stone, or comparable masonry material on building facades that face the street, parking areas, or public gathering spaces.
 - Policy CE-5.3, Ensure that development concepts provide an interconnected network of pedestrian facilities linking streets, buildings, parking, and public gathering space.

- Action CE- 5.3.1, In multi-unit and multi-building developments, provide designated pedestrian pathways from the public street and parking areas to all buildings and public gathering areas.
- Action CE- 5.3.2, Place pedestrian pathways on development sites in location that are physically separated from motor vehicle drives and parking areas.
- Policy CE-5.4, Provide motor vehicle access and parking options that preserve thoroughfare function and the comfort of pedestrians and bicyclists.
- Policy CE-5.5, Incorporate landscaping techniques into new development that are aesthetically pleasing while mitigating environmental impacts.

Community Prosperity

- Goal: CP-7: Attainable Housing – Provide affordable, clean, and safe housing options for all residents regardless of income.
 - Policy CP-7.4, Provide incentives for developing or re-purposing attainable units.
 - Action CP-7.4.3, Allow design standard flexibility to make the provision of attainable housing more financially feasible to developers.
- Goal: CP-9: Housing Diversity – Provide a diverse range of housing options to accommodate residents at all stages in life.
 - Policy CP-9.1, Encourage the use of alternative housing types, styles, and living arrangements to provide additional housing opportunities.
 - Action CP-9.1.4, Promote, facilitate, and encourage alternative housing options for seniors, students, and single-person households such as co-housing options.

Community Livability

- Goal: CL-2: Neighborhood Conservation
 - Policy: CL-2.2, Encourage redevelopment of vacant property within neighborhoods.

Due to the level of support that the Elevate Las Cruces Comprehensive Plan provides, staff believe that at least in part, the proposed zone change has merit. If you consider the staff proposed conditions that are aimed to help ensure that any future development achieves a higher degree of neighborhood compatibility, a conditional approval recommendation seems reasonable. The rationale being that the conditions stipulated are in alignment with various stated goals, policies, and actions that characterize the Suburban Neighborhood Place Type which the subject parcel and surrounding area are part. Moreover, other plans like the Housing Needs Assessment recognizes the need for housing variety and housing choice to supply housing for persons in all socio-economic strata thereby helping to close the gap between housing need and housing availability in Las Cruces.

COMPLIANCE WITH THOROUGHFARE PLAN:

Access to the subject property exists from both N. Roadrunner Parkway and Morning Star Drive. Roadrunner Parkway is designated as a minor arterial roadway as per the Elevate Las Cruces Comprehensive Plan and the Mesilla Valley Metropolitan Organization (MPO). Morning Star Drive is designated as a major collector from Roadrunner Parkway going east and a local roadway from Roadrunner Parkway west. Roadrunner Parkway has a 120-foot right-of-way width with approximately 25 feet of paved travel lanes (2) in each direction. The roadway is improved with curb and gutter, sidewalk, and street lighting on both sides of the roadway. Morning Star Drive has a 50-foot right-of-way width with a 35-foot paved surface, curb, gutter, sidewalk (except adjacent to the subject property), and street lighting. Any applicable development proposed for the subject property would require a trip generation calculation for the land use being considered. This calculation, particularly if the traffic generation meets or exceeds 100 peak hour trips would trigger the need for a Traffic Impact Analysis (TIA). A lessor TIA may be warranted for a calculation that does not meet the threshold. Traffic analysis could speak to specific roadway improvements or access design considerations (acceleration/deceleration lane) to ensure traffic operates both efficiently and safely. This is particularly important considering the line-of-sight Roadrunner Parkway has as one travels south bound toward the subject property. Line-of sight, increased traffic, speeding, and accident history have all been cited by area residents as significant concerns to any development that may take place at the subject location. Please be advised that both the calculation and subsequent analysis comes at the development stage, which is dependent on several factors, one of which involves the ultimate disposition of this zone change request.

CONSISTENCY WITH PURPOSE AND INTENT OF THE ZONING ORDINANCE:

Per Section 38-2: The intent of the Zoning Code is to encourage the most appropriate use of land and to promote the health, safety, and general welfare of the community for the purpose of improving each citizen's quality of life.

The tenets relevant to the proposed zone change include:

- A. Ensure that all development is in accordance with this Code and the Elevate Las Cruces Comprehensive Plan and its elements.
- C. Give reasonable consideration to the character of each zoning district and its peculiar suitability for particular uses.
- H. Encourage the conservation of energy in the use of structures, buildings, and land.
- K. Encourage development of vacant properties within established areas.
- L. Ensure that development proposals are sensitive to the character of existing neighborhoods.
- M. Foster a more rational relationship between different land uses for the mutual benefit of all.
- N. Conserve the value of buildings and land.
- Q. Mitigate conflicts among neighbors.

Review by City of Las Cruces staff determined the requested zone change could impact the surrounding area in terms of neighborhood character and compatibility, land use and traffic. However, the zoning designation per the proposed conditions, would be more sensitive to land uses within the surrounding area. Whether the request is conditioned or not could lay the foundation for bringing back into

productive use, underutilized property that has sat vacant for several years. Productive use that would take advantage of utilities adjacent to the site and transit services that in part run along Roadrunner Parkway.

CRITERIA FOR DECISIONS:

Per Section 2-382 of the Las Cruces Municipal Code, the Planning and Zoning Commission shall determine the following:

- A. The Planning and Zoning Commission shall review the comprehensive plan, and other applicable plans and codes and determine whether the request will:
 - 1. Impair an inadequate supply of light and air to adjacent property or otherwise adversely adjoining properties.
 - 2. Unreasonably increase the traffic in public streets.
 - 3. Increase the danger of fire or endanger the public safety.
 - 4. Deter the orderly and phased growth and development of the community.
 - 5. Unreasonably impair established property values within the surrounding area.
 - 6. In any other respect, impair the public health, safety, or general welfare of the city.
 - 7. Constitute a spot zone, and therefore, adversely affect adjacent property values.
 - 8. Be in harmony with the purpose and intent of the zoning code, sign code, design standards, and other companion codes.
- B. The commission shall take care that the development of the city, in accordance with present and future needs, best promotes the health, safety, morals, order, convenience, prosperity, and general welfare of the people. It shall also promote efficiency and economy in the process of development.
- C. The commission shall encourage the proper use and development of land, shall seek to create and maintain an aesthetic urban setting, and protect and preserve the quality of the water, air, and other environmental, natural, historical, and cultural resources for the city.
- D. The commission shall use the comprehensive plan as a guide in making all future decisions concerning land use and development, and in the financing and location of capital improvements.
- E. Before taking any action concerning land use and development and financing and location of capital improvements, the commission shall review the relationship between the proposed action and the comprehensive plan.

Upon internal review, Staff found that the original request to change the zoning to R-4 was cause for concern in that the R-4 zone allows substantially more residential density and land uses than the surrounding R-1a district. As a result, a decreased level of neighborhood compatibility would exist. Furthermore, if one considers that the development proposal as conceptually presented by the applicant could be accomplished with a lesser zoning designation of R-3 (Multi-Dwelling Medium Density), the R-4 request seems excessive. Staff believes that if the zoning considered is reduced to R-3C (Multi-Dwelling Medium Density - Conditional), and the specific conditions as proposed are applied, any reasonable proposal would become substantially more compatible with surrounding land uses and more in alignment with Elevate policy. As such staff feels the staff recommendation can lend itself to an affirmative recommendation by P&Z to City Council. Please note that at least two of the conditions recommended by staff align or closely align with the R-2 standards to increase development compatibility within the area.

DEVELOPMENT STANDARDS

SITE COMPLIANCE FOR USES UNDER CURRENT ZONING:

The subject property is currently zoned R-1a. This designation allows townhouse, patio home, and typical single-family detached residential development. Apartments are not allowed in this district unless authorized through a variance process that is reviewed by P&Z. Even then, such a request would limit the number of additional units considerably and be considered on a parcel-by-parcel basis. To accomplish residential development in the style the R-1a district allows, at minimum, preliminary and final plat processes would be required again, necessitating review and approval by the Planning and Zoning Commission.

SITE SUITABILITY FOR USES UNDER PROPOSED ZONING:

If the subject property is rezoned as requested, a density of 40 du/ac will be authorized although this density could not be achieved given code related site design requirements for setbacks, parking, landscaping, and drainage to name a few. Please be aware that although the R-4 district authorizes said density, the applicant, based on his conceptual development proposal only seeks to create 96 units (19.2 du/ac). A zone change to R-3 would authorize a maximum of 100 units (20 du/ac). All development would then follow the requirements of the approved zoning district unless conditions dictated variations of same.

ADEQUACY OF PUBLIC FACILITIES AND SERVICES:

City water, gas, and sewer currently serve the property and will not be negatively impacted by the zone change request and any resulting development. Road infrastructure is largely in place and should accommodate any reasonable development proposed. Worst case, some access and traffic mitigation may be necessary at the time of development. Exactly what that will look like is unknown at this time.

STAFF AND PUBLIC COMMENTS

PUBLIC NOTIFICATION AND INPUT:

This case has drawn substantial public/neighborhood interest and input. The applicant carried out early notification twice in that the initial effort's notification letter was inadequate in addressing required points of information outlined in code. A second effort was then required and completed.

On April 9, 2024, a neighborhood meeting was hosted by and held at the Morning Star United Methodist Church. A significant number of attendees were opposed to the zone change request largely citing traffic related concerns (speeding, congestion, poor line of sight, accidents, lack of proper signalization, on-street parking along Morning Star Drive related to school release, etc.), and pedestrian safety. Other concerns involving increased noise, decreased property values, and privacy concerns were also noted.

Several emails and related correspondence have been received by area residents. If received prior to completion of this packet, the information has been included. In early April, 2024, staff mailed public notification letters to property owners within 500 feet of the subject property informing of case consideration set on April 23, 2024. However, about a week prior to the scheduled meeting, staff was apprised of an error involving the placement of the required property sign for public notification. As such, the case that was scheduled for consideration in April, was postponed. On May 3, 2024, staff sent out another meeting notification letter for the May 28, 2024, meeting. Staff anticipates receiving additional correspondence and will make that information available as appropriate.

STAFF COMMENTS:

No reviewing department had any negative comments and only the Community Development Dept. suggested approval with conditions (mitigation measures) to allow options for the development of the subject property with an increased level of compatibility with the surrounding area. These conditions were identified early in the report and are summarized in the Department Review Comments that follow.

ATTACHMENTS:

1. Zoning Map
2. Aerial Map
3. Department Review Comments
4. Public Comment

ATTACHMENT 1
Zoning Map



Note: Subject property is outlined in red.

ATTACHMENT 2
Aerial Map



Note: Subject property is outlined in red.

ATTACHMENT 3

Department Review Comments

Department: Planning

Status: APPROVED W/ CONTINGENCIES

1. Zoning of R-4 is excessive given conceptual development plans submitted. R-3 at minimum would be required to achieve density of 19.2 du/ac.
2. Elevate supports request from a multi-dwelling perspective but requires mitigation measures in the design and layout of any future development that may move forward for compatibility with adjacent uses.
3. Staff is recommending R-3C for consideration. Conditions will speak to building scale, bulk, screening to adjacent uses/zone, screening of parking areas and construction materials used. Density will be recommended at 16 du/ac. Uses to be limited to single-family or multi-dwelling residential uses excluding provisions for a mobile home park.

Department: Flood

Status: NOT REQUIRED

Department: Transportation

Status: NOT REQUIRED

Department: Engineering

Status: NOT REQUIRED

Department: Utility

STATUS: APPROVED

Department: Fire

Status: APPROVED

Department: MPO

Status: APPROVED

Department: Parks and Recreation Review

Status: APPROVED

ATTACHMENT 4 **Public Comment**

The documentation herein is organized by the date received.

Vincent Banegas

From: Dave Lukens <daveandbirdie92@gmail.com>
Sent: Thursday, April 11, 2024 4:48 PM
To: Becki Graham
Cc: Vincent Banegas
Subject: Re: Rezoning discussion from R-1a to R-4

You don't often get email from daveandbirdie92@gmail.com. [Learn why this is important](#)

Thank you for the clarification.

On Thu, Apr 11, 2024 at 4:44 PM Becki Graham <bgraham@lascruces.gov> wrote:
Good Afternoon -

Thanks for the follow-up, and I'll certainly check in with staff.

Just to clarify, the April 23rd meeting is for the Planning and Zoning Commission, rather than the City Council. P&Z decisions (or appeals thereof) come to Council after these proceedings. However, transcripts of P&Z meetings, including all public input, are included in the packets Councilors receive, so we're aware of that information.

Thanks again -
Becki

Becki Graham, PhD
City Councilor, District 3
Direct: (575) 386-7541
Main: (575) 541-2100
Fax: (575) 541-2119
bgraham@lascruces.gov

-----Original Message-----

From: Dave Lukens <daveandbirdie92@gmail.com>
Sent: Wednesday, April 10, 2024 3:22 PM
To: Becki Graham <bgraham@lascruces.gov>
Cc: Vincent Banegas <vbanegas@las-cruces.org>
Subject: Rezoning discussion from R-1a to R-4

[You don't often get email from daveandbirdie92@gmail.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

Councilwomen B. Graham,

Councilwomen Graham on April 9, 2024 a forum was held at Morning Star United Methodist Church, to discuss re-zoning the corner of Morningstar and Roadrunner Pkwy from R-1a to R-4.

Agenda Item #10.1.

We received our letters today April 10th, 2024 about the Notice of Public Hearing scheduled for April 23, 2024 / 6:00 PM, case # 22ZO0500156. After the meeting the majority of attendees were opposed to the zone change. Here is a list of concerns.

1. Increased vehicle and pedestrian traffic in an already congested area.
2. Devaluation of our property values.
3. An increase in crime.
4. Limited sight distance for vehicles entering Roadrunner Pkwy from Stellar and Morning Star Dr. thus posing a safety concern.

Hope to speak with you at the April 23 meeting.

Thank You,

David and Roberta Lukens (phone # 575-639-3654)

2676 Nebula Way

Las Cruces, NM 88011

Sent from my iPad

Sent from my iPad

Vincent Banegas

From: David Weir
Sent: Thursday, April 25, 2024 1:17 PM
To: Vincent Banegas
Cc: Adam Ochoa; Larry Nichols
Subject: FW: Rezoning of 2795 Roadrunner Parkway (PDF format)

David T. Weir, AICP

Deputy Director / Community Planning / Community Development

Direct: (575) 528-3067

Main: (575) 528-3066

dweir@lascruces.gov



From: Yvonne Flores <yflores@lascruces.gov>
Sent: Thursday, April 25, 2024 1:15 PM
To: ROGER HALLIE <rogcat1@comcast.net>; Eric Enriquez <eenriquez@las-cruces.org>; Ikani Taumoepeau <itaumoepeau@lascruces.gov>; Becki Graham <bgraham@lascruces.gov>; David Weir <dweir@lascruces.gov>; David Sedillo <dsedillo@lascruces.gov>; Alexis Rodriguez <alrodriguez@lascruces.gov>; Manny Melendez <mmelendez@lascruces.gov>; Marvin Kelley <mkelley@lascruces.gov>; baselaswad@gmail.com
Cc: swetnam1421@gmail.com
Subject: RE: Rezoning of 2795 Roadrunner Parkway (PDF format)

Good afternoon, Mr. Hallie,

I share your concerns.

Sincerely,

Yvonne Flores

City Councilor/District 6

Direct: 575-541-2069 Main: 575-541-2100, yflores@lascruces.gov



From: ROGER HALLIE <rogcat1@comcast.net>
Sent: Saturday, April 20, 2024 9:48 AM
To: Eric Enriquez <eenriquez@lascruces.gov>; Ikani Taumoepeau <itaumoepeau@lascruces.gov>; Becki Graham <bgraham@lascruces.gov>; Yvonne Flores <yflores@lascruces.gov>; David Weir <dweir@lascruces.gov>; David Sedillo <dsedillo@lascruces.gov>; Alexis Rodriguez <alrodriguez@lascruces.gov>; Manny Melendez <mmelendez@lascruces.gov>; Marvin Kelley <mkelley@lascruces.gov>; baselaswad@gmail.com
Cc: swetnam1421@gmail.com
Subject: Rezoning of 2795 Roadrunner Parkway (PDF format)

Agenda Item #10.1.

You don't often get email from rogcat1@comcast.net. [Learn why this is important](#)

Something that I would like to add to the attachment is that if you can arbitrarily change a piece of land from R1 to R4, then no one buying a home near an open lot can be sure that eventually they could have a dollar store next door even though they were assured that the piece of land was zoned R1. Please open the .PDF attachment for further opinions related to the rezoning.

Sincerely,
Roger Hallie

Rezoning of 2795 Roadrunner Parkway

I am writing this email as I am deeply concerned about the prospect that the above noted address may be rezoned from R1 to R4 in an effort to accomadate the building of an apartment complex. There are many issues that will affect those of us adjacent to that specific area.

When my wife and I purchased our home, which is across Roadrunner Parkway, from the area in question, we understood that the empty five acres was zoned R1. So we assumed that at some point there would be single family units on that lot. Our home is a retirement home where we were hoping to live out the rest of our lives in relative safety. As you know, apartment complexes bring there own problems, one of which is an increase in crime, Not something we were looking for when we bought.

Another issue with building an apartment complex on that five acres is the elevation of the ground. An three level apartment complex in that location would negate the privacy of the homes surrounding it. Tenents would be able with impunity, to look into the homes around the complex.

We have lived in our home for fifteen years, and have observed an increase in traffic due to the combination of the Camino Real Middle School, and the Morning Star Methodist Church, not to mention the already completed apartment complexes along Roadrunner Parkway. Roadrunner Parkway has become a major thoughfare between Lohman and highway 70. Another apartment complex will only elevate the traffic issues already in place. After school parents or guardians are blocking the adjacent streets while waiting to pick up their children. Again, the apartment complex will only serve to create more safety issues concerning traffic.

Another issue apartments present is the reduction of property values in homes in the surrounding area. This area has been known as a desirable area to live in, and we would like to keep it that way. A apartment complex will severely reduce that desirably. We have met with other property owners within our area and all agree that single family unit would be a better option.

As elected representatives of your respective regions, we sincerely hope that you will vote with the will of the people, and vote NO on this issue.

Sincerely,
Roger Hallie and Cathy Waters

David Weir

From: Shirley Swetnam <swetnam1421@gmail.com>
Sent: Friday, April 19, 2024 4:47 PM
To: eeniquez@lascruces.gov; Ikani Taumoepeau; Becki Graham; Yvonne Flores; David Weir; David Sedillo; Alexis Rodriguez; Manny Melendez; Marvin Kelley; Amy Nitzschke; minoles2@gmail.com; grandyfarmer@yahoo.com; petetirney50@hotmail.com
Subject: REZONING - FIVE ACRES - CORNER OF ROADRUNNER AND MORNINGSTAR

Some people who received this message don't often get email from swetnam1421@gmail.com. [Learn why this is important](#)

POTENTIAL BETRAYAL BY THE CITY OF LAS CRUCES

Rezoning of Five (5) Acres of Land

Corner of Roadrunner and Morningstar

April 19, 2024

There are (plus or minus) one hundred homes that will be affected by the proposed rezoning of five acres of land at the corner of Morning Star and Roadrunner. At the time these people bought their home, they were confident that in purchasing their new home, the five acres of undeveloped land would, at some point in time, be developed as single-family residential properties since it was zoned R-1 (single family homes) which was an incentive and selling point for their purchase. Currently, Dr. Mohamed Basel Aswad, who owns the five acres, wants the city to rezone the five acres to R-4 for apartments. How can City Council members even think of ruining the value of these affected homes by rezoning this land for apartments? If you owned a home in this area, would you vote for apartments to be built in the front or backyard of your home? The consideration for this atrocity is only being deliberated because of potential money earned by the city and Dr. Aswad.

Dr. Aswad's proposal is to build approximately ninety-eight apartment units; three stories high and only have 1.5 parking spaces for the tenants. This is insidious. Dr. Aswad is trying to cram a lot of people into a very small space, apparently, only for his own gain. Is the city falling for this because of the potential revenue they may receive? How can the city ignore the plea of the people who will be affected by this rezoning? These people bought their homes in good faith, pay their taxes, and support the city. All the City Council members should be ashamed of themselves to even consider this proposal.

The other very important consideration is the consequence the tenants of the apartments will have on traffic at the corner of Morningstar and Roadrunner. This intersection is already a bottleneck with Morningstar Church on the corner and Camino Real Middle School just east (or behind the church) using this intersection to drop off and pick-up school children. As mentioned at the recent meeting on April 9, 2024, at the very least, four-way stop signs should be erected at the corner of Morningstar and Roadrunner immediately. Does someone have to be killed while crossing from one side to another before something is done to justify installing four-way stop signs or a traffic light?

Agenda Item #10.1.

Thank you for your consideration of the above comments and concerns.

Shirley Swetnam and Duane Smith

Email: swetnam1421@gmail.com

POTENTIAL BETRAYAL BY THE CITY OF LAS CRUCES
Rezoning of Five (5) Acres of Land
Corner of Roadrunner and Morningstar
April 19, 2024

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Dr. Aswad's proposal is to build approximately ninety-eight apartment units; three stories high and only have 1.5 parking spaces for the tenants. This is insidious. Dr. Aswad is trying to cram a lot of people into a very small apparently only for his own gain. Is the city falling for this because of the potential revenue they may receive? How can the city ignore the plea of the people who will be affected by this rezoning? These people bought their homes in good faith, pay their taxes, and support the city. All the City Council members should be ashamed of themselves to even consider this proposal.

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Thank you for your consideration of the above comments and concerns.

Shirley Swetnam and Duane Smith
3545 Midnight Ridge Dr.
Las Cruces, NM 88011

Email: swetnam1421@gmail.com

REC'D 4/30/24

Carolyn Truxal
2879 Morning Star Drive
Las Cruces, NM 88011-0838
Email: ctruxal@hotmail.com
Phone: 575-649-5613

21 April 2024

Zoning Board of Las Cruces : *Case Number 22200500156*

RE: Opposition to Proposed Rezoning of the Property at the Corner of Roadrunner and Morning Star Drive

Dear Honorable Members of the Zoning Board

I am writing to express my strong opposition, along with my neighbors who have signed a petition, to the proposed rezoning of the vacant lot located at the corner of Roadrunner and Morning Star Drive from Single Family to Multi-Family housing. This proposal would allow for the construction of approximately 100 units, resulting in a significant increase in traffic and density in our quiet, single-family neighborhood.

Our primary concerns are:

- 1. Increased Traffic and Safety.** The proposed development would more than double the number of vehicles in our neighborhood, leading to increased congestion, noise, and safety risks. The existing traffic study was not conducted during school or commuting hours, and we believe a new, comprehensive study is necessary to accurately assess the impact. Our neighborhood has no through streets and only two entrances onto Roadrunner – with blind curves in both directions at both exits. With people speeding along Roadrunner, we already have difficulty getting out of the neighborhood.
- 2. Pedestrian Safety.** With the increased traffic and density, we are worried about the safety of pedestrians, particularly children, who will be walking to and from the nearby school.
- 3. Parking and Overflow.** The proposed development requires only 1.5 parking spaces per unit which will likely result in overflow parking into our neighborhood, limiting visibility which increases the likelihood of both vehicle and pedestrian accidents, causing inconvenience and safety issues.
- 4. Stormwater Management.** The current catchment basin on the property collects rainwater during the rainy season. We are concerned about how the proposed development will affect this system and ensure proper stormwater management.

We urge you to consider our concerns and reject the proposed rezoning. We believe it is essential to prioritize the safety, well-being, and quality of life of our neighborhood residents.

Thank you for your time and consideration.

Sincerely,


Carolyn Truxal

Agenda Item #10.1.

From: Sara Gonzales <sgonzales@lascruces.gov>

Date: Mon, Sep 25, 2023, 8:11 AM

Subject: RE: Proposed zone changes for 2795 Roadrunner Pkwy, LC, NM

To: Daniel Bishop <orion2895@gmail.com>

Cc: Larry Nichols <lnichols@lascruces.gov>, Tim Pitts <tpitts@lascruces.gov>, David Weir <dweir@lascruces.gov>

Good morning Mr. Bishop,

Regarding the email forwarded by Councilor Flores, there is an application submitted to staff for 2795 Roadrunner Parkway. The applicant is proposing a zone change from R-1a (Single Family Medium Density) to R-4 (Multi-Dwelling High Density & Limited Retail and Office) for the 5-acre parcel.

The application was submitted on 12/17/2022 and the record number in our online portal is 22ZO0500156. Planning Staff has not made a recommendation for the proposed zone change as of today's date.

The applicant was required to send out early notification to the neighbors with the intent of the development prior.

We understand that the letters were sent to the neighbors and now staff will discuss the proposal and provide the applicant with a recommendation. From there the case will move forward to the Planning and Zoning Commission, recommending body to City Council for final action.

Staff will send letters, generate a publication in the Sun News, and a 4'x4' yellow sign will be placed at the site with the hearing time and date.

If you or any other citizens have any further questions, feel free to contact me.

Thank you.

Sara Gonzales

Senior Planner/ Community Development

Direct: 575-528-3049

Main: 575-528-3043

sgonzales@lascruces.gov

PETITION TO OPPOSE

THE REZONING AND DEVELOPMENT OF A NEW APARTMENT COMPLEX LOCATED AT 2795 ROADRUNNER PARKWAY

BACKGROUND AND SUMMARY: We are petitioning the City of Las Cruces for the re-zoning application submitted by Aswad Mohamed to rezone 2795 Roadrunner Parkway from a R-1 (Single Family Residence) to a R-4 (multi-dwelling high density and limited retail and office) zone. We are concerned for the increase in population (96 apartments proposed, three stories in height), increase in traffic flow and parking availability (one entrance and exit, limited parking spots), the decrease of value to our homes (loss of visibility, increase of environmental concerns due to the construction of the complex, increase of crime related incidents to the neighborhood and overall residential character. Many of the residents residing in this area have lived here for many years and although we understand the reason for new development, we are requesting this application be denied due to our various concerns.

ACTION PETITION FOR: We, the undersigned, want the City of Las Cruces to deny this application of rezoning and keep the historical zoning established as an R-1 (Single Family Residence). Thank you.

Name:	Phone:	Email Address:
DAN BISHOP	575-915-6276	ORION2895@gmail.com
Claudia Reyes	650 4284	} alonso.zimmermann@yahoo.com
Alonso Zimmermann	475 3969	
Angel Zimmermann	650 4286	
Dominick Zimmermann	575-405-9501	inrubberducky88@gmail.com
Richard Griffin	575 312-1116	Griffin6677@gmail.com
Adriane Griffin	575 405 9343	roxanogriffin74@gmail.com
Marc Paul	575-590-8495	mcquike@gmail.com
Carrie Gontreml	575-635-2222	Coopersgirl@gmail.com
KATHARIN STONE	239-699-4947	_____
Darlene Berncl	575-636-3042	darlene@icatt.net
Martha A. Romeo	(619) 865 6196	maar5002@yahoo.com
Victor Trevizo	(619) 245 8183	Vtrevizo1@yahoo.com

ad.

PETITION TO OPPOSE**THE REZONING AND DEVELOPMENT OF A NEW APARTMENT COMPLEX
LOCATED AT 2795 ROADRUNNER PARKWAY**

Name:	Phone:	Email Address:
Hazel Carrayo	(619) 919-5946	hazelcarrayo@yahoo.com
Christina Wingfield	(575) 520-9618	loverok79@hotmail.com
Timothy Wingfield	575-642-7006	TimW78@MSA.com
Gwendolyn Wingfield	575-910-9137	gwendolyn77113@gmail.com
Joseph Gabaldon	575-650-1686	Joseph Paul Gabaldon@gmail.com
Leslie Gabaldon	575-650-1756	Leslie Gabaldon no email
Joyce Bishop	575-915-5944	Joyce.V.Bishop@gmail.com
Jackie Sue Horton	575-521-0797	RAMBETTE@ZIANET.com
Brenda Hernandez	575-496-5030	brxhernandez@gmail.com
Hortencia Hernandez	575-680-5908	horthernandez@gmail.com
Sergio Hernandez	575-913-0026	sergiohernandezbl@icloud.com
Art Bernal	575-649-7136	Art Bernal gbernal77@gmail.com
GARY FOSTER	575-642-5058	gfos48@gmail.com
Vanni Barron	575-644-9600	vbarr17@gmail.com
Fran Smith	575-644-5523	frsmith@outlook.com
Ras Smith	575-644-5523	frsmith@outlook.com
TY GRESHAM	575-644-5028	stussyburton@YAHOO.com
Rachel Morales	575-494-2201	rachel.morales@gmail.com
Jose A. Morales	575-545-3476	↓

PETITION TO OPPOSE**THE REZONING AND DEVELOPMENT OF A NEW APARTMENT COMPLEX
LOCATED AT 2795 ROADRUNNER PARKWAY**

Name:	Phone:	Email Address:
Linda K. Jackson	575-642-1412	linda.ChocolateLad@Gmail.com
Octavio Sanchez	720-932-1914	mariaveroleale@gmail.com
Verónica Sanchez	303-359-6112	mariaveroleale@gmail.com.
Jesus G. G. G.	575-632-4445	N/A
JOHN BACCA	505 301 6455	johSTRL57@yahoo.com
STELLA BACCA	505 301 6454	
Gerald W. Drake	575-621-9103 575-621-9103	Gerald W. Drake@MSN.COM
Marisa Drake	575-621-0287	marisadrake@msn.com
Dave R. Luke	575-639-3654	daveandbirdie92@gmail.com
Roberta Lukens	(575) 639-0019	" "
Michael S. Williams	(575) 644-8478	MSW575@COMCAST.NET
Edwanda A. Williams	(575) 644-8472	EDWANDA@COMCAST.NET
Crystal L. Rodriguez	(505) 506-5405	cnyrodri52@hotmail.com
Ddre Brock	(575) 430-9551	ddre.brock@gmail.com
John Brock	(575) 430-4788	johnmarlanbrock@gmail.com
Sandra Bein	708 738 2065	Sandyh2227@gmail.com
Jason Boyle	(979) 599-7596	Jbboyle@utep.edu
Krystal Rufe	(979) 599-7583	Krberrym@hotmail.com

PETITION TO OPPOSE

THE REZONING AND DEVELOPMENT OF A NEW APARTMENT COMPLEX LOCATED AT 2795 ROADRUNNER PARKWAY

BACKGROUND AND SUMMARY: We are petitioning the City of Las Cruces for the re-zoning application submitted by Aswad Mohamed to rezone 2795 Roadrunner Parkway from a R-1 (Single Family Residence) to a R-4 (multi-dwelling high density and limited retail and office) zone. We are concerned for the increase in population (96 apartments proposed, three stories in height), increase in traffic flow and parking availability (one entrance and exit, limited parking spots), the decrease of value to our homes (loss of visibility, increase of environmental concerns due to the construction of the complex, increase of crime related incidents to the neighborhood and overall residential character. Many of the residents residing in this area have lived here for many years and although we understand the reason for new development, we are requesting this application be denied due to our various concerns.

ACTION PETITION FOR: We, the undersigned, want the City of Las Cruces to deny this application of rezoning and keep the historical zoning established as an R-1 (Single Family Residence). Thank you.

Name:	Phone:	Email Address:
Patricia Keen	575-639-0088	KEEVER1@YAHOO.COM
Vernon Smith	2685 Steller Way	mcvsmi@yahoo.com ?
Margaret Smith	575-646-7182	" "
Betty Inghton	972 6899232	RLTK+50@YAHOO.COM
Doreen Felipe	575-571-5818	doreenfelipe@comcast.net
Janet McQueen	575-644-1152	mcqueen1511@hotmail.com
Dale E. Yeo	575-405-7530	y.dale43@gmail.com
Joy Ann Smith	575-202-6221	
Mary Bratcher	206-949-3824	
Jess Brack	575-642-6292	Geo.edgath01.msn.c
Karen Taylor White	575-649-7756	karentaylorwhite@comcast.net
Deborah Santmyer	Deborah Santmyer	Santmyerd@yahoo.com
Amanda Lambright	214-293-7683	aham22@yahoo.com

PETITION TO OPPOSE

**THE REZONING AND DEVELOPMENT OF A NEW APARTMENT COMPLEX
LOCATED AT 2795 ROADRUNNER PARKWAY**

Name:	Phone:	Email Address:
Eileen Rosenblatt	407 766 0652	eileenrosenblatt@yahoo.com
Frances Boldt	575-202-2303	francesfaye2@gmail.com
Carol Con	575-520-1901	clcoon2@gmail.com
Adriana Torres	208-630-8805	adriana802@yahoo.com
Jesse Torres	575-294-9937	
JUDY MEDA	575-496-9892	
Lorraine Chavez	575-644-9310	JohnnyRaine@gmail.com
JOE DELAPAZ	575-373-7071	Joe
Jenny Delp	575-805-7409	Jenny Delp
Clinton Wilde	575-430-8151	cculde@hotmail.com
ANNEROSE EITREIM	575-521-0509	Annrose Eitrem
JOHN EITREIM	575-521-0509	John Eitrem
Orlando Miranda	575-649-7488	Orlando Miranda
CAROLYN TRUXAL	575-649-5613	Carolyn Truxal
Alexis Rodriguez	575-839-5831	Alexis Rodriguez
Diego Rodriguez	575-202-7714	Diego Rodriguez
Bodi Bitton	575-680-7234	Bodi Bitton
Diana Jeremias	575-636-4321	Diana Jeremias
JOHN PALMER	575-339-9636	John Palmer

no email

no email

no email

PETITION TO OPPOSE

**THE REZONING AND DEVELOPMENT OF A NEW APARTMENT COMPLEX
LOCATED AT 2795 ROADRUNNER PARKWAY**

Name:	Phone:	Email Address:
Joseph L. Trammel	575-532-7076	revjtrammel@msn.com
Benedicta Trammel	" "	" "
Tiffany Meddard	(575) 956-5008	" "
CHARLES Juarros	575-737-8852	cjuarros@gmail.com
Frances R Kemp	575-642-8194	frkemp75@gmail.com
Raymond D Aaltonen	575-644-7242	raaltonen1@gmail.com
Glenn E. Bressette	(808) 381-4694	gebressette@yahoo.com
Lyvette Bressette	808-381-2990	bressette8855@comcast.net
Irene Jacques	575-202-9531	riciren@msn.com
Ricardo Jacques	575-640-8653	riciren@msn.com
RUBEN ZAMORA JR	575-639-3569	ROB1947RUB@GMAIL.COM
Maile Zamora	(740) 504-4405	mailemulligan@gmail.com
Humbert Corazzini	575-640-4754	kimmilew8@msn.com
Denise Shepan	575-680-7663	dmshepan@comcast.net
Travis Schump	575-680-4472	Travis5C@comcast.net
James H. Montoya	575-635-0906	changiro@hotmail.com
Linda Montoya	575-644-6601	NONE
Christine Juarros	505-750-4468	cjuarros3@gmail.com

PETITION TO OPPOSE

**THE REZONING AND DEVELOPMENT OF A NEW APARTMENT COMPLEX
LOCATED AT 2795 ROADRUNNER PARKWAY**

BACKGROUND AND SUMMARY: We are petitioning the City of Las Cruces for the re-zoning application submitted by Aswad Mohamed to rezone 2795 Roadrunner Parkway from a R-1 (Single Family Residence) to a R-4 (multi-dwelling high density and limited retail and office) zone. We are concerned for the increase in population (96 apartments proposed, three stories in height), increase in traffic flow and parking availability (one entrance and exit, limited parking spots), the decrease of value to our homes (loss of visibility, increase of environmental concerns due to the construction of the complex, increase of crime related incidents to the neighborhood and overall residential character. Many of the residents residing in this area have lived here for many years and although we understand the reason for new development, we are requesting this application be denied due to our various concerns.

ACTION PETITION FOR: We, the undersigned, want the City of Las Cruces to deny this application of rezoning and keep the historical zoning established as an R-1 (Single Family Residence). Thank you.

Name:	Phone:	Email Address:
Anita Morales	—	—
Chris Morales	575-636-3903	2901 Quasar Drive
MIGUEL MORALES	—	—
Wm M	310-418-7953	2901 QUASAR DR
Joanne Turenbaum	415-464-7237	2893 Quasar Dr
Joanne Turenbaum		
Robert Kyle	575 520 3223	2885 Quasar Dr
Genesis McBrise	575-993-9160	2898 Quasar Drive
Wm M		
Vincent G. Dutay	575-642-3157	2897 Quasar Drive
Joe & Jill Howalski	575-520-1899	2894 Quasar Dr (joejill@Q.com)
Jake Franzy	575-644-9282	2906 Quasar Dr.

(Jake Franzy, 11@joe.com)

PETITION TO OPPOSE

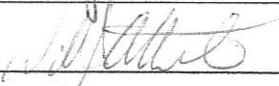
**THE REZONING AND DEVELOPMENT OF A NEW APARTMENT COMPLEX
LOCATED AT 2795 ROADRUNNER PARKWAY**

Name:	Phone:	Email Address:
Wyatt A. Bonalumi	575-276-1921	wyatt.bonalumi@live.com
Pamela Bonalumi	575-202-1543	yankceinnm@hotmail.com
Jennifer Bonalumi	575-496-7298	jbonalumi@hotmail.com
GAIL GOMEZ	206-853-0322	gailwgomez@yahoo.com
Eric Gomez	206-852-7763	ericg@fulfilledchristiancounseling.com
Melissa Apodaca	575-642-5011	melissaapodaca4@gmail.com
Meggun Apodaca	575-640-8333	zfnickel01@gmail.com
Ernest Perez	575-202-9040	Peregaa@aol.com
TONY JONES	415-846-0507	TENTONISALEX@HOTMAIL.COM
Cheryl R Ellington	415-596-2190	chcellington@hotmail.com
RICHARD DEWMAN	575-650-2119	LCCAVE@gmail.com
BILL PARSHALL	724-612-0757	BPARSHALL@BRANDYOURBUSINESS.COM
Dana Kyle	575-525-0020	dana@dmkylekw.com
Francisco Sanchez	760-578-0635	TACOSON12@comcast.net
Hermelinda Sanchez	760-578-6510	Millie.Sanchez@comcast.net

PETITION TO OPPOSE**THE REZONING AND DEVELOPMENT OF A NEW APARTMENT COMPLEX
LOCATED AT 2795 ROADRUNNER PARKWAY**

BACKGROUND AND SUMMARY: We are petitioning the City of Las Cruces for the re-zoning application submitted by Aswad Mohamed to rezone 2795 Roadrunner Parkway from a R-1 (Single Family Residence) to a R-4 (multi-dwelling high density and limited retail and office) zone. We are concerned for the increase in population (96 apartments proposed, three stories in height), increase in traffic flow and parking availability (one entrance and exit, limited parking spots), the decrease of value to our homes (loss of visibility, increase of environmental concerns due to the construction of the complex, increase of crime related incidents to the neighborhood and overall residential character. Many of the residents residing in this area have lived here for many years and although we understand the reason for new development, we are requesting this application be denied due to our various concerns.

ACTION PETITION FOR: We, the undersigned, want the City of Las Cruces to deny this application of rezoning and keep the historical zoning established as an R-1 (Single Family Residence). Thank you.

Name:	Phone:	Email Address:
Joni Highsmith	575-650-1356	jonigbh@hotmail.com
Robert Highsmith	575.650.1556	ra-highsmith@hotmail.com
Myed-Gsch	575-636-4000	2141111111@line.com
Elizabeth Zava	575-639-0650	lzbrasil@msn.com
TIMOTHY FLYNN	575 635 7353	Tim @ RIVALLEY C.H.I. Com
Doug Baker	575 270 6733	glendandoug@yahoo.com
	859 803 6692	attenweiler@nku.edu
Glenda Baker	575-270-6733	glendadoug@yahoo.com
Salvador Fino Jr	575 532 0693	salvadorfino@comcast.net
Bill Newton	575- ⁵¹¹ 511 -0977	Bill Newton
Carolyn Newton	575-522-0977	Carolyn Newton
Guadalupe Fino	575-532-0693	Guadalupe Fino

**THE REZONING AND DEVELOPMENT OF A NEW APARTMENT COMPLEX
LOCATED AT 2795 ROADRUNNER PARKWAY**

✓ ✱
✓ ✱
✓ ✱
✓ ✱
✓ ✱
✓ ✱
✓ ✱
✓ ✱

Re: 2795 Roadrunner Parkway

----- Forwarded message -----

From: ROGER HALLIE <rogcat1@comcast.net>

Date: Sat, Sep 16, 2023, 2:06 PM

Subject: 2795 Roadrunner Parkway

To: joyce.v.bishop@gmail.com <joyce.v.bishop@gmail.com>

Joyce;

My name is Roger Hallie, and for your information, I have already written to the owner of the property, every person on the city

council, as well as the Mayor, about my and my wife's issues with building a 96 unit apartment on that property. Several years ago,

a church wanted to put a daycare center and church on that property. We, owners and renters in the area, were able to convince

the city council to disapprove that proposal. Now we have to do it again. The size and scope of that apartment, would contribute

immensely to the already unwanted congestion in the area, not to mention those items you talk about in your email. We would

rather see single family units on that property as appose to the apartment.

We must stick together, and defeat this ridiculous proposal.

Sincerely,
Roger Hallie/Cathy Waters

Agenda Item #10.1.

Subject: Re: Apts off roadrunner

On Sat, Sep 16, 2023, 1:48 PM Gloria Martinez <snoopyglow@yahoo.com> wrote:

Hello Joyce,

First I would like to thank you for asking for homeowners input. I live at 3620 Midnight Ridge. I am very concerned about the proposal to rezone the land at 2795 Roadrunner Parkway. The letter we received from the owner made it sound as if they were going to build beautiful apts. with gardens and other contemporary amenities, which by his thinking would improve the neighbor. On your notice it says there are going to be 96 apts 3 stories high. I have been in the construction business for 42 years and these are far from being apts suited to the surrounding area of high end homes. Also the owner said they would be abiding by city requirements. City ordinances would require him to build a % of these apts as "affordable housing units." (which in essence would lower our property values) Other concerns would be:

- There is already a lot of traffic on Roadrunner and adding 96 apts would add more to the congestion. Also Morning Star and Roadrunner is kind of a dangerous intersection as cars come flying by and it is kind of a blind curve. This would probably warrant a traffic signal be installed here. Is the city going to pay for this?
- Has anyone seen the traffic congestion for Camino Real Middle school morning and afternoon? Adding 96 apts would increase this also.
- Crime in this area would increase
- Increased noise
- 3 story buildings would be blocking our views
- Our property values for our high end homes would decrease
- Owner does not live in Las Cruces, so who would be overseeing the maintenance and operation of these units?
- All schools in this area are already over capacity, Sonoma, Camino, OMHS. This would overburden the schools with additional kids, and making it harder for the schools to function effectively.

I strongly object to allowing this owner to have his property be rezoned to build apts here. I have no objection to high end houses being built here. If you know when this will come up to the city council for a vote please let me know. Also do you think if the homeowners in the neighborhood signed a petition to reject the change in zoning and presented that to the City Council prior to them voting on it would that work better?

Gloria Martinez
3620 Midnight Ridge
575-312-1231

Agenda Item #10.1.

On Sat, Sep 16, 2023, 1:19 PM Tim Hess <timhtech@gmail.com> wrote:

Joyce.V.Bishop@gmail.com

I strongly object to building apartments at 2795 Roadrunner.

1 Too much traffic already, mostly from Camino Real School.

2 Schools in the area already, at near or at capacity.

3 Will devalue surrounding properties.

4 Will likely increase crime in the area

note that this area consists of middle to high end homes & currently has a low crime rate.

Tim Hess on Midnight Ridge Dr.

Agenda Item #10.1.

----- Forwarded message -----

From: DIXIE FELIPE <dixietony@comcast.net>

Date: Sat, Sep 16, 2023, 3:26 PM

Subject: Rezone

To: JOYCE.V.BISHOP@Gmail.com <JOYCE.V.BISHOP@gmail.com>

Dear Ms. Bishop,

I think that an apartment building should not be placed on 2795 Roadrunner Parkway. That part of Roadrunner is residential. With a Grade School nearby children should not be subjected to the additional traffic that these apartments will bring. Roadrunner is largely residential up to Morning Star and should remain that way. Thank you for organizing a protest against this unwise proposed zoning.

Sincerely,
Dixie Felipe

2541 Rolling Hills Ln.
Las Cruces NM 88011

575-571-5848
email: dixietony@comcast.net

From: Cherri Hudson-Brown <cjudson@comcast.net>
Subject: Concern about 2795 Roadrunner Parkway
Date: September 18, 2023 at 10:22:48 AM MDT
To: joyce.v.bishop@gmail.com

Dear Joyce

A couple people dropped off a flyer at our home about the proposed rezoning of 2795 Roadrunner Parkway.

You probably have already thought of this but it probably would be good to have people contact our local council member.

I'm having surgery in a few days and will be out of commission, but if neighbors could know when this item is on the agenda then our thoughts could be passed on. People could also attend the meeting.

In my view the best argument against this is to say we are NOT against multiple family housing but we Are concerned about traffic. There aren't crossing guards at Camino Real Middle School; there isn't a traffic light; parents often use Morning Star Church parking lot or side streets in taking their children to school or picking them up. I know there has been at least one accident at Roadrunner and Morningstar, there may have been more. People use Morningstar also as a shortcut to Sonoma Ranch Blvd. At this point a traffic light isn't needed at Morningstar and Sonoma, but it may be needed with increased traffic.

I don't think that talking about property values and rising crime will be effective, but concern about traffic safety and the children at Camino Real may be.

Sincerely,

Cherri Hudson-Brown
3040 Harmony Ridge

From: LOUIS SALAS <salasl@comcast.net>
Date: Mon, Sep 18, 2023, 11:28 AM
Subject: Strongly Oppose Proposal to Rezone 2795 Roadrunner Parkway
To: joyce.v.bishop@gmail.com <joyce.v.bishop@gmail.com>

To Whom it May Concern,

The proposed apartment complex at this location is not beneficial to this community. The major concerns are protection of living conditions in our neighborhood, especially preserving the privacy, character, and general livability of our community. An apartment complex only serves to create more unneeded and unwanted traffic as well as noise and obstructing views of homes in the area. There's a reason apartments haven't been built at this location in all these years and there is no benefit in having an apartment complex there.

Louis Salas
The Ridge Community

Agenda Item #10.1.

From: JERRY CARL <carl_jerry@hotmail.com>
Date: Thu, Sep 21, 2023, 6:23 PM
Subject: Re: Neighbors of Roadrunner Parkway
To: joyce.v.bishop@gmail.com <joyce.v.bishop@gmail.com>

Joyce: In response to your e-mail request for our concerns about the proposed 96 apartment units we submit the following items for consideration:

- 1: Vehicular traffic entering/leaving the Church parking (on Morningstar) lot on Sundays and whenever other services are scheduled. This includes evening services on occasion.
- 2: Tuesdays present a similar problem. Tuesday is food giveaway day at the church. Both upper and lower parking areas at the church on Morningstar are full. The church does provide people to direct traffic into and out of the area, however there is considerable traffic on Morningstar in the mornings because of the school situation on Road Runner and with people trying to exit/enter Midnight Ridge Ct off of or onto Morningstar. The problem is compounded and made more dangerous because the city does not keep the median strip cleared of vegetation. Furthermore, the intersection is on a blind curve. If you are trying to exit onto Morningstar, you chance a collision with folks that can't see you and are probably speeding over the 25 MPH speed limit. Traffic is presently increasing because of the apartment/business construction on Sonoma Ranch Road. Going up Morningstar it is very difficult to make a left turn onto Sonoma Ranch because of poor visibility to the right.
- 3: Additionally, school buses pass along Morningstar each weekday during the school season. Starting and stopping.
- 4: Morning and evening traffic is definitely increasing on Morningstar because of the aforesaid reasons. Adding another 96 residential units to the immediate area means approximately another 100 cars added to the traffic problems. Read on for more.
- 5: Each school morning the congestion on Roadrunner and the intersection with Morning star is an accident waiting to happen. Parents trying to drop their kids off at the school on (street below Morningstar). can't make a left turn if they are coming down Roadrunner from Rinconada so they continue down Roadrunner to Morningstar where they attempt to make a U-turn so that they can make a right turn into the school. Traffic coming down Roadrunner usually travels about 40MPH or faster and then is immediately in the school zone trying to slow down. The people on Morningstar wanting to make their U-turn can't make their U-turn and the folks on Morningstar can't turn right or left. No police presence or traffic control. What a mess!
- 6: Traffic on Roadrunner (the speedway or autobahn) is heavy and moves along quite expeditiously as I know the police know. But, AM early and PM traffic is very heavy. No traffic control devices!!! If you think another 100 cars in this area is a good idea, you may as well throw this e-mail away.
- 7: Parent's vehicles jam the neighborhood streets again when the school day is done. Kids and adults are walking about searching for each other. This situation presents a potential auto-pedestrian accident scenario. Midnight Ridge is loaded with these cars starting about 3:30 PM as is the church's two parking lots.
- 8: What I don't understand are the lines of cars, over 100 maybe 200 each school day I'm sure, with only one or two kids for drop off and the school buses that these same folks are paying taxes to use, have very few kids riding on them. No police presence and no traffic controls. And now there are folks that seemingly want to add to the congestion and confusion.
- 9: What planner makes these decisions? Does anybody come out and look the situation over? Do you think that this will add value to your property? Does anybody THINK anymore?

Betty and Jerry Carl
Midnight Ridge Drive

Agenda Item #10.1.

On Mon, Sep 25, 2023, 11:39 AM Joni Highsmith <jonigh@hotmai.com> wrote:

I strongly agree that 2795 Roadrunner Parkway should not be rezoned for an apartment. I believe it will exacerbate the congestion problems during school drop-off and pick-up.

I believe it will cause drainage issues, decrease property values, and make it unsafe for the children to ride bikes in the neighborhood.

I am concerned about my own driving from my house, and as my grandchildren live on Scenic Circle, I am concerned about their safety and the congestion when I pick them up and drop them of

Joni Highsmith
2920 Suncrest Arc
Las Cruces, NM 8011.

I am concerned about my own driving from my house, and as my grandchildren live on Scenic Circle, I am concerned about their safety and the congestion when I pick them up and drop them off.



**3081; Council
Bill 25-010**

City Council Action and Executive Summary

Type of Action:
☐ Resolution
☒ Ordinance
☐ TIDD Resolution

District:	☐ 1 ☒ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ N/A		
1st Reading:	August 5, 2024	Adopted:	August 19, 2024
Drafter:	John Castillo	Department:	Community Development
Program:	Community Planning	Line of Business:	Community Planning
Title:	AN ORDINANCE APPROVING A ZONE CHANGE FROM A-2 (RURAL AGRICULTURAL, 1981 ZONING CODE) TO C-3 (COMMERCIAL HIGH INTENSITY). THE SUBJECT PROPERTIES ENCOMPASSING 1.89 ± ACRES IS LOCATED AT 3098 E UNIVERSITY AVENUE. THE ZONE CHANGE REQUEST SEEKS TO BRING A PORTION OF THE PROPOSED TRACT OF LAND INTO COMPLIANCE WITH THE 2001 ZONING CODE, AS AMENDED.		

TYPE OF ACTION: ☐ Administrative ☐ Legislative ☒ Quasi-Judicial

PURPOSE(S) OF ACTION:
Zone Change

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The City Council is required to review and take final action on zone changes per Section 38-10 B. 2. b. and 38-13 A. of the 2001 Zoning Code, as amended. A zoning district is a specifically delineated area where land use regulations uniformly govern the use, placement, spacing, density, bulk, height, and size of buildings and/or land.

The applicant is requesting a zone change from A-2 (Rural Agricultural, 1981 Zoning Code) to C-3 (Commercial High Intensity) for a non-residentially developed portion of a parcel of land located at 3098 E University Avenue. The purpose for the proposed zone change is to bring a 1.89 ± acre portion of the parcel into compliance with the 2001 Zoning Code, as amended so the developed gas station with convenience store can operate within all City and State regulations.

The property is zoned A-2 which allows farming, open space and agricultural related land uses within a legacy and defunct zoning district (1981 Zoning Code). The proposed zone change to C-3 will allow for the developed 1.89 ± acre portion of the parcel to come into compliance with the 2001 Zoning Code and the C-3 district development standards for a recently constructed gas station on New Mexico State University property.

The proposed zone change is consistent with the intent and purpose of Elevate Las Cruces Comprehensive Plan through several Goals, Policies, and Actions. University Avenue and Las Alturas Drive are classified as arterial roadways in Elevate Las Cruces' Future Thoroughfare Map and the Mesilla Valley MPO Future Thoroughfare Plan which support commercial development. The subject property is also located within a Proposed Town Center Place Type, referred to as Aggie Uptown, as indicated by the Future Development Map. The Town Center Place Type Overlay includes a mix of residential and non-residential land uses that collectively create a vibrant and walkable activity center. The proposed zone change is also adjacent to Mix-

Agenda Item #10.2.

Use Corridors that run along Telshor Boulevard and University Avenue which support and transition to the Town Center Place Type.

On May 28, 2024 the Planning and Zoning Commission (P&Z), per Section 38-10 B. 2. B. of the 2001 Zoning Code, as amended, made a motion to remove the item from the consent agenda. During the meeting the Commission had some questions and requested clarification regarding how the gas station was able to be developed without the zone change occurring first and how some policies, goals, and actions of Elevate Las Cruces may not have been suitable for the use. The P&Z recommended approval of the proposed zone change by a vote of 4-1-0 (Two Commissioners Seat Vacant) based on the following findings, also reflected in Exhibit "B":

- The zone change request will allow for the attraction and retention of businesses.
- The proposed zone change will bring the property into compliance with all development standards of the 2001 Zoning Code, as amended (Section 38-32.D).
- The subject property is located along a principal arterial roadway where C-3 zoning is recommended (2001 Zoning Code, Section 38-32.D)
- Based on staff's analysis of the proposed zone change, the request meets the purpose and intent and is supported by Elevate Las Cruces Comprehensive Plan as it is located within a proposed Town Center Place Type.
- The proposed zone change meets the purpose and intent of the 2001 Zoning Code, as amended and fulfills the purpose of the Las Cruces Municipal Code (Section 38-2, Section 2-382).

The case was publicly noticed in accordance with the City's notification provisions, staff received comments as to how this development did not follow the intent of the proposed Town Center as outlined in Elevate Las Cruces Comprehensive Plan.

SUPPORT INFORMATION:

[Exhibit "A" - Site Plan](#)

[Exhibit "B" - FINDINGS](#)

[Attachment "A" - 24ZO0500052 Staff Report](#)

[Attachment "B" - 05-28-24 PNZ Minutes \(Draft\)](#)

PLAN(S):

Elevate Las Cruces

COMMITTEE/BOARD REVIEW:

P&Z

DOES THIS AMEND THE BUDGET?:

☐ Yes

☒ No

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes

☒ No

Does this action align with Elevate Las Cruces?

☒ Yes

☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes", this will approve the Ordinance and affirm the P&Z recommendation for approval.

Agenda Item #10.2.

2. Vote "No", this will deny the Ordinance and reject the recommendation made by P&Z.
3. Vote to "Amend", this could allow City Council to modify the Ordinance by adding conditions as determined appropriate.
4. Vote to "Table", this could allow City Council to table/postpone the Ordinance and direct staff accordingly.

ORDINANCE 3081; COUNCIL BILL 25-010

AN ORDINANCE APPROVING A ZONE CHANGE FROM A-2 (RURAL AGRICULTURAL, 1981 ZONING CODE) TO C-3 (COMMERCIAL HIGH INTENSITY). THE SUBJECT PROPERTIES ENCOMPASSING 1.89 ± ACRES IS LOCATED AT 3098 E UNIVERSITY AVENUE. THE ZONE CHANGE REQUEST SEEKS TO BRING A PORTION OF THE PROPOSED TRACT OF LAND INTO COMPLIANCE WITH THE 2001 ZONING CODE, AS AMENDED.

The City Council is informed that:

WHEREAS, Maverik C-Store, representative, has submitted a request for a zone change from A-2 (Rural Agricultural, 1981 Zoning Code) to C-3 (Commercial High Intensity) for 3098 E University Ave.; and

WHEREAS, the proposed C-3 zoning designation will allow for the a portion of a tract of land with a commercial building to operate in compliance with City and State regulations and bring the property into compliance with the 2001 Zoning Code as amended; and

WHEREAS, the proposed zone change is supported by Elevate Las Cruces Comprehensive Plan by promoting economic growth within the city through the development of a Town Center to create a vibrant and walkable activity center that supports institutional, cultural, employment, shopping and entertainment uses; and

WHEREAS, the Planning and Zoning Commission, after conducting a public hearing on May 28, 2024, recommended that said zone change request be approved by a vote of 4-1-0 (Two Commissioner seats vacant).

NOW, THEREFORE, Be it Ordained by the Governing Body of the City of Las Cruces:

(I)

THAT the land, as reflected in Exhibit “A”, attached hereto and made part of this Ordinance, is hereby zoned C-3 (Commercial High Intensity).

(II)

THAT the zoning is based on the findings contained in Exhibit “B”, attached hereto and made part of this Ordinance.

(III)

THAT the zoning of said property be shown accordingly on the City Zoning Atlas.

(IV)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

Agenda Item #10.2.

APPROVED

ATTEST:

Moved by:

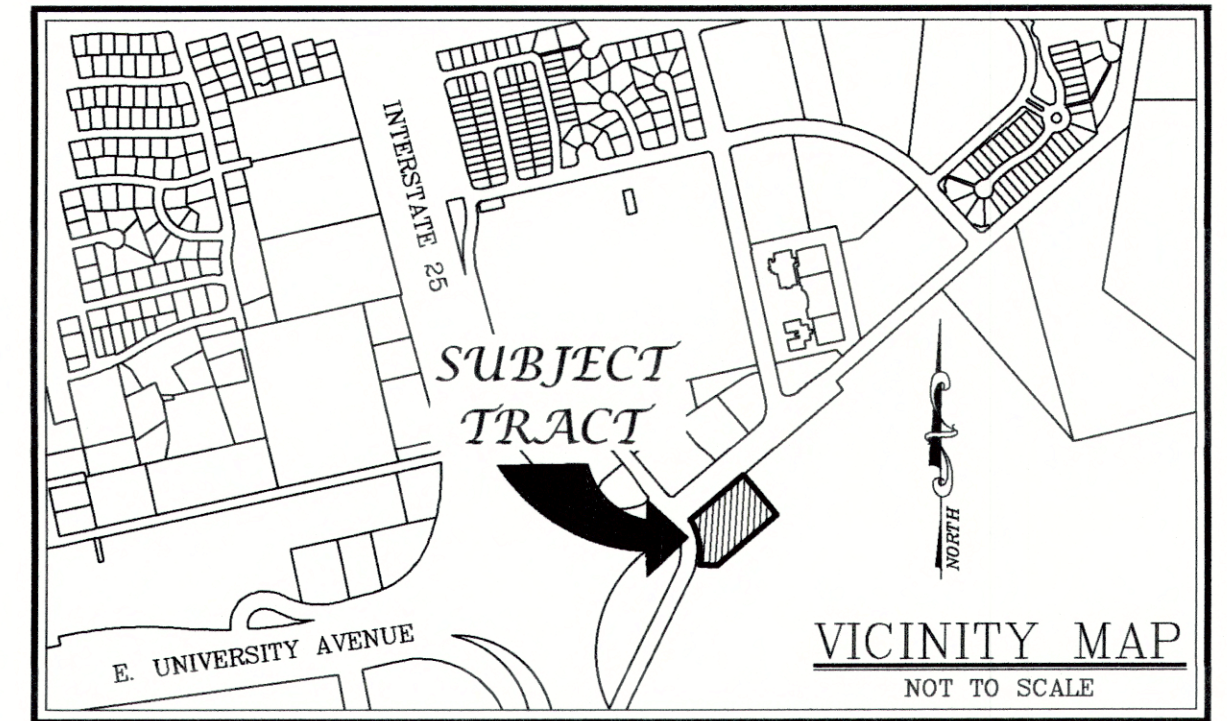
Seconded by:

AYES

NAYS

EXHIBIT "A"

ALTA/NSPS LAND TITLE SURVEY FOR A FUTURE COMMERCIAL SITE (3098 E. UNIVERSITY AVENUE) LOCATED AT THE SOUTHEAST CORNER OF E. UNIVERSITY AVENUE & LAS ALTURAS DRIVE IN LAS CRUCES, DOÑA ANA COUNTY, NEW MEXICO SCALE: 1"=40' SEPTEMBER 10, 2021



NEW MEXICO STATE UNIVERSITY
BOARD OF REGENTS
1700 E. UNIVERSITY
LAS CRUCES, NM 88003

SURVEYOR'S NOTES:

1. THERE ARE NO BUILDINGS ON THE SUBJECT PROPERTY.
2. THE DONA ANA COUNTY GIS MAP (gis.donanacounty.org/maps/) SHOWS THIS PROPERTY TO HAVE AN ADDRESS OF 3098 E. UNIVERSITY AVENUE.
3. THERE ARE NO OTHER VISIBLE ABOVE-GROUND UTILITIES THAN THE GAS METERS, LIGHT POLES, WATER LINES, SEWER LINES, GAS LINES, MANHOLES, AND OTHER UTILITIES AS SHOWN HEREON.
4. THERE ARE NO PROPOSED CHANGES IN STREET RIGHT-OF-WAY LINES OF WHICH THE SURVEYOR HAS BEEN MADE AWARE.
5. EXCEPT AS INCLUDED IN THE NOTES AND SHOWN ON THE SURVEY, THERE ARE NO VISIBLE EASEMENTS OR RIGHTS-OF-WAY OF WHICH THE SURVEYOR HAS BEEN ADVISED.
6. OTHER THAN SHOWN HEREON, THE LOCATION OF UNDERGROUND UTILITIES, IF ANY, ARE UNDETERMINED. THE SURVEYOR WAS PROVIDED WITH UNDERGROUND PLANS, SURFACE GROUND MARKINGS AND MAGES PROVIDED BY THE CITY OF LAS CRUCES JOINT UTILITIES DEPARTMENT WERE USED TO DETERMINE THE LOCATION OF THE SUBTERRANEAN UTILITIES.
7. ONLY OBSERVED ABOVE-GROUND APPURTENANCES FOR GAS, ELECTRIC, SANITARY SEWER, AND WATER LINES AND/OR SERVICE LINES ARE SHOWN FOR THIS PROPERTY WITHIN THE BOUNDARY SHOWN ON THIS SURVEY.
8. THERE IS NO EVIDENCE OF RECENT EARTH MOVING WORK, BUILDING CONSTRUCTION OR BUILDING ADDITIONS OBSERVED IN THE PROCESS OF CONDUCTING THE FIELDWORK.
9. BASIS OF BEARING IS FROM CARDINAL NORTH USING A TRIMBLE GPS SURVEYING EQUIPMENT. ALL PROPERTY BEARINGS AND DISTANCES ARE FIELD BEARINGS AND DISTANCES AS DETERMINED PER RIGHT-OF-WAY MAPS FOR NMP #LC00250/PCN LC00250 PREPARED BY BOHANNAN HUSTON DATED JULY 15, 2018.
10. SEE TITLE COMMITMENT EXCEPTION NO. 10. THE LOCATION OF THIS 5-FOOT WIDE EASEMENT IS APPROXIMATE AS THERE ARE NO DIMENSIONS PROVIDED IN THE RECORD DOCUMENT. IT IS SHOWN ONLY GRAPHICALLY FOR ORIENTATION. THIS EASEMENT LIES OUTSIDE OF THE SUBJECT TRACT.
11. SEE TITLE COMMITMENT EXCEPTION NO. 11. THE LOCATION OF THIS 10-FOOT WIDE EASEMENT IS APPROXIMATE AS THERE ARE NO DIMENSIONS PROVIDED IN THE RECORD DOCUMENT. IT IS SHOWN ONLY GRAPHICALLY FOR ORIENTATION.
12. SEE TITLE COMMITMENT EXCEPTION NO. 12. THE LOCATION OF THIS PUBLIC ACCESS EASEMENT IS OUTSIDE OF THE SUBJECT TRACT. IT IS LOCATED APPROXIMATELY 2500 FEET SOUTH. IT IS NOT SHOWN ON THIS PLAT.
13. SEE TITLE COMMITMENT EXCEPTION NO. 13. THE LOCATION OF THIS 6-FOOT WIDE EASEMENT IS UNDETERMINED. THE RECORD DOCUMENT IS ILLEGIBLE. THIS EASEMENT IS NOT SHOWN ON THIS PLAT.
14. SEE TITLE COMMITMENT EXCEPTION NO. 14. THE LOCATION OF THESE EASEMENTS ARE OUTSIDE THE SUBJECT TRACT. THEY ARE NOT SHOWN ON THIS PLAT.
15. EXCEPT AS SHOWN, ALL UTILITIES SHOWN SERVING THE PROPERTY ENTER THROUGH ADJOINING PUBLIC STREETS AND/OR EASEMENTS OF RECORD.
16. THE PROPERTY SURVEYED IS THE SAME PROPERTY DESCRIBED IN LAS CRUCES ABSTRACT AND TITLE COMPANY COMMITMENT NO. 082270 WITH AN EFFECTIVE DATE OF JULY 13, 2021, 7:00am. ALL EASEMENTS, COVENANTS AND RESTRICTIONS REFERENCED IN SAID TITLE COMMITMENT, OR EASEMENTS OF WHICH THE UNDERSIGNED HAS BEEN ADVISED OR HAS KNOWLEDGE, HAVE BEEN PLOTTED HEREON OR OTHERWISE NOTED AS TO THEIR EFFECT ON THE PROPERTY.
17. OTHER THAN SHOWN HEREON, THERE ARE NO OBSERVABLE, ABOVE GROUND ENCROACHMENTS (A) BY THE IMPROVEMENTS ON THE SUBJECT PROPERTY, UPON ADJOINING PROPERTIES, STREETS OR ALLEYS, OR (B) BY THE IMPROVEMENTS ON ADJOINING PROPERTIES, STREETS OR ALLEYS UPON THE SUBJECT PROPERTY.
18. THE PROPERTY IS LOCATED IN ZONE "X" (UNSHADED), OUTSIDE OF A FLOOD ZONE, AS SHOWN ON FEMA FLOOD INSURANCE RATE MAP NO. 35013C11116, WITH AN EFFECTIVE DATE OF JULY 6, 2016, FOR COMMUNITY NUMBER 355332.
19. THE PROPERTY HAS DIRECT PHYSICAL ACCESS TO E. UNIVERSITY AVENUE AND LAS ALTURAS DRIVE, PUBLICLY DEDICATED STREETS.
20. NO RECORD DESCRIPTION OF THE PROPERTY WAS PROVIDED TO THE SURVEYOR. THE DESCRIPTION SHOWN ON THIS PLAT FORMS A MATHEMATICALLY CLOSED FIGURE.
21. SURVEYOR MAKES NO CLAIMS TO THE ACCURACY, CORRECTNESS, OR APPLICATION OF INFORMATION FOUND FOR THE ONLINE DATA OBTAINED FROM THE CITY OF LAS CRUCES FOR ZONING INFORMATION. SUBJECT TRACT IS ZONED A-2 PER CITY OF LAS CRUCES ON-LINE PROPERTY ZONING MAP.
22. BENCHMARK IS A #5 STEEL ROD SET WITH PLASTIC CAP FOR THE NORTHEAST CORNER OF THIS TRACT. BENCHMARK IS IN LOCAL PROJECT GROUND COORDINATES AS SHOWN ON THE CONTROL MAP FOR NMP No. HSP-(M)-025-1(88)02, NH-TPE-070-2(29)148, AND IM-TPO-025-1(07). ELEVATION IS BASED ON AN OPUS OBSERVATION ON AUGUST 18, 2021, IN THE NAVD83 DATUM.
23. THIS OWNERSHIP LINE IS APPROXIMATE AS NO RECORD INFORMATION WAS PROVIDED TO THE SURVEYOR. THIS LINE IS DERIVED FROM DONA ANA COUNTY GIS AND IS SHOWN GRAPHICALLY FOR ORIENTATION ONLY.

LEGEND OF SYMBOLS AND ABBREVIATIONS:

- | | | |
|---|-----|--------------------------------------|
| PROPERTY LINES & CORNER, SET #5 STEEL ROD w/PLASTIC CAP OR AS NOTED OTHERWISE | (E) | ELECTRIC BOXES |
| CONCRETE / SIDEWALK | (P) | LIGHT POLE |
| CHAIN-LINK FENCE | (T) | TELEPHONE PEDESTAL |
| APPROXIMATE AREA OF DILAPIDATED ASPHALT | (M) | SEWER MANHOLE |
| PAVEMENT (ASPHALT) | (E) | ELECTRIC METER |
| MINOR CONTOURS | (L) | LIGHT CONTROL BOX |
| MAJOR CONTOURS | (F) | FIBER OPTICS BOX |
| APPROXIMATE LOCATION OF PUTTING GREEN BORDER | (S) | CROSSWALK SIGNAL |
| | (C) | COMMUNICATIONS BOX |
| | (B) | BOLLARD |
| | (T) | TRAFFIC SIGNAL BOX |
| | (S) | STREETLIGHT MAST ARM |
| | (H) | HDSL CAN |
| | (G) | EXISTING GAS LINE |
| | (S) | EXISTING SEWER LINE |
| | (W) | EXISTING WATER LINE |
| | (O) | EXISTING FIBER OPTIC LINE |
| | (E) | EXISTING UNDERGROUND ELECTRICAL LINE |

CURVE TABLE						
CURVE	DELTA	RADIUS	TANGENT	LENGTH	CHORD	DIST
C1	33°42'43"	334.50'	101.35'	196.81'	N11°55'52"W	193.99'

DESCRIPTION:

A TRACT OF LAND BEING A PART OF LANDS OF THE STATE OF NEW MEXICO (PARCEL No. 4-009-134-462-048) AS SHOWN ON THE DONA ANA COUNTY GIS MAPS (gis.donanacounty.org/maps/); AND PART OF LANDS OF THE BOARD OF REGENTS OF NEW MEXICO STATE UNIVERSITY (PARCEL No. 4-010-136-133-471). WITHIN THE DONA ANA BEND COLONY GRANT, WITHIN PROJECTED SECTION 21, T23S, R2E, USRS; LOCATED AT THE SOUTHEAST CORNER OF UNIVERSITY AVENUE AND LAS ALTURAS DRIVE; THIS TRACT IS PARTIALLY WITHIN THE CITY OF LAS CRUCES, DONA ANA COUNTY, NEW MEXICO, AND IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A SET #5 REBAR WITH A YELLOW CAP FOR THE SOUTHWEST CORNER OF THIS TRACT, WHENCE A FOUND NMDOT T-RAIL, STATION 35+02.45, OFFSET 341.23 FEET, FROM THE SURVEY CENTERLINE OF UNIVERSITY AVENUE PER NMDOT PROJECT LC00250, BEARS S15°34'44"W A DISTANCE OF 123.73 FEET, THENCE FROM SAID POINT OF BEGINNING, ALONG THE EAST RIGHT-OF-WAY LINE OF LAS ALTURAS DRIVE AS SHOWN ON SAID NMDOT PROJECT, BEING A CURVE TO THE LEFT HAVING A RADIUS OF 334.50 FEET, A CURVE LENGTH OF 196.81 FEET, A DELTA OF 33°42'43", AND WHOSE LONG CHORD BEARS N11°55'52"W HAVING A DISTANCE OF 193.99 FEET TO A SET #5 REBAR WITH A YELLOW CAP ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID UNIVERSITY AVENUE FOR THE NORTHWEST CORNER OF THIS TRACT; THENCE ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID UNIVERSITY AVENUE N50°05'45"E A DISTANCE OF 302.10 FEET TO A SET #5 REBAR WITH A YELLOW CAP FOR THE NORTHEAST CORNER OF THIS TRACT; THENCE LEAVING SAID RIGHT-OF-WAY LINE OF SAID UNIVERSITY AVENUE, S35°54'15"E A DISTANCE OF 223.90 FEET TO A SET #5 REBAR WITH A YELLOW CAP FOR THE SOUTHWEST CORNER OF THIS TRACT; THENCE S50°05'45"W A DISTANCE OF 340.20 FEET TO A SET #5 REBAR WITH A YELLOW CAP FOR A CORNER OF THIS TRACT; THENCE N85°04'30"W A DISTANCE OF 74.58 FEET BACK TO THE POINT OF BEGINNING. THIS TRACT CONTAINS 1.767 ACRES, MORE OR LESS, OF LAND AND IS SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

SURVEYOR'S CERTIFICATE

TO MAVERIK, INC., A UTAH CORPORATION; THE BOARD OF REGENTS OF NEW MEXICO STATE UNIVERSITY; FIRST NATIONAL TITLE INSURANCE COMPANY; AND TOWN, LLC DBA LAS CRUCES COMMUNITY & TITLE COMPANY:

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH 2021 MINOR SURVEYING DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 3, 4, 5, 6(a), 6(b), 8, 11, 13, 16, AND 17 OF TABLE A THEREOF. THE FIELDWORK WAS COMPLETED ON AUGUST 11, 2021.

DATE OF PLAT OR MAP: SEPTEMBER 14, 2021.

Sept 10
Larry O. Underwood
LARRY O. UNDERWOOD
NMP#PS No. 5983



UNDERWOOD ENGINEERING INC.
1430 W. AMADOR AVENUE
LAS CRUCES, NM 88005
PH: (575) 647-4329
LARRY@UNDERWOODENGINEERING.COM

FINDINGS

1. The proposed zone change request will allow for the attraction and retention of businesses.
2. The proposed zone change will bring the property into compliance with all development standards of the 2001 Zoning Code, as amended (Section 38-32.D).
3. The subject property is located along a principal arterial roadway where C-3 zoning is recommended (2001 Zoning Code, Section 38-32.D).
4. Based on staff's analysis of the proposed zone change the request meets the purpose and intent and is supported by Elevate Las Cruces
5. Comprehensive Plan as it is located within a proposed Town Center Place type. • The proposed zone change meets the purpose and intent of the 2001 Zoning Code, as amended and fulfills the purpose of the Las Cruces Municipal Code (Section 38-2, Section 2-382).



CITY OF LAS CRUCES

Planning & Zoning Commission 05/28/2024
CASE 24ZO0500052: REZONING

GO
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N

STAFF CONTACT:	John Castillo, (575) 541-2288, jcastillo@lascruces.gov
OWNER:	New Mexico State University
REPRESENTATIVE:	Maverik C-Store
DISTRICT:	District #2
SITE ADDRESS:	3098 E University Avenue
EXISTING ZONING:	A-2 (Rural Agricultural, 1981 Code)
REQUEST:	To rezone from A-2 (Rural Agricultural, 1981 Zoning Code) to C-3 (Commercial High Intensity)
RELATED APPLICATIONS:	N/A
STAFF RECOMMENDATION:	Approval

SUMMARY OF CASE 24ZO0500052:

The applicant is requesting a zone change from A-2 (Rural Agricultural, 1981 Zoning Code) to C-3 (Commercial High Intensity) on a portion of a tract of land encompassing 1.89 ± acres and located at 3098 E. University Ave., to bring the property into compliance with the 2001 Zoning Code, as amended.

SUMMARY OF RECOMMENDATION:

Staff is recommending **APPROVAL** based on the findings listed below:

- The proposed zone change request will allow for the attraction and retention of businesses.
- The proposed zone change will bring the property into compliance with all development standards of the 2001 Zoning Code, as amended (Section 38-32.D).
- The subject property is located along a principal arterial roadway where C-3 zoning is recommended (2001 Zoning Code, Section 38-32.D).
- Based on staff’s analysis of the proposed zone change the request meets the purpose and intent and is supported by Elevate Las Cruces

Comprehensive Planas it is located within a proposed Town Center Place type.

- The proposed zone change meets the purpose and intent of the 2001 Zoning Code, as amended and fulfills the purpose of the Las Cruces Municipal Code (Section 38-2, Section 2-382).

PROPOSAL AND LAND USE HISTORY

DETAILED DESCRIPTION:

The applicant is seeking a zone change from A-2 (Rural Agricultural, 1981 Zoning Code) to C-3 (Commercial High Intensity). The subject property is a portion of a vacant tract of land that encompasses 1.89 ± acres in size and located at the intersection of Las Alturas Drive and University Avenue (3098 E. University Ave.). The subject property is currently developed with a commercial building functioning as a gas station with convenience store. The proposed zone change to C-3 will allow the property to come into compliance with the 2001 Zoning Code, as amended as the current zoning designation of A-2 is a defunct zone from the 1981 Zoning Code.

LAND USE HISTORY:

The subject property is a part of the Southeast Extension of the City Limits Interstate 10-25 junction that was annexed into the City of Las Cruces in 1968. The property has remained vacant/undeveloped for many years and has a zoning designation of A-2 prior to 1981. The subject property is owned by New Mexico State University and has remained a vacant tract of land until the development of the commercial business.

ZONING DECISION CRITERIA AND POLICIES

POLICY	DOES IT COMPLY?
<u>Neighborhood Character and Compatibility</u>	Yes
<u>Elevate Las Cruces Comprehensive Plan</u>	Yes
<u>Thoroughfare Plans</u>	Yes
<u>Purpose and Intent of the Code: Section 38-2</u>	Yes
<u>Criteria for Decisions: Section 2-382</u>	Yes

NEIGHBORHOOD CHARACTER AND COMPATIBILITY:

University Avenue is a major thoroughfare that runs east to west throughout the entire City. The subject parcel is located along a corridor of limited commercial and medical land uses on the northside of University Avenue.

COMPLIANCE WITH ELEVATE LAS CRUCES COMPREHENSIVE PLAN:

The subject property is associated with a proposed Town Center Place Type Overlay known as Aggie Uptown. The parcel is also adjacent to two Mixed-Use Corridors along Telshor Blvd. and University Ave. as identified in the Elevate Las Cruces Comprehensive Plan and Future Development Map. The Town Center Place Type Overlay includes a mix of residential and non-residential land uses that collectively create a vibrant and walkable activity center. Additionally, Mixed-Use Corridors support a mix of residential and non-residential land uses along roadway or trail corridors. The following goals, polices, and actions from Elevate Las Cruces are relevant to the proposed zone change:

- Community Environment:

- Goal CE-2: Areas of Special Consideration – Integrate new development into the community in a manner that complements significant built and natural features.
- Goal CE-3: Centers and Corridors – Support community growth through concentrated development at activity centers and along key corridors.
 - Policy CE-3.2 – Allow for a mix of development type and intensity along major thoroughfares that reflects surrounding urban, suburban, and rural contexts.
- Goal CE-4: Complete neighborhoods – Develop mixed-use neighborhoods that incorporate a wide range of recreational, commercial, employment, and civic uses.
 - Policy CE-4.2: Incorporate employment and shopping nodes into new and redeveloping neighborhoods that incorporate a wide range of recreational, commercial, and civic uses.
- Community Prosperity
 - Goal CP-2: Economic Equity – Generate employment opportunities that create economic security for all residents.
 - Policy CP-2.2 – Support efforts to connect vulnerable populations to job opportunities.
 - Action CP-2.2.2 – Identify and promote places of employment to minimize commutes and increase accessibility to other transportation modes to create a job-housing balance.
 - Goal CP-4: Diversification – Seek a balance of business recruitment, retention, and expansion to diversify economic opportunities.
 - Policy CP-4.2 – Support efforts to be regionally and nationally competitive in regard to retaining and growing businesses, jobs, and students.

The request to rezone the property from A-2 to C-3 is not out of context with Elevate Las Cruces Comprehensive Plan. The Town Center Place Type overlay provides transitions in development scale between the major thoroughfares and surrounding neighborhoods.

COMPLIANCE WITH THOROUGHFARE PLANS:

University Avenue is designated as a principal arterial roadway and Las Alturas Drive as a designated as a minor arterial roadway by both the Elevate Las Cruces Future Thoroughfare Map and the Mesilla Valley Metropolitan Planning Organization (MPO) Future Thoroughfare Plan. These types of roadways are designed to support the proposed C-3 zoning designation and any potential future development.

CONSISTENCY WITH PURPOSE AND INTENT OF THE ZONING ORDINANCE:

Per Section 38-2: The intent of the Zoning Code is to encourage the most appropriate use of land and to promote the health, safety, and general welfare of the community for the purpose of improving each citizen's quality of life.

The regulations relevant to the proposed zone change include:

- A. Ensure that all development is in accordance with this Code and the Elevate Las Cruces Comprehensive Plan and its elements.
- B. Encourage innovations in land development and redevelopment.
- C. Give reasonable consideration to the character of each zoning district and its peculiar suitability for particular uses.

- H. Encourage the conservation of energy in the use of structures, buildings, and land.
- J. Improve the design, quality, and character of new development.
- L. Ensure that development proposals are sensitive to the character of existing neighborhoods.
- M. Foster a more rational relationship between different land uses for the mutual benefit of all.
- N. Conserve the value of buildings and land.

Review by City staff has determined that the proposed zone change would not adversely impact the surrounding area. Any potential future expansion in uses is in keeping with the surrounding area as per Section 38-2 of the 2001 Zoning Code, as amended.

CRITERIA FOR DECISIONS:

Per Section 2-382 of the Las Cruces Municipal Code, the Planning and Zoning Commission shall determine the following:

- A. The Planning and Zoning Commission shall review the comprehensive plan, and other applicable plans and codes and determine whether the request will:
 - 1. Impair an inadequate supply of light and air to adjacent property or otherwise adversely adjoining properties.
 - 2. Unreasonably increase the traffic in public streets.
 - 3. Increase the danger of fire or endanger the public safety.
 - 4. Deter the orderly and phased growth and development of the community.
 - 5. Unreasonably impair established property values within the surrounding area.
 - 6. In any other respect, impair the public health, safety, or general welfare of the city.
 - 7. Constitute a spot zone, and therefore, adversely affect adjacent property values.
 - 8. Be in harmony with the purpose and intent of the zoning code, sign code, design standards, and other companion codes.
- B. The commission shall take care that the development of the city, in accordance with present and future needs, best promotes the health, safety, morals, order, convenience, prosperity, and general welfare of the people. It shall also promote efficiency and economy in the process of development.
- C. The commission shall encourage the proper use and development of land, shall seek to create and maintain an aesthetic urban setting, and protect and preserve the quality of the water, air and other environmental, natural, historical and cultural resources for the city.
- D. The commission shall use the comprehensive plan as a guide in making all future decisions concerning land use and development, and in the financing and location of capital improvements.
- E. Before taking any action concerning land use and development and financing and location of capital improvements, the commission shall review the relationship between the proposed action and the comprehensive plan.

Upon internal review, Staff did not identify any issues that would deter the Planning and Zoning Commission from making a positive recommendation to City Council regarding the zone change request. Staff also considered the Criteria for Decisions stated above during the internal review process and has deemed the zone change

request appropriate for recommendation of approval.

NEW MEXICO CASE LAW:

1. There was an error when the existing zoning map pattern was created; or
2. Changed neighborhood or community conditions justify the change; or
3. A different use category is more advantageous to the community, as articulated in the Comprehensive Plan or other applicable City master plan(s), even though criterion (1) or (2) above do not apply because
 - a. there is a public need for a change of the kind in question, and
 - b. that need will be best served by changing the classification of the particular piece of property in question as compared with other available property.

DEVELOPMENT STANDARDS

SITE COMPLIANCE FOR USES UNDER CURRENT ZONING:

The subject property is a portion of an undeveloped tract of land that encompasses 1.89 ± acres. The parcel under the current zoning designation is allowed for a home associated to agricultural land uses. It is currently developed with a gas station and convenience store which is not a permitted use.

SITE SUITABILITY FOR USES UNDER PROPOSED ZONING:

The proposed zone change to C-3 would allow the applicant to move forward with the developed parcel bringing it into compliance with the 2001 Zoning Code, as amended.

ADEQUACY OF PUBLIC FACILITIES AND SERVICES:

City water, sewer and gas are currently serving the property and will not be negatively impacted by the zone change request. University Avenue provides adequate paved access, sidewalks, multi-use path and lighting adjacent to the subject property.

STAFF AND PUBLIC COMMENTS

PUBLIC NOTIFICATION AND INPUT:

Notification letters were mailed to property owners within 500 feet of the subject property. Staff received one phone call with comments in opposition of the zone change stating it did not follow the Aggie Uptown Master Plan and is being corrected after it was developed.

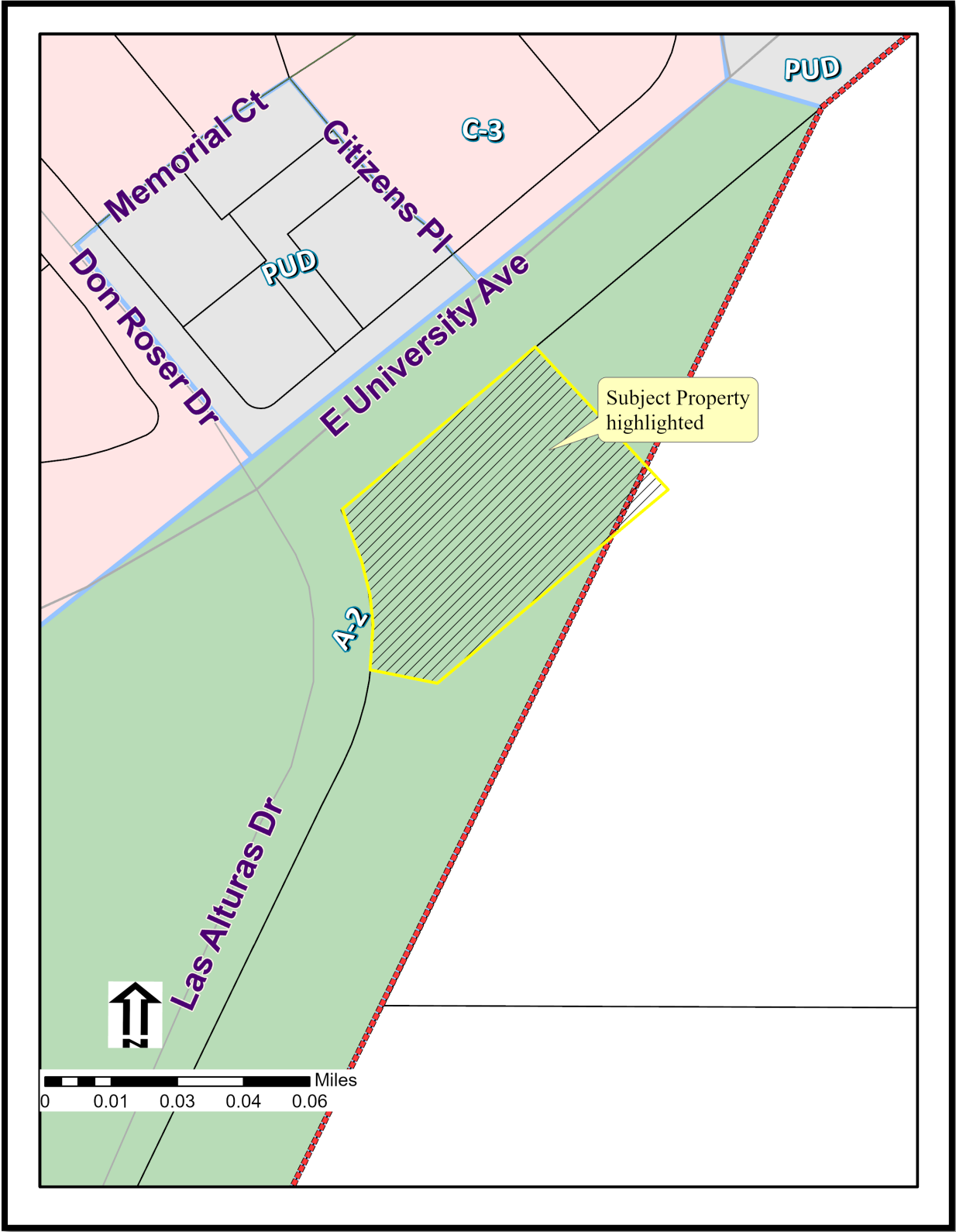
STAFF COMMENTS:

No reviewing department had any negative comments nor have any reviewers objected to the proposed rezoning.

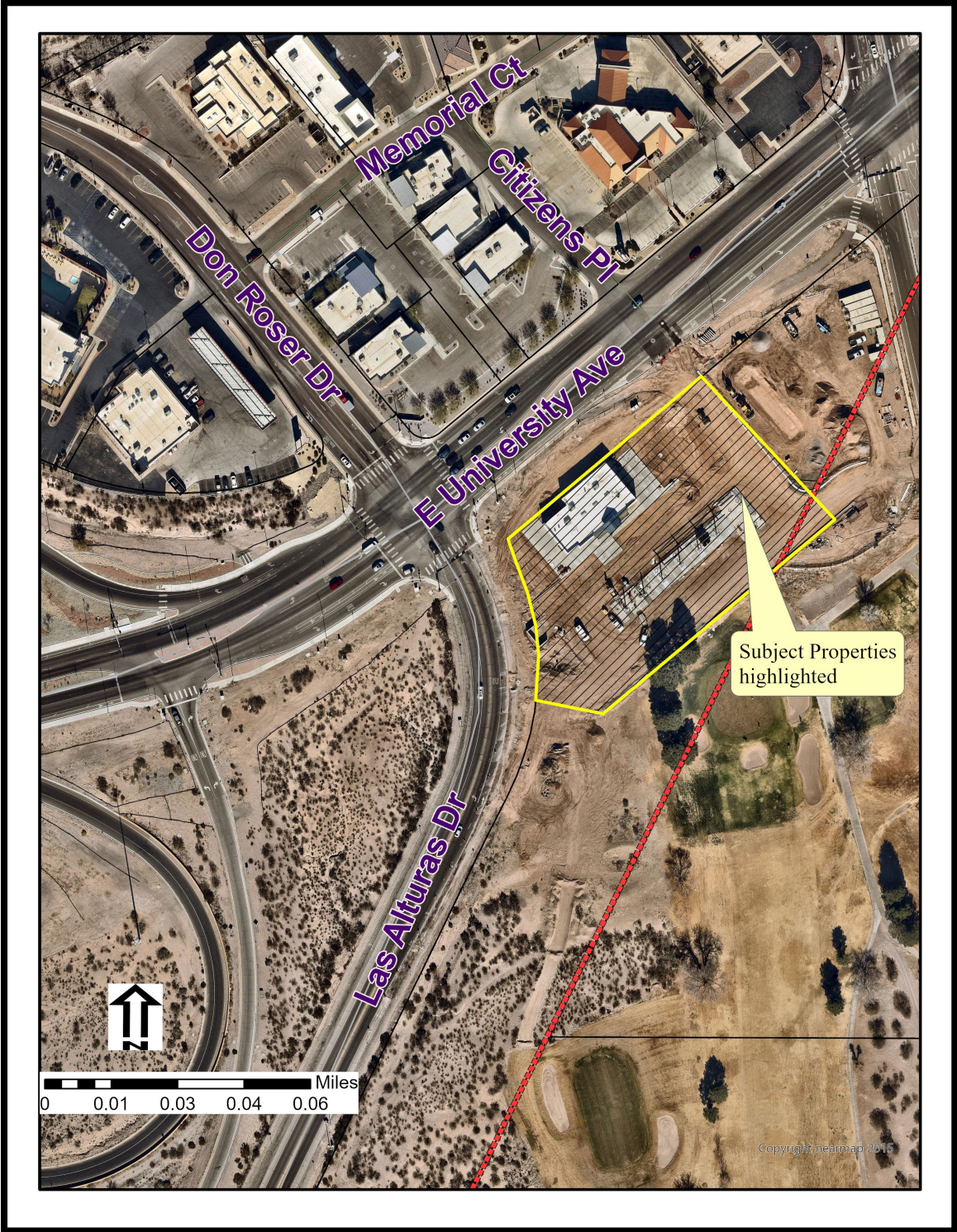
ATTACHMENTS:

1. Zoning Map
2. Aerial Map
3. Site Plan
4. Department Review Comments

ATTACHMENT 1
Zoning Map

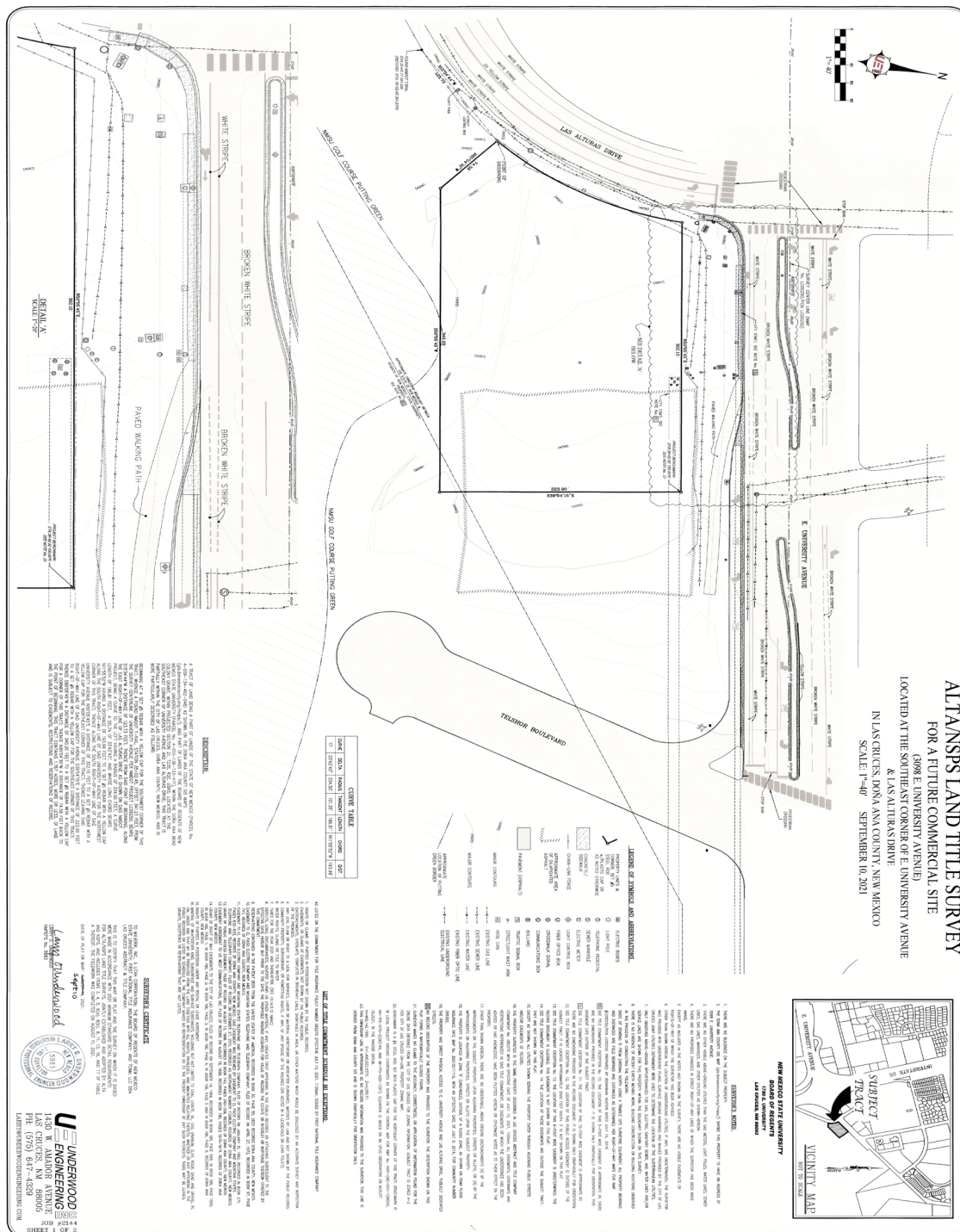


ATTACHMENT 2
Aerial Map



ATTACHMENT 3

Site Plan



ATTACHMENT 4

Department Comments

Department: Planning

Status: YES

Department: Traffic Engineering

Status: YES

Department: Engineering

Status: YES

Department: Utility Engineering

STATUS: YES

Department: Fire

Status: YES

Department: City MPO

Status: YES

Department: Flood

Status: Yes



CITY OF LAS CRUCES

PLANNING AND ZONING COMMISSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
May 28, 2024 at 6:00 p.m.

BOARD MEMBERS PRESENT:

- Scott Kaiser, Chair
- Enrico Smith, Vice-Chair
- Connor Murray, Member
- Joaquin Acosta, Member (arrived 6:07)
- Vanessa Porter, Member

STAFF PRESENT:

- Larry Nichols, Director Community Development Department
- David Weir, Deputy Director Community Planning
- Adam Ochoa, Senior Planner/Building Inspection Supervisor
- Vincent Banegas, Interim Planner
- John Castillo, Planner
- Brad Douglas, City Attorney
- Becky Baum, Recording Secretary, RC Creations, LLC

1. CALL TO ORDER (6:00)

Kaiser: All right, good evening. It is 6:01, so we will go ahead and call this meeting to order. Welcome to the Planning and Zoning Commission for the City of Las Cruces. This is the May 28th meeting

2. APPROVAL OF MINUTES – April 23, 2024

- Kaiser: First order of business this evening is an approval of the minutes from the April meeting. Before we do that were there any comments, edits, or suggestions. No. All right, looking for a motion to approve.
- Smith: I move that we approve the minutes from the previous meeting.
- Porter: I second.
- Baum: Board Member Porter.
- Porter: Abstain.
- Baum: Board Member Smith.

1
2 Smith: Yes.
3
4 Baum: Board Member Murray.
5
6 Murray: Yes.
7
8 Baum: Chair Kaiser.
9
10 Kaiser: Yes.
11
12 Baum: Motion passes.
13

14 **3. CONFLICT OF INTEREST**

15
16 Kaiser: All right. Any conflicts of interest from the Commission this evening?
17 Seeing none.
18

19 **4. POSTPONEMENT**

20
21 Kaiser: Any postponements from staff?
22
23 Ochoa: None tonight, sir. No.
24
25 Kaiser: All right.
26

27 **5. ACCEPTANCE OF THE AGENDA**

28
29 Kaiser: And before we move to accept tonight's agenda, I would like to pull item 7.2
30 from the consent agenda. Just for a brief discussion. So with that change,
31 looking for a motion to approve tonight's agenda.
32
33 Smith: I move that we approve tonight's agenda.
34
35 Murray: I'll second.
36
37 Baum: Board Member Porter.
38
39 Porter: Yes.
40
41 Baum: Board Member Smith.
42
43 Smith: Yes.
44
45 Baum: Board Member Murray.
46

1 Murray: Yes.

2
3 Baum: Chair Kaiser.

4
5 Kaiser: Yes.

6
7 Baum: Motion passes.

8
9 **6. PUBLIC PARTICIPATION**

10
11 Kaiser: All right. Moving on to public participation. I know many of you are here to
12 speak this evening on several items. But this time will be reserved for those
13 that wish to speak on something that is not on tonight's agenda. Can I get
14 a raise of hands? I see one hand raised. A second hand. Okay, just one
15 hand raise. All right. The gentleman please come forward. I'll give you two
16 and a half minutes. And please state your name for the record.

17
18 Shervanick: Gregory Shervanick for the record. And Chair Kaiser I would like to give
19 you these photographs of ...

20
21 Kaiser: Bring them up. And then before you begin, do you swear or affirm that the
22 testimony you're about to give is the truth and nothing but the truth under
23 penalty of law?

24
25 Shervanick: I do.

26
27 Kaiser: Go ahead.

28
29 Shervanick: This evening, Commissioners, Mr. Chairman, City staff. I'd like to caution
30 you that as you get closer and closer to a work session with City Council
31 concerning Realize Las Cruces, the newest zoning change that the City of
32 Las Cruces will be doing. The first thing as I've observed, and I'm sure
33 you've observed in this chamber, that people come here and they say we
34 didn't know about it. And of course, we tell them that we post signs for
35 public participation. And we also send out letters. In front of you I've given
36 you two photographs. This case you've already heard. It's off of Mesquite
37 Street. You will notice that in the first photograph, the photograph was taken
38 from the curb, so you can see or not see what is on the sign. The second
39 photograph is at two times from that particular level, and you still can't really
40 read what's on that zoning change. So in order to stop individuals from
41 coming here and claiming that they didn't know or didn't have the right to
42 know, I'm suggesting that in the Realize Las Cruces document that this
43 statement as it now states 500 feet plus the size of the font on the signs be
44 changed. And included is a cue code so that anybody at any distance can
45 photograph it.

46

1 And then secondly, we've heard a lot about energy. We've also seen a lot
2 of car ports be brought into this chamber, and a decision made to them.
3 The more shade one has around an area increases or actually decreases
4 the urban heat. So I would consider you to not take down any more carports
5 as it helps our urban heat problem. And I want to thank you very much for
6 your time, as I have 30 seconds left.
7

8 Kaiser: Thank you. And I would like just to echo for those that are here this evening.
9 The Realize Las Cruces update to the development code is ongoing and
10 currently accepted and open for public comment. So if you would like to
11 you can go read the draft development code updates, these are what's been
12 proposed game, again draft form. And you can provide your input, your
13 perspective, your feedback on what you would like to see going forward.
14 This code dictates everything that we see in this room at these meetings.
15 So if there's things that you would like to see changed, for example, better
16 public noticing, this would be an opportunity to make those
17 recommendations in this process. And I believe the website to do that is
18 www.realizelascruces.com.
19

20 7. CONSENT AGENDA

21
22 **7.1 Case No. 24ZO5000050:** A request to approve an Infill Development Process
23 (IDP) proposal to allow an attached corner sign, wall mural, and wall sign for the
24 redevelopment of an existing commercial building. The subject property is located
25 at 340 N. Main Street, is zoned DDC-MS (Downtown Development Code-Main
26 Street) and located within the Downtown Development Code (DDC) Overlay
27 District. Submitted by Fluorescent Signs Inc., representative. Council District 1.
28

29 Kaiser: Okay, moving on to tonight's consent agenda. We've got one item
30 remaining, that's item 7.1. So looking for a motion to approve tonight's
31 consent agenda.
32

33 Smith: I move that we approve tonight's consent agenda.
34

35 Murray: Second.
36

37 Baum: Board Member Porter.
38

39 Porter: Yes.
40

41 Baum: Board Member Smith.
42

43 Smith: Yes.
44

45 Baum: Board Member Murray.
46

1 Murray: Yes.

2
3 Baum: Chair Kaiser.

4
5 Kaiser: Yes.

6
7 Baum: Motion passes.

8
9 **7.2 Case No. 24ZO0500052:** A request to approve a proposed zone change from A-
10 2 (Rural Agricultural, 1981 Zoning Code) to C-3 (Commercial High Intensity) on a
11 property encompassing 1.89 ± acres and located at 3098 E. University Avenue.
12 The zone change request seeks to bring the property into compliance with the
13 2001 Zoning Code as amended. Submitted by Maverik C-Store, representative.
14 City Council District 2.
15

16 Kaiser: Okay, moving on to item 7.2. I don't need a presentation from staff. I just
17 have a few questions/comments about it. For those in the audience this is
18 a request to approve a proposed zone change from A-2 to C-3 on University
19 Avenue. If you've been there recently, you'll notice there's a new gas
20 station. It's my understanding based on the staff report that this is to bring
21 the property into compliance. My first question is how did we allow a
22 structure and a business to be constructed prior to having the appropriate
23 land use in place.
24

25 Castillo: Good evening, Mr. Chair, Commission. To answer your question the
26 property is owned by the State of New Mexico. As part of our code, they do
27 exceed statutory regulation. So they don't have to follow our code. But in
28 order for them to have a business registration being inside our limits, as well
29 as other things that may not be regulated beyond our municipality, but at a
30 state level, for instance the sales of tobacco, they do need approval from
31 the municipality in order to do so.
32

33 Kaiser: And what would have been if this body decided we were not going to
34 approve the zone change.
35

36 Castillo: This body is a recommending body. So then it would go to City Council with
37 your recommendation of denial. Ultimately, City Council would make that
38 determination.
39

40 Kaiser: And if they denied it as well or upheld the denial.

41
42 Castillo: Mr. Chair, Commission. Then staff would have to seek how to get the land
43 use approved.
44

45 Weir: Mr. Chair. There's also an appeal process they could go through. They
46 could appeal that decision to District Court.

1
2 Kaiser: Okay. I guess the point I'm trying to make is what if they didn't win any of
3 those appeals. They didn't get the zone change approved, City Council
4 upheld the denial, and District Court upheld the denial. What happens
5 then? They've already constructed a nonconforming structure. So I'm just
6 trying to understand what happens. Everybody else in this room or in this
7 town has to come forward in the proper order. Just curious why this is
8 different.
9

10 Weir: Mr. Chairman, Commissioners. The issue is the issuance of a business
11 license or business registration. The construction of the building, the
12 property is owned by New Mexico State University, so they're an equal
13 subdivision of the state that the City is exempt from enforcing. They were
14 able to get a building permit from the State of New Mexico, the CID division.
15 And so then they've received a certificate of occupancy from the state. It's
16 not a permit that's even issued by the City of Las Cruces. So the issue
17 becomes again that business registration. It's really in the best interest of
18 the City to issue that so that we can receive the gross receipts from the
19 sales of items within that facility.
20

21 Kaiser: Thank you. That's helpful. To the point about it's in the City's best interest.
22 I guess there's a couple of statements that were presented in the staff report
23 that I find interesting. The first is that this location in town has been
24 identified as a town center place type in our Elevate Las Cruces
25 comprehensive plan. And we define that in the staff report as a place that
26 includes a mix of residential and nonresidential land uses that collectively
27 create a vibrant and walkable activity center. How does a gas station align
28 to that vision?
29

30 Castillo: Mr. Chair, Commission. The proposed town center that is there is also
31 known as Aggie Uptown, where a majority of that development will occur on
32 NMSU's property.
33

34 Kaiser: But how does the gas station align with the character of vibrant, walkable
35 activity center?
36

37 Castillo: Mr. Chair, Commission. The gas station is the first development to occur in
38 Aggie Uptown. I don't know if the NMSU representative is in council
39 chambers today to elude more to that as to how it would become a more
40 walkable, vibrant area.
41

42 Ochoa: Pardon me. I guess this is really their very initial phase of what is Aggie
43 Uptown. And with this phase they actually did build out their sidewalk into
44 the trail system that's existing sir. So they are going to be contributing
45 towards that connectivity with the rest of Aggie Uptown where that trail
46 system will be running through it as well. So that's why it could potentially

1 allow for a more pedestrian friendly area. Even though it is a gas station
2 which is auto centric, that's for sure, but it's also a convenience store that
3 people can walk to utilizing those trail systems, sire.
4

5 Kaiser: Very well. And then the, there's I guess, a couple of goals that were
6 identified as again further rationale for why this makes sense, this gas
7 station. Goal CP-2 says economic equity generate employment
8 opportunities that create economic security for all residents. And the sub
9 policy of that is CP-2.2, supports efforts to connect vulnerable populations
10 to job opportunities. I'm just wondering how we look at a gas station as
11 providing a genuine economic job security for residents of the City,
12 particularly vulnerable populations who are already disadvantaged and now
13 we're seeing here go stand at a gas station and breathe in the fumes all day
14 for your job. I don't need a response to that. Just an observation.
15

16 Then I'd like to point out goal CP-4, this is, diversification seek a balance of
17 business recruitment, retention, and expansion to diversify economic
18 opportunities. The sub policy CP-4.2 support efforts to be regionally and
19 nationally competitive in regard to retaining and growing businesses, jobs,
20 and students. I am struggling to see how a gas station really elevates this
21 area of town, particularly adjacent to a major university where I would think
22 student housing, the ability to walk to campus, to not require a car to get to
23 and from school on very tight budgets could be seen as really providing a
24 net positive in this particular location of the City. So those are just my
25 comments and questions this evening. Unfortunately, I will not be
26 supporting this recent application just because I don't think that the
27 evidence provided in the staff report really lives up to reality. I'll open it up
28 to other questions, comments from the Commission. But if there are none,
29 looking for a motion to approve.
30

31 Smith: I move that we approve, what's the number on this one, 7.2. Sorry.
32

33 Porter: I second.
34

35 Baum: Board Member Acosta.
36

37 Acosta: I vote yes based on staff recommendation.
38

39 Baum: Board Member Porter.
40

41 Porter: I vote yes on staff recommendation.
42

43 Baum: Board Member Smith.
44

45 Smith: Yes, based on staff recommendation.
46

1 Baum: Board Member Murray.

2
3 Murray: Yes, based off staff recommendation.

4
5 Baum: Chair Kaiser.

6
7 Kaiser: No, I do not believe that the evidence provided in the staff report holds up
8 to any scrutiny.

9
10 Baum: Motion passes.

11
12 **8. OLD BUSINESS**

13
14 **8.1 Case 22ZO0500156:** A request to approve a zone change from R-1a (Single-
15 Family Medium Density) to R-4 (Multi-Dwelling High Density & Limited Retail and
16 Office) for land ± 5.00 acres in size and located at 2795 N. Roadrunner Parkway.
17 Submitted by Tafiq Hindash – AJ Construction, LLC on behalf of Mohamed Aswad,
18 M.D., property owner. City Council District 3.

19
20 Kaiser: Okay, moving on to item 8.1. This is a request to approve a zone change
21 from R-1a to R-4 on, I believe it is Roadrunner Parkway.

22
23 Banegas: Good evening Commissioners. Vincent Banegas, interim planner for the
24 record, presenting tonight's case as it involves case number 22ZO0500156,
25 involving property at 2795 Roadrunner Parkway. The proposal that was
26 submitted for your consideration and recommendation up to City Council
27 involves a zone change from R-1a to R-4. The property is plus or minus
28 five acres in size. Is R-1a, which is our single-family medium density
29 residential district, much like several of the properties in that immediate
30 vicinity. The property is within the suburban place type which is one of
31 several place types identified in the Elevate Las Cruces comprehensive
32 plan. Characterized by low to moderate density residential land uses with
33 areas of commercial development. And it goes on to categorize the types
34 of land use that are predominant land uses in that place type as single-
35 family, multifamily, commercial, office, schools, parks, and places of
36 worship.

37
38 The property is currently vacant and was annexed back in 1979 with the
39 Western Development Annexation. It is not part of any master planned area
40 in the immediate vicinity. Staff thought at one point that it was part of the
41 High Range but High Range stops well short of that on the south. And it's
42 not part of any of the others adjacent to it. Utilities are readily available
43 adjacent to the site. And some significant terrain and grades exist on the
44 site which the developer or property owner and their engineer are well
45 aware of, and have already begun to take into consideration what they
46 would have to do to make things work should their proposal get approved.

1 It is a corner lot having frontage both along Roadrunner Parkway, and
2 Morningstar Drive. The surrounding land uses in that immediate vicinity
3 include single-family residential, quasi institutional with the church which is
4 northeast of the subject location. There's an office adjacent to that church.
5 And then a school. So you have an institutional use not too far away. You
6 also have further down of course some multifamily uses and flood control
7 property in the immediate vicinity. Further down below their vicinity you also
8 have the Doña Ana Community College further east of the location.

9
10 This is the zoning map that illustrates the location of the property outlined
11 in red, obviously showing the R-1a designation. In fact much of this area
12 that is shown in the light yellow is all R-1a. It is developed as you see here
13 through the creation of the properties. Roadrunner Parkway runs along the
14 east side and south, going south as it curves adjacent to the property.
15 Roadrunner Parkway is considered to be a minor arterial, pursuant to the
16 Mesilla Valley Metropolitan Planning Organizations thoroughfare map. And
17 Morningstar Drive, which is located here, crosses Roadrunner Parkway.
18 From the intersection with Roadrunner Parkway east, it is considered a
19 major collector, and from the intersection west it is considered a local road.
20

21 Others zoning districts in the immediate area is R-4C here, this covers the
22 church that I identified, some additional single-family homes, and
23 development up here in a planned unit development zone. And you see
24 just a little bit of the O-2 zone up in the corner for that office that I mentioned.
25

26 The aerial again showing the property outlined in red. You see a lot of the
27 development that has taken place in the surrounding area. Vast majority of
28 this portion obviously is the flood control for the arroyo.
29

30 So the original request regarding this proposal came in to staff as a zone
31 change from R-1 to R-4. R-4 is our multidwelling high density and limited
32 retail and office use or zone. It does allow for some commercial uses. It's
33 rather limited, as the name implies, and it does have limited office uses
34 beyond the residential scope. The development focus which isn't a specific
35 requirement of the zone change but nonetheless is often requested of
36 applicants, showed a conceptual site plan that proposed 96 apartment units.
37 It was an apartment complex that was illustrated on the site plan. Basing
38 that number of units in context to the acreage of the property put the
39 development proposal at 19.2 dwelling units per acre. That was the density
40 that they were targeting. There were some related accessory uses such as
41 the office building, some recreational courts, that kind of thing that were also
42 shown on the site plan. There were two points of ingress and egress for the
43 proposed development, one along each front edge. They did specify they
44 were dark targeting a primary frontage or ingress/egress along Morningstar
45 Drive and a secondary along Roadrunner. And one of the thoughts in
46 talking with the engineer was specifically to the point of the clear line of sight

1 that does not necessarily exist. As you stand adjacent to the property on
2 Roadrunner Parkway and looking north or as one travels north to south,
3 there is some obstruction in terms of the line of sight. Hence the need to
4 develop or consider primary ingress along Morningstar Drive.
5

6 The site plan also illustrated that there were going to be, it should read one,
7 two, and three story apartment buildings. There were groupings of eight
8 and 12 units together per building strewn about the site. The proposal when
9 it first came in was requested go through the early notification process
10 pursuant to code. The applicant had initiated that process. But staff was
11 visited by a resident in the area who received notice by the applicant and
12 presented the notice to me and it was evident that several points were not
13 addressed, which should have been addressed on the letter. As such, staff
14 requested the applicant go through that process again, and to hit certain
15 key points as identified per code.
16

17 The case came before this body or was to come before this body in April,
18 but due to a signposting error on the property, it was postponed till this
19 evening. And again, the applicant seeks a straight R-4 zone change. I think
20 in your packet I referred to a 40 dwelling unit per acre. The reality is it's a
21 minimum density of 10 dwelling units per acre with a maximum density
22 defined by the developer. Again, the concept plan they submitted was 19.2
23 dwelling units per acre. Staff would recommend that should the Planning
24 and Zoning Commission consider the straight R-4 request, that density be
25 nailed down, perhaps as a condition that should be considered. The use in
26 the R-4 does allow for single-family, multifamily, limited offers, quasi-public,
27 and institutional uses. There are some commercial uses that are also
28 authorized per the R-4 zoning district. And the single-family aspect would
29 have to come in the form of a subdivision type processes that would in most
30 likely terms come before this body for consideration and approval via
31 preliminary plan and final plat processes.
32

33 This was the conceptual site plan that was submitted to staff. You can see
34 there's a variety of different buildings that are clustered on the site. Again,
35 some of these have eight units, some have 12 units, some are one story,
36 two story, and some are three story units. They have office located here,
37 pools, etc., meeting areas on site. The parking, here's the primary ingress
38 for Morningstar Drive that was illustrated, again this is conceptual in nature
39 subject to change. And they had all their parking identified on the perimeter
40 or periphery of the site. They do show some landscaping to help buffer that
41 parking from the street or from adjacent views. They have a Morningstar
42 landscaping here as well. And they do show the parking abutting pretty
43 close to their property line. And they do recognize that due to the elevation
44 changes that are likely pursuant to any development taking place, they will
45 have to contend and engineer properly the grade changes as it abuts
46 adjoining property.

1
2 These were some conceptual elevations that were also submitted. They
3 had two options submitted and just kind of illustrating some of the ideas they
4 had in mind. One more modern than the other. And some floor plans that
5 just showed some of the groupings, the eightplex, twelve-plex and some of
6 the number of bedrooms that they could accommodate. Some of the photos
7 in the area that I took, this is just looking south along Roadrunner Parkway.
8 The property in question is here to your right. You could already see some
9 of the grade changes taking place from Morningstar Drive as it ramps up
10 here to flatter areas which go south. And this is at the intersection of
11 Morningstar Drive and Roadrunner Parkway. This is the line of sight issue
12 that I mentioned. That is certainly a concern with a lot of residents in the
13 area. It's very difficult to see oncoming traffic quickly enough in order to
14 make a determination as to whether to proceed with a straight thru drive or
15 turn left or right and that kind of thing. In fairness, this shot angle was taken
16 a little bit further back than what would normally happen as you approach
17 this intersection, but nonetheless, it is rather limited.

18
19 This is a shot just looking west on Morningstar Drive you can see some of
20 the adjoining properties and residential development adjacent to the
21 property at its western most side. Again, showing some of the topography
22 issues, grades that they're going to have to contend with and design around
23 or with. And some additional properties on the south side that are adjacent
24 to the subject property. And another.

25
26 So in terms of analysis, from the zone change perspective staff did not
27 identify any health, safety, or welfare issues identified or presented as part
28 of their development package. The requested R-4 zone would allow a
29 maximum density as defined by the applicant and at least pursuant to the
30 conceptual information presented came in at 19.2 dwelling units per acre.
31 This afforded them the 96 units they targeted. This and other development
32 requirements such as the R-4 maximum height allowance, which is 60 feet,
33 the unlimited number of apartment units that could be grouped per building,
34 those types of factors gave staff little cause for concern. And we deemed it
35 a little excessive for neighborhood compatibility considerations. As such,
36 conditions we felt were necessary to achieve a higher degree of consistency
37 and compatibility with the surrounding neighborhood and a little bit more for
38 development certainty. So the proposal is definitely consistent with the
39 suburban place type that's illustrated in the comprehensive plan. In that
40 place type it goes on to show or reflect the types of densities that either a
41 single-family development could propose or a multifamily development
42 could propose. And you can see if we're talking multifamily they're well
43 within range, 15 to 30 is what they list as a density range for the suburban
44 place type for multifamily uses.

1 Other supporting Elevate policy speaks to some of the many policy issues
2 that we've discussed in the past, development of vacant land, creation of
3 housing diversity, balance growth, integrating new development with
4 surrounding built environment, mixed use neighborhoods, things of that
5 sort. Those are common themes in terms of policy that are presented in
6 Elevate and those certainly play a role if you consider this proposal. Elevate
7 also speaks to consistency and compatibility, you're going to hear that word
8 a lot with this presentation. It speaks to the need for that when new
9 development is proximate to developed areas. Staff has recommended
10 conditions in an attempt to guide you if you deem higher development on
11 this property appropriate. The consistency and compatibility issue rest with
12 the Commission and rest with City Council, that is clearly identified in
13 Elevate and it is something that we don't have a cheat sheet if you will that
14 specifically says when something is or is not compatible, but you're going
15 to have to kind of go off of your heart, what you feel, what you see in terms
16 of site design, architecture, that kind of thing to help define what that means.
17 I know in terms of Realize Las Cruces, I know that's down the road, but
18 there will be a need in which to come up with a matrix if you will that will
19 help guide us a little bit further.
20

21 The case was noticed as per code. Staff received several phone calls, walk-
22 in inquiry, multiple e-mails, all opposed to the proposal. Two early
23 notification efforts resulted in one neighborhood meeting. It was hosted by
24 the Morningstar United Methodist Church, again just northeast, in the
25 northeast corner from this site. It was held on April 9th of this year and was
26 very well attended by the neighborhood. The concerns raised at that
27 meeting, it was broken up into two groupings if you will, two discussions and
28 concerns were traffic related to a large extent, speeding, congestion, poor
29 line of sight, accidents, signalization or lack thereof. The on street parking
30 issue and the safety issues that presents, property value decline, noise and
31 privacy were among several of the concerns identified. A petition to that
32 effect and it was submitted, that is part of your packet, that was included
33 and came in and I informed those submitting it that that would definitely be
34 included. So staff recommendation this evening is approval but with
35 conditions. And the condition speak to lowering the zoning district
36 designation from R-4 to R-3C. The C at the end of the R-3 speaks to
37 conditions that's, all that means. The conditions would be listed as follows.
38 If we go to the R-3C, that's automatically a drop down from the R-4. R-3
39 three allows height, buildable height that is consistent with the R-1a zone,
40 it lowers the number of units that can be grouped. And so it's that kind of
41 logic that tries to at least in staff's mind bring about more compatibility to the
42 surrounding area. Uses are also proposed to be limited to either multifamily
43 or single-family residential as a primary use and shall not include mobile
44 home parks. Mobile home parks are an allowed use, they have to go
45 through a process for approval, but not thinking mobile home park use
46 would be as compatible as site built. The proposal at least with this content

condition is to exclude those from consideration. Accessory uses and ancillary uses that are associated with residential uses would be allowed, sheds, for instance, home occupations, office buildings for the apartments if that happened, things of that nature would be okay. The density as proposed or recommended as a condition would be limited to 16 dwelling units, that would afford them 80 units down from the 96. Sixteen dwelling units as one dwelling unit more in terms of density than the R-2 zone which is even a lesser designated zoning district than R-3. This condition would allow one more dwelling unit per acre than the R-2. Any landscape buffers that are required, we have a matrix as it relates to differing land uses that don't go as far as what I was mentioning with Realize, but nonetheless it's part of our code. It is a requirement as part of the building permit. And it states that when you have differing land uses, in this case it would be multifamily if this got approved, adjacent to single-family uses then there would be landscaping needed. And it would take the form of either a 10 foot semi opaque buffer or a five foot opaque buffer. And those are defined from the ground level, at least on the opaque screen, from a ground level up to six feet, that would be opaque and then from six to 20 would be intermittent openings. And then on the semi opaque side, it's zero to three feet solid, and then from three to 20 intermittent openings. The five foot and the 10 foot speak to the width, so the landscaping that would go into those areas would be in addition to any site landscaping required for the development.

And then another condition which is condition number five is if multifamily development occurs because we are allowing two different types of residential development, the landscaping, hardscape, or combination thereof, that type of landscaping would be used to buffer any parking areas adjacent to Morningstar Drive and Roadrunner Parkway. And it goes on to speak about landscape berms and short walls and/or decorative walls, fencing to be used for that purpose. Condition six is no more than eight detached apartment dwellings per building cluster allowed. That follows specifically R-2 standards, but I felt it appropriate here since that was in line to an extent with what they had submitted. And then number seven is just speaking to aesthetics, construction materials used for the multifamily development shall consist of natural materials or manufacturing materials to look natural typically used in the construction of dwellings in the Las Cruces community.

The findings for this recommendation or staff's recommendation is as follows. The zone change request for five acres has been submitted for a 96 unit apartment complex. A lesser zoning designation can be considered by both the P&Z and City Council. If you deem R-4 is too excessive, change to R-3 or R-2 may be considered or you may consider conditions to restrict that use. The subject property is within the suburban place type. I've gone over that. The proposed zone change request is consistent with a lot of

1 policy that Elevate Las Cruces speaks to, it is also meeting the purpose and
2 intent of the 2001 Zoning Code as amended. The surrounding area consists
3 largely of single-family residential, quasi institutional, office, institutional,
4 open space, land uses and then broader vicinity of multifamily and other
5 institutional uses in that area. Zoning districts that are at play with those
6 uses are R-1a, A-1/A-2, O-2, PUD, and R-4C. So we do have instances
7 where R-4 is in the area. And finally per Elevate, speaking to the language
8 that reads as it relates to development of vacant property when proximate
9 to developed areas, that design consideration, aesthetic consideration
10 should be at play in determining compatibility and development.

11
12 So your options this evening Commissioners is to vote "yes" and approve,
13 in that sense it's the straight R-4 as presented by the applicant. You can
14 vote "no" to deny it. In that the packet that was presented speaks to
15 conditions, the denial would have to come with new findings that you would
16 have to provide or state for the record in your vote. If you vote "yes" with
17 conditions, you could certainly follow those recommended by staff, you
18 could add others that you feel are appropriate. And you can vote to table.
19 And that concludes staff's presentation on this matter. I stand for questions.
20 And I believe the applicant and representatives are in attendance, should
21 you wish for any questions to be directed to them.

22
23 Kaiser: Thank you. Does the applicant wish to make a presentation? All right,
24 seeing nothing. Sorry, do you wish to make presentation?

25
26 AUDIENCE MEMBER SPEAKING, NOT AT THE MICROPHONE.

27
28 Kaiser: Okay. Any questions or comments from the Commission? Commissioner
29 Smith.

30
31 Smith: I have one question for staff. In our packet, just for the benefit of the
32 Commission, you didn't really define the difference between R-3 and R-2.
33 It was noted in there but there was no definition, difference between the
34 two.

35
36 Banegas: So Mr. Chairman, Commissioner Smith. The definition of R-2, R-2 is our
37 multidwelling, low density residential zone. It allows up to 15 dwelling units
38 per acre. And when you start talking about groupings or the allowed number
39 of units per building - by now you would think I had all this memorized. In
40 the R-2 you are allowed eight, eight dwelling units to be grouped together
41 in a single building, as reflected here. So R-2 would allow eight here, eight
42 years, etc. In the R-3 that's our multidwelling, medium density residential
43 district. Both R-2 and R-3 allow 35 foot high buildings to be constructed.
44 The R-3 allows a total of 10 units to be grouped together in a building. And
45 what staff had recommended is eight as part of that. So you could always
46 restrict it even though you're going to a higher zone, you can restrict it. And

1 that's what we were recommending. R-4 takes it a notch higher. R-4 you
2 have a minimum of 10 dwelling units that have to be met, and a maximum
3 as defined by the developer. So they had requested, they were talking 96
4 units, they never really specifically requested a density, that's one of the
5 issues that if you go straight R-4 we need to nail that down. But there's no
6 limit as to the number of dwelling units that can be grouped in a building.
7 So it could be a massive building with you know 30, 40 units. That kind of
8 thing. Sixty feet is the height maximum for R-4.
9

10 Smith: Thank you.

11
12 Kaiser: Any other questions or comments? No. I do but I'm going to hold them till
13 after public comment because I think a lot of them are going to address
14 what we're going to hear this evening. But before we do, just as we're
15 listening to the conversation or participating in our own discussion, there's
16 a lot of conditions here, so I think when we do make the motion, we need to
17 be very clear that we're either approving with no conditions, just straight up
18 approving the request for the R-4. Or we're doing something different. If
19 we're accepting the conditions that staff has provided, we can state all of
20 them or if there's only certain ones that we want to take forward, I think we
21 just need to be as clear as possible with what we're approving tonight. So
22 just wanted to keep that in the forefront.
23

24 So with that, can I get a show of hands on who would like to speak on this
25 item this evening. All right. We're going to give everybody two and a half
26 minutes from this timer. We will be systematic here. Because I did not
27 remember exactly who just raised their hand, I'm just going to start here in
28 the front and we'll just work our way up the back and then we'll come onto
29 this side of the room and we'll come forward. So just wait your turn, we'll
30 get to you. And we'll go from there. Ma'am, please come forward. And
31 before everybody gets started, I will ask you to state your name so I can
32 swear you in.
33

34 Kemp: I didn't hear him. My name is Fran Kemp and I live on Stellar Way.

35
36 Kaiser: And do you swear or affirm that the testimony you're about to give is the
37 truth and nothing but the truth under penalty of law?
38

39 Kemp: I do.
40

41 Kaiser: Go ahead.
42

43 Kemp: There are 84 homes in our neighborhood, all of which rely on egress via
44 Stellar Way or Morningstar, therefore 96 apartments would more than
45 double the population density and vehicle traffic. We don't understand why
46 anyone could believe that adding an apartment complex wedged into the

1 neighborhood would not change things for the worse. The two exits from
2 this neighborhood have blind curves which you've seen in the pictures.
3 When I'm waiting at the intersection of Morningstar I frequently resort to
4 turning right, going south a block and doing a U-turn in order to go north.
5 We all built or bought our homes because it was zoned R-1. We don't
6 believe it's right to retroactively change the zoning in any neighborhood. We
7 feel this is a sort of bait and switch and will ruin the quality of the
8 neighborhood if it's allowed to be rezoned. And the bottom line is if you
9 must change the zoning in an existing neighborhood in order to build
10 something, it is by definition not compatible or consistent with existing
11 surrounding land use. Thank you.

12
13 Kaiser: Thank you. All right moving to the next row. We'll start over here to my left.

14
15 M. Brown: Good evening. My name is Myra Brown. I live at 2703 Scenic Circle. And
16 my house ... sorry.

17
18 Kaiser: Do you swear or ...

19
20 M. Brown: I swear.

21
22 Kaiser: The testimony you're about to give is the truth and nothing but the truth
23 under penalty of law?

24
25 M. Brown: I do sir.

26
27 Kaiser: Go ahead.

28
29 Brown: My first issue, Fran address, I want to address, I think what the gentleman
30 presented about offices and business was quite disingenuous. Directly
31 north, northeast there's the church, the Morningstar church, and there are
32 a couple of offices there. But that neighborhood is entirely residential. And
33 you have to go north to Northrise and pass that to come into any commercial
34 use. It is a residential, single-family neighborhood. And I believe it should
35 stay that way. Thank you.

36
37 Kaiser: Thank you.

38
39 Torrez: My name is Jesus Torrez.

40
41 Kaiser: And do you swear or affirm that the testimony you're about to give is the
42 truth and nothing but the truth under penalty of law?

43
44 Torrez: I hope to God.

45
46 Kaiser: Go ahead.

1
2 Torrez: First of all, I address, I'm going to address myself because you're the
3 Commissioners and planning and zoning, they're in charge of that. The first
4 thing that I would ask all of you to consider on the change on this zoning is
5 the safety of the school children. That some of them walk every day to and
6 from school and they cross this very hazardous intersection. And where
7 they cross on Roadrunner and Morningstar there's no crosswalk. So I see
8 them running around to get across because of the traffic coming and going
9 from you know either way. That's the first that I'm asking, the protection of
10 the children that have to do that every day, every day. And I've seen them
11 running across that intersection. The other thing that I would ask you to
12 consider is the safety, protection, and well-being of the parents that every
13 morning during the school days have to fight that really congested
14 intersection to drop off their school kids, and then come back and pick them
15 up in the afternoon. Now the Methodist church, their Morningstar Methodist
16 church is doing everything they can to keep the kids in their parking lot and
17 the parents come in there to pick them up. Some of them stay there till 4:30
18 or 5:00, the parents get out of work, which is great. And the other thing is,
19 think of the safety, protection, and well-being of all the residents that have
20 been there for many years. Think about their safety, protection, and well-
21 being. You're the ones that are going to have the final say on these thing.
22 It's up to you to keep those you know persons and give that to priority. The
23 people that want to build these complex, they're not thinking about the
24 safety, protection, and well-being of anybody there. We want you to do that.
25 Thank you. God bless you.

26
27 Kaiser: Thank you. Continuing down that row. Continuing over. All right, we're
28 going to go to the next row.

29
30 Bein: My name is Sandra Bein.

31
32 Kaiser: And do you swear or affirm that the testimony you're about to give is the
33 truth and nothing but the truth in our penalty of law?

34
35 Bein: Yes, I do.

36
37 Kaiser: Go ahead.

38
39 Bein: Thank you for this opportunity to speak. I live on Asteroid Court. And my
40 home and backyard are directly behind the property that we're speaking of.
41 My four foot rock wall separates my property from this piece of property. As
42 are many of my neighbors and even others living several miles away, I'm
43 firmly opposed to the rezone to accommodate the apartment complex. This
44 neighborhood is a single-family residential area and an apartment complex
45 does not fit into the neighborhood and it would create many issues. Some
46 we've heard, some we have not yet. But these include traffic and noise

1 would be substantially increased, parking is a huge concern. I'm concerned
2 about an increase in car accidents in the area. And as the gentleman before
3 me spoke of the proximity of Camino Real Middle School, and its effect on
4 the children and the traffic. Exiting and entering that road, it's already an
5 issue and as we know there's already a blocked view. What about the
6 stability of the homes that encircle the piece of property that the construction
7 would take place on. Other concerns include trash increase and dumpsters
8 and water runoff and flooding. The height of a multifamily story, multistory
9 buildings will look into existing home yards, as well as block the view of the
10 mountains for some. The property is zoned for a single-family home, not a
11 multifamily apartment building. It would not be compatible to the current
12 neighborhood. It would have a negative impact on those of us that live in
13 the neighborhood and whose expectations is that only single-family homes
14 would be built which is what it's currently zoned. For all of these reasons,
15 and in alliance with the purpose and intent of the zoning ordinance 38.2 in
16 which the consideration of the general welfare of the community and
17 purpose of improving citizens quality of life, and in particular 38.2 L which
18 states ensure the development proposals are sensitive to the character of
19 existing neighborhoods. Please consider the negative impacts upon the
20 community that already exists and did not grant a zoning change. And all
21 of these issues would still be of concern with the current staff's
22 recommendation. So I'm asking you to please reconsider even that
23 recommendation and let the zoning remain as it is for single-family homes.
24 Thank you very much.

25
26 Kaiser: All right, continuing down that row.

27
28 Truxal: My name is Carolyn Truxal.

29
30 Kaiser: And do you swear or affirm that the testimony you're about to give is the
31 truth and nothing but the truth under penalty of law?

32
33 Truxal: I do.

34
35 Kaiser: Go ahead.

36
37 Truxal: This my husband Jose. We live on Morningstar. You've already heard how
38 difficult it is getting in and out. Looking at your own regulations and even
39 the document put together for this meeting, everything says it should be
40 consistent, it should be compatible. There is nothing but single-family
41 housing in this neighborhood. Nothing. You have to cross the street or go
42 a quarter mile away to get out of single-family housing. There is nothing to
43 prevent the owner from building single-family housing. As Ms. Kemp
44 pointed out, baiting and switching. If he wanted to build apartments, why
45 didn't he buy something already zoned R-4. We have no objection to
46 houses being built. But this is unconscionable the amount of aggravation

1 that he is going to add to our daily lives with doubling, more than doubling
2 the number of people and vehicles in our neighborhood. Thank you.
3
4 Kaiser: Thank you.
5
6 Miranda: I'd like say something.
7
8 Kaiser: Before you do, please state your name for the record.
9
10 Miranda: Orlando Miranda.
11
12 Kaiser: And do you swear or affirm that the testimony you're about to give is the
13 truth and nothing but the truth under penalty of law?
14
15 Miranda: I do.
16
17 Kaiser: Go ahead.
18
19 Miranda: I just want to say a couple of things. I know it's kind of late in the year but
20 have if you guys ever had a chance to go by there when school is on. You
21 see that traffic. The traffic is backed up from the entrance to the school all
22 the way back to Morningstar for these people picking up their kids. And the
23 same thing on Roadrunner the other way. I mean it's backed up. You have
24 to wait to get out of there. It's hard. The blind spots are there. I mean
25 sometimes I had to pull out a little bit to see if anybody's coming. And then
26 there they are, you know you don't see them then you do see them. So
27 there's that. Plus I've had had experience, I live on Morningstar and I have
28 had experience. You know I woke up one morning, I was showering and I
29 was covered in soap and the water stopped. I said what the heck. I asked
30 my wife, go check it out. So she checked out, a neighbor of ours, the
31 waterline was broken and there was flooding there. And a neighbor of ours,
32 he turned off the water. I said well I'm turning it on. So that at least if it's
33 off. So I went to see what's going on. You could see, I don't know where
34 that traffic came from but you could see somebody pulled a U-turn and you
35 could see the tire tracks come over the water meter and into my yard. You
36 can see the tire tracks in the grass, just to make a U-turn there on
37 Morningstar to go back to Roadrunner. So that's really basically, I would
38 say I agree with all these people. I read, I'm there part of the neighborhood.
39 And yes, you know the traffic is really bad. It's just, I mean you could, if you
40 ever get a chance like you said, I know it's the end of the year, go by just
41 and check out when school is on and off, and you'll understand what we're
42 talking about. And that's all I have to say.
43
44 Kaiser: Thank you. Continuing down this row. Anybody else in his row? Okay,
45 we're going to head out to the next row. It's okay.
46

Agenda Item #10.2.

1 Morales: Hi.

2

3 Kaiser: Please state your name for the record.

4

5 Morales: Anita Morales.

6

7 Kaiser: And do you swear or affirm that the testimony you're about to give is the
8 truth and nothing but the truth under penalty of law?

9

10 Morales: Yes, I do.

11

12 Kaiser: Go ahead.

13

14 Morales: Okay, I just would like to reiterate what everybody else has been saying. I
15 don't think this zoom change should go through. I think it should remain R-
16 1a. And the reason I think it should remain R-1a is because first of all, I feel
17 that 80 to 96 apartments is going to create an overcrowding in that area.
18 And you're talking anywhere, if you have two adults per unit, let's say we
19 take 80 to 96 units, you're going to have 160 adults, and you're going to
20 have a 160 adults to 192 adults. Now, this doesn't even include children.
21 Who knows how many children will be in this complex. But once again,
22 overcrowding to me is just going to be a major concern in this area. Also,
23 when it comes to the parking spaces, let's just say we take the R-3C zoning.
24 Okay, you have 80 units, 1.5 required parking spaces per unit, that's 120
25 required parking spaces. But if you have two adults per 80 units, that's 160
26 adults. Well, where are those additional 40 adults going to park? Now I've
27 done some research on other existing apartment complexes around the
28 area. And they are almost to full capacity. So you can imagine our little
29 area over there would turn into a parking lot. And it would be very difficult
30 to get in and out onto Roadrunner from either Morningstar or Stellar Way.
31 So I would really hope that you deny this zone change because we are very
32 concerned about some of these changes. Also, since I have a few more
33 minutes, I've got a question because I don't understand this. On here it
34 says AJ Construction is the construction company but when I looked into it,
35 the address doesn't match AJ construction it matches the Taj, T-A-J
36 Construction. I don't understand that. Thank you.

37

38 Kaiser: Thank you.

39

40 Banegas: Mr. Chairman. He was on the far side. He was just asking me to pull up a
41 map here.

42

43 Kaiser: Understood. The aerial. That's all I can.

44

45 Apodaca: Good evening chambers. Good evening. My name is Gilbert Apodaca.

46

1 Kaiser: And do you swear or affirm that the testimony you're about to give is the
2 truth and nothing but the truth under penalty of law?
3
4 Apodaca: Yes, it is.
5
6 Kaiser: Go ahead.
7
8 Apodaca: I live at the corner of Roadrunner and Stellar Way. Where are we at here?
9 Right there. Okay. Okay, so right here where the arrow is correct. Okay, I
10 live on, there's my house. Okay. I welcome you to my house. I will go with
11 you personally. I'll meet you. You tell me a day and a time and I'll walk you
12 through the neighborhood. I've been there since 2002. I'm a retired police
13 detective from the Las Cruces Police Department. I recognize the traffic.
14 We're just going to add more fuel to the fire with this traffic. Has anybody
15 been on Roadrunner? Have you approached the school headed north?
16 Have you checked your speed limit? We're all probably doing over 45 guys.
17 It's easy to do. I do it. We already have blinking lights there to slow the
18 traffic down. That's my concern, for the safety of the kids. I walk through
19 there too. I've got to run across the street. The last meeting police
20 department said they didn't have a school crossing guard. So these kids
21 are crossing by themselves. So now we're going to add apartments. We're
22 going to add people there that are not going to be there forever. They're
23 there for six to, or one year. They're not going to take care of these places.
24 I don't know if you all have rentals, I have had rentals and they don't take
25 care of these places. More than likely we don't even know who's moving in.
26 Who were they bringing? We have our neighborhood. We all keep it safe.
27 We don't know who these people, who they're going to be. We haven't even
28 addressed the lighting pollution for the parking lot. Is it going to be gated?
29 I'd like to show you on the map there where the, right here is Roadrunner.
30 So what's going to happen is people fly down Roadrunner, right, so they're
31 going to say, I'm going to take a left on Stellar Way and head down. I don't
32 know if you all have been to Stellar Way, but it's a downhill roadway. It goes
33 straight down to this gentleman's house that just mentioned. It goes straight
34 down. What's going to happen, you're going to now make Roadrunner,
35 Roadrunner two there, because people are going to be flying down Stellar
36 Way. There's a lot of kids playing. And then they're going to go on
37 Morningstar to come in the back way. You understand what I'm saying?
38
39 Kaiser: I do. And unfortunately that's time. So I'm going to have to ...
40
41 Apodaca: Okay.
42
43 Kaiser: Have to cut you off.
44
45 Apodaca: One last thing. We're going to run into an issue with all the parking on the
46 street on Morningstar outside the complex.

1
2 Kaiser: Okay. Thank you.
3
4 D. Bishop: Okay. I'll raise my right hand. I swear to tell the truth.
5
6 Kaiser: Can you please state your name for the record?
7
8 D. Bishop: Pardon?
9
10 Kaiser: Can you please state your name for the record?
11
12 D. Bishop: Yes, Daniel Bishop.
13
14 Kaiser: All right. And you swear to affirm the testimony you're about to give is the
15 truth and nothing but the truth under penalty of law?
16
17 D. Bishop: I do.
18
19 Kaiser: Go ahead.
20
21 D. Bishop: Okay. Thanks for the time that we have here. My house is 2895 which is
22 about right in here. Okay, well, I'm living with you then. Okay, so anyways,
23 Morningstar, right across, right across there's a ramp that you go into right
24 there. I'd have that many people all the time coming back and forth right in
25 front of my house. Okay. What will happen is it'll drastically initiate the
26 decline of the peaceful habitation of our neighborhood having this much
27 traffic in there and population increase. How it'll do that it'll by several
28 methods, one would create increased vehicular traffic. Based on what
29 we've been told, could be anywhere between 200 to 300 additional
30 automobiles parked throughout that area, in the Morningstar and
31 accompanying side streets. Three of those streets are cul-de-sacs, just
32 what that's going to look like. Morningstar at where we are isn't a through
33 street. It ends right there. There's the other cul-de-sac. There's a third one.
34 So we got that. I gotta take and hurry up here. We're going to have
35 increased pedestrian traffic throughout that small neighborhood by at least
36 100 to 200 potential people coming and going day and night. My dogs are
37 going to go nuts. Anyways, I'm going to have to deal with trying to get in
38 and out of that place from my own driveway. And then on top of that, we're
39 going to have the potential for increased crime. I know nobody wants to
40 hear that. Burglaries, vandalisms, that's already been happening from time
41 to time, and the property values will sink. And then at that point, my
42 personal opinion is it's good old fashion greed all around if this thing goes
43 through. Thank you.
44
45 Kaiser: Thank you. Please state your name for the record.
46

1 J. Bishop: I'm Joyce Bishop.

2

3 Kaiser: And do you swear or affirm that the testimony you're about to give is the
4 truth and nothing but the truth under penalty of law?

5

6 J. Bishop: Yes.

7

8 Kaiser: Go ahead.

9

10 J. Bishop: Okay. I would like to read some, a letter from one of our neighbors that
11 couldn't make it here due to health reasons. He says my wife and I will be
12 unable to attend the hearing due to physical limitations. My wife and I chose
13 to move to Las Cruces in '97 where we purchased a newly constructed
14 house on Morningstar Drive in part of the area's residential zoning status.
15 Since '97 Roadrunner Parkway has become a very busy thoroughfare in the
16 vicinity of its intersection with Morningstar Drive. The area of the issue and
17 case, in the said case. It is at times extremely difficult, even dangerous for
18 current residents to enter the Roadrunner Parkway from Morningstar Drive
19 due to its location on a curve that severely limits visibility, both the left and
20 the right. Entering Roadrunner Parkway from Morningstar Drive in normal
21 circumstances rather difficult due to the volume of traffic on the former.
22 Much of it clearly moving at speeds dangerously in excess of the posted
23 limit. During the morning and afternoon rush hours, traffic on Roadrunner
24 Parkway becomes very heavy making access for Morningstar Drive slow,
25 difficult, and dangerous. Waits of three to five minutes per car are not
26 uncommon. An additional 100 or more vehicles attempting to enter
27 Roadrunner Parkway from the proposed development, for the proposed
28 development would create a near impossible situation and has the potential
29 to become extremely dangerous. The wait times increase when Camino
30 Real school is in session, the sheer increase in the number of cars bringing
31 students to the school with drivers frequently standing still on Roadrunner
32 Parkway and occasionally backed up past Morningstar Drive, creates a very
33 dangerous situation. Some drivers waiting for students in the afternoon also
34 park on Morningstar Drive, adding more congestion. The dangers
35 associated with increased school traffic and backed up cars are
36 exacerbated by the numbers of students on foot in the area, especially in
37 the afternoon classes and at the school. For the above reasons of
38 potentially dangerous traffic congestion, the upzoning requested in this
39 case, essentially a commercial enterprise with a total of 100 units in a zone
40 currently designed for single-family residences would clearly constitute an
41 excessive deviation from neighborhood conformity and necessitate a
42 departure from the almost three decades long established character and
43 aesthetics of the Morningstar Drive neighborhood. They vote no.

44

45 Kaiser: Thank you.

46

1 J. Bishop: Thank you.

2
3 Kaiser: Okay, I've lost track of what row we're in. I think we're going one, two, three,
4 four, fifth row back.

5
6 Keever: My name is Patricia Keever.

7
8 Kaiser: And do you swear or affirm that the testimony you're about to give is the
9 truth and nothing but the truth under penalty of law?

10
11 Keever: I certainly do. And I always tell the truth.

12
13 Kaiser: Go ahead.

14
15 Keever: My focus at this meeting is to get the City Planning and Zoning Commission
16 to make a decision in the best interest of the existing communities
17 surrounding the property under consideration. We've made it clear that we
18 are strongly opposed to having the property rezoned R-4. Its already zoned
19 R-1, and single-family homes can be built there with no objection.
20 According to the report of the City of Las Cruces and the planning and
21 zoning staff document that Mr. Banegas has shared with us, on page four it
22 says under neighborhood character and compatibility, it states the request
23 R-4 zoning standards could create increased impact to the surrounding
24 neighborhood. These are the very concerns that we've been trying to bring
25 to your attention that were mentioned in your own staff report. We have the
26 kind of neighborhood that you want to have in Las Cruces. We look out for
27 each other, we recognize each other, we recognize each other's cars, we
28 know who belongs in the neighborhood and who shouldn't be there. On
29 page seven of that report it states that under consistence and purpose with
30 the intent of the zoning ordinance that the intent of the zoning code is to
31 encourage the most appropriate use of the land and general welfare of the
32 community. The appropriate use would be R-1 because that's what it is and
33 should stay that way. Each citizen should be, I'm sorry, for the welfare and
34 community and the purpose of improving each citizens quality of life. That's
35 your words. Putting apartments at this property would not have this effect.
36 The subset cue on that paragraph says to mitigate conflicts among
37 neighbors. Just the proposal, just a consideration of this idea has created
38 more conflict and anxiety than that neighborhood has seen in 27 years. On
39 page nine it states R-4 allows substantially more residential density and
40 land uses than the surrounding R-1 district. Your words again. As a result
41 a decreased level of compatibility would exist. That's exactly our position.
42 And decreased level of compatibility would exist. By attempting to quote
43 back to you your own staff report, I'm trying to convince the Commission to
44 look at the community's greater good. The objections that we are making
45 are not just those of concerned neighborhood but legitimate issues
46 discovered by your own staff. Your job as Planning and Zoning Commission

1 is to protect the existing neighborhood citizens from the encroachment of
2 rezoning and that's what we're hoping you will do. Thank you.
3
4 Kaiser: Thank you.
5
6 Tierney: I'm Pete Tierney.
7
8 Kaiser: And do you swear or affirm that the testimony you're about to give is the
9 truth and nothing but the truth under penalty of law?
10
11 Tierney: Yes, I do.
12
13 Kaiser: Go ahead.
14
15 Tierney: I do not live in the neighborhood. But I attend Morningstar United Methodist
16 Church. At our church, we've decided to go ahead and be good community
17 members. Approximately a year ago, we went out to the community asking
18 how we could be better community members and what actions we could
19 take to support the community. One of the questions was, do you have any
20 concerns? Out of the seven individuals that I surveyed, five of them
21 mentioned the concern about safety, traffic safety. I went back to our
22 committee and thought, is this unusual? Everyone agreed that this was
23 unusual to have such a significant number of people bring up traffic
24 concerns. So it's decided to go back to the community and find out if those
25 five individuals represented the community at large. On two occasions, I
26 went to the homes of the 82 to 90 residents there. What I found was 60
27 some responded to my request for information. Five individuals out of that
28 60-some said they had no issues with traffic. Everyone else indicated they
29 have had or currently had issues with traffic. Now move forward to this
30 meeting today. You gentlemen and ladies are considering the possibility of
31 increasing the number of residents in that neighborhood. There's already
32 currently traffic concerns, severe traffic concerns. It's only going to
33 exasperate the situation if you change the zoning and allow the apartment
34 complex to be placed at that site. Thank you for your time.
35
36 Kaiser: Thank you. All right going up to the next row. I think we're on row six.
37 Starting over here. Coming across. All right we're going to row seven.
38 Gentlemen with the black shirt. Watch your step.
39
40 Williams: My name is Michael Williams.
41
42 Kaiser: And do you swear or affirm that the testimony you're about to give is the
43 truth and nothing but the truth under penalty of law?
44
45 Williams: Yes, I do.
46

1 Kaiser: Go ahead.

2

3 Williams: I'd like to address what some of the planners was talking about earlier. I
4 thought they was talking about this section was not in the master plan. But
5 when you talk about master Plan you got to look at the overall plan. So if
6 you look at the plan, and you see this little red block. What do you all see?
7 Las Cruces do not have enough green space. Did the planning commission
8 ever considered trying to land exchange? Take it away, build a park. Look
9 for the nearest park is about a mile and a half away, which is Veteran Park.
10 You see all these houses. We do not have any parks there. You got to
11 school. They talking about traffic. We need to really look at this before we
12 vote to try to recondition R-3 or R-4. We need to look at Las Cruces as a
13 whole. Green space. We don't need more apartment. If you look at
14 Roadrunner you got several other apartments complex being built. You're
15 going to have a thoroughfare going through Roadrunner. The main thing is
16 we got to look at Las Cruces as a whole. Look at your master plan. Your
17 master plan did not include this. He talked about it was four, it was Northrise
18 it was excluded. So before we vote tonight, let's look at it. Can we try to do
19 a land exchange? Can we put a park in this area? What can we do with
20 our master plan to make sure that we have the right suit? If you build
21 something that's 60 feet high, you're going to destroy everything in that view
22 in that area. Everything. So why destroy something that's beautiful. And
23 just look at trying to get this in our master plan. We know traffic. We know
24 the infrastructure. We know all that. Let's go green. Let's not try to build
25 something else. Let's go with the land. And that's all I have to say. Thank
26 you.

27

28 Kaiser: Thank you. All right, going to the next row. Or, yes, whoever's next, come
29 on down. Please state your name for the record.

30

31 Martinez: Good evening. My name is Gloria Martinez.

32

33 Kaiser: And do you swear or affirm that the testimony you're about to give is the
34 truth and nothing but the truth under penalty of law?

35

36 Martinez: I do.

37

38 Kaiser: Go ahead.

39

40 Martinez: Okay, I would like to express my strong opposition to the proposed zoning
41 changes from R-1a to R-4. As a resident of this area I have a vested interest
42 in ensuring that any developments in our vicinity align with the existing
43 character and needs of the community. The proposed change to R-4 zoning
44 which permits multidwelling high density along with retail, office space,
45 proposes concerns regarding the impact it would have on our
46 neighborhoods and the surrounding area. First and foremost, the proposed

high density housing would likely result in increased traffic congestion on an already strained roadway. Roadrunner and Morningstar are vital arteries for our community and any significant uptick in traffic volumes could not only impede residents daily commute, but also compromise pedestrians and cyclists safety. While we're transitioning from single-family medium density to multidwelling high density threatens the tranquility and character of our neighborhood. The R-1a zoning was established to maintain a sense of spaciousness, privacy among homes, fostering a peaceful residential atmosphere. Introducing high density housing along with potential commercial establishments could disrupt this balance, leading to noise pollution, decreased privacy, and a diminished quality of life for certain residents. Additionally, I'm concerned about the strain that such a development would place on existing infrastructure and resources, including water, sewage, and public services. Our community's infrastructure is designed to support a certain population density, and a sudden influx of residents due to high density housing could overwhelm these systems leading to service disruptions and increased costs for taxpayers. In light of these concerns, I urge the Planning and Zoning Commission to carefully consider the implications of the proposal changes and to prioritize interests and well-being of the existing community. I respectfully request that you deny the request to rezone the aforementioned property. Thank you.

Kaiser: Thank you.

Ortega: Hi. My name is Vincent Ortega.

Kaiser: And do you swear or affirm that the testimony you're about to give is the truth and nothing but the truth under penalty of law?

Ortega: I do.

Kaiser: Go ahead.

Ortega: My husband and I live on Quasar Drive adjacent to the property. And having anything taller than a one story home built there would really destroy the view that we have of the mountains. And asking you to deny the request for a zoning change. We're currently between low, on Roadrunner between Lohman and Northrise, if I counted correctly there were eight very large apartment complexes already. All of those are about a mile from the proposed site of this apartment complex. I think you have achieved diversity in housing on Roadrunner Parkway. I don't think you need another apartment complex. When we moved to this home about 14 years ago, we moved there because it was a quiet neighborhood. And it is a neighborhood. And like everyone else that has said there, you know we pretty much know everybody, we take care of each other. You know our

1 next door neighbor is an elderly woman and we take care of her and you
2 know turn on her air conditioner and put her trash out. But that, I don't think
3 that the lives of 84 households should be sacrificed for the financial windfall
4 of one person. That's not what America is about. To answer Anita's
5 question earlier about Taj Construction. The builder that was selected to
6 build his apartment complex has had four different business names since
7 he started apparently the construction business. In 2011 he was Taj
8 Construction, I'm sorry, 2005 he was Taj Construction, changed into Taj
9 Construction Incorporated up until 2011, then he changed it again to Taj
10 and Arc in 2011. That was cancelled in February of 2023. That same time
11 there was a, the company filed for bankruptcy with only one creditor. And
12 that was from a civil suit. That doesn't make sense.

13
14 Nichols: Mr. Chairman. If I may please, point of order. We're discussing the zone
15 change tonight. We're not discussing the contractor and his previous
16 names. Please stay on topic.

17
18 Ortega: I was trying to answer Anita's question about that. But I respectfully ask you
19 to deny the zone change.

20
21 Kaiser: Thank you. All right. I think that was the last row so anybody else on this
22 side who wishes to speak that hasn't done so already? I believe you've
23 already spoken, sir.

24
25 AUDIENCE MEMBER SPEAKING, NOT AT THE MICROPHONE.

26
27 Kaiser: Let me go around to the folks that haven't spoken yet. And if there's time
28 we'll come back. All right, we will start from the back on this side of the
29 room, last row.

30
31 Highsmith: My name is Joni Highsmith.

32
33 Kaiser: And do you swear or affirm that the testimony you're about to give is the
34 truth and nothing but the truth under penalty of law?

35
36 Highsmith: I do.

37
38 Kaiser: Go ahead.

39
40 Highsmith: And my first point is just a question to you guys. When I'm moved to Las
41 Cruces, and I live over by Rolling Hill, across the street, my brother ...

42
43 Kaiser: I don't mean to interrupt. Can you just get closed to the mic so we can
44 hear? Thank you.

1 Highsmith: Yes. Okay. And my daughter lives on Scenic Circle. Both times when we
2 bought houses, we looked at the zoning, because we wanted to know what
3 kind of neighborhood we are buying into. So it really makes me question
4 what is the advantage to changing it for anyone in Las Cruces? I went up
5 Northrise, I mean Morningstar there is plenty of commercial land that is
6 available there. So there's not a benefit to the town to build on to that,
7 there's only a benefit to the one individual. I walk a lot of times past the
8 church and across the street because my grandkids live there. And I will
9 tell you that I have to pick up my dachshund and I have to run across the
10 street. I know that there's a crosswalk down by the school, but people don't
11 stop. And it's very scary to walk there. We get caught in the traffic. It's just
12 not safe. This week, there was one accident already right coming down
13 Roadrunner. And there was, today I almost got hit coming back out after
14 dropping off, picking up my grandkids. So there's no, it's not safe, it isn't to
15 the betterment of Las Cruces. And there's plenty other commercial land
16 currently available. If we were out of that in that area, then maybe it would
17 make sense. Thank you.

18
19 Kaiser: Thank you. All right, last row, coming down the row, the front of that.

20
21 D. Davidson: Good evening. My name is Davis Davidson.

22
23 Kaiser: And do you swear or affirm that the testimony you're about to give is the
24 truth and nothing but the truth under penalty of law?

25
26 D. Davidson: Absolutely, sir.

27
28 Kaiser: Go ahead.

29
30 D. Davidson: I brought my daughter here tonight to talk to you guys about her experience
31 walking home from that school. The main point I'd like to make though,
32 before I let her speak to you, is that no one's brought up, there's a single
33 egress from that school. That middle school has one road in and one way
34 out. The line making left hand turns coming in is amazing at times. I mean
35 it just goes all the way back up the hill on Roadrunner. And I think until
36 that's addressed there's no way we can add more traffic into that funky
37 intersection area right there on a blind S turn. I'd like to thank Commissioner
38 Smith for clarifying on the R-2 point, because I think that opened a lot of our
39 eyes. R-4 is a ridiculous jump from what it is now. And just looking at what
40 R-2 would do is substantial to our neighborhood. And I think that that just
41 seeing the difference between what it is now and R-2 is extreme. And R-4
42 is just out of the question. There are already hundreds of units going in right
43 now right down the road. This residential area, our neighborhood is, already
44 has a lot of the multiuse aspects that our master plan includes. It has high
45 density multiunit, big, big, big apartment complexes. We're already dealing
46 with that traffic. So our community, our little community right in there has

1 already accepted these large developments. This is just not the place for
2 it. I've heard a couple of people say they don't want these people coming
3 in because of crime. I don't agree with that. Where are those people? We
4 were in Roadrunner for a long time in an apartment after some traumatic
5 experiences. Where are those people? And I'm not worried about the
6 crime. I'm not worried about any of that stuff. I'm worried about the safety
7 of our children, right. The biggest thing I want to point out to you is you've
8 heard not a single positive reason to do this tonight, not one. The only
9 reason to do this is to make a very wealthy individual from out of town
10 wealthier at the expense of our entire community. Do I grudge that man a
11 dime? Nope. I would love to think that I get there or we all get there,
12 whatever. But we don't do it sacrificing an entire neighborhood and the
13 safety of children and a church that's already overwhelmed trying to serve
14 its community. It's just not the appropriate place to do that. And so that's
15 all I had to say. I appreciate your guys' time. And this is my daughter.

16
17 Kaiser: Thank you. And before you tell your story, can see your name for the
18 record?

19
20 L. Davidson: My name is Lily Davidson.

21
22 Kaiser: And do you swear or affirm that the testimony you're about to give is the
23 truth and nothing but the truth under penalty of law?

24
25 L. Davidson: I do.

26
27 Kaiser: Go ahead.

28
29 L. Davidson: So I was at Camino Real Middle School last year and I can just tell you from
30 walking home it was very scary. Kids shouldn't have to go through this even
31 more with another apartment complex. We already have enough in our
32 neighborhood going on. And the fact that you guys are considering this and
33 stuff like that, it's a little overwhelming because it was terrifying walking
34 home. Like going from one place to another just to get home and worrying
35 about risking your life is a little concerning because there's that cross, like
36 that intersection right there and no one dares to even stop when there's kids
37 crossing they don't consider stopping and it's scary. Yes, thank you.

38
39 Kaiser: Thank you. Okay, coming down to the next row.

40
41 Bressette: Glenn Bressette. 2673 Stellar Way.

42
43 Kaiser: And do you swear or affirm that the testimony you're about to give is the
44 truth and nothing but the truth under penalty of law?

45
46 Bressette: I do, sir.

1
2 Kaiser: Okay. Go ahead.
3
4 Bressette: Like Anita said you know words can be spoken and everything else. I have
5 a picture I'd like to show you from May 16th. Morningstar, which you're
6 looking at up there, I have a beautiful picture as well. Approach.
7
8 Kaiser: Yes, please do.
9
10 Bressette: So everybody, so when they speak of traffic, and just like the children talking
11 about crossing the road, that's what we deal with on a weekly basis. And
12 now you're talking about adding over 100 vehicles to that intersection. We
13 oppose.
14
15 Kaiser: Thank you. If you'd like your phone back we'll give it back to you. All right
16 I think we're in one, two, three, four, five, the sixth row back. Anybody else
17 in that row? All right. Coming to the next row in front. All right, seeing none.
18 Next row, fourth row. Third row. Second row. Gentleman over there.
19 Depending on how you count half ways, one, two who knows?
20
21 Denman: My name's Richard Denman.
22
23 Kaiser: And do you swear or affirm that the testimony your about to give is the truth
24 and nothing but the truth under penalty of law?
25
26 Denman: I do.
27
28 Kaiser: Go ahead.
29
30 Denman: I live on the east side of Roadrunner. My house actually fronts up to that
31 thing. So this whole area. So my first concern is a personal one. When I
32 bought the house seven years ago, I looked at the zoning because I saw it
33 was vacant, saw that it was all zoned for additional housing. I thought I got
34 no problem; they'll be like my house; they'll be the same height. My problem
35 with putting a two story apartment complex back there is then all that area
36 is going to be looking into my backyard. But I have a swimming pool. That's
37 a personal issue. And I know that not everybody has that particular issue.
38 But I want to address this from the perspective now of what I see as the
39 objective of having a zoning plan. We have a zoning plan that is worked
40 out for years with all kinds of details and all kinds of things with the purpose
41 being that both the developers can see where they are going to work, and
42 the individuals can see what's going to happen in their area. The problem
43 becomes when we keep changing the zoning code or the definition or
44 something so that we can facilitate the development for an individual or
45 group. That's a problem. I actually served on the variance committee for
46 zones for a while. And I had a real estate agent at one point in time come

1 in asking for a variance. And they came in and said, hey, I put up this thing
2 and I've already got it in there and I want to keep that. And we voted it
3 down. Why? They were a real estate agent. They knew what the zoning
4 was. They knew that they shouldn't get it approved just because, oh well I
5 already put it up. But it was outside of the code. Is the City, is the
6 commissioner, is the council, are we going to follow our rules and laws and
7 apply them equally or are we going to decide based on what we want
8 something else to do? I think the traffic has already been talked about. But
9 I have been in my backyard and heard the two cars come together on
10 multiple occasions because they curve that you see when they're coming
11 down Roadrunner, that actually affects people more coming from the west
12 side crossing. So where this apartment complex comes, if they want to
13 come out and turn left to go up Roadrunner, they're going to go into what is
14 essentially an almost completely blind intersection. And what right now
15 applies mostly of people coming off Morningstar, from the apartment
16 complex on the east of Morningstar and turning south on Roadrunner, those
17 are the cars that have been involved so far. Now we're going to duplicate
18 that. Thank you.

19
20 Kaiser: Thank you. All right, gentlemen in the front. You're last.

21
22 Griffin: So, my name is Richard Griffin.

23
24 Kaiser: And do you swear or affirm that the testimony you're about to give is the
25 truth and nothing but the truth under penalty of law?

26
27 Griffin: Quote from Scarface. I tell the truth even when I lie.

28
29 Kaiser: Be honest, that's all I ask.

30
31 Griffin: Yes.

32
33 Kaiser: Go ahead.

34
35 Griffin: Look, there we go. My honest opinion is I've been there the longest.
36 Twenty-eight years going on 29 years. I bought my property. They told me
37 it was R-1. They weren't going to change. You got some pictures of some
38 flooding. I watched it all happen in that neighborhood. Watch every one of
39 these guys kids grow. I've got grandkids living with me now. I have two
40 autistic grandchildren. I'm disabled. I can't get my car out onto Roadrunner
41 without a five minute wait. The traffic is horrendous. I talk to you, right.
42 Asked you if you could put in a stop sign. It's an alternative roadway.
43 They're not going to put a stop sign. They're not going to put anything to
44 heed all the traffic and accident. You're not going to let them put an exit on
45 Roadrunner are you? Is the blind intersection. Come on, you can say it.
46 We all know it. You're not. All that traffic's coming on my street. Directly

1 across the street from my house. My house is not over here where Gill's is
2 at. That's my house, the second house. So I get an Organ view right now.
3 Beautiful view. It's going to turn into, what, dumpsters, according to the plan
4 from the developer. He came in and took dirt without a permit. Made a
5 mess of the street. He doesn't clean his property. He doesn't maintenance
6 the property. We do. We all pick up trash. So I just want to point that when
7 I bought my property, it was R-1. You want to put a church, fine. I can't
8 stop that. Somebody already tried. They wanted a daycare. Every one of
9 these neighbors here has signed a petition. You've got the petition. Tw
10 hundred signatures that people don't want this in that neighborhood. I don't
11 want it. I don't want to look at a three story building. That's a building that
12 tall. Would you want that across the street from your house where you had
13 peace and quiet and tranquility for 30 years, 28, 29. No. Not one of you
14 would want that. There's plenty of apartment buildings there. We don't
15 need it. We don't need the traffic. I can have my kids, grandkids go out in
16 my front yard right now. When they build something, houses that fine, we
17 don't, we're not opposing houses. But do we want 100 units? Now he's
18 downsized it to 80. So please consider, we don't need this. We bought, I
19 bought and built R-1. That's what this neighborhood is, is R-1.
20

21 Kaiser: Thank you.

22
23 Griffin: Thank you for your time.

24
25 Kaiser: Thank you. Okay, is there anybody else in the audience who has not yet
26 spoken and wishes to speak? Gentlemen in the far back.
27

28 J. Brown: My name is Jeffrey Brown.

29
30 Kaiser: And do you swear or affirm that the testimony you're about to give is the
31 truth and nothing but the truth under penalty of law?
32

33 J. Brown: I do.

34
35 Kaiser: Go ahead.
36

37 J. Brown: This overwhelmingly affects the people who live west of Roadrunner and
38 you've seen much testimony about that this evening. But the same traffic
39 hazards affect the neighborhood east of Roadrunner because two of the
40 three exists out of that neighborhood go onto the blind curve, which is like
41 the Indianapolis 500. And the third is Morningstar which is overwhelmingly
42 crowded, especially when the middle school is either starting, when people
43 are also going to work, or when the middle school is letting out. It's a really
44 tough situation for the people west, but it also affects this traffic and the
45 safety questions of people living east of Roadrunner. To add 80 or 96 units

1 it simply expand the problems for those people as well. So just a brief
2 reminder, this affects more than just one neighborhood. Thank you.
3
4 Kaiser: Thank you.
5
6 Griffin: Can I make one more point?
7
8 Kaiser: I'm sorry, we've got to move forward. I can't because if I let you go I've got
9 to let everybody else.
10
11 Griffin: I'll just say it. And I don't want to be out of order.
12
13 Kaiser: Sir, we need to close public comment so that we can make the decision.
14
15 Griffin: I know just one. There was a ...
16
17 Kaiser: I cannot, sir ...
18
19 Griffin: Eighty miles an hour on Roadrunner. Eighty miles an hour. Eighty.
20
21 Kaiser: Okay, is there anybody else in the audience who has not spoken
22 on this item and wishes to do so? This is the last call. All right, seeing none.
23 We'll close public comment. We'll come back to the Commission. Any
24 comments, thoughts, questions?
25
26 Porter: I have a thought. I'm sorry. I just wanted to say you know that I commend
27 all of you guys for coming together and standing up, bringing in the youth's
28 voice because it's not heard very often. So I appreciate that. And just
29 standing up for your community. Thank you.
30
31 Kaiser: Commissioner Acosta. Do you have any comments? Commissioner Smith
32 is willing to wait. We can come back to you. Commissioner Smith, go for
33 it.
34
35 Smith: All right. Thank you all for coming tonight. And I definitely appreciate and
36 understand your concerns. So I have a number of notes here. All right I
37 just want to say that I have a number of issues with this proposal also and
38 this project. I have lived in Las Cruces now for 26 years. Ms. Apodaca may
39 not remember me but 20 years ago I was a Las Cruces police officer. And
40 I bring that up because the gentleman presented the photo of the vehicle,
41 the yellow vehicle that had crashed, I'm assuming that was on Morningstar,
42 I mean correction, maybe it was on Roadrunner. And I had to, you know
43 had a flashback because of when I was a rookie cop I responded to a crash
44 on Northrise. And at the time Northrise was a newly built road. There were
45 not the businesses and residents that are there now. So it was basically a
46 nice area for people to speed, particularly if you had a high speed car that

1 could drive really fast. So I respond to a crash there, young man. And he
2 had critical injuries. And so that was 20 years ago. And so I'm very familiar
3 with this area. I have children and I have friends that lived in that area. It's
4 continued to live there. I have a friend who is a former pastor of Morningstar
5 United Methodist Church, so I'm very familiar with that area. I'm familiar
6 with the traffic issues. I have never been there when school lets out but you
7 know I can imagine with the volume of traffic that is there on a regular basis,
8 on a normal basis, I could imagine what it's like you know on the school day.
9 So saying all that, I have a number of issues with this project. And it does
10 apply to you know what you know, our charter is here, what our duties are
11 here as Commissioners. And it is to protect the compatibility, the livability
12 of the neighborhoods. And you know to go from R-1 to R-4 is an extreme
13 as one of the gentlemen stated, move to make. You know when you're
14 talking about putting 80, 96, 100 apartments in that particular area. There's
15 just, it's hard for me to fathom how that could be a positive fate. I'm very
16 sensitive and aware of the need for housing in this City, affordable housing.
17 But there's a part of me that feels like the developer is exploiting the livability
18 and compatibility, the just the establishment of that neighborhood to build
19 apartments, not for affordable housing, not for young families that are
20 struggling trying to find a decent place to live in town. But for people who
21 can afford to live in a, I won't say luxury but definitely higher end apartment
22 buildings, based on accessibility, proximity to Northrise and the commercial
23 buildings, the shopping, the entertainment that there and continue to come
24 in.

25
26 So as another of the you know concerned citizens stated, you know who is
27 it going to benefit. And you know it's hard to sit here as a resident and also
28 as a Commissioner and try to understand the side of the developer with the
29 impact, the negative impact that it's going to have on this neighborhood.
30 We want. We live in society now. We even live in a town now where it is
31 difficult for children to walk to school. I live downtown. I live near Cruces.
32 High. I drive through there often and during school. Parents line up on the
33 side of the road to drop their high school kids off. When I was in high school,
34 we walked. I mean you know we walked through snow with you know with
35 no shoes on. But I am really that old. But that, every time I see that I think
36 why are parents concerned about dropping the kids off, high school kids off.
37 They're concerned about the safety of walking. So I can imagine with a
38 middle school and a church that there is even more concern. Because one
39 is, I mean Roadrunner is, it's a highway. It's you know you go for Highway
40 70 over toward you know Lohman where shopping retail to Northrise,
41 people drive fast. I've seen it. I've experienced it. It happens. So all or
42 your concerns are more than valid. We want a City that's livable. That's
43 safe. A community where you can actually walk in your neighborhood. If
44 you bring in a project of this size it will affect everyone in that community.
45 And it is not going to allow for the continued livability and enjoyment of that
46 community. And that's not something that I think that I can support because

1 I want my neighborhood downtown to continue to be a viable, livable,
2 compatible City, I mean neighborhood with the people in my community.
3 And although I have traffic issue, we had traffic issues downtown, what this
4 project would do to your neighborhood would, it's a pales in comparison.
5

6 I have one more point. There are other areas where a need for apartment
7 complex of this size would serve the City. I don't, you know I haven't, we
8 haven't had a presentation from the developer. But I would like to
9 understand how and why this location was chosen, and what positive
10 attributes that he feels that having this many apartments could bring to that
11 area because it appears to me that there's a total disregard for the people.
12 Thank you.
13

14 Kaiser: Commissioner Murray. Did you have any comments?

15
16 Murray: No, I'm good. Can City staff kind of talk more into why this specific lot was
17 not designed or subdivided with the original master plan? Because looking
18 at what the City does and everything else in Metro Verde and some Sonoma
19 areas, it seems like we all delineate like, hey, this is going to be a
20 commercial lot, this is going to be reserved for R-4 multifamily. So I don't
21 know how that kind of evolved in this specific location.
22

23 Banegas: Mr. Chairman, Commissioner Murray. The lot in question was a standalone
24 lot for many years outside the development of what you see around it. My
25 understanding is, I haven't researched that far back, but my understanding
26 was at one point it may have even been under control by one of the federal
27 agencies, at least in part, and then released for development. But
28 regardless, it was a standalone even prior to annexation. And then when
29 the City came in and annexed this area, you know it remained separate and
30 apart. The areas around it, they went through the master plan stages,
31 preliminary plat, final plat. But this was never incorporated or absorbed,
32 because by then it was privately owned, and they didn't want to participate
33 for whatever reason. But it stands alone and it does share the zoning that
34 you see for many of the lots around it. But that's the most I could tell you
35 about that.
36

37 Murray: Okay. Thank you. I guess my other comments, I'll hold on to, kind of want
38 to get the Commission's thoughts. If you want to make a condition to this
39 or if you're more or less to decline it all together. I do think what City staff
40 has presented is well beyond what should exist. But it's kind of coming
41 down to a compromise whether it stay R-1a or it goes up slightly to add to
42 more housing.
43

44 Kaiser: Does the applicant wish to speak to any of what Commissioner Smith and
45 Commissioner Murray alluded to as far as the design choices that you all

1 are choosing to make? And before you begin, please state your name for
2 the record. Please state your name for the record.

3
4 Aswad: Muhammad Aswad.

5
6 Kaiser: And you swear or affirm that the testimony you're about to give is the truth
7 and nothing but the truth under penalty of law?

8
9 Aswad: Yes, I do.

10
11 Kaiser: Please go ahead, sir.

12
13 Aswad: Thank you. So I have been living in Las Cruces for the last nine years. I
14 live in the neighborhood. I drive on Roadrunner back and forth every day.
15 My children go to school in the area. So I'm very much familiar with the
16 area. I came to here from New York, and I lived in Chicago before and I
17 know what the traffic looks like. But we don't have like really heavy traffic on
18 Roadrunner. And even I drive in the morning during the school hours. I
19 know there's little traffic around the school, but there is nothing like New
20 York or Chicago traffic. So I am this ...

21
22 MANY AUDIENCE MEMBERS SHOUTING OUT.

23
24 Kaiser: Please refrain. Please let him speak.

25
26 Aswad: So I understand the concerns of the neighbors. And we had meeting in the
27 church like two months ago with Mr Banegas. And we addressed most of
28 these issues. I know they're concerned about like decrease in value of the
29 houses around the area when you build apartment complex. And you could
30 research that decrease in value of the apartments, in the houses is caused
31 by crime in the neighborhood or not maintaining the neighborhood well. But
32 not building apartment complexes in the neighborhood. And this is well
33 established in the research. And I think building nice apartment complex
34 with recreational areas and nice landscape would be a positive addition to
35 the community, and would improve the commercial motion in the
36 neighborhood, the shops and restaurants, and so forth. And we should not
37 forget this land is going to be developed one day whether houses or
38 apartments, even if you develop like R-1 houses, it's going to be like almost
39 30 houses. And the concern about traffic. And even sometimes in private
40 houses you might have four or five cars for each house. You might have
41 more cars, than if you have for apartments. I mean my neighbor next door
42 has five cars in his driveway. So I mean, even if you ...

43
44 MANY AUDIENCE MEMBERS SHOUTING OUT.

45
46 Kaiser: Excuse me. Excuse me.

1
2 MANY AUDIENCE MEMBERS SHOUTING OUT.

3
4 Kaiser: Please no yelling from the audience.

5
6 Aswad: So I mean ...

7
8 MANY AUDIENCE MEMBERS SHOUTING OUT.

9
10 Aswad: I mean even if you have like private house you might have three cars for
11 each house. Times 30 houses, that's like 120 cars, which is the same thing
12 that we estimated for apartment complex. So I think it would be a positive
13 addition to the community. And we recognize, I mean I have friends looking
14 for rent in Las Cruces. And it's been very difficult to rent. So I mean we
15 can, I mean we participate in solving the issue of housing in Las Cruces.
16 It's going to be mixed neighborhood. And I think it'll be positive for the
17 community and for the neighborhood.

18
19 Kaiser: Thank you. Before you go, can you talk a little bit more about the decision
20 to land on, I guess at this point about 100 units, let's just round up, 100
21 units? Can you talk a little bit about from your perspective why that's your
22 target for this particular lot?

23
24 Aswad: I mean me and the contractor we figured out like how we are going to
25 develop the land and buildings, each building how many house. And we
26 estimated that's going to be like almost 96 apartments. And with the
27 discussion with Mr. Banegas and we are okay like putting it down to 80
28 apartments, which would benefit 80 families in Las Cruces. And the height
29 of the building is going to be 35 feet, which is what's the code for the
30 neighbors. And it's not going to be higher than what the code permit in the
31 neighborhood.

32
33 Kaiser: And are these a mix of one bedroom, two bedroom, three bedroom?

34
35 Aswad: One bedroom, two bedroom, three bedrooms. So it would house a lot of
36 families in this area.

37
38 Kaiser: Certainly. Thank you. Don't go far, there might be additional questions, but
39 I think I'll give my thoughts and perspective here since I hadn't yet done so.
40 First, I want to thank everybody for participating tonight. Your feedback, it's
41 part of the process. We appreciate it. There's a couple of points I want to
42 hit on. So I'll try to be organized in my thoughts here. The first one, traffic
43 and the issues that were raised around safety. The State of New Mexico is
44 one of the deadliest in the country for pedestrians and cyclists. We've been
45 that way for quite some time. That is going to remain the same regardless
46 of whether or not this project goes through tonight. That being said, it

1 doesn't have to be like this. The concerns that you all raised tonight is
2 exactly how that road was engineered. That's how they built it. That's how
3 they designed it. They designed it for the efficiency and the expediency of
4 drivers and nobody else. The young woman who talked about her
5 experience walking home from middle school, awful, horrible. I think the
6 quote was something about risking your life to walk home. That nobody
7 should have to risk their life to walk home. That is the reality that we live in.
8 The statistics back it up. You all see it, live it every single day. That will not
9 change regardless of whether or not we approve or deny this project tonight.
10 That is the condition in which that roadway was designed. So I understand
11 the concern. I hear it. I experience it in my own day to day. I go out for
12 run, I get close calls on every single one, if not multiple in a single run. In
13 the middle of crosswalks, drivers don't care. Just today riding my bike to
14 this very meeting, I almost got run over from behind because somebody
15 was blocking the bike lane and I had to swerve into traffic. That reality
16 exists. And it angers me to the core that we live in a place that we do not
17 respect anybody outside of an automobile.

18
19 But again, the reality is this project, whether we deny it, it's not going to
20 solve the problem. These are issues we have to take up with the City
21 Council, with the design development code that's being updated. I mean
22 the reality is staff may hate me for saying this, but you all need to come to
23 City Council, explain it to the commission, to the City Councilors. There's a
24 way forward when it comes to traffic safety. There is. We see it in other
25 places across the country. We see it in other developed countries. We can
26 solve the problem. But this project isn't going to change a thing. In fact, it
27 actually gives people an opportunity to walk somewhere, to walk to school.
28 If we don't build apartments or housing in this location, they have to go
29 somewhere, they're going to go somewhere that's going to require them to
30 drive to drop their students off to this very middle school, increasing traffic.
31 Giving families an opportunity to allow their kids to walk to school, yes, we
32 have to address the safety concern. But if you don't even give them the
33 opportunity to walk, we don't make any progress. Traffic doesn't happen in
34 a vacuum. We are all traffic. Every time we get in our automobile we are
35 traffic. If we give people opportunities to get out of their automobile, there's
36 less traffic.

37
38 We need housing. We need it desperately. We need a variety of different
39 types of housing in this City. If it's not here, where then? Where does it
40 go?

41
42 MANY AUDIENCE MEMBERS SHOUTING OUT.

43
44 Kaiser: To the point about luxury housing. It's an interesting point, Commissioner
45 Smith. I certainly agree to some level that luxury apartments is not always
46 what we need built. But there's a lot of studies out there that show that

1 when you build luxury housing, those that are able to move up you know
2 into a luxury apartment opens up a space for more affordable apartment for
3 a family that can afford it. So there is evidence out there and research to
4 suggest that yes, well, this may not specifically meet the definition of you
5 know income, limited rents or moderate income rents, it still creates a
6 pathway for affordable housing options in this community. I myself have
7 experienced this very issue moving to Las Cruces just a few years ago. We
8 wanted to rent so we could get to know the neighborhoods and we can get
9 to know the community. We wanted to rent in a place that we would see
10 ourselves potentially buying a home where we could afford it. We could not
11 find apartments that we would want to live in if they were even available.
12 We need more of this housing desperately.

13
14 The idea that these are just going to be strangers moving into the
15 neighborhood. We don't know who they are. We haven't met them. We'll
16 never get to know them. It just couldn't be further from the truth to be
17 honest. We don't know who's going to buy the house next door. There's
18 no way to know that. I don't know who's going to buy my neighbor's
19 detached single-family home whenever they decide to sell it. We can't
20 control who buys and rents in the City. All that we can do is provide options
21 for them to experience the same neighborhoods that we all want to live in.
22 I lived in an apartment for almost nine years before I moved here to the City
23 of Las Cruces. And I had friends, I knew my neighbors that lived in
24 townhomes, rowhouses, detached single-family, in my own neighborhood.
25 So this idea that you're just never going to know these people, they're going
26 to be in and out, they're transients, just simply can't be further from the truth.

27
28 There wasn't really much discussion about property values, but I think there
29 was some it's certainly in the comments that we received as part of our
30 packet. The data doesn't back that up. Building apartments doesn't
31 devalue single-family detached homes. In fact, I was just poking around
32 Zillow before this meeting this evening and there's a home currently for sale
33 that abuts their backyard, abuts a development, an apartment complex
34 that's on the market right now for almost half a million dollars, in Sonoma
35 Ranch, off of Sonoma Ranch, in between Sonoma Ranch and Roadrunner
36 Parkway. That same house, I just looked briefly at the houses for sale
37 around where this project is, there's some that are a little bit more
38 expensive, there's some that a little cheaper. So the idea that building this
39 apartment complex is going to cause your property values to plummet just
40 isn't born by the data.

41
42 Finally, two final points I'll make. One, kind of thinking about change.
43 Communities change, they grow, they shrink. This community wasn't the
44 same community it was 50 years ago. It's not going to be the same
45 community it is now in 50 years. Things change. At one point where you
46 all are living was in the desert. Someone decided to come in, zone it R-1a

1 and subdivide it, make their money, you all are now products of that
2 decision. So why is it that that developer however many years ago was
3 allowed to do it and this developer is not?
4

5 MANY AUDIENCE MEMBERS SHOUTING OUT.
6

7 Kaiser: I'll also I guess add just my general perspective, and I know there's going
8 to be many people that disagree with me in this room. But Commissioner
9 Smith, you alluded to this idea of facilitating community, respecting
10 community. And that's all absolutely true. But I also don't subscribe to this
11 idea that the people here and now are the only ones that have input into
12 what happens in this community. That there's people who are not yet here
13 that we also have to consider. People will continue to move here. People
14 want to live here. I think Forbes just identified Las Cruces as a top City to
15 retire. Where are these people going to live? They have to live somewhere.
16 We need to provide options for people to live. And so ,...
17

18 MANY AUDIENCE MEMBERS SHOUTING OUT.
19

20 Kaiser: I will end my thoughts there. I'm certainly open to other compromises if
21 there's other alternatives to get to a decision tonight, I'm certainly open to
22 discussing that.
23

24 Smith: I have just two comments and one question for you, sir. First comment. I
25 lived in New York City for eight years. And just last year, last November, I
26 spent a week there. And I was staying in Chinatown. I walked everywhere,
27 other than riding the subway. And while I was there during the week you
28 know there were families taking their kids to school. And they were walking
29 them to school. And this is New York City in Chinatown. I don't know if
30 you've spent any time in Chinatown. It's pretty congested.
31

32 Aswad: I know.
33

34 Smith: And so that comment about living in Chicago, living in New York City is not
35 really germane to this project in this area. Because as much traffic as you
36 have in New York City, it's still a walkable City.
37

38 Aswad: In some areas. I mean ...
39

40 Smith: Yes, but yes if you live out, if you live out in another borough or if you live
41 outside you know in Long Island and you know Nassau County you're
42 driving. But as far as being in a community, there should still be the ability
43 for families and children to walk safely. And you know as my earlier
44 comments, you know I'm putting myself in a position of being a resident,
45 and even being a resident of that community.
46

1 Aswad: Sure.

2
3 Smith: And so you know I understand that as Commissioner Kaiser stated, you
4 know there is a need for housing, and there are people coming, and they
5 will continue to come. As my neighborhood has changed. You know I live
6 in a neighborhood that I mean houses have been there for a 100 years.
7 And it's still changing. And so that's the one comment I made about
8 *(inaudible)*.

9
10 And then as far as property values go, that was a very minor, very minor
11 issue with the people who came up and spoke. You know we can't really
12 determine exactly what property values are going to do, as Commissioner
13 Kaiser said, and he did a little research and he found that it has a very small
14 if any effect on property values. But the one thing that kept coming up and
15 I'm sure that there's a little concern about property values, but mostly
16 concern was about traffic and safety, about people, about children. And so
17 that seems to be the heart of this whole issue. And change does happen.
18 And this area will continue to grow all around. But I just, to have that type
19 of development, that type of density right in that area, it makes it difficult to
20 make that decision to go from R-1 to R-4. So I just wanted you to have an
21 understanding how I as one Commissioner sees this. You know it's like, it's
22 not an easy decision to be made. We're all going to sit here and make a
23 determination. But you know it's like I understand what you're trying to do.
24 But the negative impact is what's making this a difficult proposition at this
25 point.

26
27 Aswad: Can I respond to this? I mean we have to think is this for best public interest
28 or not. I mean this is what the, this is my point. I know I mean, the lot of
29 neighbors here, but there's a silent majority that they are still not here. So
30 I think I ...

31
32 MANY AUDIENCE MEMBERS SHOUTING OUT.

33
34 Kaiser: Excuse me. Excuse me. Excuse me. Please let him speak.

35
36 Aswad: I think for best public interest to have more affordable housing in the area.
37 So if you are like low income or middle income person, who should then get
38 out of the City in order to get housing, this is my point. So this is going to
39 be like mixed neighborhood. And you will have access to affordable
40 housing for low and middle income families.

41
42 Kaiser: So Commissioner Smith, just to address one point that you brought up. So
43 if we allow this to stay R-1a and Mr. Banegas please correct me if I'm wrong,
44 but it will be about eight dwelling units per acre maximum. So we're still
45 looking at what is that, 30 units. So is a real case saying that we're
46 comfortable putting 30 units at danger of our you know poor traffic situation

1 that we have, but we're not okay with 96? I'm just trying to understand.
2 We're fine with 30, but not 96. That's, it's really just the number. What is
3 the issue with that in particular?
4

5 Smith: It's not so much the you know the number. The number definitely has you
6 know an impact on how, as you stated you know it is unsafe. That road
7 was, Roadrunner was designed for car traffic. And it will continue to be that
8 way until, as you stated, the City makes some substantial changes in how
9 they design and develop roadways for both vehicular and also for
10 pedestrian and bicycle use. And I feel like we are taking a bad situation,
11 and we're about to make it better, I mean worse, excuse me worse. And it's
12 not about you know whether it goes from 30 to 96 or more. And that also
13 triggers a question that I have for Mr. Banegas, if this does go to, from R-1
14 to R-4 and the developer has said he only plans on building 96. Is he limited
15 to that? Can that change? Can he build more? If he decides to change his
16 plan, once he gets the approval, is there anything stopping him from building
17 more?
18

19 Banegas: Mr. Chairman, Commissioner Smith. In my presentation I had identified the
20 19.2 dwelling units per acre specified on the conceptual site plan. But in
21 the presentation also stated that we really need to nail that down. The R-4
22 district requires a minimum of 10 dwelling units per acre and a maximum as
23 defined by the applicant or developer. What I've stated is, is they have
24 suggested 19.2, but I think as part of the motion, as part of any condition,
25 that has to be identified and specified so that that can go forward as a
26 restriction.
27

28 Smith: All right. Thank you.
29

30 Murray: I'd just like to say that again this is a recommendation to the City Council
31 and they're going to make the final decision on whether this goes forward
32 or not. I'd just like to give my thoughts if we were to amend what City staff
33 has recommended to us. And this is not in order of how the presentation
34 has gone. And this is more in order of our packets so that the
35 Commissioners can follow through. Based on the proposed conditions, I
36 would consider reasonable an R-2C, receiving the conditional for number
37 one, of course follow number two which does not allow mobile home parks
38 or mobile home use as this is a single-family area. Skipping down to five, I
39 would think that 19.2 dwelling units per acre as excessive. Whereas 16 still
40 is excessive to me. And kind of looking at case studies of other areas in the
41 Sonoma East, Sonoma West area, if you look up 2035 El Praside Drive this
42 is a 2.64 acre site also zoned R-3 and they did 32 units more or less that is
43 divided into five different buildings. So kind of just comparing and
44 contrasting there how that in that specific area would be different here. It's
45 like if we move the site we're probably going to get all the pushback once
46 again. So I would recommend 12 units per acre, which comes out to a

1 maximum of 60 if you multiply it by five, doing simple math. Number eight,
2 I would like to add which I would think is reflective of R-1a zoning and much
3 of the other zoning too, where it's a maximum height of two stories which in
4 R-1a, and correct me if I'm wrong City staff, is 35 feet. And then I do think
5 apartment buildings, if you have roommates and you have two bedrooms,
6 those two people are going to have their own cars, because that's how we
7 have decided to get from point A to point B. So I think for the two to three
8 bedroom units, I think it needs to be two spots per unit for those. Whereas
9 a one bedroom unit give or take 1.5 as given in the recommendation and in
10 City zoning code. So those are my thoughts. I think what's presented here
11 originally is too excessive and what is presented from City staff is also too
12 excessive for this specific location.
13

14 Kaiser: Just to clarify, you're adding two conditions. So one would be max two
15 stories. And then number nine is one and a half spaces for one bedroom,
16 and two spaces for two to three bedroom. Okay.
17

18 So I would be in support of something like that. My only concern with the
19 max two stories is with site conditions do we sort of kneecap the developers
20 ability to meet that maximum dwelling unit per acre just because we don't,
21 we haven't done the exercise right here to say that they could get that
22 number of units with two stories, if that makes sense.
23

24 So I'm just saying I think we should scratch the max two stories and just
25 have the 35 foot because if we put that condition on them and the site design
26 standards constrain what they can do and they can't go up, we kind of
27 kneecap the developer unintentionally. Since we haven't really looked at
28 the site design standards.
29

30 Murray: I personally would just cap that too, because if you're looking at Sonoma,
31 West and Sonoma, East every single apartment building is going to be
32 capped at two. The only apartment buildings I see that are three stories are
33 going to be at the university or elsewhere. So I think for the neighborhood
34 characteristics, I think capping at two make sense.
35

36 Banegas: Mr. Chairman. Just a point of information. In terms of some of the
37 conditions that staff had presented. The reason why we didn't go to a story
38 cap is the R-1a neighborhood could build to 35 feet. Very similar fashion to
39 what you're proposing Commissioner Murray. The allowance in terms of
40 stories is whatever the 35 foot can bear in the current R-1a area. So even
41 if someone has a one story home, they could submit a permit tomorrow and
42 seek to maximize the number of stories for their unit. And if that's three or
43 two and a half, you know a loft or something like that, so be it. They would
44 be allowed to do so. And so in similar fashion staff's thought was allow this
45 one to be the same. Apples for apples sort of thing.
46

1 Kaiser: And if, you're agree/disagree, you want to keep that conditioning in. Go from
2 here.
3
4 Murray: I guess I'm fine with three stories.
5
6 MANY AUDIENCE MEMBERS SHOUTING OUT.
7
8 Murray: But I mean it's the same thing as 35 feet. Because What's to say builds to
9 15 foot stories. So I don't know.
10
11 Weir: Mr. Chairman. point of order for staff. stories don't have a set number of
12 feet for that, it's how they design it. So from an administrative standpoint, a
13 maximum height is just easier for review of the building permit and issuance
14 of it. And I think that's one of the reasons the staff recommendation was at
15 35 feet, that's the height that's allowed in the R-1 districts that's adjacent to
16 it so that they won't go any higher than the adjacent properties and their
17 zoning.
18
19 Kaiser: So would you be okay leaving it at all one max height 35 feet.
20
21 Murray: I'd like to hear other Commissioners comments. But just looking and
22 thinking of single-family stories, say this doesn't go through if you still can
23 build or whoever purchased it, 40 single-family homes based on density, if
24 it's eight units per acre, correct. And personally here neighborhood
25 characteristics, I've never seen a three story single-family home. So I would
26 limit his ability to just keep it to two stories, that does not exceed 35 feet
27 overall. If that makes sense.
28
29 Kaiser: Yes. There are three story duplexes in Sonoma Ranch. We looked at one.
30 So it is possible. They do exist.
31
32 Banegas: And Point of information, Mr. Chairman, Commissioners. Just to clarify.
33 The eight dwelling units per acre going back to the R-1a density cap. That
34 is considered in the R-1a zone just so that we're all on equal playing here.
35 The R-1a allows one dwelling per lot. The reason why it speaks to an eight
36 dwelling unit per acre density is when a developer develops, for instance
37 five acres, 10 acres, what have you, and they are subdividing lots out to
38 create a single-family environment, we look at the perimeter of that lot as
39 part of the density calculation. So that's where the eight comes in. But
40 admittedly only one dwelling per lot is allowed. So I hope that helps clarify
41 the eight compared to the other densities.
42
43 Kaiser: Is there any other thoughts to the height? I think we need to go one way or
44 another to make a motion here. So do we want to keep it at 35 feet, which
45 is R-1a or cap it at two stories. Or we could just omit the condition, in which
46 case it just defaults to whatever the R-2 to which is 35 feet, correct.

1
2 Banegas: Correct.

3
4 Kaiser: I mean I think from a design perspective I think it gives them the maximum
5 flexibility to work within the framework. I think if we, my opinion is that
6 without looking at the site and doing an exercise, a charrette on it, given the
7 topography on it, it might be hard or might be more expensive to move the
8 amount of dirt that you need to be able to keep everything at two stories, in
9 which case we're just driving up the entire cost of the project which is going
10 to translate to the cost of the houses.

11
12 MANY AUDIENCE MEMBERS SHOUTING OUT.

13
14 Smith: Just for clarification. If we keep it at 35 feet, that would zone it at R-2.

15
16 Banegas: Mr. Chairman, Commissioner Smith. Thirty-five feet is the maximum height
17 allowed for the R-1a, R-2, R-3 districts. They're all 35. It jumps to 60 when
18 you get to the R-4.

19
20 Smith: All right. Thank you.

21
22 Murray: I guess just to simplify the 35 feet, because if you look at the townhouses
23 that are three stories, that third floor could be a rooftop deck more or less.
24 So I think it makes sense. And we just omit that because it's going to be R-
25 2 35 feet altogether.

26
27 Kaiser: Okay, so we'll scratch number eight. And then just go through it so we're
28 all on the same page and look for a motion to approve. We're going to
29 approve; we're going to make a motion to approve with the conditions.
30 Number one, that this is R-2C. The max density allowed will be 12 dwelling
31 units per acre, which would be a maximum of 60. And then all other
32 conditions remain and we'll add an eighth one which is the one and a half
33 spaces for one bedroom, and two spaces for two to three bedroom
34 apartments. So looking for a motion to approve with those conditions.

35
36 Murray: So I've said this once before and I'll say it again, but our decision here
37 whatever it's approve or deny, is a recommendation to the City Council. So
38 your voice has not stopped here. We're kind of limiting what the original
39 plan is from what City staff is, to making it something that's more
40 manageable for everybody involved. So in a month or so, the City Council
41 will hear this case, get the same presentation from staff, and your voice can
42 still be heard at that meeting. So I want to make that clear that this is not
43 final.

44
45 So with that I make a motion to approve with conditions item 8.1 with all
46 conditions that City staff have recommended with amendments to number

1 one, making it R-2C, number five limit 12 dwelling units per acre of 60 max
2 units, and adding a condition number eight, which says 1.5 parking spaces
3 per one bedroom units, whereas two and three bedrooms will require two
4 parking spaces per unit.
5
6 Kaiser: I'll second.
7
8 Banegas: Mr. Chairman. Just point of order. If you could just reiterate that on the
9 vote, findings or your position clearly stated would be very helpful.
10
11 Baum: Board Member Acosta.
12
13 Acosta: I vote yes to approve with conditions based on staff recommendation and
14 you know Commissioner debate here.
15
16 Baum: Board Member Porter.
17
18 Porter: I vote yes with staff recommendations and the new findings that the
19 Commissioners have stated.
20
21 Baum: Board Member Smith
22
23 Smith: I vote no to deny.
24
25 MANY AUDIENCE MEMBERS SHOUTING OUT.
26
27 Kaiser: Excuse me. Excuse me. Excuse me. Please refrain so we can take a vote.
28
29 Smith: This is not a decision that I made to accommodate the residents here. I
30 mean this is a decision that I've taken a lot of care to make. As my fellow
31 Commissioners stated, this is not the end, this is going forward to City
32 Council. But my reason for denying, I still continue to feel that this project
33 even with the conditions that have been laid out, is still going to have a
34 negative safety and traffic impact on that area of Las Cruces that is
35 continuing to grow around this neighborhood. And those are one of my
36 primary reasons for my vote.
37
38 Baum: Board Member Murray.
39
40 Murray: I vote to approve based on the staff recommendations for various reasons,
41 but I believe that the 80 and 96 is too excessive. I also believe that the
42 zoning code does not have correct parking considering if you have multiple
43 cars and/or roommates that have multiple cars. Therefore adding that
44 condition to limit additional parking on neighboring streets.
45
46 Baum: Chair Kaiser.

1
2 Kaiser: Yes, based on the discussion here tonight, specifically around the need for
3 additional housing and a mix of housing type in this City, and housing that
4 is located to give residents of all family units, shapes, and sizes the
5 opportunity to walk to services. So that is my vote this evening.
6

7 Baum: Motion passes.
8

9 **9. NEW BUSINESS**

10
11 **9.1 Case 24VO0500047:** A request to approve a variance of $\pm$ 23 feet to the required
12 25-foot front yard setback required for carports/garages in the R-1a (Single-
13 Family Medium Density) zoning district. The property is located at 4861 Garnet
14 Street and is $\pm$ 0.160 acres in size. Submitted by Harold Pozas, property owner.
15 Council District 5.
16

17 Kaiser: All right. We are moving on to new business this evening. Item number 9.1
18 is next on the agenda. For those of you who will be traveling home, safe
19 travels. Thank you for participating tonight. So staff we'll turn it over to you
20 for 9.1, a request to approve a variance of 23 feet in the front yard setback
21 on Garnet Street.
22

23 Banegas: Mr. Chairman, Commissioners. Vincent Banegas, interim planner for the
24 record presenting the second case here, first on new business, for a
25 variance request at 4861 Garnett Street. It is case 24VO0500047. It
26 involves property that is currently developed as a single-family lot. It is plus
27 or minus 0.16 acres in size. The property is zoned R-1a, which is single-
28 family medium density residential. And the house that sits on the property
29 was developed in 1987 according to assessor records. And there is
30 currently a metal carport that as identified by the applicant was constructed
31 in March of 2022 without a permit. The placement of the structure is plus
32 or minus two feet, some of the pictures would illustrate a little less distance
33 than two feet, but I'm going to say plus or minus two feet from the property
34 line. A significant portion, probably shy of 50% of the structure sits within a
35 12 foot utilities easement that exists along the front property line. With the
36 encroachment of the structure in that easement there is no existing
37 encroachment agreement that has been secured for that structure.
38

39 The zoning map is identified above. The property in question outlined in
40 this teal color hatched in red. You have Garnet Street here, you have
41 Emerald Street to the east, and Jade down here and Beryl, I believe it's
42 Beryl Street to the west. And so it sits in an area of Las Colinas. One of
43 the original areas actually that is zoned R-1a. The rest of Las Colinas
44 became a PUD, planned unit development, and was developed in
45 accordance with those guidelines. But this area in yellow follows the R-1a
46 standards.

1
2 You have some medium density residential zoning down below in the R-2
3 zone, and then you also have some R-3 further southeast. The property is
4 outlined again in teal on this aerial map. You can see that the surrounding
5 properties are largely entirely developed, at least in this photo shot. You
6 begin to see a little bit of the carport in question which I'll have photos that
7 show that more clearly.
8

9 So the request that came in is plus or minus 23 feet variance to the required
10 25 foot front yard setback for carports and garages in the R-1a zone. The
11 applicant justification for the variance request, as you can recall justification
12 is required to be based on hardships, there's three that are illustrated in the
13 code. And in this instance the applicant didn't specifically address or
14 demonstrate any hardship per the code, but does refer to some recent
15 medical related issues and hence medical bills and as a concern and the
16 use of the carport at present for some of the daughter's therapy. Physical
17 therapy, I would assume. The applicant states that he was aware of the
18 need for a permit and discussed the matter with the contractor who was
19 erecting the structure. He later learned that a permit was not secured. And
20 when he attempted to follow up to correct the situation, he was not
21 successful in doing so. Apparently the contractor that had put it up, if I recall
22 correctly, was either out of business or moved on. So it was difficult to get
23 resolution to that matter.
24

25 This is a site plan aerial combination here that was submitted by the
26 applicant. The primary structure, the single-family home is here. And you
27 see the carport in question here. This is that easement that I referred to,
28 the 12 foot utility easement. So you can see just shy of 50% sits within that
29 easement. And certainly looks like it's a little shy of two feet. But
30 nonetheless, the plus or minus perspective on the advertisement covers us
31 in terms of the variance request. And it is this structure that is in question.
32

33 A couple of photos or few photos that illustrate the existing carport. It's this
34 unit here, sits in the front driveway. From an angle shot you can kind of see
35 it poking well beyond the house. It's all metal. And it again has existed
36 since 2022. It's got a colored roof, it's not all just the shiny metallic, the
37 supports are but the roof at least has some color to it to help it I would
38 assume blend in with some of the portions of the home that are painted
39 dark. This shot here is looking at it east, as well as this one head on shot.
40

41 And notice was sent for this case pursuant to code. Staff received one
42 phone call regarding this case and it was inquiry only. They weren't sure
43 what it involved and so we discussed that and they didn't give any indication
44 whether they're in favor or opposed to the structure. Staff recommendation
45 and findings as it relates to this is a recommendation of denial. The findings
46 are that a garage carport is required to meet a minimum of 25 foot front yard

1 setback in the R-1a zone. The request does not appear to meet the criteria
2 for decisions, and that section specifically talks about specific hardships.
3 Again, it was not specifically stated which hardship they we're applying.
4 Staff is just assuming that it's a monetary hardship, one of the three that's
5 addressed. The carport itself was constructed without a permit. The carport
6 significantly encroaches into the 12 foot utilities easement and no
7 encroachment agreement has been received or submitted for. And then
8 accessory structures in that it is not attached to the house. Accessory
9 structures are not allowed in the front setback. And the reason why I have
10 attached and detached, if the structure is attached it's certainly able to be
11 heard by this body as a variance of setback as part of the primary structure.
12 If it is detached, it is flat out not allowed. So some of the conditions that I
13 will speak to as an option speak to requiring the structure to be physically
14 attached to the house. And towards that end, if the Commission feels that
15 approval could be warranted, staff has provided this slide that gives you an
16 opportunity for an alternate consideration on this issue. And that is to
17 conditionally approve the request. Monetary considerations are allowed to
18 be considered as a hardship. And in this case, staff considers the cost of
19 removal of the structure to further increase some monetary hardships that
20 have been recently placed on the family through the medical condition or
21 situation of the daughter. The structure does blend to some degree, small
22 degree, the roofline, for example, is pitched similar to the primary house.
23 And the structure is not enclosed. Usually, when we start seeing enclosed
24 structure that has more of an impact, visual impact from the roadway. And
25 in this case, it is not. And that could be a consideration or condition placed.
26 The carport is to be attached to the house, if you do see that approval is
27 warranted. A building permit should be secured even after the fact. There
28 may be additional fees associated with that permit. But nonetheless we
29 would be interested in ensuring that proper placement, at least proper
30 securing of the structure to the ground, the concrete, etc exists. And that
31 construction met some standard pursuant to building code. And
32 encroachment agreement will have to be secured and that is through our
33 City of Las Cruces land management. So those bullet points are conditions
34 that could be considered if you feel that conditional approval is warranted.
35

36 And your options this evening is to vote "yes." This would deny the request
37 pursuant to staff's recommendation. If you vote "no," you would be
38 approving the request, in which case you'll have to come up with findings of
39 fact that support your decision contrary to those presented by staff. You
40 could certainly use some or all of the conditions as the alternative
41 consideration slide showed which I'll pop back up. And vote with conditions,
42 same thing, and vote to table. And that concludes staff's presentation, Mr.
43 Chairman. The applicant, Mr. Pozas, is here. Hope I pronounced that
44 correctly. And he would be more than willing to speak on this issue or
45 answer any questions you may have. And that concludes staff's
46 presentation.

1
2 Kaiser: Thank you. And does the applicant wish to speak this evening? Yes, sir.
3 Please come forward. Please state your name for the record.

4
5 Pozas: Good evening. I'm Harold Pozas.
6

7 Kaiser: And do you swear or affirm that the testimony you're about to give is the
8 truth and nothing but the truth under penalty of law?
9

10 Pozas: I do.
11

12 Kaiser: Go ahead.
13

14 Pozas: So again it was built in 2022. Before it was built, before I gave the go signal
15 to the contractor I specifically asked him to make sure if it needs permit. I
16 was not aware it needs permit but I specifically asked the contractor that
17 this permit, I want the permit to be done, because I don't want any problems
18 in the future. Because it's a costly construction. So and it was my first time
19 building something like that. And it was my bad that I didn't confirm that it
20 was submitted like the permit itself. So I gave the go signal. He provided
21 me with a blueprint thinking that was a permit. So I gave the go signal. So
22 initially we built this for community engagement for family gatherings as well
23 to give additional shades. As you can see in the pictures there is no, without
24 the carport, so it's hot in Las Cruces in in New Mexico. So that was the
25 initial reasoning for that carport. However, this changed last year towards
26 the end of the year since my daughter was diagnosed with a rare condition
27 which is dermatomyositis which targets the skin and the muscles. She's 15.
28 And the other one is a juvenile rheumatoid arthritis. So every now and then
29 we have go to doctor's appointments and everything. But the
30 dermatomyositis is affecting her skin. So just a little bit of sun exposure to
31 sun, she's like a vampire. So whenever she goes out to go to doctor's
32 appointment, we did that shade. That's helping her big time. So it was,
33 originally from we want this carport, now we need it. So that's our situation
34 right now. It's more of my daughter. Again the hardship is there. We have
35 to pay a lot of bills. Last year, from June to December, we had to bring her
36 to the ER at least three times. But from June to October, through
37 December, they were under Medicaid for the longest time, my three kids.
38 Because of COVID it was extended, extended. And then come June of last
39 year was it was discontinued. So and then in October when we found out
40 about my daughter, so we had to bring her to the ER and medical bills are
41 piling up because of that. So that's number one as well. But the most
42 important one is my daughter needs it because whenever she goes out of
43 our house that is helping her.
44

45 Kaiser: Thank you.
46

1 Pozas; Thank you.

2
3 Kaiser: Any questions or comments from the Commission?

4
5 Smith: I'm not sure if I have a comment, or a question. But we've had a number of
6 these cases come before us. And it always comes back to the lack of
7 permit, of course. And you know we've had a number of companies that
8 have come in and you know and built these structures. And it really puts a
9 burden on this Commission because it's obvious that a permit is required,
10 these structures get built. And we end up you know denying a variance
11 because it just, there needs to be a communication between the
12 homeowner and the contractor and the City to make sure that this is done.
13 And I'm not quite sure how that can change. And you know so I'm very
14 sensitive to you know your daughter's condition. And, but I just want you to
15 know that each time one of these cases come before us you know it's
16 generally the same scenario. And so we have to make a decision based on
17 you know the violation of the code. And I just wish that, it seems like there
18 should be a solution. And I don't know if it's a simple solution or not, to
19 make sure that you know any residence that wants to have any type of
20 shade structure or shelter constructed has knowledge and understanding.
21 I know the onus is on you, as you stated it was your bad that you didn't
22 follow up. It happens. And but I just feel like that there needs to be, I guess
23 I'm making a comment not a question. But I just feel like there has to be
24 some type of process where the residents, the homeowner knows, number
25 one that it is required, and number two that it's, there needs to be a follow
26 up and have it in hand before they even you know break dirt or break
27 concrete. And I don't know if there's something that the City or staff codes
28 is looking into some way from campaign, some way of like if you want a
29 structure build, this is what you have to do. I'm sure there's something on
30 a website. I'm sure it's all there. So I just wonder if there's something that
31 can be done or is being done. This is a very common situation that occurs.

32
33 Banegas: Mr. Chairman, Commissioner Smith. Just a couple of statements to that
34 point. City staff has in some of the meetings that we've held, we hold a
35 planning review team meeting every week just about. And this issue has
36 come up as to how we can allow carports or garages to encroach not into
37 easements but encroach into the setback. And one of the thoughts we
38 came up with, we haven't followed through with it yet, but one of the
39 thoughts was to specify in code that certain elements, architectural style,
40 that kind of thing be incorporated into the design of these carports/garage.
41 so that it is more integral to the primary structure, it blends better, it's easier
42 for the neighbors to accept that kind of thing. Metal structures are still kind
43 of a bone of contention with some staff. And so we're looking into how we
44 can codify rules and regulations that would allow it. And to avoid going
45 through unnecessary approvals, that kind of thing.

46

1 We haven't looked at specifically any campaign to discuss the need for
2 permits with some of these companies that sell these structures. I will say
3 that several of them, those that sell sheds and those that sell these type of
4 structures are well aware of the need for a permit. I think unfortunately, the
5 campaign would have to target property owners because you're right,
6 ultimately it's the property owner that bears the brunt. But the folks that sell
7 these structures are often very much aware of the need for a permit. I think
8 they try to sell them, get them erected, and move on before you know the
9 issue comes up in terms of addressing applicable provisions for their
10 construction. Oftentimes, staff will get calls and they're very vague as to
11 location, and so on and so forth. And they're just after generalities. And
12 these are for companies. So you give them the information and you tell
13 them whether a permit is needed or not. And they'll get back to us. And
14 then sometimes we find out, yes there's a problem, codes will alert us for
15 instance and ask was a permit pulled etc. And so that's when we find out
16 there's this type of situation going on. But I could certainly take back the
17 issue to our planning review team. We do have Larry and David here;
18 they're hearing the message. And maybe we can launch a campaign for
19 better you know getting the word out to property owners to be aware that
20 permits are needed in certain instances.

21
22 Smith: Yes, just as stated in previous you know proposals or requests have come
23 before us. You know Las Cruces is getting hotter, sooner, longer. And this
24 is not going to be you know a situation that's going to slow down anytime
25 soon, especially if you know a neighbor within that neighborhood sees that
26 there's a structure up and they're like, well you know, that's something that
27 we should be doing too. And so it's just going to possibly exacerbate the
28 problem.

29
30 Banegas: And a point of information, Mr. Chairman, Commissioner Smith. The
31 variances by their very nature are case by case. Doesn't necessarily set a
32 precedent depending on the information provided, the circumstances, that
33 kind of thing. You certainly base your findings and your vote on the
34 information that you hear.

35
36 Kaiser: All right. Commissioner Acosta, did you have something you wanted to
37 say?

38
39 Acosta: Yes, for the applicant I just wanted to clarify the dermatitis condition that
40 was being referenced. And then I have a follow up question after that.

41
42 Pozas: So as far as dermatomyositis is a rare condition. Her antibodies is high, so
43 it's targeting those antibodies is kind of it should be the, if the person is sick
44 those antibodies will attack the virus or anything like that. So on her case,
45 it was her skin and the muscles are being targeted. So right now she
46 couldn't even walk, she couldn't and even stand up on her own. But prior

1 to that she was very active. She was part of the school volleyball team in
2 her school, but now she couldn't even stand up on their own. We be have
3 to carry her from sitting down position. We have to walk with her. She
4 couldn't even walk by herself.
5
6 Acosta: And forgive me this question feels you know a little misled. But what do you
7 do when you park everywhere else in town. When you take her to doctor's
8 appointments and everything like that, because we don't really have a lot of
9 shade coverage anywhere else.
10
11 Pozas: Right. So right now we are on the process of, it's kind of hard, because we
12 always park at the handicap parking without the proper what do call this
13 documentation. But we're in the process of doing that as well. But I park
14 like the nearest handicap parking just to offload my daughter. And after that
15 I'll go ahead and move my car to another spot. So that's what's going on
16 right now whenever we bring her to the doctor.
17
18 Acosta: Which inherently she is exposed to the sun at those points right.
19
20 Pozas: At those points, yes.
21
22 Ads Thank you.
23
24 Murray: I have one quick comment. If we were to approve this with conditions, I
25 would just recommend that we add to be removed when the property is sold
26 to another individual. So it's not grandfathered in, if that makes sense.
27
28 Kaiser: I'll have to refer to staff for point of order on that one.
29
30 Banegas: Mr. Chairman, Commissioner Murray. The variance runs with the land. I
31 guess you could specify that. I know we've required you know no enclosure
32 of carports. That kind of thing. And especially in the back patios, that kind
33 of thing. And it's hard to enforce. So I think if the applicant is willing to
34 accept that I would think that could be placed.
35
36 Kaiser: So both before we get there, is, part of the problem is there's the 12 foot
37 utility easement, right.
38
39 Banegas: Yes.
40
41 Kaiser: So if the utility needed to come in and do work, it's my understanding that
42 they have every right to rip up the carport and they're not responsible for
43 replacing it, correct.
44
45 Banegas: That's correct, Mr. Chairman. If approval is granted, even with the
46 conditions, they're still on the hook to get an encroachment agreement.

1 That'll be through the land management office here with the City. But you're
2 right, part of the encroachment agreement will specify that should work ever
3 need to occur within that easement, if they need to you know cut through
4 that carport, they'll do so and it'll be the property owners responsibility to
5 repair, replace whatever.
6

7 Kaiser: So I mean I'm comfortable adding, If staff thinks that that is a legit condition
8 of upon sale it needs to be removed. I'm comfortable adding that. I think
9 for me the unfortunate part is the utility easement kind of complicates things.
10 We could approve this. You could go try to get the approval from the utility
11 and they have every right to refuse your request. That being said, I mean
12 you know it is a little silly that you have a public right-of-way and then you
13 get an additional 12 foot easement on your front yard. I don't know why we
14 can't just put things under the street, which is a logical place for them.
15 Because if there wasn't a utility easement, I think it would be easier for us
16 perhaps to make an exception here. But you know that being said that there
17 are rules, like you said, you made a mistake. We all do. I completely
18 understand it. I certainly feel for your daughter, your family. You have a
19 garage. I don't know how that plays into if you can get a car in there you
20 know to get her in and out. That certainly seems to be an option for you.
21 So it's tough. I mean we've seen these, like Commissioners Smith said, a
22 number of times. It's not easy. It's just kind of is what it is, I guess.
23

24 To the point about education. I think to any extent that, especially since
25 we've seen a volume of these things, I think we always can be looking at
26 how we can get the word out. I think I actually saw something in the Bulletin
27 I want to say, after the last kind of round that we have in these that was like
28 reminder. So I don't know if that was intentional or not, but I think there was
29 some effort there. Certainly, I think if we can look around other examples,
30 especially desert communities where maybe we can find a better permanent
31 solution for this. I'm always a fan of planting trees. But I know you gotta
32 wait a while before you reap the benefits. But they're you know that's just
33 kind of where we are. So if there's any other comments or questions I think
34 we're looking for a motion to approve and it is an affirmative for the motion.
35

36 Smith: Real quick. I know it's been a long night. And taking a lot of air out of the
37 room here. Just a quick question. Is there any way that that carport could
38 be modified? I'm looking at it's basically what 27 feet is the length of that
39 carport or is that just the distance from the house to the sidewalk? And
40 maybe I think I'm looking at that incorrectly. How long is the carport?
41

42 Banegas: Approximately 20 feet is what I'm hearing from the applicant. But significant
43 portion, because this is the encroachment part, the ...
44

45 Smith: Okay.
46

Agenda Item #10.2.

1 Banegas: Yes.
2
3 Smith: Yes, so it would be unreasonable to, even if it's basically half the length just
4 enough shade for them to access the vehicle, it still would not be possible
5 to do that.
6
7 Banegas: Correct.
8
9 Smith: Okay. All right. Thank you.
10
11 Kaiser: Okay looking for a motion to approve.
12
13 Porter: I motion to approve.
14
15 Smith: I second.
16
17 Baum: Board Member Acosta.
18
19 Acosta: I vote to deny just based on looking at the site and the situation.
20
21 Baum: Board Member Porter.
22
23 Porter: I vote to deny based on staff recommendations.
24
25 Baum: Board Member Smith.
26
27 Smith: I vote yes with conditions. And the condition would be that ...
28
29 Kaiser: Sorry. Commissioner Smith. There were no conditions on the motion.
30
31 Smith: I thought they were in the presentation.
32
33 Banegas: Mr. Chairman, Commissioner Smith. The motion did not include any
34 conditions.
35
36 Smith: Okay, my apologies. Based on that, I deny.
37
38 Baum: Board Member Murray.
39
40 Murray: I vote to deny based on staff recommendation.
41
42 Baum: Chair Kaiser.
43
44 Kaiser: No, based on staff recommendation.
45
46 Baum: Motion fails.

1
2 Kaiser: All right. Thank you for coming out, sir.

3
4 Murray: Can I make a motion to suspend the rules of order to include 9.3, 9.4, and
5 9.5 to be heard together?
6

7 Kaiser: We've got 9.2 to go first. I know we all want to go home, but we're not quite
8 there. So with that we'll, but I guess briefly does anyone need a bio break?
9 Because we could pause for that. Do we need make a motion for that?
10 Okay. I'll make a motion to recess and return at 9:12. Is that enough time?
11 Okay. We're going to need a second that and vote.
12

13 Murray: I second.

14
15 Kaiser: Okay, so recess, 9:12. Be fast.
16

17 RECESS OF APPROXIMATELY 10 MINUTES.
18

19 Kaiser: We will call this meeting back to, I don't know non-recess.
20

21 Ochoa: Order.
22

23 Kaiser: Order. There you go.
24

25 **9.2 Case 23ZO0500027:** A request to approve a zone change from R-1a (Single-
26 Family Medium Density) to C-3 (Commercial High Intensity) for 5.00 + acres and
27 OS-R (Open Space-Recreation) for the remaining 43.75 + acres of a parcel located
28 at 2040, 2045, 2060 & 2065 E. Madrid Avenue. The proposed zone change aligns
29 with the Apodaca Blueprint. Submitted by Souder, Miller & Associates,
30 Representative. Council District 1.
31

32 Kaiser: Item 9.2, a request a zone change from R-1a to C-3 and open space on
33 Madrid Avenue.
34

35 Ochoa: Next zone change you have before you is for property located at 2040,
36 2045, 2060, and 2065 East Madrid Avenue. You all may be familiar with it.
37 But I'll just go through my presentation. Subject property is located on the
38 west side of Triviz Drive, directly north and south of East Madrid, that
39 intersection there. It is currently vacant or undeveloped, but it was
40 previously used for the City's stormwater levee system that we had a while
41 ago. Property encompasses roughly 48.75 acres in size and is currently
42 zoned R-1a single-family medium density. It does have frontage along a
43 minor arterial roadway which is what Triviz Drive is designated as. And a
44 major collector roadway which is East Madrid Avenue. And this area is
45 actually part of what is the Apodaca Blueprint Policy Plan.
46

1 Showing the zoning here, as you can see highlighted in yellow R-1a nothing
2 but R-1a surrounding this property. Interstate here to the east. Showing
3 here the actual vacant property. Again nothing but single-family to the west
4 and the interstate to the east. The applicant is seeking to rezone for roughly
5 about five acres of that property for C-3 commercial high intensity zoning
6 and the remaining 43.75 acres will be rezoned to what is OSR, open space
7 recreational. The C-3 areas are for future commercial development. They
8 will have to follow the Apodaca Blueprint Policy Plan which did actually want
9 this type of zoning in that area to have kind of a supportive commercial
10 zoning for that area. And the OSR areas will be for a park and other City
11 facilities. Staff did talk to Parks and Recreation, they are looking at doing
12 a, trying to keep it as natural as they can, removing some invasive species
13 that are there as well, of plants. But mostly keeping it as natural as they
14 can, some minor pocket parks here and there and trail system within that
15 area.

16
17 Staff did take a look at this. There's no public safety, health, or welfare
18 issues associated by staff. And we feel that there'd be no adverse offsite
19 impacts with the proposed zone change. The proposed zoning does align
20 with the adjacent what is the suburban neighborhood place type, because
21 you already have all your single-family development, now we need some
22 commercial and some open space for that area as well to make it more of
23 a complete neighborhood if you will. It is located along a minor material and
24 major collector roadway where C-3 zoning is encouraged. And those types
25 of roads are used to utilize to have access to parks. It is also supported by
26 the Apodaca Blueprint Plan and its future development map, which is seen
27 here. As you can see, the actual Apodaca Blueprint calls up for this to be
28 relatively untouched if you would just to be used as a park facility area with
29 some trail systems. And then the commercial right at the intersection of
30 what is Madrid and Triviz, three acre parcel to the north, and a two acre
31 parcel to the south.

32
33 Showing here this is what is being proposed by the applicant. The vast
34 majority of everything staying OSR. But those two small total of five acres
35 of a C-3 zoning. Subdivision here that actually created those lots showing
36 the two different lots that will be utilized for commercial. And the larger
37 tracts, as you can see here will be utilized for that OSR zoning designation.
38 Notice was sent out to all surrounding property owners within 500 feet. Staff
39 did receive four phone calls actually in support of the proposal zone change
40 and two phone calls just getting general information. We also had a
41 gentleman come in today, again asking some questions about the zone
42 change and he was totally supportive of it and he feels that it's a great
43 connection for what the Apodaca Park will have coming all the way down
44 Madrid when City does all those improvements to the roadways in that
45 surrounding area.

1 With that staff does recommend approval for the proposed zone change
2 based on the following findings. Located along a major collector and minor
3 arterial where C-3 zoning is encouraged. Will help ensure the subject
4 property remain sensitive to the character of the existing neighborhood. I'm
5 pretty sure you all remember this last time when we had that subdivision
6 before you all, neighborhoods very conscious of what is going on in their
7 area so we feel that this would be definitely sensitive to them. Additionally,
8 the proposal zone change is supported by the Apodaca Blueprint Policy
9 Plan and the future development map. And based upon staff's analysis, we
10 believe that it does meet the intent of Elevate Las Cruces as well as the
11 2001 Zoning Code as well. With that your options are one, to vote "yes"
12 and recommend approval for the proposal and change, two vote "no" and
13 deny. If you do vote to deny, you will have to provide new findings of fact.
14 Three to vote to amend or four, table and postpone and direct staff
15 accordingly. The applicant representative is here as well. He has a
16 presentation as well. And I stand for questions.

17
18 Kaiser: Thank you.

19
20 Murray: I just a general comment. Since we got so much opposition last time, I'm
21 assuming notification was resent out, which clarified what we were trying to
22 do the previous time.

23
24 Ochoa: Mr. Chair, Commissioner Murray. Yes. So the new letters that we sent out
25 was a little more clearer as to what was being presented at this time. It
26 actually flat out said zone change for just this area for C-3 and this large
27 area to stay OSR. I think as soon as people saw 43, almost 44 acres of
28 open space, I everybody is just happy to see that that was going to remain
29 open space. There was some consideration of staff allowing for single-
30 family very minor amount of single-family. But we decided just to keep it all
31 open space considering we had that large outcry from the neighborhood.

32
33 Kaiser: Any other questions, comments from the Commission? Paul why don't you
34 give your presentation and then I'll ask my questions.

35
36 Pompeo: Yes.

37
38 Kaiser: Please state your name for the record.

39
40 Pompeo: Paul Pompeo, Souder, Miller and Associates on behalf of the City of Las
41 Cruces.

42
43 Kaiser: And do you swear or affirm that the testimony you're about to give is the
44 truth and nothing but the truth under penalty of law?

45
46 Pompeo: Yes, I do.

1
2 Kaiser: Go ahead.

3
4 Pompeo: Good evening Mr. Chairman, Commission. I have a very brief presentation,
5 then I'll stand for questions. Once again, this project is located on the Villa
6 Mora Dam property that's owned by the City of Las Cruces on Triviz Drive.
7 This property lies within the Apodaca Blueprint area, which I'll speak a little
8 bit more in a minute, and is also located on that corner of Madrid and Triviz
9 Drive. The preliminary plat of 56.51 acres was previously approved by this
10 commission. Note the difference in acreage between the 56 and the 48
11 acres that's being zoned. The 56 takes into account additional right-of-ways
12 that are created on Triviz, the creation of the Madrid right-of-way, and also
13 the creation of the Fairbanks right-of-way to west. These new right-of-ways
14 will allow for future widening of Triviz, the reconstruction of Madrid Avenue.
15 And extension Fairbanks Drive. As noted by staff, this proposal and change
16 is five acres of C-3, followed by the remainder of the property minus the
17 right-of-ways which will be left open space recreational. As noted by staff,
18 this property lies within the Apodaca Blueprint Policy Plan area that was
19 adopted by the City Council on July 2, 2018. Here's the same depiction
20 showing the land uses and the uses of the property within that area. There's
21 a blow up of the intersection showing the commercial tract and also for
22 community uses to the south. With that, that completes my presentation,
23 Mr. Chairman. And I'd stand for questions by the Commission.

24
25 Kaiser: Thank you. Believe it or not you almost answered every single one of my
26 questions in the presentation.

27
28 Pompeo: I'm getting better, Mr. Chair.

29
30 Kaiser: But just to clarify. So the applicant is the City, correct.

31
32 Pompeo: Yes, Mr. Chair.

33
34 Kaiser: The way you were referring to the applicant in third person it had me unsure.
35 And then as far as the uses go for the C-3. I mean can you talk a little bit in
36 the City's perspective of what kinds of uses you want to see here? I'm just
37 a little concerned about the C-3 being a bit too aggressive based on my
38 understanding of Apodaca Blueprint. So whoever wants to answer it, but
39 probably staff.

40
41 Ochoa: I'll give it a stab. So, Mr. Chair, the reason C-3 is being used for the property
42 is because that is the only really zoning designation we could put that would
43 allow the commercial uses that we're looking for that area. But what we're
44 looking for in the way of the Apodaca Blueprint calls out it's supposed to be
45 like supportive commercial for not only the neighborhood, but like for the
46 parks as well. So nodes or buildings with you know, you can go get some

1 ice cream and go to the park, services that will be kind of affiliated with that
2 area is what we're looking for. The Apodaca Blueprint does call out a list of
3 actual uses there but really not big box and not only that since it is City
4 owned property, that's definitely something that we would be keeping an
5 eye on, making sure it aligns with policy. But if you feel that potentially that
6 may be an issue, a condition can always be added that it says that just
7 follows the guidelines of the Apodaca Blueprint Policy Plan to make sure
8 whatever does get developed there, we make sure that we're following that
9 policy plan and what's called out for it.

10
11 Kaiser: Yes. I think that is kind of my concern is that if the City wants to you know
12 offload those parcels for development that we could end up with a developer
13 who's like, C-3 this is great, I could do my car washes, I could do my you
14 know drive through this, drive through that, my regional bank, which really,
15 to me flies in the face of what is supposed to be here like what you just
16 described. So that's kind of my concern is that the C-3 just seems like it's
17 too wide a spectrum here. And I don't know how we control that. I don't
18 want to nitpick conditions here on what specific uses because I think there
19 should be some flexibility, you know some innovation, some you know just
20 not this rigid prescription. But I'm concerned that there's just open ended
21 C-3 we could end up with something that we don't want because we can't
22 control the developer once it's out of our hands.

23
24 Ochoa: Mr. Chair. Staff is aware of that. But like I said a condition that can be
25 placed on there is to follow the guidelines of the Apodaca Blueprint, which
26 clearly states what the vision of those two lots is. So that's definitely
27 something you could add as a condition to the zoning. So it can move
28 forward with a with a C-3C shall follow the Apodaca Blueprint outlines for
29 what the C-3 properties would it be allowed to be developed for.

30
31 Weir: Mr. Chair and Commissioner. That's what you did with the Royal Crossing
32 project. When you rezoned it you put the restriction on it that it would follow
33 all the guidance that was provided in the Apodaca Blueprint.

34
35 Ochoa: Correct.

36
37 Kaiser: Okay. I guess shame on me for not having the Apodaca Blueprint in front
38 of me. But is there any way that we can maybe review that briefly just so
39 that I know what I'm talking about? You have internet connection, right, and
40 pull it up.

41
42 Ochoa: Let's see here. Some ways down, let me get to that. So there are the two
43 there. Here we go. So this is kind of showing what those two, the Villa
44 Mora Plaza and then the development reserve. So it'd be these two right
45 here, sir, is kind of explaining what the character that we're looking for. As
46 you can see it does limit the total like square footage of buildings, talks about

1 the character what it should look like. Talks about, let's see here, how
2 building should be pushed close to Madrid to make it a little more like a
3 walkable type of area if you will.
4
5 Kaiser: Okay. Yes, I mean it'd be nice if it made described the types of uses just
6 like you had stated earlier about serving trail users, the adjacent
7 neighborhood. I just really don't want a bank; I don't want a drive-thru. I
8 mean that doesn't serve any purpose as far as I'm concerned with the
9 Apodaca Blueprint. And I think ...
10
11 Ochoa: Mr. Chair. There's also the options you add on additional conditions to strike
12 those uses from the permitted uses on the property. So issues with drive-
13 thrus, issues with banks, that's removed. Not to permit those uses in the C-
14 3 zoning sir, that's another condition that could be added as well.
15
16 Kaiser: Okay. It's just hard to sit here without you know a list that I could scratch.
17 But I think if you could just repeat exactly what you said six minutes ago,
18 we're golden.
19
20 Ochoa: Like for the ...
21
22 Kaiser: I think the point is it's small retail establishments that provide immediate
23 services to the neighborhood and trail users. So restaurants, coffee shops,
24 you know small retail, a bakery, things that you just would want on your day
25 to day that you could walk across the park and get.
26
27 Ochoa: Understood.
28
29 Weir: Mr. Chairman. Just more information. Since the City does own the
30 property, we could always place deed restrictions and strike out certain uses
31 before we sell the property. Since this is a zone change, the record of this
32 meeting will be provided to City Council. And they'll be aware of the concern
33 in the neighborhood scale intended for the properties.
34
35 Kaiser: Okay. I think as long as there's a condition that we just are consistent with
36 the Apodaca Blueprint, I think we just go with that, make it simple. So we
37 can leave tonight. I don't think, so I think in order to make this happen if
38 someone wants to ... yes, almost forgot. Thank you for reminding. Well go
39 to the public. Is there anybody in the public who wishes to speak tonight?
40 Please come down. Please state your name for the record.
41
42 Heath: My name is Cynthia Heath.
43
44 Kaiser: And do you swear or affirm that the testimony you're about to give is the
45 truth and nothing but the truth under penalty of law?
46

1 Heath: I do.
2
3 Kaiser: Go ahead.
4
5 Heath: Yes, I live on Fairfax and Triviz which is right across the street from where
6 they want to do all of this. And Triviz is a two lane street that they use like
7 a racetrack. Madrid, they just extended that street from Triviz to the other
8 little street that start with A, I can't think of the name right now. It's too late.
9 All of this that he's talking about commercial, there's no room for commercial
10 there. There's property there for commercial, but there's no entrance or
11 way to get in and out with all the traffic that runs up and down. You've got
12 Telshor on the other side of the highway that they use, like a racetrack
13 whenever they can. Triviz is same way on this side of the highway. You
14 know we need to know what kind of commercial buildings are going to go in
15 that space you know to just say, we going to use it for commercial purposes,
16 just like you said, we don't want a carwash there. You know if you're going
17 to have the parks here and you're going to have commercial there, what
18 kind of commercial are you going to have there? It has to be something
19 that's going to benefit the community not something that's just going to line
20 somebody's pockets by having big business. Thank you for listening.
21
22 Kaiser: Thank you. Anybody else in the audience wishes to speak on this item? All
23 right. Hearing none. I'll come back. And just to touch on one point that she
24 just brought up. The plan is to actually improve that intersection Triviz and
25 Madrid and include an actual connection to the multiuse trail. So I think
26 we're going to see some really great things come out of this particular
27 project. Commissioner Murray.
28
29 Murray: Would it make sense to table this so that we all have enough time to review
30 every allowed use in C-3 considering its extensive versus making a quick
31 decision tonight?
32
33 Kaiser: I'll defer to staff and maybe it is an option, but I don't know what that does
34 for the process.
35
36 Weir: Mr. Chair. Public Works as a grant that they need to move forward with the
37 project. If we could pull up the municipal code we can ... I got zapped. We
38 could go through those lists of C-2 uses and if you wanted to strike those. I
39 normally would agree with your request to table, but because there is
40 funding for the improvements to Madrid, our Public Works department has
41 asked us to try to be as efficient with this proposal as possible.
42
43 Nichols: Mr. Chair. If I may.
44
45 Kaiser: Yes.
46

- 1 Nichols: Every once in a while a project comes along that giving up more time is not
2 going to improve it. We have had this property being studied and coming
3 up with proposed land use. I think now, nearly four years now and as City
4 does have ownership, there is quite a bit of control on that. But as far as
5 saying that we need to know what type of commercial structures may go
6 there. The person has to know the zoning that would enable them to tell
7 you what kind. So the zoning has to come first. I would just state that I
8 think this item is ready for action.
9
- 10 Kaiser: Okay. Yes, we can go through and strike, I don't know we want to capture
11 that. How should we capture that?
12
- 13 Ochoa: Staff can make a list, sir, so that way when we basically print out this list
14 and do the strike throughs or whatever uses you feel that should not be
15 permitted on the property. So we start here with the residential related uses.
16 I'm guessing probably remove all those because we don't want residential,
17 just straight commercial. There's agricultural, institutional, childcare,
18 community buildings, hospital, library, recreational, there are a number of
19 recreational uses that could potentially go on there. Service uses. So this
20 is your office, is your accounting, art studios, bank bonding, I believe that's
21 one that you were, had feelings about removing, beauty salons, business
22 offices, consulting, credit reporting, medical offices, dental offices, real
23 estate, tax preparation, and we'll get into the retail land uses. So auto truck
24 parts, auto truck services, bar, pub, tavern, building materials ...
25
- 26 Murray: If I may. I think if we just start at the top and start crossing off we can
27 expedite it versus going through. If I do say myself.
28
- 29 Ochoa: Okay.
30
- 31 Kaiser: Yes, I mean I think the residential seems like we want this to be commercial,
32 primarily.
33
- 34 Murray: I mean I guess looking under the residential like what's wrong with a
35 greenhouse or community garden? What's wrong with exercise, courts,
36 tennis, that's not the proposed use?
37
- 38 Kaiser: I mean I don't disagree. But there's how you know 40-something acres of
39 park land that I think that seems like where I would place those if they were
40 to be incorporated.
41
- 42 Ochoa: Mr. Chair. Point of clarity. These are residential. So it's a green house, but
43 it's noncommercial. So in other words, it's a greenhouse associated with
44 that home is what it would be. So these are residential related.
45
- 46 AUDIENCE MEMBER NOT AT THE MICROPHONE.

1
2 Kaiser: Unfortunately, we've got to press forward.

3
4 AUDIENCE MEMBER NOT AT THE MICROPHONE.

5
6 Nichols: Excuse me. Madam, would you step up to the podium, please for your
7 question. Thank you.

8
9 Heath: I'm sorry. But if they already have it zoned as a R-1a and you want to
10 change it to a C-3. Everything around this area that you're talking about
11 developing is houses, homes are there. Just homes. You know then on
12 the other side you've got the highway. So you want to put commercial
13 between the highway and these homes. Have any of you ever been down
14 that street? Have you been down Triviz to see this area, this stretch of area
15 that they're talking about? I can understand the parks. That would be fine.
16 But to put commercial on Triviz, that's a terrible place to put it. It's a terrible
17 place to put it. Thank you.

18
19 Kaiser: Thank you.

20
21 Heath: Okay.

22
23 Kaiser: Understand.

24
25 Ochoa: So we got your residential uses, we'll strike through those. Agriculture,
26 veterinary facility, would it be okay with that there?

27
28 Smith: I guess this exercise that we're conducting to go through this entire list. I
29 refer back to Mr. Nichols who stated that this is City property, they have a
30 lot of control over the type of commercial business goes there. And I feel
31 like this is kind of a futile exercise to go through this entire list to strike out
32 what we as a Commission think should or should not be there. I feel like
33 we should vote on this, move it forward. And you know the type of
34 commercial businesses that want to develop their still have to go through
35 the permitting process through the City. And I just feel like we could be here
36 till midnight going through this and striking this out. So it's already been a
37 long enough night and we also have other applicants that are here waiting.

38
39 Kaiser: Yes, I mean I completely agree with the Commissioners. I just wished staff
40 would have articulated this a little bit better. And I mean it's there, it's in the
41 Apodaca Blueprint. It's not hard in my mind to just translate that over into
42 the staff report into the recommendation of like this is the vision, this is what
43 we want to see. And instead, we slap C-3 on it, and I understand that the
44 City currently has control over this, but at some point, you're going to
45 release it out to a developer and that may come at a time when none of us
46 are here. None of you are at the City. And we get a whole nother regime

1 that says no, I want another Mr. Carwash, because that I think is perfectly
2 allowed under the C-3. So I agree with Commissioner Smith. I mean, this
3 list is way too long. I don't want to be here going and nickel and diming this
4 thing. I just wish staff would have been a little bit more, just say what you
5 want, just, and then let us decide if we agree or not.
6

7 Ochoa: Okay. Again, for point of clarity Mr. Chair. Again, we do have the Apodaca
8 Blueprint still in place that could definitely guide the development of this
9 property as well. Plus with the condition that I believe that the Chair asked
10 for, I think that's something we can definitely put into effect as well.
11

12 Kaiser: So one option for us is we can just table the conversation and move it to the
13 end of the meeting so we can get through the next item on the agenda and
14 then those folks and go home and we can come to a conclusion on this one.
15 Does that still work? Okay, so we'll make a motion to table this item until
16 we hear the remaining items on the agenda.
17

18 Smith: I second.

19
20 Murray: I second.

21
22 Baum: Board Member Acosta.

23
24 Acosta: Yes.

25
26 Baum: Board Member Porter.

27
28 Porter: Yes.

29
30 Baum: Board Member Smith.

31
32 Smith: Yes.

33
34 Baum: Board Member Murray.

35
36 Murray: Yes.

37
38 Baum: Chair Kaiser.

39
40 Kaiser: Yes.

41
42 Baum: Motion passes.
43

44 **9.3 Case 24CS0500021:** A request to approve a master plan known as the Tierra
45 Hermosa Master Plan for property that encompasses 54.286 + acres, is zoned R-
46 1a (Single-Family Medium Density) and is located on the east side of Porter Drive,

1 south of Village Drive and north of Central Road. The master plan proposes mostly
2 a single-family residential development with 354 single-family townhome and
3 detached home lots with one tract of land dedicated for drainage, one tract
4 dedicated for a park and two lots for potential future commercial development
5 along Porter Drive. Submitted by GEM Surveying, representative. Council District
6 5.
7

8 Murray: Can I make a, what do I want to say, a suspension of the rules of order to
9 hear 9.3, 9.4, 9.5 together.
10

11 Kaiser: I'll second.
12

13 Nichols: Mr. Chair. If I may. I appreciate that motion. We have lost security here. I
14 thought we would be finished by nine. And the security guard has left. So
15 I've had to lock the exterior doors. But we need to, if we could go ahead
16 and move forward then that would help us with the security of the building.
17 Thank you.
18

19 Ochoa: And I believe we have a motion and a second. So we need a vote please.
20

21 Kaiser: We need a vote.
22

23 Baum: Board Member Acosta.
24

25 Acosta: Yes.
26

27 Baum: Board Member Porter.
28

29 Porter: Yes.
30

31 Baum: Board Member Smith.
32

33 Smith: Yes.
34

35 Baum: Board Member Murray.
36

37 Baum: Chair Kaiser.
38

39 Kaiser: Yes.
40

41 Baum: Motion passes.
42

43 Kaiser: All right, we will now hear items 9.3 to 9.5
44

45 Ochoa: Correct. This is the Tierra Hermosa, what is called the Tierra Hermosa a
46 master planned area, Phase 1 preliminary plat, and Phase 2 preliminary

1 plat. Current conditions in the master plan is located on the east side of
2 Porter Drive, south of Village Drive and north of Central. The entire area
3 encompasses roughly 54.286 acres in size and is currently zoned R-1a
4 which is single-family medium entity. It is vacant and undeveloped. Phase
5 1 preliminary plat located in the same location, same area, encompasses
6 14.745 acres in size, also zoned R-1a and vacant and undeveloped. And
7 finally Phase 2 located in the same area encompasses 13.029 acres in size
8 is zoned R-1a single-family medium density and also vacant/undeveloped.
9

10 Showing the subject property here. As you can see you all completely
11 zoned R-1a. Surrounded by R-1a zoning to the north, east, and south, and
12 some R-1a and to the south as well. Showing here as you can see just one
13 big, large vacant piece of property out here off of Porter Drive. What the
14 master plan is proposing is a 354 single-family lot subdivision, which will be
15 made up of not only townhome lots but also detached home lots as well. It
16 is also proposing one tract of land for drainage that will be dedicated to the
17 City, another tract of land for a park that will also be dedicated to the City.
18 And two tracts or lots that have direct frontage on the Porter for future
19 development, commercial development. That will require a zone change in
20 the future though, so right now it's just a placeholder with the master plan.
21 The proposed master plan is proposed to be developed in five sequential
22 phases.
23

24 Showing here the Tierra Hermosa Subdivision master planned area.
25 Showing here how that phasing area happens, the drainage issues in this
26 area, as well as where the road network will work through for this
27 subdivision. Commercial area is located here to the west, which is
28 essentially the last phase of the subdivision. The preliminary plat proposes
29 96 single-family residential lots made up of townhomes and detached
30 homes with one tract of drainage that will be dedicated to the City. All
31 internal and adjacent roadways requiring improvements to City standards
32 for access for this phase shall be developed with this phase. The proposed
33 preliminary plat does follow the Tierra Hermosa Master Plan.
34

35 Showing here that Phase 1 with those townhome lots to the north among
36 Village is where Phase 1. It will be accessed off of Village with internal
37 roadways in here and there's that one tract of land that will be dedicated for
38 a pond. Phase 2 preliminary plat proposes 76 single-family residential lots,
39 again made up of townhome lots and detached homes with one tract of land
40 for a park. All internal adjacent roadways requiring improvements to City
41 standards will be required with this phase. And the proposed preliminary
42 plat does follow the Tierra Hermosa master planned area. Shown here that
43 second phase essentially directly east of what is Phase 1. The additional
44 lots here and the park located here within the center of the actual
45 subdivision itself.
46

1 When staff took a look at this we did see there's no real life, safety, or
2 welfare issues identified with the master plans or the preliminary plats. The
3 master plan is considered part of the planning phase process where a
4 proposal is viewed as a conceptual tool. So that's really what a master plan
5 does is kind of just conceptually outline what the area is and how it's being
6 phased out and so forth like that. Preliminary platting process is to establish
7 quality site design as well. The proposed subdivision provides for a more
8 attainable housing in the area with townhomes, that's definitely a housing
9 type that has not existed in this area. A lot of R-1a but it's all detached
10 single-family homes. No attached single-family homes, which this would
11 solve that issue. It does provide for a range of housing in the area per
12 Elevate Las Cruces. And the commercial lots or tracks are located along a
13 principal arterial roadway where commercial zoning is encouraged.

14
15 Notice was sent out to all surrounding property owners within 500 feet of
16 the proposed subdivision. Staff did receive two phone calls seeking just
17 general information. But it, that's what I did the presentation but today staff
18 received two more phone calls actually in support, would like to see this
19 development happen for the roadway improvements to occur in the area,
20 not only to the widening of Porter and Village but also the actual
21 construction of Central as well.

22
23 The DRC did meet to review this proposed subdivision. The DRC does
24 review technical components of the subdivision including infrastructure,
25 utilities, and other public improvements. Lengthy discussion did occur
26 concerning outstanding comments that are needing to be resolved by the
27 applicant's design professionals. The roadway widths and designs for this
28 area. The resolving of drainage issues as well. After more very minor
29 discussion, DRC did unanimously recommend approval with conditions for
30 the proposed master plan and two preliminary plats. The conditions being
31 that that they would remove any reference to a street cross section within
32 the actual documents themselves, essentially just providing the width to
33 allow the City to design those cross sections at the time of development.
34 Two full wide driving lane shall be required on Central Road. And all
35 outstanding staff comments shall be addressed prior to the Planning and
36 Zoning Commission meeting, which they have been.

37
38 With that staff does recommend approval with those conditions for this
39 proposed master plan and two preliminary plats based on the following
40 findings. Proposed master plan meets the requirements of the master plan
41 as called out by the subdivision code. The proposed preliminary plats do
42 follow the Tierra Hermosa master plan. Preliminary plats meet the
43 requirements for preliminary plat as called out by the subdivision code. And
44 also based upon review by staff, the proposed master plan and preliminary
45 plats all comply with the 2001 Zoning Code as required and the City of Las
46 Cruces design standards. Additionally, with that also that the DRC did

1 recommend approval with conditions for the proposed master plan and
2 preliminary plats during a public meeting on May 8, 2024. With that your
3 options, one to vote "yes" and approve the proposals as recommended by
4 staff, two to vote "no" and deny, a denial would require additional findings
5 of facts by the Commission if they deemed to vote that way. Three to vote
6 and amend or four, table and postpone and direct staff and the applicants
7 accordingly. The applicants are here if you have any questions for them.
8 And I stand for questions.
9

10 Kaiser: Thank you. Does the applicant wish to say anything? All right. I like the
11 enthusiasm at 9:51.
12

13 Dickerson: I'm here for you.
14

15 Kaiser: Please state your name for the record.
16

17 Dickerson: My name is Marci Dickerson.
18

19 Kaiser: Do you swear or affirm that the testimony you're about to give is the truth
20 and nothing but the truth under penalty of law?
21

22 Dickerson: Yes, sir.
23

24 Kaiser: Go ahead.
25

26 Dickerson: My name is Marci Dickerson. And I am one of the three principals of the
27 Porter Road Investment Group. My other principals are with me, the
28 Spedalieri's as well as the Jackson, Johnsons behind me. What we're trying
29 to do here is something that is brand new to Las Cruces. We have
30 partnered with French Brothers, the City of Las Cruces, and even El Paso
31 Electric have all come together to bring Las Cruces something that we don't
32 have. Our average new home or resale is average of \$330,000 a home.
33 Now with 7% interest, most people, working families, can't afford that.
34 There is something called affordable housing as you all are well versed in,
35 then there is attainable housing. We intend to bring attainable housing to
36 Las Cruces. What is attainable housing? Attainable housing is basically
37 where working families can afford their house payment. The houses that
38 are going to be available by French Brothers, built by French Brothers in
39 this subdivision will all be between \$195,000 to \$250,000. That is amazing.
40 People can afford that. They can afford the dream of homeownership. They
41 can raise their children, not in a cramped apartment. They can afford all of
42 those things. And that is what we're bringing to the community.
43

44 We're installing a two acre park. The park, the majority of the park is going
45 to be for use for sports fields. We all know people don't need to travel and
46 travel and travel to get to play baseball and soccer and all the things that

our kids, I mean, we live and die by that. We are a baseball and soccer town. You know we're going to have those things. We're going to make sure we've met with the people in charge of parks to have a really good you know a really good environment there for not only is it are the people that live in our neighborhood, but the people in adjacent neighborhoods as well. We also with Central, we're going to solve right now, if the majority of this is in a flood zone. All of my engineers and the people behind me have worked really hard to work with the City not only to solve that problem, but to solve a major drainage problem in Phase 3 that we'll be back to talk to you about later. But really the biggest piece is this. We're going to bring attainable housing to our community. And all of those people that we talked about earlier today. I'm really glad we don't have apartments by the way, just want to say that. But all of those people that you all talked about today about this creating more housing, finding places for these people to go. That's what's going to happen in our subdivision. So I'm here for any questions. I also have my fabulous panel of experts with us who've been brought on to make this project happen. But we would appreciate you all allowing us to move forward. Our goal is to have houses ready for people to buy at the end of this year. Thank you.

Kaiser: Thank you. Any questions from the Commission? Commissioner Murray.

Murray: I just have a quick staff comment. So basically what we're approving tonight is the master plan. And then we're hearing Phase 1 and Phase 2 preliminary plats. And then later on, they'll come back with Phase 3, 4, 5.

Ochoa: Mr. Chair, Commissioner Murray. That is correct. Three, 4, and 5 will be coming back before you all at a later date. They will be coming in in sequential order essentially.

Murray: And then the improvements to Central Road. is that going to be like a paved street all the way through from the cul-de-sac on, forget what it is, all the way to Porter.

Ochoa: Chair, Commissioner Murray. They are essentially required to provide full improvements for Central just from the edge of their subdivision to Porter Road. So that portion of the Central will be done. The other connection, the City sees an issue with that because there is drainage issues that the City is trying to resolve out there, so it's a possibility some other additional improvements will be done by the City because we needed to take care of that issue ourselves.

Kaiser: Any other questions? Commissioner Smith.

Smith: I don't have a question. I have a comment. You know after our earlier I guess contentious presentation, I just want to state that it's a pleasant

1 surprise to see this type of plan in development, particularly in regard to
2 townhomes. Just as Ms. Dickerson stated, you know we do have a need
3 for housing. And I liked that you delineated between affordable and
4 attainable, because we do have a number of working families and
5 Commissioner Kaiser, I mean he basically you know he's a working man
6 with a working family, his spouse and he had a difficult time just trying to
7 find a place to rent, let alone purchase. So this is a great opportunity. I
8 think your presentation of this type of plan is what the City needs. And you
9 know as we go forward I hope that this is something that we can continue
10 to see in the future as you know the housing needs in Las Cruces continues
11 to grow.
12

13 Kaiser: I don't know that's I'd call myself a working man, but I do my best. Just a
14 quick, hopefully a quick question, seems like I opened some cans of worms
15 tonight. On Central, that is Central Avenue, it's my understanding that an
16 alternative right-of-way/cross section was proposed. But City staff's
17 position was they wanted a full of a larger right-of-way I guess, to have
18 flexibility to handle I guess the transportation infrastructure and the flood
19 infrastructure, if you will. But then we say but we have to have a 12 foot
20 minimum travel lane. I'm just not sure we have an opportunity here to
21 maybe do something a little bit different. We just heard a heated discussion
22 about traffic safety concerns. We have policies already on the books that
23 recommend smaller travel lanes to actually calm traffic. So I guess I'm just
24 wondering why on the one hand we want all of the flexibility to design this
25 however it makes sense, but then constrain ourselves by saying but we
26 have to have that 12 foot travel lane.
27

28 Ochoa: Mr. Chair. That was a condition that was placed on there by Fire
29 Department, just because the limit of the width of that road. Because the
30 DRC did approve it's actually a smaller cross section instead of a 50 foot
31 wide road to 40 feet. Because of that narrowing he still wanted to make
32 sure that their trucks would be able to maneuver, because it'll be used more
33 like a through road than an actual accessible road from the single-family
34 residential lot adjacent to it. He just wanted to make sure he had enough
35 room to maneuver if need be with if there's on street parking, whatever
36 people, somebody parks they'll be able to move around. That was the
37 reason for Fire to do that essentially.
38

39 Kaiser: Got it. It's concerning to say the least. I mean the reality is a 12 foot travel
40 lane, that's what our entire City has been built off of. And look at the results.
41 A straight road like Central Avenue, you better believe that's going to be a
42 racetrack on day. If it's not already. I just, it's frustrating. I think I mean to
43 hear everything that we heard tonight to have policies that say, this is an
44 alternative direction. We had an applicant who was actually willing to say
45 we want something different and we say, no we want the raceway. But
46 other than that I think this is a fantastic project.

1
2 Ochoa: Mr. Chair. That is your prerogative as all. That condition can be removed
3 by the Commission if you wish to.

4
5 Murray: If I can say myself. I'm like very familiar with this area because I have a
6 parcel for sale two lots over. So I will say right now Central is undeveloped,
7 as it is. And it's kind of difficult because, I don't necessarily see it becoming
8 a speedway, just on how they're doing it. The access is going to be from
9 the other side, on Porter and Village. And kind of where Central Ave. ends
10 where my lot that I have for sale, it's a cul-de-sac right now. So creating
11 that as a thruway is just going to be difficult. It will definitely be another exit
12 and entrance point, but I don't think it's going to turn into another 500
13 speedway or something.

14
15 Porter: If I can say something. I think that it's actually going to slow it down. I go
16 through Porter every single day. I live in that area. And you know there's
17 always on their four by fours, they're always doing something. And it's at
18 three in the morning sometimes. So actually building homes there would
19 actually slow down all of the noise, all of the speeding and everything. Just
20 because I've lived there so long. It's also going to help the flooding a lot
21 because we get really bad rain during July, and some of August, and there's
22 times where if you don't have a truck, you can't pass and that dirt is bad,
23 too. So it's very underdeveloped. There's nothing there but tumbleweeds
24 and all kinds of animals. So I really love the idea, especially of the attainable
25 housing, because that's kind of what we need right now. It seems like it's
26 been a common theme today.

27
28 Kaiser: Thanks. And I certainly you know appreciate the perspective. I think if you
29 look at the data, the data says wider travel lanes equal faster speeds. I
30 know in my own neighborhood, it's a residential neighborhood, we like to
31 say the local streets they're safe, right. They're not. I mean the safe local
32 streets in our neighborhood are essentially fair lane streets without cars
33 parked on the either side. So it's just, we had an opportunity, have an
34 opportunity to address some of these issues that we heard about tonight on
35 the front end. I think undercutting the flexibility that we sought on the one
36 hand by saying we need to have the 12 foot travel lanes; you know I would
37 like to strike that I know others may feel differently. But if that's something
38 that you'd be open to striking to give ... that doesn't say we can't build a 12
39 foot travel lanes, it just says that let's look at all the options available to us.
40 Yes, did you want to comment or anything? You don't have to.

41
42 Dickerson: Just one thing. All of Central will be done in Phase 3. And I do know that
43 Fire you know had said that, but I think one of the other things that we're all
44 kind of waiting to see, and trust me Phase 3 will start the minute, the
45 planning of that will start the minute we get the permit for this one. Is what
46 it's going to take for the drainage, the roads, and those types of things. You

1 know, bike lanes are considered. There's a lot of things that we're looking
2 into on that. But really the basic of it is going to be you know of course,
3 what is our public safety, which is going to be what Fire requires. But also
4 exactly what that drainage is going to look like to make sure that we really
5 have a safe place for the water to go, but as well for our people to come
6 and go from their homes. So I think that is you know a big importance. And
7 like I say will be addressed in the Phase 3 application. If you don't mind.

8
9 And then the second one, to let you guys know, that our Porter Road
10 Investments, which is our development company, as well as French Bare
11 both committed to the fact that if this one goes and we're able to do this,
12 especially in the time span that we need to, that the rest of the other
13 subdivisions that we're committed to doing will all be the same. We are
14 going to come in, French Brothers is taking a little less money on it. We
15 certainly are not making money like some of the big developers that I know
16 come before you, but it's because every single one of us believes in the
17 same thing, which is to build our communities with attainable housing. So
18 thank you. But I wanted to let you know that you know this is not the one
19 and done. So we hope to change the face of our community's housing.
20 Thank you.

21
22 Kaiser: Thank you. Any other comments, questions from the Commission? All
23 right. Anyone in the public who wishes to speak on this item? We
24 exhausted everybody. Yes, ma'am. Please come forward.

25
26 Stanley: My name is Robin Stanley.

27
28 Kaiser: And do you swear or affirm that the testimony you're about to give is the
29 truth and nothing but the truth under penalty of law?

30
31 Stanley: Yes.

32
33 Kaiser: Go ahead.

34
35 Stanley: I live on Payan Road, which is right before Central behind where this
36 subdivision is going to be. And I just want to say I think that it's a wonderful
37 plan. I'd love having Central paved, and so that Porter doesn't flood.
38 Because that water runs down Central now. And I have a river behind my
39 house going down when it rains in July and August. But I also wanted to
40 say I know, right now I've got three generations living in my house, because
41 they can't afford to live anywhere else. And I think it's really wonderful. So
42 that's all I wanted to say.

43
44 Kaiser: Thank you. Anybody else who wishes to speak on this item this evening?
45 All right. Seeing none. We'll come back to the Commission. There's no
46 additional comments, we'll have to re ...

Agenda Item #10.2.

1
2 Ochoa: Reinststate.
3
4 Kaiser: Reinststate. Thank you order so that we can do these one at a time.
5
6 Murray: I make a motion to reinststate order to hear 9.3, 9.4, 9.5 separately.
7
8 Porter: I second.
9
10 Baum: Board Member Acosta.
11
12 Acosta: Yes.
13
14 Baum: Board Member Porter.
15
16 Porter: Yes.
17
18 Baum: Board Member Smith.
19
20 Smith: Yes.
21
22 Baum: Board Member Murray.
23
24 Murray: Yes.
25
26 Baum: Chair Kaiser.
27
28 Kaiser: Yes.
29
30 Baum: Motion passes.
31
32 Kaiser: Okay, we will start with item 9.3. Looking for a motion to approve.
33
34 Murray: Before I make a motion are we in agreeance to appro with conditions as set
35 forward in the packet.
36
37 Kaiser: I mean I think you just make the motion if you want the conditions or not
38 make the motion. I'm fine with striking a 12 foot travel lane.
39
40 Murray: I make a motion to approve 9.3 with conditions as set forth in the packet.
41
42 Porter: I second.
43
44 Baum: Board Member Acosta.
45

- 1 Acosta: I vote yes to approve with conditions that we outlined based on staff
2 recommendation.
3
- 4 Baum: Board Member Porter.
5
- 6 Porter: Yes.
7
- 8 Baum: And your reasoning.
9
- 10 Porter: I vote yes with staff recommendations and just meant that we decided on.
11
- 12 Baum: Thank you. Board Member Smith.
13
- 14 Smith: I vote yes with conditions based on staff recommendation.
15
- 16 Baum: Board Member Murray.
17
- 18 Murray: Yes, based on staff recommendation.
19
- 20 Baum: Chair Kaiser.
21
- 22 Kaiser: Yes, based on staff recommendation and consistency with Elevate Las
23 Cruces.
24
- 25 Baum: Motion passes.
26
- 27 **9.4 Case 24CS0500022:** A request to approve a preliminary plat known as the Tierra
28 Hermosa Phase 1 Preliminary Plat for property that encompasses 14.745 + acres,
29 is zoned R-1a (Single-Family Medium Density) and is located on the east side of
30 Porter Drive, south of Village Drive and north of Central Road. The plat proposes
31 96 single-family townhome and detached home lots with one tract of land
32 dedicated for drainage. All proposed internal roads and adjacent roadways
33 requiring improvements providing access to Phase 1 shall be developed with this
34 phase. Submitted by GEM Surveying, representative. Council District 5.
35
- 36 Kaiser: All right looking for a motion to approve 9.4.
37
- 38 Murray: I make a motion to approve 9.4 with conditions based on the packet
39 provided by City staff.
40
- 41 Smith: I second.
42
- 43 Baum: Board Member Acosta.
44
- 45 Acosta: I vote yes to approve based on staff recommendation.
46

1 Baum: Board Member Porter.

2

3 Porter: I vote yes based on staff recommendations.

4

5 Baum: Board Member Smith.

6

7 Smith: I vote yes based on the staff recommendation.

8

9 Baum: Board Member Murray.

10

11 Murray: Yes, based on staff recommendation.

12

13 Baum: Chair Kaiser.

14

15 Kaiser: Yes, based on staff recommendation and consistency with Elevate Las
16 Cruces.

17

18 Baum: Motion passes.

19

20 **9.5 Case 224CS0500048:** A request to approve a preliminary plat known as the Tierra
21 Hermosa Phase 2 Preliminary Plat for property that encompasses 12.368 + acres,
22 is zoned R-1a (Single-Family Medium Density) and is located on the east side of
23 Porter Drive, south of Village Drive and north of Central Road. The plat proposes
24 76 single-family townhome and detached home lots with one tract of land
25 dedicated for a park. All proposed internal roads and adjacent roadways requiring
26 improvements providing access to Phase 2 shall be developed with this phase.
27 Submitted by GEM surveying, representative. Council District 5.

28

29 Kaiser: 9.5.

30

31 Murray: I make a motion to approve item 9.5 was conditions based on the packet as
32 provided by City staff.

33

34 Smith: I second.

35

36 Baum: Board Member Acosta.

37

38 Acosta: I vote yes to approve based on staff recommendation.

39

40 Baum: Board Member Porter.

41

42 Porter: I vote yes based on staff recommendations.

43

44 Baum: Board Member Smith.

45

46 Smith: I vote yes based on staff recommendation.

1
2 Baum: Board Member Murray.
3
4 Murray: I vote yes based on staff recommendation.
5
6 Baum: Chair Kaiser.
7
8 Kaiser: Yes, based on staff recommendation and consistency with Elevate Las
9 Cruces.
10
11 Baum: Motion passes.
12
13 Kaiser: All right. Thank you all for coming out this evening. Feel free to stick around
14 to continue to listen to us talk.
15
16 **9.2 Case 23ZO0500027: CONTINUATION.**
17
18 Kaiser: So, I guess now we're returning to item 9.2. And I do apologize to my
19 colleagues. I did not anticipate opening this can of worms. Personally, I
20 think, do we need to or we don't need to make a motion or anything to go
21 back to this item? No. Okay. Okay.
22
23 Ochoa: Point of order, Mr. Chair.
24
25 Kaiser: Yes.
26
27 Ochoa: I believe since you did vote to table it, you need a vote to un-table the item
28 so you can discuss it.
29
30 Murray: I'll make a motion to un-table item 9.2 for discussion.
31
32 Smith: I second.
33
34 Baum: Board Member Acosta.
35
36 Acosta: I vote yes.
37
38 Baum: Board Member Porter.
39
40 Porter: Yes.
41
42 Baum: Board Member Smith.
43
44 Smith: Yes.
45
46 Baum: Board Member Murray.

1
2 Murray: Yes.
3
4 Baum: Chair Kaiser.
5
6 Kaiser: Yes.
7
8 Baum: Motion passes.
9
10 Kaiser: I appreciate staff printing out this list. I kind of feel at this point what
11 Commissioner Smith said, I feel like we could spend the next two hours
12 going through all of this. I think my point really was just we know what we
13 want and I don't know why we just come out and say it, instead we put a
14 land use on here that I feel like just has so much that's not compatible with
15 what we want. And why we didn't maybe try to rein it in before we got to
16 the discussion tonight. I think that was really just the point that I was
17 making. So I think we can just simplify it and say, you know make it
18 consistent with Apodaca Blueprint. I think that's fine. You know I guess for
19 future reference if we can, if we have the vision, we know what we want to
20 see here, let's make it very clear so that we up here can just you know move
21 on, move it through a process. That would just be my suggestion for next
22 time. So I'm fine with just saying, putting the condition that the land uses
23 would be consistent with Apodaca Blueprint and we go forward from there.
24
25 Ochoa: Follow the guidelines of Apodaca Blueprint. Yes, sir. That's how staff will
26 administer this zoning basically, sir.
27
28 Kaiser: Okay.
29
30 Weir: Mr. Chairman. You stated a specific concern about drive-thrus and drive
31 uses, I'd recommend you make that a condition if that was truly one of your
32 big concerns.
33
34 Kaiser: Okay. Yes, I mean I think at a minimum not allowing drive-thru
35 establishments. I mean this is supposed to be pedestrian, serving the
36 neighborhood, serving trail users, I just don't think that there's any need for
37 drive-thrus here so if we can make that a condition.
38
39 Ochoa: If I may add on top of that, sir. If we are looking to try to get away from that,
40 not only drive-thrus but any type of stacking lane, because a carwash isn't
41 necessarily a drive-thru, it's a stacking lane, so any business associated
42 that has a drive-thru or stacking lane associated with it, sir.
43
44 Kaiser: There you go. That'll be our condition. So we need a motion to approve
45 with those conditions added.
46

1 Murray: I make a motion to approve item 9.2 with conditions that it follows the
2 guidelines stated in Apodaca Blueprint, that it does not include uses of
3 drive-thrus, stacking lanes, and I'm going to add gas stations or car washes.
4

5 Smith: I second.
6

7 Baum: Board Member Acosta.
8

9 Acosta: I vote yes to approve with conditions based on staff recommendation and
10 further discussion.
11

12 Baum: Board Member Porter.
13

14 Porter: I vote yes as long as it aligns with Apodaca Blueprint, does not include any
15 drive-thru lanes, stacking lanes, and gas stations.
16

17 Baum: Board Member Smith.
18

19 Smith: I vote yes with conditions as laid out through the earlier discussion.
20

21 Baum: Board Member Murray.
22

23 Murray: Yes with conditions based on the Apodaca Blueprint and discussions
24 tonight.
25

26 Baum: Chair Kaiser.
27

28 Kaiser: Yes, based on consistency with Apodaca Blueprint and our discussion here
29 this evening.
30

31 Baum: Motion passes.
32

33 **10. DISCUSSION** 34

35 Kaiser: All right. Where are we? Any discussion or staff announcements?
36

37 Murray: I have one quick comment on the apartment building, the Roadrunner. For
38 future cases of that sort, can we make sure that we include submitted site
39 plan for reference?
40

41 Ochoa: Yes, sir. Definitely make that note.
42

43 **11. STAFF ANNOUNCEMENTS** 44

45 Kaiser: Staff.
46

1 Weir: Mr. Chairman and Commissioners. Just wanted to inform you that on June
2 24, Freese Nichols, the consultants that are doing the Realize Las Cruces.
3 The update of the development code, we'll be presenting the revised draft
4 to the City Council. And I would encourage any of you that could make that
5 meeting. It's a work session at 1:00 p.m. here at City Council. It will be a
6 Monday. It'll be the fourth Monday of June. If you could attend to see that
7 presentation. And also hear City Council's observations and input. The
8 meeting will begin at 1:00 p.m. It's one of three items that will be scheduled
9 for that work session. And the agenda hasn't been set yet.

10
11 Murray: And since it's City Council it will be broadcasted on YouTube.

12
13 Weir: Yes.

14
15 Kaiser: So just to clarify, this is not a joint work session.

16
17 Weir: Currently it is not a joint work session. It's just the City Council since they
18 put it with the other items.

19
20 Kaiser: Okay. Wasn't the intent that there was going to be a joint work session. So
21 that's going to come later.

22
23 Weir: Yes, there is another work session they want to hold. I believe they will still
24 be in town and, is your June meeting the next day?

25
26 Kaiser: It is, yes.

27
28 Weir: We can invite them to come and present to you at your regular June
29 meeting.

30
31 Kaiser: Okay. But there's no intent to do a joint work session as part of the process.

32
33 Weir: Not right now.

34
35 Kaiser: Go it. Okay. Thank you.

36
37 **12. ADJOURNMENT (10:13)**

38
39 Kaiser: All right. Looking for a motion to adjourn.

40
41 Porter: I second.

42
43 Murray: I make a motion to adjourn tonight's meeting.

44
45 Smith: I second.

- 1 Kaiser: All in favor.
- 2
- 3 MOTION PASSES UNANIMOUSLY.
- 4
- 5 Kaiser: Meeting's adjourned.
- 6
- 7 Ochoa: Thank you folks. Appreciate your hard work.
- 8
- 9
- 10
- 11
- 12 _____
- 13 Chairperson

DRAFT