AGENDA

... for the Regular Meeting of the Farmington City Council to be held at 6:00 p.m., Tuesday, April 9, 2019 in the Council Chamber, City Hall, 800 Municipal Drive, Farmington, New Mexico...

1. **Roll Call and Convening the Meeting:**

2. **Invocation:** Pastor David Florez of The Journey Church.

3. **Pledge of Allegiance:**

4. **Acceptance of Consent Agenda:** Those items on the agenda that are marked with an asterisk (*) have been placed on the Consent Agenda and will be voted on without discussion with one motion. If any item proposed does not meet with approval of all Councilors or if a citizen so requests, that item will be heard under Business from the Floor.

5. *Approval of Minutes* for the Regular Meeting of the City Council held March 26, 2019.

6. *Approval of Bid* for purchase of trucking services (Public Works) being awarded to Envirotech, Inc. ($92,312.50), Sierra Oilfield Services, Inc. ($18,250), Herrera Trucking LLC ($107,500), GBL Trucking LLC ($103,750) and Rosie Atencio Trucking ($103,750) as the lowest and best bidders per category after application of the five percent in-state and Veterans preferences. Bids opened March 26, 2019 with five bidders participating.

7. *Approval of Warrants* up to and including April 6, 2019.

8. **Approval for Adoption of Resolution No. 2019-1706** designating the month of April, 2019 as “Fair Housing Month.” (Francisco Alvarado)

9. **Presentation and direction to staff** regarding an in-car and body camera system;  
AND  
**Approval of Bid** for purchase of leasing services for an in-car and body camera system (Police) being awarded to Fleetwood Finance Leasing, LLC as the lowest and best bidder meeting specifications for Option B ($1,416,991.80). Bids opened February 27, 2019 with two bidders participating. (Rob Mayes, Jessica Tyler and Rosalyn Potter)

10. **New Business:**
(a) **Mayor**

   (1) Appointment to the Lodgers’ Tax Advisory Board.

(b) **Councilors**
(c) City Manager

(1) **Recognition** of Human Resources Director Tom Swenk for being named the 2019 New Mexico Human Resources Professional of the Year.

(2) **Update** regarding the Four Corners Regional Airport and airline service. (Michael Lewis)

(3) **Budget Hearing #1** – Introduction of Capital Improvement Plan. (Teresa Emrich)

(d) City Attorney

(1) **Resolution**
- setting and establishing a regular meeting day, time and place for City Council meetings pursuant to City Council Resolution No. 2013-1466.

(2) **Resolution No. 2019-1707**
- authorizing and approving submission of a completed application to the New Mexico Finance Authority for financial assistance for street improvements.

(3) **Proposed Ordinance – Discussion**
- amending Chapter 22 of the City Code by adding a new Article 8 entitled “Wireless Communication Facilities”; providing definitions; providing for permits; and providing for severability. (Final Action April 23, 2019)

(e) City Clerk

11. **Business from the Floor:**

   (1) Items removed from Consent Agenda for discussion.

   (2) Any other Business from the Floor.

12. **Closed Meeting** to receive advice from the City’s legal counsel regarding a matter of threatened and/or pending litigation (Case No. 17-00174-UT: Public Service Company of New Mexico’s 2017 Integrated Resource Plan), pursuant to Section 10-15-1H(7) NMSA 1978.

13. **Approval of First Amendment to Letter of Intent** between the City and Acme Equities LLC and Enchant Energy Corporation concerning the potential acquisition of all assets and assumption of certain identified liabilities of the San Juan Generating Station. (Jennifer Breakell)

14. **Adjournment**
AGENDA ITEM SUPPORT MATERIALS ARE AVAILABLE FOR INSPECTION AND/OR PURCHASE AT THE OFFICE OF THE CITY CLERK, 800 MUNICIPAL DRIVE, FARMINGTON, NEW MEXICO.

ATTENTION PERSONS WITH DISABILITIES: The meeting room and facilities are fully accessible to persons with mobility disabilities. If you plan to attend the meeting and will need an auxiliary aid or service, please contact the City Clerk's Office at 599-1106 or 599-1101 prior to the meeting so that arrangements can be made.
CITY OF FARMINGTON
INTER-OFFICE MEMORANDUM

TO: Mayor Duckett and City Council
FROM: Rosalyn Potter, CPPB
Contracts Administrator
DATE: April 3, 2019
SUBJECT: Trucking Services, Bid #19-130732

USING DEPARTMENT: Public Works

A bid opening was held on March 26, 2019 for Trucking Services. Five (5) bidders responded.

The Central Purchasing Department concurs with the recommendation from the Public Works Department to award the bid to the following bidders, as responsible bidders submitting the lowest responsive bids meeting specifications for the categories listed below. The in-state and veterans preference were given to qualified bidders.

CATEGORY 1A – TANDEM TRUCKS

<table>
<thead>
<tr>
<th>AWARDED BIDDERS</th>
<th>TOTAL AWARDED AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Envirotech, Inc.</td>
<td>$16,562.50</td>
</tr>
<tr>
<td>Sierra Oilfield Services, Inc.</td>
<td>$18,250.00</td>
</tr>
<tr>
<td>Herrera Trucking LLC</td>
<td>$19,500.00</td>
</tr>
<tr>
<td>GBL Trucking LLC</td>
<td>$18,750.00</td>
</tr>
<tr>
<td>Rosie Atencio Trucking</td>
<td>$18,750.00</td>
</tr>
</tbody>
</table>

CATEGORY 2A – END DUMP TRUCKS

<table>
<thead>
<tr>
<th>AWARDED BIDDERS</th>
<th>TOTAL AWARDED AMOUNT</th>
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<tbody>
<tr>
<td>Envirotech, Inc.</td>
<td>$75,750.00</td>
</tr>
<tr>
<td>Herrera Trucking LLC</td>
<td>$88,000.00</td>
</tr>
<tr>
<td>GBL Trucking LLC</td>
<td>$85,000.00</td>
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<tr>
<td>Rosie Atencio Trucking</td>
<td>$85,000.00</td>
</tr>
</tbody>
</table>

Rosalyn Potter (Presenter)
Consent Agenda/Council Meeting 04/09/19

xc: Teresa Emrich, Acting Administrative Services Director
David Sypher, Public Works Director
Virginia King, Project Engineer I
File - 19-130732
**CITY OF FARMINGTON - ABSTRACT**

**BID:** Trucking Services, #19-130732  
**OPENING DATE:** March 26, 2019 @ 2:00 P.M.

<table>
<thead>
<tr>
<th>Public Works</th>
<th>Envirotech, Inc.</th>
<th>Sierra Oilfield Services, Inc.</th>
<th>Herrera Trucking LLC</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Julie Ortiz</td>
<td>Jason E. Valdez</td>
<td>Richard Herrera</td>
</tr>
<tr>
<td></td>
<td>5796 US Highway 64, Farmington, NM 87401</td>
<td>PO Box 6074, Farmington, NM 87499</td>
<td>PO Box 3232, Farmington, NM 87499</td>
</tr>
<tr>
<td></td>
<td>505-632-0615</td>
<td>505-330-1084</td>
<td>505-320-4195</td>
</tr>
<tr>
<td>Trucks available:</td>
<td>2</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>CATEGORY 1A: OPERATE A TANDEM TRUCK TO HAUL VARIOUS MATERIAL</td>
<td>$66.25/hour</td>
<td>$73.00/hour</td>
<td>$78.00/hour</td>
</tr>
<tr>
<td>(10-wheel dump truck to accommodate 10 to 12 yard dumps)</td>
<td><strong>TOTAL BID - CATEGORY ONE:</strong></td>
<td><strong>$16,562.50</strong></td>
<td><strong>$18,250.00</strong></td>
</tr>
<tr>
<td><strong>TOTAL BID - CATEGORY ONE WITH PREFERENCES APPLIED:</strong></td>
<td><strong>$15,734.38</strong></td>
<td><strong>$17,337.50</strong></td>
<td><strong>$17,550.00</strong></td>
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<tr>
<td>Trucks available:</td>
<td>5</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>CATEGORY 2A: OPERATE AN END DUMP TO HAUL VARIOUS MATERIAL</td>
<td>$75.75/hour</td>
<td>No Bid</td>
<td>$88.00/hour</td>
</tr>
<tr>
<td>(trailer with end dump)</td>
<td><strong>TOTAL BID - CATEGORY TWO:</strong></td>
<td><strong>$75,750.00</strong></td>
<td>No Bid</td>
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<tr>
<td><strong>TOTAL BID - CATEGORY TWO WITH PREFERENCES APPLIED:</strong></td>
<td><strong>$71,962.50</strong></td>
<td><strong>$79,200.00</strong></td>
<td><strong>$79,200.00</strong></td>
</tr>
</tbody>
</table>

| Estimated Applicable Taxes | $7,615.78 | $1,505.63 | $8,868.75 |
| Payment Terms | Net 30 | Net 30 | Net 30 |
| Payment Terms | No Bid | $88,000.00 | $88,000.00 |
| Payment Terms | Yes | Yes | Yes |
| Drug-Free Workplace Certification | Yes | Yes | Yes |
RESOLUTION NO. 2019-1706

A RESOLUTION TO DESIGNATE THE MONTH OF APRIL IN 2019 AS "FAIR HOUSING MONTH" IN THE CITY OF FARMINGTON

WHEREAS, Title VIII of the Civil Rights Act of 1968, also known as the Fair Housing Act, was enacted to guarantee the right of equal opportunity to housing for all Americans; and

WHEREAS, April 11, 2019, marks the 51st anniversary of the passage of the Fair Housing Act; and

WHEREAS, every April the U.S. Department of Housing and Urban Development celebrates Fair Housing Month to make the public aware of laws that prohibit discrimination when it comes to housing. Fair Housing Month serves as a reminder that any discrimination in the sale, lease, or rental of housing, or making housing otherwise unavailable, because of race, color, religion, sex, disability, familial status, or natural origin is illegal; and

WHEREAS, the City of Farmington certifies annually that it will affirmatively further Fair Housing as a condition of receiving Community Development Block Grant funding from the U.S. Department of Housing and Urban Development; and

WHEREAS, the City of Farmington embraces the purpose and goals of the Fair Housing Act and recognizes that achievement of these goals requires the positive commitment, involvement and support of our citizens; and

WHEREAS, the City of Farmington Community Relations Commission - an advisory board to the Mayor and City Council, the mission of which is to facilitate and engage in community outreach and education to address issues of culture, race and ethnicity - also embraces the purpose and goals of the Fair Housing Act; and

WHEREAS, the City of Farmington is committed to the principles of the Fair Housing Act and will continue to address impediments to fair housing in our community, support programs that will educate the public about the right to equal housing opportunities, and work with other organizations to achieve positive results consistent with these principles.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FARMINGTON:

The City of Farmington, New Mexico does hereby designate April 2019 as "Fair Housing Month" in the City of Farmington, in conjunction with the national celebration of Fair Housing Month.

PASSED, APPROVED, SIGNED AND ADOPTED this 9th day of April, 2019.

Nate Duckett, Mayor

SEAL

ATTEST:

Dianne Smylie, City Clerk
CITY OF FARMINGTON
INTER-OFFICE MEMORANDUM

TO: Mayor Duckett and City Council

FROM: Rosalyn Potter, CPP
Contracts Administrator

DATE: March 27, 2019

SUBJECT Leasing of Police In-Car and Body Camera System, Bid #19-130687

USING DEPARTMENT: Police Department

A bid opening was held on February 27, 2019 for Leasing of Police In-Car and Body Camera System. Two (2) bidders responded.

The Central Purchasing Department concurs with the recommendation from the Police Department to award the bid to Fleetwood Finance Leasing, LLC from Cranford, New York, a responsible bidder submitting the lowest responsive bid meeting specifications for Option B at sixty (60) months for a total awarded amount of one million four hundred sixteen thousand nine hundred ninety-one dollars and eighty cents, ($1,416,991.80).

No bidders qualified for the In-State or Veterans preference.

Rosalyn Potter (Presenter)
Council Meeting – Consent Agenda – April 9, 2019

Copy to: Teresa Emrich, Acting Administrative Services Director
Steve Hebbe, Police Chief
Jessica Tyler, Deputy Chief

File – 19-130687
CITY OF FARMINGTON - ABSTRACT SCHEDULE

BID: Leasing of Police In-Car and Body Camera System  OPENING DATE: February 27, 2019 @ 2:00 P.M.

POLICE DEPARTMENT

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>FLEETWOOD FINANCE LEASING LLC</th>
<th>ONTARIO INVESTMENTS INC.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>SCOTT M. MILLER</td>
<td>JIM MARSALLO, JR.</td>
</tr>
<tr>
<td></td>
<td>184 NORTH AVENUE EAST STE. 4</td>
<td>6666 OLD COLLAMER ROAD</td>
</tr>
<tr>
<td></td>
<td>CRANFORD, NY 07016</td>
<td>EAST SYRACUSE, NY 13057</td>
</tr>
<tr>
<td></td>
<td>732-397-1456</td>
<td>315-431-4675</td>
</tr>
<tr>
<td></td>
<td><a href="mailto:smiller@fleetwoodfinance.com">smiller@fleetwoodfinance.com</a></td>
<td><a href="mailto:jmarsaljojr@ontinv.com">jmarsaljojr@ontinv.com</a></td>
</tr>
</tbody>
</table>

ITEM | DESCRIPTION | OPTION A - 36 MONTH LEASE | OPTION B - 60 MONTH LEASE |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>A.</td>
<td>FIRST PAYMENT DUE:</td>
<td>July 1, 2019</td>
<td>June 1, 2019</td>
</tr>
<tr>
<td>B.</td>
<td>MONTHLY PAYMENT DUE:</td>
<td>$37,524.72</td>
<td>$38,679.43</td>
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<tr>
<td>C.</td>
<td>INTEREST RATE:</td>
<td>4.95%</td>
<td>5.00%</td>
</tr>
<tr>
<td>D.</td>
<td>TOTAL INTEREST AMOUNT:</td>
<td>$97,912.92</td>
<td>$101,893.17</td>
</tr>
<tr>
<td>E.</td>
<td>TOTAL OF 36 MONTH PAYMENTS:</td>
<td>$1,350,889.92</td>
<td>$1,392,459.48</td>
</tr>
</tbody>
</table>

BID SIGNED: YES
IN-STATE PREFERENCE: NONE
VETERANS PREFERENCE: NONE
ADDEDNUM ACKNOWLEDGED (1): YES
## FY2020 Preliminary Budget

### Capital Improvement Plan Worksheet (Governmental Funds Only)

#### GRT-Streets (201)

<table>
<thead>
<tr>
<th>Description</th>
<th>FY2018 Actual</th>
<th>FY2019 Projected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beginning Cash Balance</td>
<td>$4,324,806</td>
<td>$2,366,116</td>
</tr>
</tbody>
</table>

#### Miscellaneous Items

| Public Wks. Streets Vehicle Replacement         | $671,500      | $670,000         |
| Public Wks. Streets Land                         | $35,000       | $35,000          |
| Public Wks. Traffic MOD-Streets: Replace MOC Electric Line Truck | $74,855       | $74,855          |
| Public Wks. Storm Porter Arroyo Detention Pond  | $100,000      | $760,000         |
| Public Wks. Storm Crestwood Subdivision Detention Pond | $100,000      | $250,000         |
| Public Wks. Storm "Culpepper Regional Storm Water Facility" Design and Construction | $100,000      | $300,000         |
| Public Wks. Storm Downtown MRA Area Storm Water Improvements | $100,000      | $300,000         |

#### Street Improvements (New)

| Public Wks. Streets Pinon Hills Bridge Project | $15,000       | $15,000          |

#### Street Improvements (Existing)

| Public Wks. Streets Pinon Hills Boulevard Widening - Sports Complex to 30th | $15,000       | $15,000          |
| Public Wks. Streets Pinon Hills Boulevard Widening - Butler to Dustin | $15,000       | $15,000          |
| Public Wks. Streets Pinon Hills Boulevard Widening - 30th St to Dustin | $74,855       | $74,855          |
| Public Wks. Streets Foothills Enhancements - Lakewood to North End of Foothills Drive Design | $1,838        | $1,838           |
| Public Wks. Streets Foothills Enhancements - Rivendell to Lakewood Construction | $802          | $802             |
| Public Wks. Streets CDBG Project - install sidewalk & accessibility ramps | $185,583      | $185,583         |
| Public Wks. Streets Navajo Drive - Glade Arroyo Crossing Replacement and Improvements from Auburn to 500' west of Arroyo-FY2020 HAS High Density Minter Bond Project / Municipal & Calle Norte Trail | $75,005       | $75,005          |

#### Street Resurfacing

| Public Wks. Streets Street Resurfacing | $4,800,000    | $4,649,262       |
| Public Wks. Streets Pavement Management and Analysis | $1,435,000    | $1,435,000       |

#### Bond Funds Street Resurfacing

| Public Wks. Streets Capital Pavement Maintenance | $5,706,500    | $5,672,151       |
| Public Wks. Streets Non-Capital Pavement Maintenance | $2,354,350    | $2,489,933       |

#### Total Fund Expenditures

| $12,514,386 | $11,316,973 | $9,547,721 | $9,683,304 | $23,648,248 | $10,605,408 | $10,512,942 | $10,728,121 | $10,478,121 |

#### Ending Projected Cash Balance

| $842,155 | $2,366,116 | $1,756,546 | $1,637,393 | $928,858 | $1,091,750 | $1,601,315 | $2,156,263 | $3,228,289 |

#### GRT-Parks (202)

| Beginning Cash Balance | $158,372 | $158,372 | $610,360 | $610,360 | $318,889 | $70,273 | $13,942 | $52,777 | $383,546 |

Note: All amounts are in thousands of dollars.
## FY2020 Preliminary Budget

### Capital Improvement Plan Worksheet (Governmental Funds Only)

<table>
<thead>
<tr>
<th>Dept.</th>
<th>Division</th>
<th>Description</th>
<th>Projected Expenditure in FY2019</th>
<th>FY2020 Budget</th>
<th>FY2021 Projected</th>
<th>FY2022 Projected</th>
<th>FY2023 Projected</th>
<th>FY2024 Projected</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Plus Projected Revenue</td>
<td>$2,393,066</td>
<td>$2,521,574</td>
<td>$2,668,149</td>
<td>$2,534,742</td>
<td>$2,450,427</td>
<td>$2,511,688</td>
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<tr>
<td></td>
<td></td>
<td>Transfer from 411 Fund</td>
<td>$550,000</td>
<td>$550,000</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Less Operating Expenditures</td>
<td>$2,177,502</td>
<td>$2,110,555</td>
<td>$2,222,057</td>
<td>$2,222,057</td>
<td>$2,171,911</td>
<td>$2,318,019</td>
</tr>
<tr>
<td>Parks</td>
<td>Oper.</td>
<td>Browning Land Purchase</td>
<td>$115,488</td>
<td>$115,681</td>
<td>$115,681</td>
<td>$115,681</td>
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<tr>
<td>Parks</td>
<td>Oper.</td>
<td>Equipment Upgrades/Vehicles</td>
<td>-</td>
<td>-</td>
<td>100,000</td>
<td>104,180</td>
<td>116,000</td>
<td>-</td>
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<tr>
<td>Parks</td>
<td>Oper.</td>
<td>San Juan College Field Lighting (funded by 411 Fund)</td>
<td>$330,000</td>
<td>$392,451</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<tr>
<td>Parks</td>
<td>Oper.</td>
<td>Fairgrounds Softball Fields Improvement - Lighting</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<tr>
<td>Parks</td>
<td>Oper.</td>
<td>Fairgrounds Softball Fields &amp; Roberto Clemente Fields Improvement</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>189,295</td>
<td>-</td>
<td>-</td>
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<tr>
<td>Parks</td>
<td>Oper.</td>
<td>Playground Equipment Replacements - Berg Park East</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>150,000</td>
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<tr>
<td>Parks</td>
<td>Oper.</td>
<td>Playground Equipment Replacements - Brookhaven Park</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>150,000</td>
<td>150,000</td>
<td>-</td>
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<tr>
<td>Parks</td>
<td>Oper.</td>
<td>Brookside Park New Restroom &amp; Shelter</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<tr>
<td>Parks</td>
<td>Oper.</td>
<td>Anesi Trail Development</td>
<td>-</td>
<td>-</td>
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<td>-</td>
<td>-</td>
<td>100,000</td>
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<tr>
<td>Parks</td>
<td>Oper.</td>
<td>Farmington Lake Dry Camping (also funded by 412 Fund)</td>
<td>-</td>
<td>898</td>
<td>-</td>
<td>5,026</td>
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<td>-</td>
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<td>Parks</td>
<td>Oper.</td>
<td>Soccer Complex Lighting and Field Maintenance (funded by 411 Fund)</td>
<td>$220,000</td>
<td>-</td>
<td>162,459</td>
<td>83,868</td>
<td>136,132</td>
<td>-</td>
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<tr>
<td>Sycamore</td>
<td>FAC</td>
<td>Sycamore Park Community Center Add Shelter</td>
<td>-</td>
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<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<tr>
<td>Parks</td>
<td>FAC</td>
<td>Farmington Aquatic Center Playground Replacement</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<tr>
<td>Parks</td>
<td>Golf</td>
<td>Pithon Hills Golf Course Equipment Upgrades</td>
<td>-</td>
<td>-</td>
<td>86,000</td>
<td>58,872</td>
<td>50,000</td>
<td>-</td>
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<tr>
<td>Parks</td>
<td>Golf</td>
<td>Pithon Hills Entry Landscaping and Parking Lot Striping and Curbs</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>100,000</td>
</tr>
<tr>
<td>Parks</td>
<td>FAC</td>
<td>Farmington Aquatic Center Slide Replacement</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<td>-</td>
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<tr>
<td>Parks</td>
<td>Oper.</td>
<td>Ricketts Infield Improvement</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>222,222</td>
<td>-</td>
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<td>Less Capital Expenditures</td>
<td></td>
<td>$664,488</td>
<td>$509,030</td>
<td>$464,140</td>
<td>$604,156</td>
<td>$527,132</td>
<td>$250,000</td>
<td>$300,000</td>
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<td>Total Fund Expenditures</td>
<td></td>
<td>$2,442,490</td>
<td>$2,619,585</td>
<td>$2,686,197</td>
<td>$2,826,213</td>
<td>$2,699,043</td>
<td>$2,568,019</td>
<td>$2,641,199</td>
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<tr>
<td>Ending Projected Cash Balance</td>
<td></td>
<td>$258,448</td>
<td>$410,360</td>
<td>$592,312</td>
<td>$316,889</td>
<td>$70,273</td>
<td>$13,942</td>
<td>$(52,777)</td>
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### PARKS GIFTS AND GRANTS FUND (214)

<table>
<thead>
<tr>
<th>Dept.</th>
<th>Division</th>
<th>Description</th>
<th>AMOUNT</th>
<th>FY2018</th>
<th>FY2019</th>
<th>FY2020</th>
<th>FY2021</th>
<th>FY2022</th>
<th>FY2023</th>
<th>FY2024</th>
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<td>$218,536</td>
<td>$218,536</td>
<td>$294,925</td>
<td>$294,925</td>
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<td>Animas River Restoration Project &quot;Rock Garden&quot;</td>
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<td>Gateway Entry Construction</td>
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<td>ADA Upgrade for Annex North Entrance</td>
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### RED APPLE TRANSIT GRANT FUND (221)

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<th>FY2020</th>
<th>FY2021</th>
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<th>FY2023</th>
<th>FY2024</th>
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<td>$(28,672)</td>
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<td>Plus Projected Revenue</td>
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<td>974,935</td>
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<td>707,334</td>
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<td>1,096,120</td>
<td>1,152,567</td>
<td>1,175,618</td>
<td>1,199,131</td>
<td>1,223,113</td>
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<td>Oper.</td>
<td>Cutaway Bus</td>
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<td>$48,931</td>
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<td>Gen Serv.</td>
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<td>Gen Serv.</td>
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<td>225,000</td>
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<td>$48,931</td>
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<td>$225,000</td>
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<td>$1,223,113</td>
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<td>$9,474</td>
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## FY2020 PRELIMINARY BUDGET

### CAPITAL IMPROVEMENT PLAN WORKSHEET (Governmental Funds Only)

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### COMM DEVELOPMENT BLOCK GRANT (CDBG) (223)

<table>
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<tr>
<th>Description</th>
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<th>Projected Expenditure in FY2020</th>
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<td>$91,466</td>
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<td>$91,543</td>
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### PUBLIC WORKS CAPITAL GRANT PROJECTS (401)

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<td>$1,499,367</td>
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<td>$790,966</td>
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### 2017/2018 SERIES GRT CAPITAL PROJECTS FUND (403)

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### Ending Projected Cash Balance

<table>
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<th>Description</th>
<th>FY2018</th>
<th>FY2019</th>
<th>Projected Expenditure in FY2020</th>
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<tbody>
<tr>
<td></td>
<td>$92,286</td>
<td>$91,543</td>
<td>$92,329</td>
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**Notes:**
- **Less Operating Expenditures:**
  - Downtown Gateway Signage (2010 FFY)
  - CDBG Capital Projects (2018 FFY + Future)
  - CDBG Capital Projects (2017 FFY)
  - Boys and Girls Club Teen Center Expansion (2010/2016 FFY)
  - Public Works - Sidewalk ADA Improvements
  - PRCA-ADA Improvements

- **Less Capital Expenditures:**
  - Storm Villa View Detention Pond
  - Local Government Road Fund - Main Street Navajo to Butler
  - Moving Ahead for Progress in the 21st Century Projects - Foothills Enhancements, Phase I
  - Moving Ahead for Progress in the 21st Century Projects - Foothills Enhancements, Phase II / Roadwork
  - Transportation Alternatives Program Projects - Foothills Enhancements Phase 2 Multiuse Path/Bike lanes
  - Safety Projects - San Juan Blvd/Scott Intersection
  - Transportation Alternatives Program Projects-20th Street Sidewalk Project (Phase I and II)
  - Transportation Alternatives Program Projects-20th Street Sidewalk Project (Phase II Design FY2018, Construction FY2019)
  - Fithon Hills Bridge Project, Phase I / NM 516 to Hubbard

- **Total Fund Expenditures**

- **Ending Projected Cash Balance**

---

**FY2020 Actual:**
- Storm Villa View Detention Pond: $870,000
- Local Government Road Fund - Main Street Navajo to Butler: $1,084,000
- Moving Ahead for Progress in the 21st Century Projects - Foothills Enhancements, Phase I: $1,301,222
- Moving Ahead for Progress in the 21st Century Projects - Foothills Enhancements, Phase II / Roadwork: $188,636
- Transportation Alternatives Program Projects - Foothills Enhancements Phase 2 Multiuse Path/Bike lanes: $1,251,828
- Safety Projects - San Juan Blvd/Scott Intersection: $390,000
- Transportation Alternatives Program Projects-20th Street Sidewalk Project (Phase I and II): $2,530,960
- Transportation Alternatives Program Projects-20th Street Sidewalk Project (Phase II Design FY2018, Construction FY2019): $881,774
- Fithon Hills Bridge Project, Phase I / NM 516 to Hubbard: $4,400,000

**FY2021 Actual:**
- Storm Villa View Detention Pond: $809,811
- Local Government Road Fund - Main Street Navajo to Butler: $293,407
- Moving Ahead for Progress in the 21st Century Projects - Foothills Enhancements, Phase I: $1,301,222
- Moving Ahead for Progress in the 21st Century Projects - Foothills Enhancements, Phase II / Roadwork: $188,636
- Transportation Alternatives Program Projects - Foothills Enhancements Phase 2 Multiuse Path/Bike lanes: $1,251,828
- Safety Projects - San Juan Blvd/Scott Intersection: $390,000
- Transportation Alternatives Program Projects-20th Street Sidewalk Project (Phase I and II): $2,530,960
- Transportation Alternatives Program Projects-20th Street Sidewalk Project (Phase II Design FY2018, Construction FY2019): $881,774
- Fithon Hills Bridge Project, Phase I / NM 516 to Hubbard: $4,400,000

**FY2022 Actual:**
- Storm Villa View Detention Pond: $809,811
- Local Government Road Fund - Main Street Navajo to Butler: $293,407
- Moving Ahead for Progress in the 21st Century Projects - Foothills Enhancements, Phase I: $1,301,222
- Moving Ahead for Progress in the 21st Century Projects - Foothills Enhancements, Phase II / Roadwork: $188,636
- Transportation Alternatives Program Projects - Foothills Enhancements Phase 2 Multiuse Path/Bike lanes: $1,251,828
- Safety Projects - San Juan Blvd/Scott Intersection: $390,000
- Transportation Alternatives Program Projects-20th Street Sidewalk Project (Phase I and II): $2,530,960
- Transportation Alternatives Program Projects-20th Street Sidewalk Project (Phase II Design FY2018, Construction FY2019): $881,774
- Fithon Hills Bridge Project, Phase I / NM 516 to Hubbard: $4,400,000

**FY2023 Actual:**
- Storm Villa View Detention Pond: $809,811
- Local Government Road Fund - Main Street Navajo to Butler: $293,407
- Moving Ahead for Progress in the 21st Century Projects - Foothills Enhancements, Phase I: $1,301,222
- Moving Ahead for Progress in the 21st Century Projects - Foothills Enhancements, Phase II / Roadwork: $188,636
- Transportation Alternatives Program Projects - Foothills Enhancements Phase 2 Multiuse Path/Bike lanes: $1,251,828
- Safety Projects - San Juan Blvd/Scott Intersection: $390,000
- Transportation Alternatives Program Projects-20th Street Sidewalk Project (Phase I and II): $2,530,960
- Transportation Alternatives Program Projects-20th Street Sidewalk Project (Phase II Design FY2018, Construction FY2019): $881,774
- Fithon Hills Bridge Project, Phase I / NM 516 to Hubbard: $4,400,000

**FY2024 Actual:**
- Storm Villa View Detention Pond: $809,811
- Local Government Road Fund - Main Street Navajo to Butler: $293,407
- Moving Ahead for Progress in the 21st Century Projects - Foothills Enhancements, Phase I: $1,301,222
- Moving Ahead for Progress in the 21st Century Projects - Foothills Enhancements, Phase II / Roadwork: $188,636
- Transportation Alternatives Program Projects - Foothills Enhancements Phase 2 Multiuse Path/Bike lanes: $1,251,828
- Safety Projects - San Juan Blvd/Scott Intersection: $390,000
- Transportation Alternatives Program Projects-20th Street Sidewalk Project (Phase I and II): $2,530,960
- Transportation Alternatives Program Projects-20th Street Sidewalk Project (Phase II Design FY2018, Construction FY2019): $881,774
- Fithon Hills Bridge Project, Phase I / NM 516 to Hubbard: $4,400,000
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**AIRPORT GRANTS FUND (409)**

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<tr>
<td>Gen. Serv.</td>
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<td>Rehab Taxiway E, F, and G Design &amp; Construction</td>
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**METROPOLITAN REDEVELOPMENT AUTHORITY FUND (411)**

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### FY2020 Preliminary Budget

#### Capital Improvement Plan Worksheet (Governmental Funds Only)

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**SANITATION ENTERPRISE FUND (604)**

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**TOTAL Governmental Funds - ALL CIP PROJECTS**

| $40,505,182 | $20,156,710 | $27,391,272 | $20,243,989 | $29,388,812 | $5,852,727 | $18,508,254 | $10,107,891 | $8,622,635 |
A RESOLUTION SETTING AND ESTABLISHING A REGULAR MEETING DAY, TIME AND PLACE FOR THE CITY COUNCIL MEETINGS PURSUANT TO CITY COUNCIL RESOLUTION NO. 2013-1466 AS RATIFIED

WHEREAS, pursuant to the provisions of Resolution No. 2013-1466 as ratified, each board, commission, commission or other policy making body of the City of Farmington which holds regular meetings shall annually establish a regular meeting day, time and place; and

WHEREAS, the City Council of the City of Farmington has determined and does recommend to the City Council that the regular meeting day, time and place of the City Council Meetings of the City of Farmington and the location where a copy of the agenda of such meetings may be obtained shall be as set forth in this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FARMINGTON:

That the regular meeting day, time and place of the City Council Meetings of the City of Farmington shall be held on the second and fourth Tuesday of each month at 6:00 p.m., in the Council Chambers, Municipal Building, 800 Municipal Drive, Farmington, New Mexico and the location where a copy of the agenda of the regular meeting may be inspected seventy-two (72) hours in advance of such meeting shall be at the City Clerk's Office, Municipal Building, 800 Municipal Drive, Farmington, New Mexico.

PASSED, SIGNED, APPROVED and ADOPTED this ____ day of April 2019.

By _____________________________
Nate Duckett, Mayor

5.0
RESOLUTION NO. 2019-1707

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

WHEREAS, the City of Farmington (the "Governmental Unit") is a qualified entity under the New Mexico Finance Authority Act, Sections 6-21-1 through 6-21-31, NMSA 1978 ("Act"), and the City of Farmington City Council ("Governing Body") is authorized to borrow funds and/or issue bonds for financing of public projects for benefit of the Governmental Unit; and

WHEREAS, the New Mexico Finance Authority (the "Authority") has instituted a program for financing of projects from the public project revolving fund created under the Act and has developed an application procedure whereby the Governing Body may submit an application (the "Application") for financial assistance from the Authority for public projects; and

WHEREAS, the Governing Body intends to construct, acquire and install street improvements (the "Project") for the benefit of the Governmental unit and its citizens; and

WHEREAS, the application prescribed by the Authority has been completed and submitted to the Governing Body and this resolution approving submission of the completed Application to the Authority for its consideration and review is required as part of the Application.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FARMINGTON:

Section 1. That all action (not consistent with the provision hereof) heretofore taken by the Governing Body and the officers and employees thereof directed toward the Application and the Project, be and the same is hereby ratified, approved and confirmed.

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

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

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

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

PASSED, APPROVED, SIGNED AND ADOPTED this 9th day of April, 2019.

Nate Duckett, Mayor

SEAL

ATTEST:

Dianne Smylie, City Clerk
# Public Project Revolving Fund Infrastructure Application

## I. General Information

### A. Applicant / Entity

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<tr>
<th>Applicant/Entity:</th>
<th>City of Farmington, NM</th>
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</thead>
<tbody>
<tr>
<td>Address:</td>
<td>800 Municipal Drive, Farmington, NM 87401</td>
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<tr>
<td>County:</td>
<td>San Juan</td>
</tr>
<tr>
<td>Census Tract:</td>
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| Federal Employer Identification Number (EIN) as issued by the IRS: | 85-6000129 |

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<th>Senate:</th>
<th>House:</th>
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<td>505-599-1220</td>
<td>Email Address:</td>
<td><a href="mailto:temrich@fmtn.org">temrich@fmtn.org</a></td>
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<table>
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<tr>
<th>Individual Completing Application:</th>
<th>Evan Kist, CFA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address:</td>
<td>6301 Uptown Blvd NE, Suite 110, Albuquerque, NM 87110</td>
</tr>
<tr>
<td>Phone:</td>
<td>505-872-5996</td>
</tr>
<tr>
<td>Fax:</td>
<td>505-872-5979</td>
</tr>
<tr>
<td>Email Address:</td>
<td><a href="mailto:evan.kist@rbccm.com">evan.kist@rbccm.com</a></td>
</tr>
</tbody>
</table>

### B. Consulting Professionals (Bond/Legal Counsel, Architect, Engineer, etc.), if available:

<table>
<thead>
<tr>
<th>Firm:</th>
<th>RBC Capital Markets</th>
<th>Modrall Sperling</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contact:</td>
<td>Evan Kist, CFA</td>
<td>Peter Franklin</td>
</tr>
</tbody>
</table>

| Address:                      | 6301 Uptown Blvd NE, Suite 110, Albuquerque, NM 87110 | 123 East Marcy, Suite 201, Santa Fe, NM 87501 |
| Phone:                        | 505-872-5996       | evan.kist@rbccm.com |
| Fax:                          | 505-984-2856       | pf franklin@modrall.com |
B. PRIMARY CONTACT PERSON:

<table>
<thead>
<tr>
<th>Name:</th>
<th>City of Farmington, NM</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contact:</td>
<td>Teresa Emrich, Administrative Services Director</td>
</tr>
<tr>
<td>Address:</td>
<td>800 Municipal Drive, Farmington, NM 87401</td>
</tr>
<tr>
<td>Phone:</td>
<td>505-599-1220</td>
</tr>
<tr>
<td>Fax:</td>
<td></td>
</tr>
<tr>
<td>Email Address:</td>
<td><a href="mailto:temrich@fmtn.org">temrich@fmtn.org</a></td>
</tr>
</tbody>
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II. PROJECT SUMMARY

A. Project Description. Complete the following information, using additional paper if necessary. Include any additional documents that may be useful in reviewing this project, i.e. architectural designs, feasibility studies, business plan, etc.

1. Description of the project.

Please see attached for a complete description of the projects

See attached project list with budgeted costs for new money projects

2. Proposed Project Start Date: **June 2019**  
   Proposed Project Completion Date: **June 2020**
   
   When do you need NMFA funds available? **June 2019**

3. How will the ongoing maintenance, operation, and replacement of this project be funded?

   General Fund / Road Fund

4. Provide a detailed drawdown schedule for project payments. The schedule may reflect monthly or quarterly payments.

B. Total Project Cost & Sources of Funds Detail.

<table>
<thead>
<tr>
<th>Construction Activities</th>
<th>NMFA Funds Requested</th>
<th>Other Public Funds*</th>
<th>Private Funds</th>
<th>Total</th>
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Revised 01/19/07
*Specify any other public funds, and amounts and terms of these funds, i.e. FmHA, CDBG, EPA, etc.

<table>
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<tr>
<th>Source</th>
<th>Amount</th>
<th>Terms / # of Years</th>
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<tr>
<td>Total: $</td>
<td>$</td>
<td></td>
</tr>
</tbody>
</table>

Attach a letter verifying that each non-NMFA funding source has been approved, or is in the process of being approved for this project. Explain any exceptions.

C. Will this project require right-of-way acquisition? Yes ☐ No ☐

If yes, specify any right-of-way needs, and whether acquisition may or may not delay beginning of project.

City of Farmington

D. Who will hold title to the land where the project is to be located?

If this is land owned by the Bureau of Land Management, State Land Office, or Tribal Land, please attach lease agreements. (If there is no clear title, attach an explanation of ownership arrangements).

E. Does this project require a Joint Powers Agreement (JPA)? Yes ☐ No ☐

If yes, provide a copy of (attach) the JPA, which should include a list of the current membership.

### III. FINANCING

A. 1. Specify the revenue to be pledged as security for the NMFA loan (a revenue source must be pledged for this type of project).

☐ Municipal Local Option GRT – please specify: 1/8th GRT

☐ County Option GRT – please specify: ____________________________

☐ Other Tax-Based Revenue: ______________________________________
B. State-Shared GRT
☐ Law Enforcement Funds
☐ Fire Protection Funds
☐ Net System Revenues:
☐ Other Revenue:

2. Is there an alternative revenue source available to pledge to pay debt service in the event that the primary pledged revenue is unavailable or insufficient? Yes ☐ No ☐ If yes, specify:


B. Is any debt being repaid from the revenue source(s) referenced in A (1)? Yes ☐ No ☐ If yes, provide bond or loan documents and payment schedule for any existing debt service being paid from the same revenues that would be used to repay a NMFA loan.

IV. READINESS TO PROCEED ITEMS

A. The following items must accompany this application in order for this application to be considered complete:

☐ Equipment cost breakdown (if applicable)
☐ Three most recently completed fiscal year audit reports
☐ Current unaudited financials
☐ Current fiscal year budget
☐ Verification of ownership of land where project will be located
☐ Documentation that each non-NMFA project funding source has been approved, or is in the process of being approved (if applicable)
☐ Joint Powers Agreement (if applicable)

B. In addition, complete the following information, using additional paper as necessary. These items will be required prior to disbursement of NMFA proceeds:

☐ Provide a detailed drawdown schedule for project payments
☐ Final technical information for the project, stamped and approved by a registered engineer
☐ Cost breakdown of the project, certifiable by either an engineer or architect
☐ Area map, site map, and floor map (if applicable)
☐ Verification of ownership of land where project will be located
☐ Documentation that each Non-NMFA project funding source has been approved, or is in the process of being approved (if applicable)
☐ Documentation showing status of right-of-way acquisition (if applicable)
☐ Explanation of land ownership arrangements (if applicable)
☐ List all required permits and licenses necessary to complete this project. Detail the status of each item, a plan of action, and time frame for completing incomplete permits and licenses. Also provide a copy of all permits and licenses.

☐ Is there litigation pending which would have a bearing on this project or applicant? Yes ☐ No ☐
If yes, provide a complete summary of all circumstances relating to such litigation.

☐ Indicate the regular meeting dates for your authorizing body: ______

V. CERTIFICATION

I certify that:

We have the authority to request and incur the debt described in this application and, upon award, will enter into a contract for the repayment of any NMFA loans and/or bonds.

We will comply with all applicable state and federal regulations and requirements.

To the best of my knowledge all information contained in this application is valid and accurate and the submission of this application has been authorized by the governing body of the undersigned jurisdiction.

Signature: ______________________________ Title: Mayor

______________________________ (highest elected official)

Jurisdiction: City of Farmington

Print Name: Nate Duckett Date: ______________

Signature: ______________________________ Date: ______________

Finance Officer/Director: ______________

[Signature and seal]
ORDINANCE NO. 2019-XXXX

AN ORDINANCE AMENDING CHAPTER 22, BY ADDING A NEW ARTICLE 8, ENTITLED "WIRELESS COMMUNICATION FACILITIES"; PROVIDING DEFINITIONS; PROVIDING FOR PERMITS; AND PROVIDING FOR SEVERABILITY

WHEREAS, the City of Farmington ("City") desires to encourage wireless infrastructure investment by providing a fair and predictable process for the deployment of small wireless facilities, while enabling the City to promote the management of the rights-of-way in the overall interests of the public health, safety and welfare; and

WHEREAS, the City recognizes that small wireless facilities are critical to delivering wireless access to advanced technology, broadband and 9-1-1 services to homes, businesses and schools within the City; and

WHEREAS, the City acknowledges that small wireless facilities, including facilities commonly referred to as small cells, often may be deployed most effectively in the public rights-of-way; and

WHEREAS, the City intends to fully comply with State and federal law; and

WHEREAS, federal laws and regulations, wireless technology and consumer usage have reshaped the environment within which wireless communication facilities are permitted and regulated.

NOW, THEREFORE, BE IT ORDAINED by the City of Farmington, New Mexico that Chapter 22, shall be amended by adding Article 8, Wireless Communication Facilities as follows:

Sec. 22-8-1 Purpose.

(a) To establish policies and procedures for the placement of small wireless facilities in rights-of-way within the City, which will provide public benefit consistent with the preservation of the integrity, safe usage, and visual qualities of the City rights-of-way and the City as a whole;

(b) To prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways and places;

(c) To prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;

(d) To prevent interference with the facilities and operations of facilities lawfully located in rights-of-way;

(e) To preserve the character of the neighborhoods in which facilities are installed;

(f) To facilitate rapid deployment of small wireless facilities to provide the benefits of advanced wireless services;

(g) To ensure City zoning regulations are applied consistently with federal and State telecommunications laws, rules and regulations of the Federal Communications Commission and controlling court decisions; and

(h) To provide regulations which are specifically not intended to, and shall not be interpreted or applied to, (1) prohibit or effectively prohibit the provision of personal wireless services, (2) unreasonably discriminate among functionally equivalent service providers, or (3) regulate wireless communication facilities and wireless transmission equipment on the basis of the environmental effects of radio frequency emissions to the extent that such emissions comply with the standards established by the FCC.

Sec. 22-8-2 Definitions. As used in this Ordinance, the following terms shall have the meanings set forth below:

- 7.0 -
(a) "Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals and that is used to provide wireless services.

(b) "Antenna array" means a single or group of antenna elements, not including small wireless facilities, and associated mounting hardware, transmission lines, remote radio units, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving wireless communication signals.

(c) "Applicable codes" means uniform building, fire, electrical, plumbing or mechanical codes adopted by a recognized national code organization and enacted by the City, including the local amendments to those codes enacted by the City solely to address imminent threats of destruction of property or injury to persons, to the extent that those amendments are consistent with the Wireless Consumer Advanced Infrastructure Investment Act ("Act").

(d) "Applicant" means a wireless provider that submits an application.

(e) "Application" means a request submitted by an applicant to the City for a permit to collocate one or more small wireless facilities or to approve the installation, modification or replacement of a utility pole or wireless support structure.

(f) "City" means the City of Farmington.

(g) "City utility pole" means a utility pole, owned or operated by the City, in a right-of-way.

(h) "Collocate" or "collocation" means to install, mount, maintain, modify, operate or replace one or more wireless facilities on, in or adjacent to a building, wireless support structure or utility pole for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

(i) "Design district" means an area zoned or otherwise designated by municipal ordinance and for which a municipality maintains and uniformly enforces unique design and aesthetic standards.

(j) "Distributed Antenna System" or "DAS" means a network consisting of equipment at a central hub site to support multiple antenna locations throughout the desired coverage area.

(k) "FAA" means the Federal Aviation Administration.

(l) "FCC" means the Federal Communications Commission.

(m) "Fee" means a one-time charge.

(n) "Historic district" means a group of buildings, properties or sites that fall within the category defined in 47 C.F.R. 1.1307(a)(4) and are: (a) listed in the national register of historic places or formally determined eligible for listing in that register by the keeper of the register in accordance with the nationwide programmatic agreement found in 47 C.F.R. Part 1, Appendix C; or (b) designated as a historic district in accordance with the Historic District and Landmark Act.

(o) "Law" means federal, state or local law.

(p) "Permit" means the written permission of the City for a wireless provider to install, mount, maintain, modify, operate or replace a utility pole or to collocate a small wireless facility on a utility pole or wireless support structure.

(q) "Person" means an individual, corporation, limited liability company, partnership, association, trust or other entity or organization and includes the City.
"Rate" means a recurring charge.

"Right-of-way" means the area on, below or above a public roadway, highway, street, sidewalk, alley or utility easement. Right-of-way does not include the area on, below or above a federal interstate highway, a state highway or route under the jurisdiction of the department of transportation, a private easement or a utility easement that does not authorize the deployment sought by a wireless provider.

"Small wireless facility" or "small wireless facilities" mean(s) a wireless facility that:

1. is mounted on structures fifty (50) feet or less in height including their antennas; or
2. is mounted on structures no more than ten percent (10%) taller than other adjacent structures; or
3. does not extend existing structures on which they are located to a height of more than fifty (50) feet or by more than ten percent (10%), whichever is greater;
4. has antennas that are, or could fit, inside an enclosure no more than three (3) cubic feet in volume; and
5. has other ground- or pole-mounted wireless equipment and any pre-existing associated equipment on the structure, not including the following, that are twenty-eight (28) or fewer cubic feet in volume:
   (i) electric meter;
   (ii) concealment elements;
   (iii) telecommunications demarcation box;
   (iv) grounding equipment;
   (v) power transfer switch;
   (vi) cutoff switch;
   (vii) vertical cable runs for the connection of power and other services; and
   (viii) design elements required by the City.
6. the facilities do not require antenna structure registration under federal law;
7. the facilities are not located on Tribal land as defined under federal law; and
8. the facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified under federal law.

"Stealth design" means a design that minimizes the visual impact of wireless communication facilities by camouflaging, disguising, screening or blending into the surrounding environment. Examples of stealth design include, but are not limited to, facilities disguised as trees (monopines), flagpoles, utility and light poles, bell towers, clock towers, ball field lights and architecturally screened roof-mounted antennas or flush-mounted antennas that are either painted to match or enclosed in an architecturally-applicable box.

"Tower" means any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public...
safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

(w) "Utility pole" means a pole or similar structure used in whole or in part for communications services, electricity distribution, lighting or traffic signals. Utility pole does not include a wireless support structure or electric transmission structure.

(x) "Wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including equipment associated with wireless communications; radio transceivers, antennas, coaxial or fiber-optic cables, regular and backup power supplies and comparable equipment, regardless of technological configuration; and includes a small wireless facility. Wireless facility does not include:

(1) the structure or improvements on, under or within which the equipment is collocated;

(2) a wireline backhaul facility, coaxial cable or fiber-optic cable between wireless support structures or utility poles; or

(3) coaxial or fiber-optic cable otherwise not immediately adjacent to, or directly associated with, an antenna.

(y) "Wireless infrastructure provider" means a person, other than a wireless services provider, that may provide telecommunications service in New Mexico and that builds or installs wireless communications transmission equipment, wireless facilities' utility poles or wireless support structures.

(z) "Wireless provider" means a wireless infrastructure provider or wireless services provider.

(aa) "Wireless services" means services provided to the public that use licensed or unlicensed spectrum, either mobile or at a fixed location, through wireless facilities.

(bb) "Wireless services provider" means a person that provides wireless services.

(cc) "Wireless support structure" means a freestanding structure, including a monopole or guyed or self-supporting tower, but not including a utility pole.

(dd) "Wireline backhaul facility" means a facility used to transport services by wire from a wireless facility to a network.

Sec. 22-8-3 Exempt Facilities. The following are exempt:

(a) FCC licensed amateur (ham) radio facilities;

(b) Satellite earth stations, dishes or antennas used for private television reception not exceeding one (1) meter in diameter; and

(c) A temporary, commercial wireless communication facility installed for providing coverage of a special event such as news coverage or sporting event, subject to approval by the City. The facility shall be exempt from the provisions of this Article for up to one week before and after the duration of the special event.

Sec. 22-8-4 Permitted Use; Application and Fees.

(a) Permitted Use. Collocation of a small wireless facility or a new or modified utility pole for the collocation of a small wireless facility shall be a permitted use subject to the other requirements of this Article.
(b) Permit Required. No person shall place a small wireless facility in the rights-of-way, without first filing a small wireless facility application and obtaining a permit therefore.

(c) Permit Application. All small wireless facility applications for permits filed pursuant to this Article shall be on a form, paper or electronic, provided by the City.

(d) Application Requirements. The small wireless facility permit application shall be made by the wireless provider or its duly authorized representative and shall contain the following:

1. The applicant's name, address, telephone number, and email address;

2. The names, addresses, telephone numbers, and email addresses of all consultants, if any, acting on behalf of the applicant with respect to the filing of the application;

3. A general description of the proposed work and the purposes and intent of the small wireless facility. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed;

4. A small wireless facility shall comply with all applicable codes.

(e) Routine Maintenance and Replacement. The City may not require an application, approval or permit or impose a fee, rate or other charge for the routine maintenance of a small wireless facility, the installation, maintenance, operation, placement or replacement of a micro wireless facility that is, in accordance with applicable codes, suspended on cables strung between utility poles or wireless structures or the replacement of a small wireless facility with one that is similar in size to, the same size as or smaller than it as long as the wireless provider notifies the City of the replacement at least ten (10) days before the replacement. As used in this subparagraph, "micro wireless facility" means a small wireless facility less than twenty-four inches long, fifteen inches wide and twelve inches high whose exterior antenna, if any, is less than eleven inches long. The City may require a permit for routine maintenance or replacement of a small wireless facility in the rights-of-way that affect traffic patterns or require lane closures.

(f) Application Fees. The City may charge an applicant an application fee in the amount of one hundred dollars ($100) for each of up to five (5) small wireless facilities and fifty dollars ($50) for each additional small wireless facility whose collocation is requested in a single application.

Sec. 22-8-5 Application Review.

(a) Review of Small Wireless Facility Applications.

1. The City shall review the application for a small wireless facility permit in light of its conformity with applicable regulations of this Article, and other applicable local ordinances, and shall issue a permit on nondiscriminatory terms and conditions subject to the following requirements:

1. Within ten (10) days of receiving an application for a small wireless facility, the City must determine and notify the applicant whether the application is complete. If an application is incomplete, the City must specifically identify the missing information in writing. Upon resubmission by the applicant, the City has ten
(10) days to notify the applicant again of an incomplete application and the shot clock will reset. Thereafter, the shot clock will be tolled only by mutual agreement between the City and the applicant, or in cases where the City determines upon a resubmission that the application is incomplete. The processing deadline is then tolled from the date the City sends the notice of incompleteness to the date the applicant provides the missing information. The application is deemed complete if the applicant is not notified within the 10-day period subject to resetting the shot clock or tolling.

(ii) Make its final decision to approve or deny the application within sixty (60) days of receipt of an application for placement of small wireless facilities on an existing structure (subject to the resetting of the shot clock under federal law) and within ninety (90) days of receipt of an application for the placement of small wireless facilities on a new structure (subject to the resetting of the shot clock under federal law), and subject to the tolling provisions herein; and

(iii) Advise the applicant in writing of its final decision, and in the final decision document the basis for a denial, if any, including specific code provisions on which the denial was based, and send the documentation to the applicant. In the sixty (60) or ninety (90) days, as applicable, after the City receives an application to collocate a small wireless facility on an existing structure or a new structure, the City may provide public notice of the application and an opportunity for written public comment on the application, submit the written public comment to the applicant and request that the applicant respond to it. If the City determines that applicable codes or laws require that a utility pole or wireless support structure be replaced before an application for collocation is approved, the City may condition approval of the application on that replacement. The applicant may cure the deficiencies identified by the City and resubmit the application within thirty (30) days of the denial without paying an additional application fee. The City shall approve or deny the revised application within thirty (30) days of receipt of the amended application. The subsequent review by the City shall be limited to the deficiencies cited in the original denial. The City may require the applicant to certify that the small wireless facilities to be collocated conform with the FCC’s regulations concerning radio frequency emissions.

(2) If the City fails to act on an application within the sixty (60) or ninety (90) day review period, as applicable, subject to resetting the shot clock once and tolling, the application is deemed approved. The City may also request an extension of the sixty (60) or ninety (90) day period, and the City and the applicant may agree to extend that period. An applicant shall not unreasonably deny a City’s request to extend the period.

(3) The City may only deny a completed application to collocate small wireless facilities if the application does not conform with applicable codes or local laws concerning:

(i) public safety;
(ii) design for utility poles to the extent that the standards are objective;

(iii) stealth and concealment but only to the extent that the restrictions are reasonable; and

(iv) the spacing of ground-mounted equipment in a right-of-way; or

(v) if there is non-conformance with design district or historic district requirements.

(4) An applicant seeking to collocate small wireless facilities may, at the applicant’s discretion, file a consolidated application and receive a single permit for multiple small wireless facilities. Provided, that the City’s denial of one or more small wireless facilities in a consolidated application shall not delay the processing of any other small wireless facilities submitted in the same application.

(5) The City may require an applicant to obtain one or more permits to collocate a small wireless facility in a right-of-way if the requirement is of general applicability to users of the right-of-way. An applicant seeking to collocate within the City up to twenty-five (25) small wireless facilities, all of which are substantially the same type, on substantially the same types of structures, may file a consolidated application for the collocation of the facilities. An applicant shall not file with the City more than one consolidated application in any five-business-day period. The applicant shall include in a consolidated application an attestation that, unless a delay in collocation is caused by the lack of commercial power or fiber at the site, the collocation will begin within one hundred eighty (180) days after the permit issuance date. The City and provider may subsequently agree to extend that period.

Sec. 22-8-6 Small Wireless Facilities in the ROW; Maximum Height; Other Requirements.

(a) Maximum Size of Permitted Use. Small wireless facilities, and new or modified utility poles for the collocation of small wireless facilities, may be placed in the rights-of-way as a permitted use contingent upon the approval of an application by the City and subject to the following requirements:

(1) A new replacement or modified utility pole associated with the collocation of a small wireless facility in the right-of-way is not subject to zoning review and approval, except for that which pertains to under-gounding prohibitions, unless the utility pole is higher than whichever of the following is greater: ten (10) feet plus the height in feet of the tallest existing utility pole excluding a utility pole supporting wireless facilities that is in place on the effective date of the Act, located within five hundred (500) feet of the new, replacement or modified utility pole, in the same right-of-way, and fifty (50) or fewer feet above ground level or fifty (50) feet.

(2) New small wireless facilities in the rights-of-way may not extend:

(i) More than ten (10) feet above an existing utility pole in the rights-of-way in place as of the effective date of this Article; or

(ii) More than ten (10) feet above the height for a new utility pole.

(3) A small wireless facility collocated on a utility pole or wireless support structure that extends ten (10) or
fewer feet above the pole or structure in a right-of-way in any zone is classified as a permitted use and is not subject to zoning review or approval.

(b) Application Required for a Utility Pole. An application for the installation of a new, replacement or modified utility pole for the collocation of a small wireless facility in the right-of-way is required. The application shall be approved unless the installation does not conform with:

1. applicable codes or laws regarding public safety, design, or under-grounding prohibitions if those regulations require under-grounding by a date certain within one (1) year after the application, include a waiver of zoning or other processes and allow the replacement of utility poles;

2. federal or state standards for pedestrian access or movement;

3. design or historic district requirements;

4. contractual requirements between the City and a private property owner concerning the design of utility poles in the right-of-way; or

5. the City's laws concerning public safety and reasonable minimum spacing requirements for new utility poles in the rights-of-way.

(c) Application Processing. An application for a permit to install a new, replacement or modified utility pole for the collocation of a small wireless facility shall be processed within ninety (90) days after receipt of the application. If the City fails to act on the application within that time period, subject to resetting the shot clock once and tolling, the application is deemed approved. The application fee shall be seven hundred fifty dollars ($750).

Installation, modification or replacement shall begin within one hundred eighty (180) days after the permit issuance unless the City and wireless provider agree to extend that time or a delay is caused by a lack of commercial power or fiber at the site. The new, modified or replacement utility pole may be maintained for ten (10) years and the permit will be renewed for one ten (10) year period unless the utility pole does not conform with applicable codes or laws. At the expiration of the permit renewal/extension, the permit shall lapse and a new application will be required.

(d) Zoning. Any wireless provider that seeks to install, modify, operate or replace a utility pole in the rights-of-way that exceeds the height or size limits contained in this Article shall be subject to applicable zoning requirements.

(e) Decorative Poles: A wireless provider shall be permitted to replace a decorative pole when necessary to collocate a small wireless facility, but any replacement pole shall reasonably conform to the design aesthetics of the decorative pole being replaced and shall be subject to local approval, which shall not be unreasonably denied.

(f) Underground District. In areas designated solely for underground or buried cable and utility facilities, the City shall allow replacement of City poles in the designated area. The wireless provider is permitted to seek a waiver of the undergrounding requirements for the placement of a new utility pole to support small wireless facilities.

(g) Historic and Design Districts. The City may require as they pertain to small wireless facilities located in design districts or historic districts reasonable, technically feasible, non-discriminatory and technologically neutral design or concealment measures and reasonable measures for conforming to the design aesthetics of design districts or
Sec. 22-8-7 Effect of Permit.

(a) Authority Granted. A permit from the City authorizes an applicant to undertake only certain activities in accordance with this Article and does not create a property right or grant authority to the applicant to impinge upon the rights of others who may already have an interest in the rights-of-way.

(b) Permit Duration. Work described in a permit granted pursuant to this Article shall be completed within one hundred eighty (180) days of the permit issuance date unless the City and applicant agree to extend this period due to delay caused by the lack of commercial power or communications facilities. Subject to applicable relocation requirements and the applicant's right to terminate collocation at any time, the permit is valid for a period of ten (10) years, and will be renewed for one ten-year term unless the City finds that the small wireless facility does not conform with applicable codes and local laws. At the expiration of the permit renewal/extension, the permit shall lapse and a new application will be required.

Sec. 22-8-8 Removal, Relocation or Modification of Small Wireless Facilities in the ROW.

(a) Notice. Within ninety (90) days following written notice from the City, a wireless provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any small wireless facilities within the rights-of-way whenever the City has determined that such removal, relocation, change or alteration is reasonably necessary for the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the rights-of-way.

(b) Emergency Removal. The City retains the right and privilege to cut or move any small wireless facility located within the rights-of-way of the City, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the City shall notify the wireless provider and provide the wireless provider an opportunity to move its own facilities prior to cutting or removing a facility and shall notify the wireless provider after cutting or removing a small wireless facility.

(c) Abandonment of Facilities. Upon abandonment of a small wireless facility or utility pole within the rights-of-way of the City, the wireless provider shall notify the City in writing of its intention to discontinue use of a small wireless facility or utility pole. The notice shall inform the City of the time and the way in which the small wireless facility or utility pole will be removed. The wireless provider is responsible for the costs of the removal. The City may require the wireless provider to return the property to its pre-installation condition according to the City's reasonable and nondiscriminatory requirements and specifications. If the wireless provider does not complete the removal within forty-five (45) days after notice, the City may complete the removal and assess the costs of removal against the wireless provider. The permit for the small wireless facility or utility pole expires upon removal.

(d) Damage and Repair. The City may require a wireless provider or the provider's contractor to repair all damage to the City's property or rights-of-way caused by the activities of the wireless provider or contractor and return the property and rights-of-way to their pre-damage condition according to the City's requirements and specifications upon written notice of the requirements to the provider. If the wireless provider fails to make the repairs within a reasonable period
after receiving the notice, the City may effectuate those repairs and charge the provider the reasonable, documented cost of such repairs.

Sec. 22-8-9 Rates.

(a) Annual Rate for Use of Right-of-Way. The City may charge a wireless provider for the provider’s use of the right-of-way in constructing, installing, maintaining, modifying, operating or replacing a utility pole or in collocating a small wireless facility in the right-of-way an annual rate of two hundred fifty dollars ($250) multiplied by the number of small wireless facilities placed by the wireless provider in the City’s right-of-way.

(b) Annual Rate Increase for Use of Right-of-Way. To the extent allowed by law, the City may adjust the annual rate, but no more often than once a year and by no more than an amount equal to one-half the annual change, if any, in the most recent Consumer Price Index for all urban consumers for New Mexico, as published by the United States Department of Labor. The City shall notify all wireless providers charged the pre-adjusted rate of the prospective adjustment and shall make the adjustment effective sixty (60) days or more following that notice.

(c) Annual Rate for Use of City Utility Poles. The rate for collocation of a small wireless facility on a City utility pole in the right-of-way shall be twenty dollars ($20) per year.

Sec. 22-8-10 Attachment to or Utility Poles in the Right-of-Way.

(a) Placement of Small Wireless Facilities and Poles. Subject to the approval of an application by the City, a wireless provider may collocate small wireless facilities and construct, install, modify, mount, maintain, operate and replace utility poles associated with the collocation of a small wireless facility along, across, on or under City right-of-way. The City shall not enter into an exclusive agreement with a wireless provider for the use of a right-of-way in constructing, installing, maintaining, modifying, operating or replacing a utility pole or collocating a small wireless facility on a utility pole or wireless support structure.

(b) Review of Applications. The City shall process an application for approval to collocate a small wireless facility on a City utility pole in accordance with this Article. The City may condition the issuance of a permit on the wireless provider’s replacement of the City utility pole if applicable codes or local laws concerning public safety require that replacement. The City shall process an application for a permit to install a replacement City pole in accordance with this Article. The City shall retain ownership of the replacement utility pole.

Sec. 22-8-11 Proper Placement.

(a) A wireless provider that deploys a utility pole or small wireless facility in a right-of-way shall construct, maintain and locate it so as not to obstruct travel, endanger the public or interfere with another utility facility in the right-of-way. The wireless provider’s operation of a small wireless facility in the right-of-way shall not interfere with the City’s public safety communications. The wireless provider shall comply with the National Electric Safety Code and all applicable laws. The City may, through its Public Works Department, adopt reasonable regulations concerning the separation of the wireless provider’s utility poles and small wireless facilities from other utility facilities in the right-of-way.

(b) If the City determines that a utility pole or the wireless support structure of a wireless provider must be relocated to accommodate a public project, the provider shall assume the
cost of relocating the wireless facility deployed on the pole or structure.

(c) Without the City’s written consent, a wireless provider shall not install a new utility pole in a right-of-way adjacent to a street or thoroughfare that is fifty (50) feet wide or less and adjacent to single family residential lots or other multifamily residences or to undeveloped land designated for residential use by zoning or deed restrictions.

(d) Exempt From Zoning Review.

(1) Small wireless facilities, DAS and other similar networks on poles in public rights-of-way, on City-owned property, on private property, or on other structures, including stealth facilities, monopoles or replacement poles under fifty (50) feet that are located in the public rights-of-way for placement of small wireless facilities, DAS and other similar networks, are exempt from zoning review and shall be subject only to encroachment or building permits by administrative review.

(2) Notwithstanding any other provision of this Article, the City may not require an applicant or provider to submit an application or pay a rate for:

(i) routine maintenance that does not require excavation or closing of sidewalks or vehicular lanes in a public right-of-way;

(ii) replacing or upgrading a small wireless facility, DAS, or other similar network with a facility that is substantially similar in size or smaller and that does not require excavation or closing of sidewalks or vehicular lanes in a public right-of-way;

(iii) temporary small wireless facilities, DAS or communications facilities placed for a period of not more than:

(a) twenty-one (21) days for temporary uses related to special events;

(b) ninety (90) days for temporary uses related to repair of facilities; or

(c) not more than ninety (90) days at any location within the City after declaration of an emergency or a disaster by the Governor of New Mexico.

(3) For purposes of the foregoing exemptions, a small wireless facility, DAS, other similar network, or pole is considered to be "substantially similar" if:

(i) the new or upgraded facility, including the antenna or other equipment element, will not be more than ten (10) percent larger on a one-time basis than the existing facility, provided that the increase may not result in the facilities exceeding the size limitations provided elsewhere in this Article;

(ii) the new or upgraded pole will not be higher than the existing pole;

(iii) the replacement or upgrade does not include replacement of an existing service pole;

(iv) the replacement or upgrade does not defeat existing concealment elements of the existing pole; and

(v) The determination of whether a replacement or upgrade is substantially similar is made by measuring from the dimensions of the small
wireless facility or pole as approved by the City.

(e) **Collocation.** Support structures for small wireless facilities or similar networks shall be capable of accommodating the collocation of other service providers.

(f) **Signage.** Signs located at the small wireless facilities, DAS, and similar networks shall be limited to ownership and contact information, FCC Antenna registration number (if required) and any other information as required by an applicable governmental authority. Commercial advertising is strictly prohibited.

(g) **Accessory Equipment.** Accessory equipment, including any buildings, cabinets or shelters, shall be used only to house equipment in support of the operation of the small wireless facility or its support structure. Any equipment not used in direct support of such operation shall not be stored on the site.

**Sec. 22-8-12 General Requirements for Towers and Poles.**

(a) **Inventory of Existing Sites.** Each applicant for a pole or tower exceeding the height limitation of the affected zoning district shall provide to the Planning Division an inventory of its existing poles or towers that are either within the jurisdiction of the City or within one (1) mile of the border thereof, including specific information about the location, height, and design of each pole or tower. The applicant shall only be required to provide this information in its first application following implementation of this Article, and not thereafter. The Planning Division may share such information with other applicants applying for permits under this Article or other organizations seeking to locate poles or towers within the jurisdiction of the City, provided, however, that the Planning Division is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

(b) **Lighting.** Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

(c) **State or Federal Requirements.** All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Article shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency.

(d) **Building Codes; Standards.** To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable industry standards for towers, as amended from time to time. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower at the owner’s expense.

(e) **Visual Impact.** All towers, poles and small wireless facilities, including equipment enclosures, shall be sited and designed to minimize adverse visual impacts on surrounding properties and the traveling public to the
greatest extent reasonably possible, consistent with the proper functioning of the structure or equipment. Such equipment enclosures shall be integrated through location and design to blend in with the existing characteristics of the site. Such enclosures shall also be designed to either resemble the surrounding landscape and other natural features where located in proximity to natural surroundings, or be compatible with the built environment, through matching and complimentary existing structures and specific design considerations such as architectural designs, height, scale, color and texture or be consistent with other uses and improvements permitted in the relevant zone.

(1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

(2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.

(3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(f) Use of Stealth Design. Concealment techniques in design districts and historic districts must be appropriate given the proposed location, design, visual environment, and nearby uses, structures, and natural features. Stealth design shall be designed and constructed to substantially conform to surrounding building designs or natural settings, so as to be visually unobtrusive.

(g) Building-mounted Equipment.

(1) All transmission equipment shall be concealed within existing architectural features to the maximum extent feasible. Any new architectural features proposed to conceal the transmission equipment shall be designed to mimic the existing underlying structure, shall be proportional to the existing underlying structure or conform to the underlying use and shall use materials in similar quality, finish, color and texture as the existing underlying structure.

(2) All roof-mounted transmission equipment shall be set back from all roof edges to the maximum extent feasible consistent with the need for “line-of-sight” transmission and reception of signals.

(3) Antenna arrays and supporting transmission equipment shall be installed so as to camouflage, disguise or conceal them to make them closely compatible with and blend into the setting or host structure.

(h) Pole-mounted or Tower-mounted Transmission Equipment. All pole-mounted or tower-mounted transmission equipment shall be mounted as close as possible to the pole or tower so as to reduce the overall visual profile of the maximum extent feasible consistent with safety standards.

(i) Concealment of Pole-mounted Equipment. All pole-mounted equipment must be reasonably concealed to the extent technically feasible in a manner that minimizes the visual impact of the pole-mounted equipment. The concealment method and materials must receive prior written approval from the City, not to be unreasonably withheld. Antenna size limitations are exclusive of any concealment materials or fabrication. Concealment materials shall have a color and
finish consistent and appropriate with the pole on which they are mounted.

(j) **Accessory Equipment.** All accessory equipment located at the base of a small wireless facility shall be located or placed (at the applicant's choice) in an existing building, underground, or in an equipment shelter that is (a) designed to blend in with existing surroundings, using architecturally compatible construction and colors; and (b) be located so as to be unobtrusive as possible consistent with the proper functioning of the small wireless facility.

(k) **Site Design Flexibility.** Individual small wireless facility sites vary in the location of adjacent buildings, existing trees, topography and other local variables. By mandating certain design standards, there may result a project that could have been less intrusive if the location of the various elements of the project could have been placed in more appropriate locations within a given site. Therefore, the small wireless facility and supporting equipment may be installed so as to best camouflage, disguise them, or conceal them, to make them more closely compatible with and blend into the setting or host structure.

(l) **Structural Assessment.** The owner of a proposed tower shall have a structural assessment of the tower conducted by a professional engineer, licensed in the State of New Mexico, which shall be submitted with the application for a permit.

(m) **Radio Frequency Emissions Compliance Report.** A Radio Frequency ("RF") emissions compliance report will be prepared, signed and sealed by a New Mexico-licensed professional engineer or a competent employee of the applicant, which assesses whether the proposed small wireless facility demonstrates compliance with the exposure limits established by the FCC. The employee of the applicant must be qualified in the field of RF emissions and provide satisfactory evidence of his/her qualifications to the City.

(n) **Residential Provisions.**

(1) All small wireless facilities on residentially zoned property are encouraged to either be painted or treated the same color as the primary structure or the surface to which the facilities are attached.

(2) Screening or painting of roof-mounted structures is required on all sides of the residential property in which a small wireless facility is to be or is placed.

(o) **Screening of Ground-mounted Equipment.** Ground equipment and equipment enclosures outside of the right-of-way shall be screened by a screen wall, painted, and/or landscaped.

(1) Screening and equipment enclosures shall blend with or enhance the surrounding area in terms of scale, form, texture, materials, and color. Equipment shall be concealed as much as possible by blending into the natural and/or physical environment. All screening shall be at the reasonable discretion of the City.

(2) When trees, bushes, rocks, and other forms of landscaping are used for screening, such landscaping must match the predominant landscaping form and species within one block of the facilities.

(p) **Additional Screening Requirements.** Any new, modified, or replacement poles installed in the right-of-way in conjunction with the installation of a small wireless facility, including any ground mounted equipment, electrical service meter, and screening shall:

(1) Be designed to blend in with the surrounding streetscape with minimal visual impact;
[2] Satisfy all required Americans with Disabilities Act requirements;
[3] Not impair or interfere with line of sight visibility; and
[4] Not block or obstruct existing roadway or commercial signage.

Sec. 22-8-13 Preferred Tower Locations

(a) New small wireless facilities must, to the maximum extent feasible, be collocated on existing towers or other structures of a similar height to avoid construction of new towers.

(b) The City encourages all applicants for new towers to follow siting priorities, from most-preferred (1) to least-preferred (8):

(1) City-owned or operated property or facilities, not including rights-of-way;
(2) commercial and industrial zones;
(3) office zones;
(4) other non-residential zones;
(5) City rights-of-way in non-residential zones;
(6) City rights-of-way in residential zones;
(7) parcels of land in residential zones;
(8) designated design or historic districts.

(c) Collocation Consent. A written statement will be signed by a person with the legal authority to bind the applicant and the project owner, which indicates whether the applicant is willing to allow other transmission equipment owned by others to collocate with the proposed small wireless facility whenever technically and economically feasible and aesthetically desirable.

(d) Documentation. Applications submitted under this Article for small wireless facilities shall include the following materials:

(1) A color visual analysis that includes to-scale visual simulations that show unobstructed before-and-after construction daytime and clear-weather views from at least four angles, together with a map that shows the location of each view.

(2) A written analysis that explains how the proposed design complies with the applicable design standards under this Article to the maximum extent feasible. A design justification must identify all applicable design standards under this Article and provide a factually detailed reason why the proposed design either complies or cannot feasibly comply.

(3) A noise study, if requested by the City.

(4) A scaled site plan clearly indicating the location, type, height and width of the proposed small wireless facilities, on-site land uses and zoning, adjacent land uses and zoning, separation distances, adjacent roadways, a depiction of all proposed transmission equipment, proposed means of access, setbacks from property lines, elevation drawings of the proposed small wireless facilities and any other structures, topography and utility runs.
(5) The setback distance between the proposed small wireless facility and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.

(6) The separation distance from other poles and towers within one (1) mile of the subject pole or tower, shall be shown on an updated site plan or map.

(7) If applicable, the method of camouflage and illumination.

(8) A written statement of purpose which shall minimally include: (1) a description of the objective to be achieved; (2) a to-scale map that identifies the proposed site location and the targeted service area to be benefited by the proposed project; and (3) full-color signal propagation maps with objective units of signal strength measurement that show the applicant’s current service coverage levels from all adjacent sites without the proposed site, predicted service coverage levels from all adjacent sites with the proposed site, and predicted service coverage levels from the proposed site without all adjacent sites. These materials shall be reviewed and signed by a New Mexico-licensed professional engineer or a qualified employee of the applicant. The qualified employee of the applicant shall submit his or her qualifications with the application.

Sec. 22-8-14 Independent Technical and Legal Review. Although the City intends for City staff to review administrative matters to the extent feasible, the City may retain the services of independent experts of its choice to provide technical and legal evaluations of permit applications for small wireless facilities, towers and poles. The expert’s review may include, but is not limited to (a) the accuracy and completeness of the items submitted with the application; (b) the applicability of analysis and techniques and methodologies proposed by the applicant; (c) the validity of conclusions reached by the applicant; and (d) whether the proposed small wireless facilities comply with the applicable approval criteria set forth in this Article. The applicant shall pay the actual, direct and reasonable cost for any independent consultant through a deposit, paid within ten (10) days of the City’s request. When the City requests such payment, the application shall be deemed incomplete for purposes of application processing timelines until the deposit is received. In the event that such costs and fees do not exceed the deposit amount, the City shall refund any unused portion within thirty (30) days after the final permit is released or, if no final permit is released, within thirty (30) days after the City receives a written request from the applicant. If the costs and fees exceed the deposit amount, then the applicant shall pay the difference to the City.

Sec. 22-8-15 Safety Review.

(a) For the period beginning on the date a permit is issued and ending on the date the permitted work is accepted, the City may perform a safety review of construction, reconstruction or installation of all small wireless facilities and poles as it deems necessary to ensure compliance with this Article and the Municipal Code. All City plans, reviews, inspections, standards, and other rights and actions related to the wireless provider’s improvements are for the City’s sole and exclusive benefit and neither the wireless provider nor any other person may rely on the City’s safety review or have any rights related to the reviews. The preceding sentence does not prevent the wireless provider from relying on consents, permits, or approvals the City may grant based on the City’s plans, reviews, and inspections. As a condition of obtaining the permits authorized by this Article, the wireless provider grants the City the right to access the wireless provider’s small wireless facilities and poles. Except for emergencies, this right of access is limited to dates and times agreed to by the parties.

(b) To the extent allowed by law, the City may recover the City’s costs incurred to perform such safety reviews.
Sec. 22-8-16 Final Inspection.

(a) A certificate of completion will only be granted upon satisfactory evidence that the small wireless facilities were installed in substantial compliance with the approved plans.

(b) If it is found that the small wireless facilities installation does not substantially comply with the approved plans, the applicant shall make any and all such changes required to bring the facilities into compliance promptly and in any event prior to putting the facilities in operation.

Sec. 22-8-17 Compliance.

(a) All small wireless facilities must comply with all standards and regulations of the FCC and any State or other federal government agency with the authority to regulate those facilities.

(b) The site and small wireless facilities, including all landscaping, fencing and related transmission equipment, must be maintained at all times in a neat and clean manner.

(c) If any FCC, State or other governmental license or any other governmental approval to provide communication services is ever revoked as to any site permitted or authorized by the City, the permittee must inform the City of the revocation within thirty (30) days of receiving notice of such revocation.

Sec. 22-8-18 Indemnification. Each permit issued for small wireless facilities located in City right-of-way or on other City property shall be deemed to have as a condition of the permit a requirement that the wireless provider defend, indemnify and hold harmless the City and its officers, agents, employees, volunteers, and contractors from any and all liability, damages, or charges (including attorneys’ fees and expenses) arising out of claims, suits, demands, actions or causes of action as a result of the construction, performance, operation, maintenance, repair, replacement, removal, or restoration of the small wireless facilities.

Sec. 22-8-19 Laws, Rules and Regulations. This Ordinance shall be subject to all applicable laws, rules and regulations now or hereafter enacted.

Sec. 22-8-20 Severability. The various parts, sentences, paragraphs, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Sec. 22-8-21 Conflicts. In the event of a conflict between the provisions of this Article, federal laws, rules, regulations, FCC Orders or the Act, the more restrictive shall control. Any ordinance or parts thereof or other provisions of the Municipal Code in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

PASSED, SIGNED, APPROVED AND ADOPTED this 23rd day of April, 2019.

Nate Duckett, Mayor

SEAL

ATTEST:

Dianne Smylie, City Clerk
FIRST AMENDMENT TO LETTER OF INTENT

THIS FIRST AMENDMENT TO LETTER OF INTENT (this "Amendment"), dated as of March 21, 2019, is entered into by and among Acme Equities LLC ("Acme") and Enchant Energy Corporation ("Enchant" or "Buyer"), and City of Farmington, New Mexico, ("Seller"). Each of Acme, Enchant, Buyer and Seller is referred to herein as a "Party" and, collectively, as the "Parties."

WITNESSETH:

Acme and Seller are Parties to the Letter of Intent dated as of February 21, 2019 (the "Letter of Intent"); and

Acme wishes to assign all its rights and obligations under the Letter of Intent to Enchant, a wholly owned Acme affiliate established by Acme for purposes of the Proposed Transaction, and to be released as a Party to the Letter of Intent, and Seller agrees to such assignment and release.

In accordance with Section 11.03 of the Letter of Intent, the Parties wish to amend the Letter of Intent to reflect the Parties' agreements as set forth in this Amendment.

In consideration of the agreements contained herein and the work performed by the Parties in furthering the Proposed Transaction, as well as other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

ARTICLE I
DEFINITIONS

Section 1.1. Certain Definitions. All capitalized terms used in this Amendment and not otherwise defined herein shall have the respective meanings given to such terms in the Letter of Intent.

ARTICLE II
AMENDMENTS

Section 2.1. Assignment and Consent. Acme wishes to assign all of its rights, interests and obligations under the Letter of Intent to Enchant as Buyer and to be released as a Party to the Letter of Intent, and Seller agrees to the assignment by Acme of its rights, interests and obligations under the Letter of Intent to Enchant and to the release of Acme as a Party to the Letter of Intent.
Section 2.2. **Amendments to Section 2 of the Letter of Intent.**

(a) Section 2.01 of the Letter of Intent is hereby amended by deleting the first sentence thereof and inserting the following in its stead:

"Subject to Article III, Buyer and Seller agree to negotiate a Proposed Transaction and the terms and conditions of the Transaction Documents on an exclusive basis from the date hereof through and including September 21, 2019 (the “**Exclusive Period**”)."

(b) Section 11.05 of the Letter of Intent is hereby amended by adding Buyer’s address as follows:

Enchant Energy Corporation  
c/o Acme Equities LLC  
745 Fifth Avenue  
Sixth Floor  
New York, NY 10151  
Telephone: (212) 457-1600  
Mobile (917) 691-4971  
Email: lheller@acmeequities.com

(c) Appendix A: Indicative, Non-Binding Term Sheet is hereby amended as shown in attached Appendix A.

(d) The effective date of this Amendment is March 21, 2019.

**ARTICLE III**

**MISCELLANEOUS**

Section 3.1. **Amendments and Waivers.** This Amendment may be waived, amended, supplemented or modified only by a written instrument duly executed by or on behalf of the Parties.

Section 3.2. **Governing Law; Venue and Consent to Jurisdiction.** Article IX of the Letter of Intent shall apply to this Amendment _mutatis mutandis._

Section 3.3. **Counterparts.** This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Amendment delivered by e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Amendment.

Section 3.4. **No Assignment.** Neither this Amendment nor any right, interest or obligation hereunder may be assigned by any Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed, and any attempt to do so will be void.
Section 3.5. **No Other Changes.** Except as expressly amended by this Amendment, the provisions of the Letter of Intent are hereby ratified and confirmed and shall remain in full force and effect in accordance with their respective terms.

[Signature pages follow]
IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed by their respective officers thereunto duly authorized as of the date first above written.

SELLER:

CITY OF FARMINGTON, NEW MEXICO

By:  
Name: Nate Duckett  
Title: Mayor

BUYER:

ENCHANT ENERGY CORPORATION

By:  
Name: Lawrence II. Heller  
Title: Chairman

ACMÉ EQUITIES LLC

By:  
Name: Lawrence II. Heller

Legal Department
Approved as of
By  
Date  

- 8.3 -
## Appendix A

### INDICATIVE, NON-BINDING TERM SHEET

| San Juan Project | A four unit coal-fired generating station (only two of which are operational) located approximately 15 miles west of Farmington, New Mexico and known as the San Juan Generating Station with a nameplate capacity of up to approximately 1000 MW (the “San Juan Project”). |
| Acquired Assets and Assumed Liabilities | All assets used in connection with the San Juan Project (the “Acquired Assets”) including the following:  
- all real property (whether owned in fee or leased), improvements thereon (including any structures, the switchyard and all other facilities), easements and other rights in real property  
- all transmission and distribution lines  
- all machinery, equipment, tools, furniture, vehicles, rolling stock, telecommunications equipment and other tangible or intangible personal property whether located at the San Juan Project or offsite  
- all inventories including any coal, fuel oils, other consumables and spare parts;  
- any prepayments and all applicable warranties against manufacturers or vendors to the extent such warranties are transferable;  
- all transferable permits including all pending applications and renewals relating to the ownership or operation of the San Juan Project;  
- all contracts that are material to the ownership or operation of the San Juan Project and all other contracts that relate to the ownership and operation of the San Juan Project and which the Buyer elects to acquire;  
- all books and records related to the San Juan Project;  
- all intellectual property used in connection with the operation of the San Juan Project;  
- all rights of Seller in and to any claims, causes of action, rights of recovery, set-off, refund and similar rights against any person or entity relating to any Assumed Liability;  
- all environmental and reclamation funds;  
- all other assets that are related to the San Juan Project (other than contracts and assets that Buyer elects not to acquire)  

The following liabilities (the “Assumed Liabilities”) solely to the extent exclusively used in the operation or maintenance of the San Juan Project and, in each case, arising on or after the closing of the Proposed Transaction:  
- all liabilities under assigned contracts, assigned leases, transferred permits and assigned intellectual property, in each case in accordance with the terms thereof; and  
- all liabilities relating to compensation and benefits for any transferred employees.  

1 NTD: Obligations TBD.
<table>
<thead>
<tr>
<th>Seller</th>
<th>City of Farmington, New Mexico as owner of all the assets and liabilities of the San Juan Project. ²</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buyer</td>
<td>Enchant Energy Corporation or its designated affiliate</td>
</tr>
<tr>
<td>Proposed Transaction</td>
<td>Seller and Buyer will enter into a purchase and sale agreement (the “Purchase Agreement”) and other Transaction Documents (as defined below) pursuant to which Seller will sell to Buyer, and Buyer will purchase from Seller, the Acquired Assets and assume the Assumed Liabilities, as agreed by the Parties.</td>
</tr>
<tr>
<td>Purchase Price</td>
<td>The Purchase Price for the Acquired Assets shall be $1 and the assumption of the Assumed Liabilities ³.</td>
</tr>
<tr>
<td>Conditions Precedent to Closing</td>
<td>The sale and purchase of the Acquired Assets and Assumed Liabilities and payment of the Closing Payment (collectively, the “Closing”) will be subject to conditions precedent that are customary for transactions of this type, including those listed below.</td>
</tr>
<tr>
<td></td>
<td>- Accuracy of representations and warranties.</td>
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<td>- No Material Adverse Change:</td>
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<td>- No litigation seeking to enjoin or materially delay closing of the Proposed Transaction</td>
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<td>- Evidence that all specified approvals and third-party consents required in connection with the proposed transaction have been obtained including:</td>
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<td></td>
<td>o Buyer will complete a draft pre-feasibility study by June 1, 2019 as to the feasibility of carbon capture to reduce emissions at Units 1 and 4 of the San Juan Project</td>
</tr>
<tr>
<td></td>
<td>o Buyer will submit a U.S. Department of Energy grant application related to use of carbon sequestration technology for the San Juan Project</td>
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<td>o Seller and Buyer will cooperate to complete negotiations with the existing San Juan Project owners to transfer their rights, titles and interests in the San Juan Project to Seller and permit the San Juan Project to be operated and maintained in accordance with prudent utility practice</td>
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<td></td>
<td>- The Parties acknowledge that each of the following additional conditions shall have been satisfied in a manner and with results acceptable to the Buyer in its sole discretion:</td>
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<tr>
<td></td>
<td>o San Juan Project decommissioning study</td>
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<tr>
<td></td>
<td>o San Juan Project environmental baseline study under terms agreed to with the San Juan Project owners for environmental liabilities arising after June 30, 2022</td>
</tr>
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<td></td>
<td>o Allocation of post-2017 reclamation liability subject to the terms of the Mine Reclamation Agreement among the past and present owners of the San Juan Project</td>
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<tr>
<td></td>
<td>o Resolution of U.S. Bureau of Reclamation River and Lake Line matters</td>
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<tr>
<td></td>
<td>o Execution of a new coal supply agreement for San Juan</td>
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</tbody>
</table>

² NTD: Seller and Buyer to continue coordination and taking steps to convey all right, title and interest in the Acquired Assets to Buyer.

³ NTD: Assumptions with respect to the value of the coal pile and inventories TBD.
**Coal Company acceptable to Buyer**
- Buyer shall have entered into power purchase agreements sufficient to maintain the commercial viability of the San Juan Project as determined by Buyer in its sole discretion
- Other reasonable and customary conditions which may be included in the Transaction Documents.

**Representations and Warranties**

| The Purchase Agreement will include representations and warranties with respect to the San Juan Project as are customary for transactions of this type, including with respect to sufficiency of the assets being acquired. |

**Covenants**

<table>
<thead>
<tr>
<th>The Purchase Agreement will include interim covenants as are customary for transactions of this type including:</th>
</tr>
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<tbody>
<tr>
<td>• Each party using commercially reasonable efforts to close the Proposed Transaction expeditiously;</td>
</tr>
<tr>
<td>• Each party cooperating to obtain all necessary internal, governmental and other third party approvals; provided that Seller shall have primary responsibility for obtaining all third party consents to assignment of any of the Acquired Assets;</td>
</tr>
<tr>
<td>• Seller will provide Buyer and its representatives with reasonable access to the San Juan Project, any of the Acquired Assets and to any employee that may become a transferred employee</td>
</tr>
<tr>
<td>• Seller will permit Buyer to perform any Phase I environmental studies or assessments that Buyer deems necessary in its sole discretion;</td>
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<td>• Customary Seller operating covenants including</td>
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<tr>
<td>o cause the San Juan Project to be operated in accordance with Good Utility Practice and, except for replacement of Acquired Assets in accordance with Good Utility Practice, in the ordinary course of business consistent with past practice;</td>
</tr>
<tr>
<td>o not sell, lease, dispose of or encumber any of the Acquired Assets or permit any other owner or operator of the San Juan Project to do any of the foregoing;</td>
</tr>
<tr>
<td>o not make (or allow any other owner or operator to make) any material change in the use or levels of the coal pile, fuels, consumables, spare parts and other inventories;</td>
</tr>
<tr>
<td>o terminate or modify (or allow any other owner or operator to terminate or modify) any existing assigned contract or lease;</td>
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<tr>
<td>o not enter into (or allow any other owner or operator to enter into) any new contracts relating to the ownership or operation of the San Juan Project other than contracts in the ordinary course of business consistent with past practice and that can be freely assigned to or terminated by Buyer in each case without payment;</td>
</tr>
<tr>
<td>o not materially increase (or allow any other owner or operator to materially increase) compensation or benefits for any transferred employee;</td>
</tr>
<tr>
<td>o make or commit to make (or allow any other owner or operator to make or commit) any capital expenditures</td>
</tr>
<tr>
<td><strong>Casualty Loss During the Interim Period</strong></td>
</tr>
<tr>
<td><strong>Transfer Taxes</strong></td>
</tr>
<tr>
<td><strong>Indemnification</strong></td>
</tr>
<tr>
<td><strong>Survival of Representations and Warranties</strong></td>
</tr>
</tbody>
</table>
| **Limitations of Liability** | The Purchase Agreement will include the following limitations of liability of Seller:  
  - Indemnity claims will be subject to a deductible in a mutually agreed aggregate amount.  
  - Seller’s maximum aggregate liability shall not exceed a mutually agreed amount (the “**Cap**”).  
  The fundamental and tax representations will not be subject to the deductible or Cap. |
| **Transaction Documents** | Counsel to [Buyer] will prepare the initial drafts of the Purchase Agreement and other related transaction documents (collectively, the “**Transaction Documents**”). |
| **Governing Law Jurisdiction** | The Purchase Agreement and all other related Transaction Documents will be governed by and construed in accordance with the laws of New York, without regard to the conflicts of law provisions contained therein, and subject to the exclusive jurisdiction of state and federal courts sitting in the Borough of Manhattan, New York, New York. |
Regular Meeting of the City Council, City of Farmington, New Mexico, held in the Council Chamber at City Hall at 6:00 p.m. on Tuesday, March 26, 2019. The open regular session was held in full conformity with the laws and ordinances and rules of the Municipality.

Upon roll call, the following were found to be present, constituting a quorum:

**MAYOR**
- Nate Duckett

**COUNCILORS**
- Linda G. Rodgers
- Sean E. Sharer
- Janis Jakino

**PRESENT BY TELEPHONE**
**PURSUANT TO RESOLUTION NO. 2013-1483**
- Jeanine Bingham-Kelly, Councilor

All Councilors and members of the Governing Body were present. Also present were:

**CITY MANAGER**
- Rob Mayes

**ASSISTANT CITY MANAGER**
- Julie Baird

**CITY ATTORNEY**
- Jennifer Breakell

**CITY CLERK**
- Dianne Smylie

Councilor Bingham-Kelly was absent from the meeting but was contacted by speaker telephone for participation, pursuant to Paragraph C, Section 10-15-1, NMSA 1978, and City of Farmington Resolution No. 2013-1483.

The meeting was convened by the Mayor. Thereupon the following proceedings were duly had and taken:

**INVOCATION:** The invocation was offered by Minister Nathan Wheeler of Eastside Church of Christ.

**Acting Administrative Services Director Teresa Emrich led the Pledge of Allegiance.**

**CONSENT AGENDA:** The Mayor announced that those items on the agenda marked with an asterisk (*) have been placed on the Consent Agenda and will be voted on without discussion by one motion. He stated that if any item did not meet with approval of all Councilors or if a citizen so requested, that item would be removed from the Consent Agenda and heard under Business from the Floor.

*MINUTES:* The minutes of the Regular Meeting of the City Council held March 12, 2019.

*SECOND AMENDMENT TO AGREEMENT* between the City and Operations Management International, Inc. ("OMI") for operation and maintenance of the City’s water and wastewater plants, collection and distribution systems and maintenance of selected storm water and irrigation system components.

*PURCHASE AGREEMENT* between the City and San Juan Regional Medical Center, Inc. for purchase by the City of 11.926 acres of land located in the Robinson Subdivision (Tracts I and II) for future utility purposes (purchase price $955,000).

*ADOPTION OF RESOLUTION NO. 2019-1703* granting a waiver to the North Allen Events Center allowing the dispensing of alcoholic beverages within 300 feet of a church (San Juan Unitarian Universalist Fellowship).

*WARRANTS PAYABLE* for the time period of March 10, 2019 through March 23, 2019, for current and prior years, in the amount of $6,942,459.85.
Mayor Duckett requested that the Second Amendment to the Agreement between the City and Operations Management International, Inc. be removed from the Consent Agenda.

In response to inquiry from Councilor Sharer, City Manager Rob Mayes reported that the property being proposed for purchase from San Juan Regional Medical Center is located adjacent to the wastewater treatment plant and has been on the City's "planning horizon" for a number of years. He noted that the purchase is budgeted in the Waste Water Fund.

Thereupon, a motion was made by Councilor Rodgers, seconded by Councilor Sharer to approve the Consent Agenda, with the exception of the Second Amendment to the Agreement between the City and Operations Management International, Inc., and upon voice vote the motion carried unanimously.

RECOMMENDATION FROM THE PLANNING AND ZONING COMMISSION:

*CONSENT AGENDA: Acting Community Development/Public Works Director David Sypher requested that the Planning and Zoning Commission recommendation marked with an asterisk (*) be placed on the Planning and Zoning Commission Consent Agenda and voted on without discussion. She asked that if the item proposed did not meet with approval of all Councilors or if a citizen so requested, the item would be removed from the Consent Agenda and heard in regular order.

* (1) Adoption of the recommendation from the Planning and Zoning Commission as contained within the Community Development Department Action Summary to approve Petition No. SUP 19-08 from Thatcher Company, represented by Nathan Bergal, requesting a Special Use Permit for outside storage of hazardous materials for property located at 3111 Bloomfield Highway in the IND, Industrial, District, subject to:
   (a) the applicant submitting a summary plat application for building permits;
   (b) the applicant submitting building plans that are consistent with all City building and fire standards and/or other agency permits prior to construction of the hazardous storage area;
   (c) all required federal, state and local permits and approvals being obtained by the applicant and submitted to the City prior to any construction or commencement of any work. Any required alteration to the proposal as a result of state or federal agency review must be submitted as a revision to applicable City-issued permits and be reviewed by the Community Development Department. The following minor amendments shall be reviewed and approved:
      (1) Changes that result in a decrease or intensity for the storage of hazardous materials;
      (2) Change in the designation/location of the hazardous storage area on the subject property;
      (3) Change in major infrastructure (e.g. roads/access, sewer, water, storm drainage) for the subject property.
   (d) All other proposed amendments not specifically addressed above shall be considered major amendments and must be processed in accordance with the procedures and requirements of Section 8.9.3 of the Unified Development Code pertaining to the special use application process.

As a contingency to acquire and maintain the Special Use Permit, the Fire Department sets forth the following requirements as outlined in the 2003 International Fire Code (IFC 2003 - 105.1.2, 2003 IFC - 105.2). Before any hazardous materials are stored or used, the following shall occur:

(e) provide engineered plans for review and approval to include:
   (1) site layout with all control areas;
control area identifying all chemicals and the amounts stored or used;
(3) scalable distances for each control area from all lot lines, buildings and other control areas;
(4) code analysis being conducted by a fire protection or chemical engineer to ensure compliance with the International Building Code (IBC) and the International Fire Code (IFC);
(5) all Material Data Sheets, including all mixtures, being available;
(6) all chemicals being identified by their hazard class as outlined in the IFC;
(7) all chemicals being identified as meeting the Mass Allowable Quantity (MAQ), or exceeding the MAQ as outlined in the IFC; and
(8) detailed construction plans for all needed permits.

The development of an Emergency Action Plan (EAP); a detailed description of all processes and storage and intended use of all chemicals being provided;
the following chapters in the 2003 IFC being met:
(1) Hazardous Materials General Provisions;
(2) Corrosive Materials;
(3) Flammable and Combustible;
(4) Flammable Solids;
(5) Highly Toxic and Toxic Materials; and

all requirements being met for the addition of any new chemicals, the use of chemicals, control areas or buildings and an updated EAP being submitted.

The following conditions are requirements of the Public Works Engineering Division:

compliance with the Environmental Protection Agency’s (EPA) National Pollutant Discharge Elimination System (NPDES) Multi-Sector General Permit (MSGP) for Industrial Uses which requires Halliburton to seek coverage pursuant to Part B, Subpart I, Sector T of the MSGP;
the petitioner submitting evidence of compliance with the EPA’s NPDES MSGP permit for protection of the City’s Municipal Separate Storm Sewer System (MS4) and associated surface waters within the city limits;
a copy of the Notice of Intent (NOI) for coverage submitted to the EPA and a copy of the required Drainage Area Site Map, to include storm water discharge points from the property, Potential Pollutant Sources, and Erosion and Sediment Controls being submitted to the City for our records;
the petitioner meeting all additional requirements of EPA’s NPDES MSGP permitting process;
the petitioner maintaining the National Pollutant Discharge Elimination System (NPDES) Multi Use General Permit.

The following recommended operational conditions shall be required for the life of the project:

the special use permit remaining in effect, provided that the use meets the conditions imposed by the subject petition and Thatcher Chemical maintains a valid City of Farmington business registration;
any contamination/leaks/releases that occur on the property being immediately reported to the Police and Fire Departments, the Building Inspection Division of the Community Development Department and to all relevant local, state and federal authorities;
the City reserving the right to revoke the special use permit, by future action of the City Council, if the operations pose detrimental health impacts to the surrounding area or environment; and
the special use permit being revoked if any of the above conditions are not met.

There being no requests to remove the item, a motion was made by Councilor Rodgers, seconded by Councilor Sharer to approve the Planning and Zoning Commission Consent Agenda, as presented, and upon voice vote the motion carried unanimously.

APPOINTMENT TO THE LODGERS' TAX ADVISORY BOARD

Mayor Duckett asked the Council's consideration of the appointment of Amy Scanlan as a member of the Lodgers' Tax Advisory Board (term to July 2020).

Thereupon, a motion was made by Councilor Sharer, seconded by Councilor Rodgers to confirm the appointment of Amy Scanlan as a member of the Lodgers' Tax Advisory Board, as recommended by the Mayor, and upon voice vote the motion carried unanimously.

COUNCIL BUSINESS

Addition of Household and Hazardous Waste Collections

Mayor Duckett announced that there is a "Canyon Cleanup" scheduled for Saturday, April 6, 2019 at 8:00 a.m. for the purpose of removing illegally-discarded mattresses, couches, televisions, trash, etc. from the Glade Run area. As a result, he asked the Council for permission to direct staff to obtain a quote from Waste Management to add curbside collection of household and hazardous waste in an effort to prevent illegal dumping. There were no objections from the Council.

San Juan Generating Station

City Manager Rob Mayes announced that Councilor Jakino is planning to meet with representatives of Acme Equities, LLC (the company interested in purchasing San Juan Generating Station) during her upcoming vacation.

Termination of Stage 1 - Water Shortage Advisory

Utilizing a PowerPoint presentation, Public Works Director David Sypher reported that the City's ordinance identifies six drought management criteria for determining whether water conservation measures should be implemented. The criteria are: 1) capacity of Farmington Lake; 2) snow pack conditions; 3) current precipitation; 4) precipitation projections; 5) the Palmer Drought Severity Index; and 6) stream flow. He reported that Farmington Lake is currently at 96.6 percent of capacity with current snowpack being 174 percent of the seasonal median. Furthermore, he noted that current precipitation levels are slightly above normal with the 90-day forecast showing a reasonable chance that the trend will continue. Mr. Sypher also reported that the Palmer Drought Severity Index indicates that this area is "in a very moist period" and that stream flow is 85.86 percent of normal. As a result, he announced that staff is requesting approval to terminate the Stage 1 - Water Shortage Advisory.

There being no discussion, a motion was made by Councilor Sharer, seconded by Councilor Rodgers to terminate the Stage 1 - Water Shortage Advisory as requested by staff, and upon voice vote the motion carried unanimously.

CITY MANAGER BUSINESS

City Manager Rob Mayes presented and read by Title Resolution No. 2019-1704 approving the fourth revision to the Fiscal Year 2019 budget. The title of such resolution being:

A RESOLUTION APPROVING THE FOURTH REVISION TO THE FY2019 BUDGET AND REQUESTING STATE APPROVAL.

Acting Administrative Services Director Teresa Emrich directed the Council's attention to page 5.2 of the agenda materials and briefly reviewed the proposed budget revisions, noting that the Civic Center chilled water coils and pumps installation project is actually being funded by Lodgers' Tax instead of the Community Transformation and

- 9.3 -

Thereupon, a motion was made by Councilor Rodgers, seconded by Councilor Sharer to pass and adopt Resolution No. 2019-1704, as presented. The roll was called with the following result:

Those voting aye: Linda G. Rodgers  
Sean E. Sharer  
Jeanine Bingham-Kelly  
Janis Jakino

Those voting nay: None

The presiding officer thereupon declared that four Councilors having voted in favor thereof, the said motion carried and Resolution No. 2019-1704 was duly passed and adopted.

CITY ATTORNEY BUSINESS

City Attorney Jennifer Breakell presented and read by title Resolution No. 2019-1705 providing for the annual determination of reasonable notice of public meetings of the City of Farmington. The title of the resolution being:


After consideration of Resolution No. 2019-1705, a motion was made by Councilor Sharer, seconded by Councilor Rodgers that said resolution be passed and adopted as presented. The roll was called with the following result:

Those voting aye: Linda G. Rodgers  
Sean E. Sharer  
Jeanine Bingham-Kelly  
Janis Jakino

Those voting nay: None

The presiding officer thereupon declared that four Councilors having voted in favor thereof, the said motion carried and Resolution No. 2019-1705 was duly passed and adopted.

PERMISSION TO PUBLISH NOTICE OF PROPOSED ORDINANCE/WIRELESS COMMUNICATION FACILITIES

Ms. Breakell also requested that staff be directed to publish notice of intent to consider adoption of a proposed ordinance amending Chapter 22 of the City Code to add a new Article 8 dealing with wireless communication facilities. She directed the Council’s attention to a revised ordinance that amends Section 22-8-4(e) pertaining to the colocation and maintenance of small cell facilities.

Following brief consideration, a motion was made by Councilor Rodgers, seconded by Councilor Sharer to direct staff to publish notice of intent to consider adoption of the amended ordinance in accordance with State Statutes. The roll was called with the following result:

Those voting aye: Linda Rodgers  
Sean E. Sharer  
Janine Bingham-Kelly  
Janis Jakino

Those voting nay: None

The presiding officer thereupon declared that four Councilors having voted in favor thereof, the said motion carried.
BUSINESS FROM THE FLOOR

Discussion of and Action on Item Removed from the Consent Agenda:

(1) SECOND AMENDMENT TO AGREEMENT between the City and Operations Management International, Inc. ("OMI") for operation and maintenance of the City's water and wastewater plants, collection and distribution systems and maintenance of selected storm water and irrigation system components.

Utilizing a PowerPoint presentation, Public Works Director David Sypher explained that the proposed second amendment to the agreement between the City and Operations Management International, Inc. reduces the budget for the water valve abandonment project by $71,747 and the sewer video and linear feet inspections by $26,756 and increases the budget by $98,503 for the purpose of purchasing a unidirectional flushing truck which results in a cost-neutral amendment.

Following brief consideration, a motion was made by Councilor Sharer, seconded by Councilor Rodgers to approve the Second Amendment to Agreement between the City and Operations Management International, Inc. for operation and maintenance of the City's water and wastewater plants, collection and distribution systems and maintenance of selected storm water and irrigation system components, as presented, and upon voice vote the motion carried unanimously.

Bridging the Gap/Law Enforcement Appreciation Day

James Penrod, President of Identity, Inc., announced that the organization is hosting a law enforcement appreciation event called, "Bridging the Gap," tomorrow from 3:00 p.m. to 7:00 p.m. at 204 West Main Street and he invited the Mayor and Council to attend.

CLOSED MEETING

A motion was made by Councilor Rodgers, seconded by Councilor Sharer to close the meeting to discuss requests for qualification-based proposals for substation apparatus testing and professional engineering services for water treatment plant improvements, pursuant to Section 10-15-1H(6) NMSA 1978. The roll was called with the following result:

Those voting aye: Linda G. Rodgers
Gen E. Sharer
Jeanine Bingham-Kelly
Janis Jakino

Those voting nay: None

The presiding officer thereupon declared that four Councilors having voted in favor thereof, the said motion carried.

The Mayor convened the closed meeting at 6:32 p.m. with all members of the Council being present.

Following the closed meeting, during which meeting the matters discussed were limited only to those specified in the motion for closure, a motion was made by Councilor Sharer, seconded by Councilor Rodgers to open the meeting for further business, and upon voice vote the motion carried unanimously.

The open meeting was reconvened by the Mayor at 6:38 p.m. with all members of the Council being present.

REQUEST FOR QUALIFICATION-BASED PROPOSALS/SUBSTATION APPARATUS TESTING

Chief Procurement Officer Kristi Benson reported that qualification-based proposals for substation apparatus testing (Electric) opened on November 13, 2018 with six offerors participating. She recommended that the proposal be awarded to Eaton Corporation as the top evaluated firm based on the pricing schedule for services.

Thereupon, a motion was made by Councilor Sharer, seconded by Councilor Rodgers to award the qualification-based proposal for substation apparatus testing to Eaton Corporation, as recommended by the
Chief Procurement Officer, and upon voice vote the motion carried unanimously.

REQUEST FOR QUALIFICATION-BASED PROPOSALS/PROFESSIONAL ENGINEERING SERVICES FOR WATER TREATMENT PLANT IMPROVEMENTS

Contracts Administrator Rosalyn Potter reported that qualification-based proposals for professional engineering services for water treatment plant improvements (Public Works) opened on January 9, 2019 with four offerors participating. She recommended that the proposal be awarded to Jacobs Engineering as the top evaluated firm after application of five percent in-state preference.

Thereupon, a motion was made by Councilor Rodgers, seconded by Councilor Sharer to award the qualification-based proposal for professional engineering services for water treatment plant improvements to Jacobs Engineering, as recommended by the Contracts Administrator, and upon voice vote the motion carried unanimously.

There being no further business to come before the Council, a motion was made by Councilor Sharer, seconded by Councilor Rodgers to adjourn the meeting at 6:42 p.m., and upon voice vote the motion carried unanimously.

The telephone call with Councilor Bingham-Kelly was terminated.

The City Clerk certified that notice of the foregoing meeting was given by posting pursuant to Resolution No. 2013-1466, et seq.

Approved this 9th day of April, 2019.

Entered in the permanent record book this day of , 2019.

Nate Duckett, Mayor

SEAL

ATTEST:

Dianne Smylie, City Clerk