

A G E N D A
CITY OF AZTEC
CITY COMMISSION MEETING
December 9, 2014
201 W. Chaco, City Hall
6:00 p.m.

- I. **CALL TO ORDER**
- II. **INVOCATION**
- III. **PLEDGE OF ALLEGIANCE**
- IV. **ROLL CALL**
- V. **AGENDA APPROVAL**
- VI. **CITIZEN RECOGNITION**
- VII. **EMPLOYEE RECOGNITION**
- VIII. **CONSENT AGENDA**

- A. Commission Workshop Meeting Minutes, November 25, 2014
- B. Travel Requests
- C. FY14-15 State Grants-In-Aid to Public Libraries Agreement(Kathy)
- D. Renewal Of Intergovernmental Agreement for Ambulance Services

Items placed on the Consent Agenda will be voted on with one motion. If any item proposed does not meet the approval of all Commissioners, a Commissioner may request that the item be heard under "Items from Consent Agenda"

IX. ITEMS FROM CONSENT AGENDA

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 334-7600 prior to the meeting so that arrangements can be made.

Note: A final agenda will be posted 24 hours prior to the meeting. Copies of the agenda may be obtained from City Hall, 201 W. Chaco, Aztec, NM 87410

X. PUBLIC HEARING

Loan Ordinance 2014-441 Amending Ordinance 2013-423 Authorizing City of Aztec New Mexico Loan Agreement with New Mexico Environment Department Clean Water State Revolving Fund, Wastewater Interceptor Line

XI. CITIZENS INPUT (3 Minutes Maximum)

(Citizens who wish to speak will sign up prior to the meeting – this section is for items not otherwise listed on the agenda)

XII. BUSINESS ITEMS

- A. EPA Environmental Assessment Grant
- B. NMDOT Riverside – Townsend Trail Grant and Resolution 2014-946

XIII. LAND USE HEARING

- A. 2014-215, New Oil Well requested by Conoco Phillips Company

XIV. CITY MANAGER/COMMISSIONERS/ATTORNEY REPORTS

XV. DEPARTMENT REPORTS

(When this item is announced, all Department Heads who wish to give a report will move to the podium)

XVI. ADJOURNMENT

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 334-7600 prior to the meeting so that arrangements can be made.

Note: A final agenda will be posted 24 hours prior to the meeting. Copies of the agenda may be obtained from City Hall, 201 W. Chaco, Aztec, NM 87410

CITY OF AZTEC
COMMISSION MEETING MINUTES
November 26, 2014

I. CALL TO ORDER

Mayor Burbridge called the Meeting to order at 6:00pm at the Aztec City Commission Room, City Hall, 201 W. Chaco, Aztec, NM.

II. INVOCATION

The Invocation was led by Police Chief, Mike Heal

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was let by General Services Director, Steve Mueller

IV. ROLL CALL

Members Present: Mayor, Sally Burbridge; Mayor Pro-Tem, Sherri Sipe; Commissioner, Katee McClure; Commissioner, Roberta Locke; Commissioner, Sheri Rogers

Members Absent: None

Others Present: City Attorney, Larry Thrower; City Clerk, Karla Saylor; (see attendance sheet)

V. AGENDA APPROVAL

MOVED by Mayor Pro-Tem Sipe, SECONDED by Commissioner Locke
Approve the Consent Agenda as Presented

VI. CITIZEN RECOGNITION

Fabie Rice and Sabrina Hood introduced themselves representing Leadership San Juan.

VII. EMPLOYEE RECOGNITION

Sabrina Hood was presented with a plaque for 3 years of service with the City of Aztec Library as the Library Director.

VIII. CONSENT AGENDA

MOVED by Commissioner Locke, SECONDED by Mayor Pro-Tem Sipe to Approve the Consent Agenda As Presented

- A. Commission Workshop Meeting Minutes, November 11, 2014
- B. Commission Meeting Minutes, November 11, 2014
- C. Travel Requests
- D. RFQP 2014-444 As Needed Construction Management, Geotechnical Engineering, Surveying and Construction Testing Services
- E. Memorandum of Understanding between the City of Aztec and the State of New Mexico, Human Service Division, LIHEAP

IX. ITEMS FROM CONSENT AGENDA

None

X. CITIZENS INPUT

None

XI. BUSINESS ITEMS

- A. Intent to Adopt Ordinance 2014-440 Amending Chapter 1 General Provisions, Section 12. Mandatory Penalty and Fees.

Judge Carlton Gray mentioned this is a penalty assessment at the State level and that if we don't pass this Ordinance citizens would have to appear in court because of the way the code is now that it is not a penalty assessment.

MOVED by Commissioner McClure, SECONDED, Mayor Pro-Tem Sipe to Approve Intent to Adopt Ordinance 2014-440: Amending Chapter 1, General Provisions, Section 12, Mandatory Penalty and Fees

A Roll Call Was Taken: Motion Passed 5-1

- B. Intent To Adopt Ordinance 2014-441 Amending Ordinance 2013-423 Authorizing City of Aztec NM Loan Agreement with New Mexico Environment Department Clean Water State Revolving Fund, Wastewater Interceptor Line

Kathy Lamb, Finance Director reported that the City applied for a NMED CWSRF (New Mexico Environment Department Clean Water State Revolving Fund) loan and was notified of approval for a loan of \$3,599,564 and a grant of \$350,000. The loan ordinance was adopted and interim loan agreement with

NMED is approved by City Commission in June 2013. Design work continued through 2013 with final design and engineer's probable estimate of construction costs provided in August 2014. Including an estimate for construction management services, the City requested if additional CWSRF funds were available. The City's finances were reviewed and additional funds were approved by NMED in November 2014. Additional loan funds in the amount of \$1,450,436 have been authorized by NMED requiring an ordinance amending the original for the new amount of \$5,050,000. The first debt payment on the loan will be due one year after full reimbursement of the loan funds or completion of the project. The loan may be prepaid at any time. The loan is secured by net system revenues of the Joint Utility Fund. Net system revenues are defined as gross revenues less operation and maintenance expenses, debt obligations, approved indirect charges, capital replacements and repair of the system and required set asides for the debt service reserve requirement and replacement reserve requirement. A public hearing specific to the loan ordinance will be scheduled for the December 9, 2014. Utility rates, specifically wastewater, will require review during the year to ensure sufficient revenues to meet the debt obligation. There will possibly be an increase to customers on utility bills in the next 18 months.

MOVED by Mayor Pro-Tem Sipe, SECONDED by Commissioner Locke to Approve the Intent To Adopt Ordinance 2014-441, NMED Clean Water State Revolving Fund

A Roll Call Was Taken: Motion Passed 5-1

XII. CITY MANAGER/COMMISSIONERS/ATTORNEY REPORTS

Mayor Burbridge reported that the Commission meeting on December 23 will be cancelled. There will be a Special meeting scheduled for sometime in December to make up for the meeting being cancelled. She also mentioned that the expenses made for her travel with the New Mexico Municipal League will be reimbursed by them because she is a Officer of their Board.

Mayor Pro-Tem Sipe mentioned that she attended the EDAB meeting and mentioned that Felix Chavez was the guest Business owner at the meeting. She mentioned that Bil Homka, Community Development Director is reviewing the Economic Development strategy and that they will be redefining the goals of the EDAB board.

Commissioner Rogers mentioned that she missed the San Juan County Safe Communities meeting. She mentioned that she attended the Leadership San Juan meeting and that the topic of the meeting was on Education.

Commissioner Locke reported that she attended the Chamber luncheon. She mentioned that Brian Vincent was the guest speaker from Aztec Urgent Care. She congratulated the City of Aztec for their participation in the ECHO food drive.

Commissioner McClure reported that she sat in on the Auditors exit review for the City. She mentioned that the City is in good shape. She thanked the finance department for their hard work. She mentioned that she went to the Chamber luncheon and mentioned that there was informational discussion on the Affordable Care Act. She mentioned that she attended Coffee with the Chief. She mentioned that there are 58 businesses signed up for the Christmas light competition which will be judged on December 5.

Larry reported that he will be attending the Attorney's Annual Association Meeting on December 10-12 in Albuquerque.

XIV. DEPARTMENT REPORTS

Chief mentioned that there was right at 3800 lbs of food donated to the ECHO food bank by the City employees during the food drive.

Cindy Iacovetto, Community Center Director thanked City employees for donating food items for the Thanksgiving meal and she also invited Commission to stop by the Center on Thanksgiving.

XV. ADJOURNMENT

MOVED by Mayor Burbridge, SECONDED Mayor Pro-Tem Sipe to adjourn the meeting at 6:34 pm.

Mayor, Sally Burbridge

ATTEST:

Karla Saylor, City Clerk

MINUTES PREPARED BY:

Karla Saylor, City Clerk

Staff Summary Report

MEETING DATE: December 09, 2014
AGENDA ITEM: VIII. CONSENT AGENDA (B)
AGENDA TITLE: Travel Requests

ACTION REQUESTED BY: Administration, Finance and Water
ACTION REQUESTED: Approval of Employee/Public Official Travel Requests
SUMMARY BY: Cheryl Franklin

PROJECT DESCRIPTION / FACTS (Leading Department)

- Resolution 2003-603 identifies the requirement for employee/public official travel requests to be pre-approved by the commission. All travel requests will be submitted to the commission for approval prior to the travel occurring except in unusual circumstances when the City Manager may approve as provided in resolution 2003-603.
- The attached log is sorted by dates of travel and then by department.
- If travel/training is to be reimbursed or some of the costs will be paid by another entity, those notes have been included on the log.

FISCAL INPUT (Finance Department)

- All departments requesting travel have sufficient funds budgeted within their travel/training budgets

SUPPORT DOCUMENTS: Travel Log December 09, 2014

DEPARTMENT'S RECOMMENDED MOTION: Approve Employee/Public Official Travel Requests

**EMPLOYEE/PUBLIC OFFICIAL TRAVEL REQUESTS FOR COMMISSION APPROVAL
MEETING DATE: DECEMBER 09, 2014**

Dates of Travel	Department	Purpose of Travel/Location	Over-night	Out of State	Costs	Explanation of Cost	FY15 Budget Available
12/10-12/14	Admin.	NMML Winter Conference Albuquerque, NM.	Yes	No	96.00 125.00 216.30 390.00	Meal & Gratuity Allowance Registration Reimburse Rate/Mileage Lodging	Yes
12/10-12/14	Finance	CDBG Workshop Albuquerque, NM.	Yes	No	72.00 60.00 266.13	Meal & Gratuity Allowance Estimated Cost for Fuel Lodging	Yes
01/25-30/15	PW/Water	NM Water & WW Assoc. School Las Cruces, NM.	Yes	No	204.00 250.00 130.00 405.23	Meal & Gratuity Allowance Registration Estimated Cost for Fuel Lodging	Yes

Staff Summary Report

MEETING DATE:	December 9, 2014
AGENDA ITEM:	VIII. CONSENT AGENDA (C)
AGENDA TITLE:	<u>FY 14-15 State Grants-in-Aid to Public Libraries Agreement</u>

ACTION REQUESTED BY:	Library
ACTION REQUESTED:	Approval
SUMMARY BY:	Kathy Lamb

PROJECT DESCRIPTION / FACTS

The FY2014/15 State Grants-in-Aid to Public Libraries agreement was received October, 2014. This library grant program is intended to supplement and encourage local effort in providing local library service. Funds may be used for

- Library collections;
- Library staff salaries;
- Library staff training;
- Library equipment;
- Other operational expenditures associated with delivery of library services as defined in Section 4.5.2 NMAC.

Libraries must report on how funds were spent in the 2014/15 Annual Report, due August 2015.

The funding is in the amount of \$7,780.00, an increase of \$967.21 from last year. All funds must be spent by June 30, 2015.

As with last year's increased funding, the increase this year is the result of Senator Carroll Leavell of District 41 (Eddy & Lea Counties). Senator Leavell championed increased funding to benefit libraries statewide. Funding has risen by \$250,000 over the past two years due to his efforts.

PROCUREMENT / PURCHASING

Both city and state procurement requirements will be followed for purchases. In addition, this funding will only be utilized on those items which meet the requirements of the funding agreement.

FISCAL INPUT / FINANCE DEPARTMENT

The FY15 Adopted Annual Budget included \$3,000 specific to this funding source. General Fund Contingency Budget will be utilized to provide the additional funding to the Library Budget.

SUPPORT DOCUMENTS: Letter Notification
FY14-15 State Grants-in-Aid to Public Libraries Agreement
FY2015 State Grants-in-Aid Award Notification

DEPARTMENT'S RECOMMENDED MOTION: Move to Approve FY 14-15 State Grants-in-Aid to Public Library Agreement

State Grants-in-Aid to Public Libraries
Agreement
For FY2014/2015

This agreement is entered into on the date of last signature, below, by and between the **New Mexico State Library**, hereinafter called **NMSL**, and **Aztec Public Library**, Aztec, NM, hereinafter called the Recipient.

WHEREAS, the State Librarian, the division director of NMSL, is required to administer grants-in-aid and encourage local library service and generally promote an effective statewide library system under NMSA 1978, Section 18-2-4 (1978);

WHEREAS, Section 18-2-4 also requires the State Librarian to make rules and regulations necessary to administer NMSL and the State Librarian adopted such rules for distributing state grants-in-aid to public libraries, codified as Section 4.5.2 NMAC; and

WHEREAS, NMSL has determined that Recipient qualifies for a state grant-in-aid under Section 4.5.2 NMAC.

THEREFORE, the Parties agree to the following terms and conditions:

I. NMSL agrees to pay the Recipient a grant in an amount not to exceed seven thousand seven hundred eighty dollars and no cents (**\$ 7,780.00**) to support Recipient's library collections; library staff salaries; library staff training; library equipment; or other operational expenditures associated with delivery of *library services* as defined in Section 4.5.2 NMAC.

II. The Recipient agrees to

1. Use the grant only for library collections; library staff salaries; library staff training; library equipment; or other operational expenditures associated with delivery of *library services*, as those services are defined in Section 4.5.2 NMAC;
2. Engage in good communication and the exchange of information with NMSL regarding library activities and the grant's use;
3. Expend the grant according to the rules outlined in Section 4.5.2 NMAC, attached hereto as Attachment A;
4. Provide NMSL with a report on how the grant was spent as part of the Recipient's annual report for the fiscal year; and
5. Return any funds from the grant not spent in the 2015 fiscal year to NMSL by July 15, 2015.

III. The Laws of New Mexico shall govern this Agreement.

Signed: _____ **Date:** _____

By: _____ Chairman or Authorized Agent of Recipient (print name)

Signed: _____ **Date:** _____

By: Michael S. Delello, New Mexico Interim State Librarian

NEW MEXICO  STATE LIBRARY
GARREY CARRUTHERS BUILDING

October 14, 2014

Dear Library Director,

On behalf of the Department of Cultural Affairs and the New Mexico State Library, we are pleased to advise you this year's State Grants-in-Aid is higher than expected for the second year in a row. This boost in state aid, as well as last year's, is due to an additional \$100,000 appropriation that Senator Carroll Leavell of District 41 championed to benefit public libraries statewide. This is in addition to the \$150,000 Senator Leavell added to the state aid amount in fiscal year 2014. Over the past two years, state aid has risen a total of \$250,000 due to Senator Leavell's efforts.

Senator Leavell has long recognized the vital role that libraries play in New Mexico communities, especially in rural areas, and has been a consistent supporter. We appreciate that with this continued and growing support, Senator Leavell continues to acknowledge the impact of libraries in communities throughout the state. Governor Susana Martinez's approval of this funding through the Department of Cultural Affairs is further recognition that libraries, in conjunction with the State Library, are providing important services in New Mexico.

As with last year, we are pleased to include this additional allocation as part of the state aid program, the most flexible form of funding we provide to libraries.

Please join me in expressing our appreciation to Senator Leavell and to Governor Martinez, once again. We are certain they will be delighted to hear from you directly, and how these funds benefit the library services you provide your community. Please also include the State Library, Development Bureau as a "carbon copy (cc)" on your correspondence.

The contact information for your correspondence:

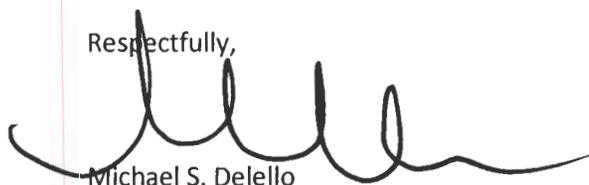
Governor Susana Martinez
490 Old Santa Fe Trail
Room 400
Santa Fe, NM 87501

Senator Carroll Leavell
PO Drawer D
Jal, NM 88252

New Mexico State Library
Development Bureau
1209 Camino Carlos Rey
Santa Fe, NM 87507

Congratulations and best wishes on a successful year.

Respectfully,



Michael S. Delello
Deputy Cabinet Secretary
Acting State Librarian
Department of Cultural Affairs

**New Mexico State Library
1209 Camino Carlos Rey
Santa Fe, NM 87507**

FY2015 STATE GRANTS-IN-AID AWARD NOTIFICATION

1.	Recipient:	Aztec Public Library
2.	Remit to Vendor Name:	City of Aztec
3.	State of NM Vendor #:	54308
4.	Project Title and Legal and Fiscal Data:	State Grants-in-Aid to Public Library Statute/Administrative Code NMSA 1978 Section 18-2-4 B, NMAC 4.5.2
5.	State Library Contact:	New Mexico State Library Development Bureau Phone: 800-340-3890
6.	Source of Funding:	<i>State of N.M. 51st Legislature – General Appropriation Act of 2014</i>
7.	Grant Type and Amount Received:	Library Grant: Public Library Amount: \$7,780.00
8.	Award Period:	October 1, 2014 – June 30, 2015 ALL FUNDS MUST BE SPENT BY JUNE 30, 2015.
9.	Terms and Conditions of Award:	<p>The library grants program is intended to supplement and encourage local effort in providing local library service.</p> <p>Funds may be used for</p> <ol style="list-style-type: none"> 1) library collections; 2) library staff salaries; 3) library staff training; 4) library equipment; 5) other operational expenditures associated with delivery of library services. <p>Libraries must report on how funds were spent in the 2014/2015 Annual Report. Library's local budget shall not be reduced by its governing body as a result of eligibility for the library grants program. Upon demonstrated evidence that such a reduction has occurred, the library shall be ineligible to receive funds from the library grants award for one year after the reduction has occurred.</p>
10.	Date:	October 7, 2014

Staff Summary Report

MEETING DATE: December 9, 2014
AGENDA ITEM: CONSENT AGENDA (D)
AGENDA TITLE: Renewal of Intergovernmental Agreement for Ambulance Services

ACTION REQUESTED BY: City Manager
ACTION REQUESTED: Approve Renewal of Intergovernmental Agreement for Ambulance Services
SUMMARY BY: Sherlynn Morgan

PROJECT DESCRIPTION / FACTS

- The Intergovernmental Agreement for Ambulance Services between the County and the Cities expires on November 14, 2014.
- The agreement will be extended until June 30, 2015 and will automatically renew on July 1, 2015 for successive one (1) year terms thereafter unless notice is given prior to expiration.

FISCAL INPUT / FINANCE DEPARTMENT

- No impact

SUPPORT DOCUMENTS: Intergovernmental Agreement for Ambulance Services

DEPARTMENT'S RECOMMENDED MOTION: Move to Approve Renewal of Intergovernmental Agreement for Ambulance Services

**RENEWAL OF
INTERGOVERNMENTAL AGREEMENT
FOR AMBULANCE SERVICES**

This Renewal Agreement is effective November 15, 2014 between the Board of County Commissioners of San Juan County, New Mexico (the County), the City of Farmington, New Mexico, the City of Bloomfield, New Mexico, and the City of Aztec, New Mexico (the Cities);

RECITALS:

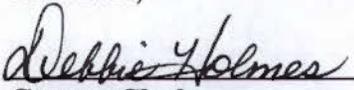
1. The Intergovernmental Agreement For Ambulance Services between the County and the Cities dated November 9, 2006 expires on November 14, 2014.
2. The Operating Agreement For Ambulance Service between the parties to the Intergovernmental Agreement and San Juan Regional Medical Center, Inc. expires June 30 of each year and automatically renews for successive one year terms unless notice is given 90 days prior to expiration of the Agreement.
3. It would protect the public health, safety and welfare and be in the best interest of the parties to the Intergovernmental Agreement and the provider under the Operating Agreement to renew the Intergovernmental Agreement for successive one year terms to coincide with the terms of the Operating Agreement.

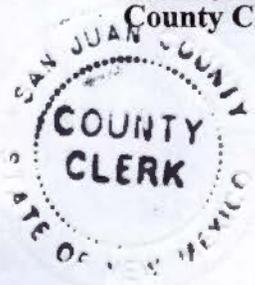
IT IS THEREFORE AGREED that the term of the Intergovernmental Agreement For Ambulance Services between the County and the Cities dated November 9, 2006 is hereby extended from November 15, 2014 to June 30, 2015 and shall automatically renew on July 1, 2015 for successive one (1) year terms thereafter unless notice is given 90 days prior to expiration of the Agreement.

This Renewal Agreement may be executed in counterparts which shall be effective as if all signatures were affixed to one original document, and execution of a counterpart may be transmitted via facsimile transmission.

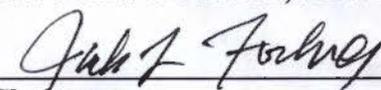
IN WITNESS WHEREOF, the parties hereto have set their hands and seals effective the day and year first written above.

ATTEST;

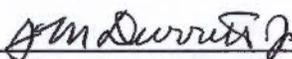

County Clerk



**BOARD OF COUNTY COMMISSIONERS
OF SAN JUAN COUNTY, NEW MEXICO**

By: 
Chairman

APPROVED AS TO FORM:


County Attorney

CITY OF FARMINGTON, NEW MEXICO

ATTEST:

City Clerk

By: _____
Mayor

APPROVED AS TO FORM:

City Attorney

CITY OF BLOOMFIELD, NEW MEXICO

ATTEST:

City Clerk

By: _____
Mayor

APPROVED AS TO FORM:

City Attorney

CITY OF AZTEC, NEW MEXICO

ATTEST:

City Clerk

By: _____
Mayor

APPROVED AS TO FORM:

City Attorney

Staff Summary Report

MEETING DATE:	December 9, 2014
AGENDA ITEM:	X. PUBLIC HEARING
AGENDA TITLE:	Public Hearing: Ordinance 2014-441 Amending Ordinance 2013-423 Authorizing City of Aztec New Mexico Loan Agreement with New Mexico Environment Department Clean Water State Revolving Fund, Wastewater Interceptor Line

ACTION REQUESTED BY:	FINANCE DEPARTMENT
ACTION REQUESTED:	No Action Requested
SUMMARY BY:	Kathy Lamb

PROJECT DESCRIPTION / FACTS

1950s, 7500' of 15" clay pipe is installed for the purpose of collecting and transporting sewage to the City's wastewater treatment plant (interceptor line). The city contracted with Huitt-Zollars for the analysis and design of the replacement of the interceptor line.

The City applied for a NMED CWSRF (New Mexico Environment Department Clean Water State Revolving Fund) loan and was notified of approval for a loan of \$3,599,564 (20 yrs @ 3%) and a grant of \$350,000. The loan ordinance was adopted and interim loan agreement with NMED is approved by City Commission in June 2013.

Design work continued through 2013 with final design and engineer's probable estimate of construction costs provided in August 2014. Including an estimate for construction management services, the City requested if additional CWSRF funds were available. The City's finances were reviewed and additional funds were approved by NMED in November 2014.

Loan Ordinance

Additional loan funds in the amount of \$1,450,436 have been authorized by NMED requiring an ordinance amending the original for the new amount of \$5,050,000. Terms of the additional funding remain the same as the original amount (20 years @ 3%). Changes between the original ordinance and the amended ordinance are in red.

Total funding available through the NMED CWSRF loan includes:

\$5,050,000 loan proceeds, 3% @ 20yrs
\$ 350,000 loan subsidy (grant)
\$5,400,000 total funding package

The City will be required to fund a debt service reserve equal to one annual payment (estimated at \$339,440) AND a replacement reserve equal to 5% of the loan (estimated at \$252,500). Both reserves are required to be funded in equivalent amounts over a six year period and cannot be used without NMED approval. This does not require the establishment of a separate bank

account but the reserves will be noted in the annual financial statements to meet the requirements of the loan ordinance. Until the reserves are fully funded, the annual requirement will be included in the annual budget in the Joint Utility Fund beginning in FY16.

The first debt payment on the loan will be due one year after full reimbursement of the loan funds or completion of the project.

The loan may be prepaid at any time.

The loan is secured by net system revenues of the Joint Utility Fund. Net system revenues are defined as gross revenues less operation and maintenance expenses, debt obligations, approved indirect charges, capital replacements and repair of the system and required set asides for the debt service reserve requirement and replacement reserve requirement.

A public hearing specific to the loan ordinance will be scheduled for the December 9, 2014 meeting IF the commission approves the intent to adopt the ordinance on November 25, 2014.

Both NMED and City Attorney have reviewed the ordinance and found to be legally sufficient for the intended purpose.

Project Schedule

Project Advertises	December 2014
Pre-Bid	January 5, 2015
Bid Opening	January 19, 2015
Award (Tentative)	January 27, 2015
Notice to Proceed	March 2015
Construction Time	6 – 9 months (estimate)

FISCAL INPUT

Utility rates, specifically wastewater, will require review during the year to ensure sufficient revenues to meet the debt obligation.

SUPPORT DOCUMENTS: Ordinance 2014-441 NMED CWSRF Loan

DEPARTMENT'S RECOMMENDED MOTION: No Action Required

CITY OF AZTEC, NEW MEXICO

ORDINANCE NO. 2014-441

AUTHORIZING THE CITY OF AZTEC, NEW MEXICO (CITY) TO ENTER INTO **AN AMENDED** LOAN AGREEMENT WITH THE NEW MEXICO ENVIRONMENT DEPARTMENT FOR THE PURPOSE OF OBTAINING ADDITIONAL WASTEWATER CONSTRUCTION LOAN FUNDS IN THE PRINCIPAL AMOUNT OF **\$1,450,436, FOR A TOTAL LOAN AMOUNT NOT TO EXCEED \$5,050,000** PLUS ACCRUED CONSTRUCTION INTEREST,; DESIGNATING THE USE OF THE LOAN FUNDS FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING, MODIFYING AND OTHERWISE IMPROVING THE WASTEWATER FACILITIES OF THE CITY'S JOINT UTILITY SYSTEM; DECLARING THE NECESSITY FOR THE LOAN; PROVIDING THAT THE LOAN WILL BE PAYABLE AND COLLECTIBLE SOLELY FROM THE NET SYSTEM REVENUES TO BE DERIVED FROM THE OPERATION OF THE CITY'S JOINT UTILITY SYSTEM; PRESCRIBING OTHER DETAILS CONCERNING THE LOAN AND THE SECURITY THEREFOR.

If not otherwise defined in these recitals, capitalized terms used herein shall have the meanings given them in Section 1 of this Ordinance.

WHEREAS, the City is a legally and regularly created public body, organized under the general laws of the State; and

WHEREAS, the City now owns, operates and maintains a joint public utility constituting a joint water, wastewater (i.e., sanitary sewer) and electric system (the "System"), which includes a system for disposing of wastes by surface and underground methods; and

WHEREAS, the present System is insufficient and inadequate to meet the needs of the City and its residents for the treatment and disposal of wastewater; and

WHEREAS, the Loan Agreement and Note will be payable solely from Net System Revenues; and

WHEREAS, the funds for this project will include funds from a one-time federal grant to the NMED from the Environmental Protection Agency; and

WHEREAS, the Project is subject to specific requirements of the federal grant; and

WHEREAS, the City has the following obligations to which Net System Revenues have already been pledged; and

WHEREAS, pursuant to City Ordinance No. 2008-353, duly adopted and approved on October 21, 2008, the City entered into a Loan Agreement, Loan No. CWSRF009 with the New Mexico Environment Department("NMED") dated February 3, 2010 ("2008 NMED Loan Agreement"); and

WHEREAS, pursuant to City Ordinance No. 2013-423, duly adopted and approved on June 10, 2013, the City entered into an Interim Loan Agreement, Loan No. CWSRF 021 with the New Mexico Environment Department ("NMED") dated June 24, 2013 ("2013 NMED Interim Loan Agreement"); and

WHEREAS, except as stated above and with respect to obligations relating to such bonds and other obligations, the Net System Revenues have not been pledged to the payment of any outstanding obligations and no other obligations are payable from the Net System Revenues on the date of this Ordinance; and

WHEREAS, the Commission has determined that it is necessary and in the best interest of the City to accept and enter into the Loan Agreement and to execute and to deliver the Note to the NMED (as defined herein).

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF AZTEC:

Section 1. DEFINITIONS. As used in this Ordinance, the following terms shall, for all purposes, have the meanings specified below, unless the context clearly requires otherwise (such meanings to be equally applicable to both the singular and the plural forms of the terms defined unless the plural form is separately defined);

2008 NMED Loan Agreement.The Loan Agreement with the NMED dated February 3, 2010.

2013 NMED Interim Loan Agreement. The Interim Loan Agreement with the NMED dated June 24, 2013.

ACT.The general laws of the State, including the Wastewater Facility Construction Loan Act at sections 74-6A-1 to 74-6A-15 NMSA 1978, as amended; enactments of the Council relating to the Note and the Loan Agreement made by resolution or ordinance, including this Ordinance; and the powers of the City as a public body under authority given by the Constitution and Statutes of the State.

ADMINISTRATIVE FEE. A fee assessed and collected by the NMED from the City on each loan and expressed as a percentage per year on the outstanding principal amount of the loan, payable by the City on the same date that principal and interest on the loan are due, for deposit in the Clean Water Administrative Fund;

ANNUAL AUDIT or SINGLE AUDIT. Financial statements of the City as of the end of each Fiscal Year, audited by an Independent Accountant, consistent with the federal Single Audit Act and the State Auditor's rules.

ANNUAL LOAN REPAYMENT ACCOUNT. An account established under this Ordinance and held by the City, funded from the Net System Revenues in the amount necessary for payment of the principal, interest and administrative fees due annually under the Loan Agreement and Note.

AUTHORIZED OFFICER. The City's Mayor, Manager, Finance Director, or other officer or employee of the City as designated by City Resolution Number 2013-915 approved by the governing body of the City, as amended.

CITY. The entity requesting funds pursuant to the Act.

COMMISSION. The governing body of the City.

DEBT SERVICE RESERVE ACCOUNT. The account established under this Ordinance and held by the City as required pursuant to the Note, funded from Net System Revenues in the amount of the Debt Service Reserve Requirement.

DEBT SERVICE RESERVE REQUIREMENT. An amount equal to one annual repayment of principal, interest and administrative fees due pursuant to the Note.

FISCAL YEAR. The twelve-month period commencing on the first day of July of each year and ending on the last day of June of the next succeeding year, or any other twelve-month period which the City or other appropriate authority hereafter may establish as the fiscal year for the System.

GROSS REVENUES. All income and revenues directly or indirectly derived by the City from the operation and use of the System.

HEREIN, HEREBY, HEREUNDER, HEREOF, HEREINBEFORE and HEREAFTER. Refer to this Ordinance generally and not solely to the particular portion of this Ordinance in which such word is used.

JOINT UTILITY O&M FUND. The fund established under this Ordinance for deposit of the Gross Revenues of the System.

JOINT UTILITY SYSTEM OR SYSTEM. The City's municipally owned public utility designated as the City's joint utility system, consisting of water, wastewater and electric facilities.

LOAN. The loan of funds from NMED made pursuant to the Loan Agreement.

LOAN AGREEMENT. One or more loan agreements in the form attached to the Ordinance as Exhibit A, and in the form of the amended loan agreement which shall amend Exhibit A to state the exact amount the NMED loaned to the City, and which shall be executed upon completion of the Project, to be dated on the date of execution thereof between the City and the NMED pursuant to which funds will be loaned to the City to construct the Project and pay eligible costs relating thereto, as amended from time to time.

LOAN SUBSIDY GRANT. A sub-grant of funds to the City from a one-time federal grant of funds to the NMED by EPA, for the purpose of subsidizing the amount loaned to the City under the Loan Agreement and Note.

NET SYSTEM REVENUES. Gross Revenues LESS the following expenses: (1) Operation and Maintenance expenses of the System, (2) Parity Bonds or Parity Obligations (3) approved indirect charges, (4) any amounts expended for capital replacements and repair of System, and (5) the required set asides for Debt Service Reserve Requirement and Replacement Reserve Requirement.

NMED.The New Mexico Environment Department, successor to the Environmental Improvement Division of the New Mexico Health and Environment Department and any assignee of the NMED pursuant to the Loan Agreement and Note, or its successor agency as provided by law.

NMSA.New Mexico Statutes Annotated, 1978 Compilation as amended and supplemented.

NOTE.The interim and final promissory notes in the forms attached to the Loan Agreement as Exhibit B, attached hereto issued by the City to the NMED, evidencing the indebtedness of the City to the NMED incurred pursuant to the Ordinance and Loan Agreement.

OPERATION AND MAINTENANCE. All reasonable and necessary current expenses of the System, paid or accrued, relating to operating, maintaining and repairing the System.

ORDINANCE.This Ordinance as amended or supplemented from time to time.

PARITY OBLIGATIONS. The Loan Agreement and Note, the 2008 NMED Loan Agreement, **2013 NMED Interim Loan Agreement** and other bonds or other obligations payable from Net System Revenues of the System issued with a lien on the Net System Revenues on parity with the lien thereon of the Loan Agreement and Note, hereafter issued with the prior written consent of the NMED.

PROJECT. Wastewater collection and treatment system upgrades approved by the NMED.

PROJECT COMPLETION DATE. The date that operations of the completed works are initiated or capable of being initiated, whichever is earlier. This also applies to individual phases or segments.

REGULATIONS. Regulations promulgated by the Water Quality Control Commission Regulations at 20.7.5 NMAC and New Mexico Environment Department at 20.7.6 - 20.7.7 NMAC.

REPLACEMENT RESERVE ACCOUNT. The account established under this Ordinance and held by the City, to be funded from Net System Revenues in the amount of the Replacement Reserve Requirement.

REPLACEMENT RESERVE REQUIREMENT. An amount to be funded by the City in an annual deposit of one-sixth of 5% of the sum of the final principal amount loaned and the amount of the loan subsidy granted to the City from NMED.

STATE. The State of New Mexico.

Section 2. RATIFICATION. All action heretofore taken (not inconsistent with the provisions of this Ordinance) by the Commission, the officers and employees of the City, directed toward the Loan Agreement and the Note, is hereby ratified, approved and confirmed.

Section 3. FINDINGS. The Commission hereby declares that it has considered all necessary and relevant information and data and hereby makes the following findings:

A. The execution and delivery of the Loan Agreement and the Note pursuant to the Act to provide funds to finance the Project, is necessary and in the interest of the public health, safety and welfare of the residents of the City and will result in savings of debt service costs to the City.

B. The City will acquire, improve and finance the Project.

C. The money available for the Project from all sources other than the Loan Agreement is not sufficient to pay when due the cost of the Project.

D. The Project is and will be part of the System, which is a publicly owned water, wastewater and electric system the purposes of which include the disposal and treatment of wastewater, either by surface or underground methods.

E. The Net System Revenues may lawfully be pledged to secure the payment of amounts due under the Loan Agreement and Note.

Section 4. JOINT UTILITY. The municipal water, wastewater and electric facilities shall continue to constitute a joint utility (i.e., the System) and shall be operated and maintained as such.

Section 5. AUTHORIZATION OF PROJECT. The acquisition and construction of the Project and payment of eligible items as set forth in the Regulations from proceeds of the Loan Agreement and Note are hereby authorized at a cost not to exceed the principal amount of \$5,050,000.00 excluding any cost of the Project to be paid from any source other than the proceeds of the Loan Agreement and Note.

Section 6. AUTHORIZATION OF LOAN AGREEMENT.

A. For the purpose of protecting the public health, conserving the property, protecting the general welfare and prosperity of the citizens of the City and acquiring the Project, it is hereby declared necessary that the City, pursuant to the Act and the Regulations execute and deliver, and the City is hereby authorized to execute and deliver, the Loan Agreement and the Note as Parity Obligations to be payable and collectible solely from the Net System Revenues. The NMED has agreed to disburse the proceeds according to the terms of the Loan Agreement to the City over the construction period of the Project. The aggregate principal amount of the Note shall not exceed \$5,050,000.00 plus accrued construction interest without the adoption of another Ordinance amending the Ordinance by the Commission, and the annual interest rate and

administrative fees on that principal amount shall not exceed three (3%) percent per annum collectively. Interest and the Administrative Fee shall be computed as a percentage per year on the outstanding principal amount on the Loan on the basis of a 365 day year, actual number of days lapsed. The final maturity date on the Note shall not extend beyond 20 years from the Project Completion Date. The Loan shall be repaid in substantially equal annual installments of principal, interest and administrative fees on the dates provided in the Loan Agreement, with the first annual installment due within one year of the Project Completion Date, but no later than one year after the date of the warrant of final payment from the NMED. The City must obtain the written consent of the NMED before issuing additional obligations secured by Net System Revenues. The NMED has given its written consent allowing the City to issue and incur the obligation to be evidenced by the Loan Agreement and the Note.

B. The City is hereby authorized to accept a Loan Grant Subsidy under the terms of the Loan Agreement. The aggregate Loan Grant Subsidy amount shall not exceed \$350,000 without the adoption of another Ordinance amending the Ordinance by the Commission. By accepting a Loan Grant Subsidy, the City is a sub-recipient of a one-time federal grant of funds to NMED by EPA. As a sub-recipient, the City is responsible for complying with the specific requirements and the conditions of the one-time federal grant. If the City fails to satisfy any federal grant requirements or conditions, the City may be required to refund any federal grant funds disbursed to the City from NMED. Specific federal grant requirements include but are not limited to:

- (1) Federal Grant Reporting Requirements; and
- (2) Wage Rate Requirements

C. The form of the Loan Agreement and the Note are approved. An Authorized Officer is hereby authorized and directed to execute and deliver the Loan Agreement and the Note, and any extensions of or amendments to any such documents to be executed after completion of the Project, or any substitution therefore, substantially in the forms attached hereto as Exhibits A and B with such changes therein as are not inconsistent with this Ordinance and as shall be approved by an Authorized Officer whose execution thereof, or any extension thereof, or substitution therefore, in their final forms shall constitute conclusive evidence of their approval and compliance with this Section.

D. From and after the date of the initial execution and delivery of the Loan Agreement and the Note, Authorized Officers, agents and employees of the City are authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of this Ordinance, the Loan Agreement and the Note.

Section 7. SPECIAL LIMITED OBLIGATIONS. The Loan Agreement and the Note and all payments of principal, interest and administrative fees thereon shall be special limited, and not general, obligations of the City and shall be payable and collectible solely from the Net System Revenues which are irrevocably pledged (but not exclusively pledged) as set forth in Section 5 and 6 of this Ordinance. The NMED may not look to any general or other municipal fund for the payment of the principal, interest or administrative fees on the Loan Agreement and the Note except the designated special funds pledged therefore. The Loan Agreement and the Note shall not constitute indebtedness or debts within the meaning of any constitutional or statutory provision or limitation, nor shall they be considered or be held to be general obligations of the City and shall recite that they are payable and collectible solely out of

the Net System Revenues, the income from which is so pledged, and that the NMED may not look to any general or other municipal fund for the payment of the principal, interest or the administrative fees on the Loan Agreement or the Note.

Section 8. OPERATION OF PROJECT. The City will operate and maintain the Project so that it will function properly over its structural and material design life, which is not less than 20 years.

Section 9. USE OF PROCEEDS. The NMED shall disburse Funds pursuant to the Loan Agreement for NMED approved costs incurred by the City for the Project or to pay contractors or suppliers of materials for work performed on the Project as set forth in the Loan Agreement.

Section 10. JOINT UTILITY O&M FUND. So long as the Loan Agreement and the Note are outstanding, whether as to principal, interest or administrative fees, all Gross Revenues shall continue to be set aside and credited to the Joint Utility O&M Fund.

Section 11. DEBT SERVICE, REPLACEMENT RESERVE, AND ANNUAL LOAN REPAYMENT ACCOUNTS.

A. DEBT SERVICE RESERVE ACCOUNT. A Debt Service Reserve Account is established under this Ordinance, held by the City and funded from the Net System Revenues in the amount of the Debt Service Reserve Requirement. The City shall deposit no less than one-sixth of the amount of one annual repayment of principal, interest and the administrative fees from the Joint Utility O&M Fund into this account in each 12-month period beginning at final loan closing and continuing until the full amount of the Debt Service Reserve Requirement is on deposit in the Debt Service Reserve Account. In the event that funds from the Debt Service Reserve Account are used to service the Loan Agreement and the Note, the City shall replenish

the Debt Service Reserve Account as soon as possible by depositing funds in the manner described above until the full amount of the Debt Service Reserve Requirement is on deposit in the Debt Service Reserve Account. So long as the Loan Agreement and the Note are outstanding, whether as to principal, interest, or the administrative fee the City shall fund the Debt Service Reserve Account and identify this in the Annual Audit.

B. REPLACEMENT RESERVE ACCOUNT. A Replacement Reserve Account is established under this Ordinance, held by the City and funded from the Net System Revenues in the amount of the Replacement Reserve Requirement. The City shall deposit no less than one-sixth of 5% of the sum of the final principal amount loaned and the amount of the loan subsidy granted to the City from the Joint Utility O&M Fund into this account in each 12-month period beginning at final loan closing and continuing until the full amount of the Replacement Reserve Requirement is on deposit. The Replacement Reserve Account shall accumulate funds to pay for replacement of parts to ensure the Project is fully operational during the term of the Loan Agreement and Note. In the event that funds from the Replacement Reserve Account are used to pay for replacement of parts, the City shall replenish the Replacement Reserve Account as soon as possible by depositing funds in the manner described above until the full amount of the Replacement Reserve Requirement is on deposit in the Replacement Reserve Account. So long as the Loan Agreement and the Note are outstanding, whether as to principal, interest, or the administrative fee, the City shall fund the Replacement Reserve Account and identify this in the Annual Audit.

C. ANNUAL LOAN REPAYMENT ACCOUNT. An Annual Loan Repayment Account is established under this Ordinance, held by the City and funded from the Net System Revenues in the amount necessary for payment of the principal, interest and the administrative

fee due annually under the Loan Agreement and Note. So long as the Loan Agreement and the Note are outstanding, whether as to principal, interest, or the administrative fee, the City shall fund the Annual Loan Repayment Account and identify this in the Annual Audit.

Section 12. APPLICATION OF GROSS REVENUES.

A. **OPERATION AND MAINTENANCE.** The City shall pay for the operation and maintenance expenses of the System, approved indirect charges, and any amounts for capital replacement and repair of the System from the Joint Utility O&M Fund as incurred.

B. **PARITY OBLIGATIONS AND OTHER APPROVED DEBTS.** The City shall pay principal, interest and administrative fees of parity obligations and other approved debts which are secured from the Net System Revenues of the Joint Utility O&M Fund as scheduled.

C. **EQUITABLE AND RATABLE DISTRIBUTION.** Obligations of the city secured by Net System Revenues on a parity with the Loan Agreement and Note, from time to time outstanding, shall not be entitled to any priority one over the other in the application of the Net System Revenues, regardless of the time or times of their issuance or creation.

D. **DEBT SERVICE AND REPLACEMENT RESERVE ACCOUNTS.** The City shall deduct the required amounts for debt service reserve and replacement reserve accounts from the Joint Utility O&M Fund as required.

E. **SUBORDINATE OBLIGATIONS.** Net System Revenues used for the payment of Subordinate Obligations shall be applied first to the payment of the amounts due the Loan Agreement and the Note, including payments to be made to other obligations payable from Net System Revenues which have a lien on Net System Revenues on parity with the Loan Agreement and the Note.

Section 13. LIEN OF LOAN AGREEMENT AND NOTE.The Loan Agreement and the Note shall constitute irrevocable liens upon the Net System Revenues with priorities on the Net System Revenues as set forth in Section 12 of the Ordinance. The City hereby pledges and grants a security interest in the Net System Revenues for the payment of the Note and any other amounts owed by the City to the NMED pursuant to the Loan Agreement.

Section 14. OTHER OBLIGATIONS. Nothing in this Ordinance shall be construed to prevent the City from issuing bonds or other obligations payable from the Net System Revenues and having a lien thereon subordinate to the liens of the Loan Agreement and the Note. For all other obligations, the City shall first obtain the prior written consent of the NMED prior to issuing such other obligations.

Section 15. DEFAULT.The following shall constitute an event of default under the Agreement:

A. The failure by the City to pay the principal, interest and administrative fees on the repayment of the Loan set forth in the Loan Agreement and Note when due and payable either at maturity or otherwise; or

B. Default by the City in any of its covenants or conditions set forth under the Loan Agreement (other than a default described in the previous clause of this section) for 60 days after the NMED has given written notice to the City specifying such default and requiring the same to be remedied.

UPON OCCURRENCE OF DEFAULT:

A. The entire unpaid principal amount of the Final Promissory Note plus accrued interest and administrative fees thereon may be declared by the NMED to be immediately due and payable and the City shall pay the amounts due under Note from the Net System Revenues,

either immediately or in the manner required by the NMED in its declaration, but only to the extent Net System Revenues are available for payment of the Note(s). However, if insufficient funds are available for payment of the Note(s), the NMED may require the City to adjust the rates charged by the System to ensure repayment of the Note.

B. If default by the City is of covenants for conditions required under the federal grant, the City may be required to refund the amount of the Loan Subsidy Grant disbursed to the City from NMED.

C. The NMED shall have no further obligation to make payments to the City under the Loan Agreement.

Section 16. ENFORCEMENT; VENUE. The NMED retains the right to seek enforcement of the terms of the Loan Agreement. If the NMED and the City cannot reach agreement regarding disputes as to the terms and conditions of the Loan Agreement, such disputes are to be resolved promptly and expeditiously in the district court of Santa Fe County. The City agrees that the district court for Santa Fe County shall have exclusive jurisdiction over the City and the subject matter of the Loan Agreement and waives the right to challenge such jurisdiction.

Section 17. REMEDIES UPON DEFAULT. Upon the occurrence of any of the events of default as provided in the Loan Agreement (to the extent consistent with this Ordinance) or in Section 15 of this Ordinance, the NMED may proceed against the City to protect and enforce its rights under this Ordinance by mandamus or other suit, action or special proceedings in equity or at law, in any court of competent jurisdiction, either for the appointment of a receiver or for the specific performance of any covenant or agreement contained in this Ordinance for the enforcement of any proper legal or equitable remedy as the NMED may deem most effective to

protect and enforce the rights provided above, or to enjoin any act or thing which may be unlawful or in violation of any right of the NMED in this Ordinance or the Loan Agreement or to require the City to act as if it were the trustee of an express trust, or any combination of such remedies. Each right or privilege of the NMED shall be in addition and cumulative to any other right or privilege under this Ordinance or the Loan Agreement and Note and the exercise of any right or privilege by the NMED shall not be deemed a waiver of any other right or privilege.

Section 18. DUTIES UPON DEFAULT. Upon the occurrence of any of the events of default as provided in Section 15 of this Ordinance, the City, in addition, will do and perform all proper acts on behalf of and for the NMED to protect and preserve the security created for the payment of the Note to ensure the payment of the principal, interest and administrative fees on the Note promptly as the same become due. All proceeds derived from the System, so long as the Note is outstanding, shall be treated as revenues. If the City fails or refuses to proceed as required by this Section, the NMED, after demand in writing, may proceed to protect and enforce the rights of the NMED as provided in this Ordinance and the Loan Agreement.

Section 19. TERMINATION. When all obligations under the Note and Loan Agreement have been paid, the Loan Agreement and Note shall terminate and the pledge, lien, and all other obligations of the City under this Ordinance shall be discharged. The principal amount of the Note, or any part thereof, may be prepaid at any time without penalty at the discretion of the City and the prepayments of principal shall be applied as set forth in the Loan Agreement.

Section 20. AMENDMENT OF ORDINANCE. This Ordinance may be amended with the prior written consent of the NMED, which consent shall not be unreasonably refused.

Section 21. ORDINANCE IRREPEALABLE.After the Loan Agreement and the Note have been executed and delivered, this Ordinance shall be and remain irrepealable until the Note has been fully paid, terminatedand discharged, as provided in this Ordinance.

Section 22. SEVERABILITY CLAUSE. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of the Ordinance.

Section 23. REPEALER CLAUSE.All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency.This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof heretofore repealed.

Section 25. EFFECTIVE DATE.Upon the due adoption of this Ordinance, it shall be recorded in the book of ordinances of the City kept for that purpose, authenticated by the signature of the Mayor and City Clerk, and the seal of the City impressed hereon, and the title and general summary of the subject matter contained in this Ordinance shall be published in a newspaper which maintains an office and is of general circulation in the City. This Ordinance shall be in full force and effect after its publication and adoption in accordance with law.

ADOPTED THIS ____ DAY OF _____, 2014

CITY OF AZTEC, NEW MEXICO

Mayor

ATTEST:

City Clerk

[SEAL]

STATE OF NEW MEXICO)

) ss.

COUNTY OF SAN JUAN)

I, Karla Saylor, City Clerk of the City of Aztec, New Mexico, do hereby certify:

1. The foregoing copy of Ordinance No. _____ is a full, true and correct copy of the original of that ordinance as passed by the City Commission at its regular meeting held on _____, 2014, and the original ordinance has been duly authenticated by the signatures of the Mayor of the City and the City Clerk on that date, sealed with the corporate seal.

2. ____ (__) members of the City Commission were present at that meeting, and ____ (__) members of the City Commission voted in favor of passage of that Ordinance.

3. Notice of the _____, 2014 meeting of the City Commission was duly given as required by the Open Meetings Act, Sections 10-15-1 through 4, NMSA 1978 and Resolution No. 2014-932 which is the current resolution of the City which establishes the reasonable notice policy of the City as required by the Open Meetings Act.

4. On _____, 2014, a Notice of Public Hearing on Ordinance No. __ was published in the Farmington Daily Times, a newspaper which maintains an office in and is of general circulation within the City. A true and correct copy of the affidavit of publication of the Notice of Public Hearing is attached hereto as Exhibit C.

5. On _____, 2014, a Notice of Adoption of Ordinance No. _____, was published by title and summary of its subject matter in the Farmington Daily Times, a newspaper which maintains an office in and is of general circulation within the City. A true and

correct copy of the affidavit of publication of the Notice of Adoption is attached hereto as Exhibit D.

6. No other business concerning that Ordinance was taken at that meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Aztec,
New Mexico this _____, day of _____, 2014.

CITY CLERK

(SEAL)

Staff Summary Report

MEETING DATE:	December 9, 2014
AGENDA ITEM:	XII. Business Item (A)
AGENDA TITLE:	<u>EPA Environmental Assessment Grant</u>
ACTION REQUESTED BY:	William M. Homka AICP, Community Development Director
ACTION REQUESTED:	Approval to Submit EPA application for \$400,000 Assessment Grant
SUMMARY BY:	William M. Homka AICP

PROJECT DESCRIPTION / FACTS

Aztec has an opportunity to apply to New Mexico's Brownfield Redevelopment Program for a \$200,000 Petroleum and \$200,000 Hazardous materials Community Wide Assessment Grant. The grants combine together for a total award of \$400,000. This grant is rare in that it does not require a financial or in-kind match from the applicant.

The idea to apply arose during discussions with property owners in the North main project area. After watching a consultant's presentation that was prepared to market a new commercial center in Cheyenne, Wyoming, we were informed that the cost for the presentation (\$40,000) was paid with funds from an EPA Assessment Grant. Mr. Homka has worked extensively with this grant program in Ohio and was not aware the funds could be used in such a manner. The consultant told us the EPA now recognizes marketing initiatives are equally important to putting contaminated sites to reuse as their identification and remediation. This is a recent rule change.

Subsequently, contact was made with Ayres Associates of Madison WI on November 12, 2014. This is the firm that successfully prepared the EPA grant application for Cheyenne WI and was able to use money to prepare Cheyenne's marketing presentation. Mr. Homka spoke to Mr. Scott Wilson, Vice President of Environmental Services for Ayres Associates. We discussed the opportunity to apply for the current application funding round, but that the timing will be tight. The deadline for grant submittal is mid-December. After discussing the number of vacant commercial sites and our potential property owner coalition, Mr. Wilson agreed he was interested in assisting the City of Aztec. **A scope of services and fee were negotiated (\$3,000) and the contract was executed by the City Manager.**

The price was the next matter to handle. Mr. Wilson suggested his firm typically requires \$10,000 for the grant application service. I pointed out we are a small community but he reminded me about the tight timeline. I shared my level of experience in preparing and administering this particular grant and convinced him that the Community Development Department is competent and capable enough to take much of the coordination workload off his work list. The final price we agreed to for contract purposes is \$3,000 and represents a substantial savings from the initial asking price.

A contract is attached to this report for review and action. I highly recommend the commission support this effort and approve the contract to work with Ayres Associates. Due to the timeline Community Development and the consultant have already been at work preparing the grant. It

is 90% complete and will be ready for submittal. In addition to the aforementioned information, it is worth noting that the State of New Mexico has not been awarded a Brownfield Redevelopment Assessment Grant since 2008. In fact there are no environmental firms in New Mexico. Aztec has contracted with other firms in Colorado in the past for work involving Federal funds that needed environmental work.

Our work together with Ayres Associates has produced a solid draft plan. Mr. Wilson already submitted the draft to the State for a precursory review. We are confident we have a strong application. Personally I also believe our chances to achieve an award are enhanced because no other communities in New Mexico have participated in the environmental program since 2008.

Once awarded there will be much work to do. A brownfield committee will need to be appointed and a list of potential sites prepared and prioritized. No landowner is compelled to participate; this is strictly a voluntary program! Access agreements must be secured for anyone to enter someone's private property.

The process involves two steps commonly referred to as Phase I and Phase II. The grant funds pay for all of the work involved in both. A Phase I review is a "paper review" that searches any available historical records about a property. The search is to investigate if a property was ever used as a known contaminator such as a gas station. If no such use is discovered, then the Phase I review is complete and the study of the site complete. However if during the Phase I it is discovered there was a gas station and mechanic shop located on the property in the 1920's, then a Phase II would be prepared with the property owner's permission. A Phase II involves taking soil samples from various places across the site and at various depths. The sample points are plotted on a map. The soils are sent to a laboratory for analysis. Results will indicate if there are contaminants, what levels and types/ and make recommendations as to the level of remediation (clean up).

Remediation levels are based on proposed uses. The highest standard of remediation is recommended for residential, schools and playgrounds. Commercial and office uses are a lower level of clean up and there are various ways the contamination might be addressed through site development. Industrial development is the weakest clean up standard. The reason is because industrial uses tend to cover the site with more impervious materials, such as concrete flooring, asphalt parking lots, etc. and because the risk to children and families is much lower than in residential areas.

Some of the grant funds can also be used to educate staff at the annual brownfield conference. This is always a good educational forum. Many times a community somewhere else is facing a similar problem or challenge as our own community so the learning experience and comparisons are practical and allow for discussion and new contacts.

FISCAL INPUT / FINANCE DEPARTMENT (if applicable)
--

The City will not be required to supply a cost share (match) for the EPA Assessment Grant; however, the City will be required to identify other leveraged funding sources or potential sources of funding for completion of related development projects conducted with use of the

EPA Assessment funding, including other State redevelopment grants and/or in-kind labor and expense that the City will expend in working on this redevelopment initiative.

If the City is granted funding, budget requirements will be identified as projects are approved for use of the EPA funds.

SUPPORT DOCUMENTS: **Contract with Ayres Associates**

DEPARTMENT'S RECOMMENDED MOTION: Move to Approve Submittal of EPA application for \$400,000 Assessment Grant



November 30, 2014

William M. Homka AICP, CFM
Community Development Director
City of Aztec, NM
201 W. Chaco Street
Aztec, NM 87410

Re: Proposal for EPA Brownfield Community Wide Assessment Grant Application; City of Aztec, NM 87410

Dear Mr. Homka,

Based upon my previous conversation with you about pursuing United States Environmental Protection Agency (EPA) Brownfield Assessment Grants, I have prepared this proposal outlining our professional services involving preparation of a Community-Wide Assessment Grant application to the U.S. EPA. Under cover of this letter, we have included our scope of services, time schedule, fee, and contract terms and conditions.

The purpose of this EPA brownfield assessment grant is to assess environmental conditions of public and/or private property located within the applicants jurisdictional limits. The EPA Assessment Grant would be submitted by the City of Aztec, NM, as a *community-wide* assessment grant proposal, and therefore, there is no site eligibility or property ownership eligibility criterion needed at this time. If the City is awarded a grant and the City enters into a cooperative agreement with the EPA, we will later be required to determine which properties will need environmental assessment funding from the EPA, as sites become of interest to the City, and only then we will request site-specific approval to expend monies on each particular site, after its eligibility is verified.

Recent EPA policy clarifications now allow use of site assessment dollars for environmental site assessments in conjunction with efforts to promote area-wide planning among areas and corridors of Brownfield sites. This may allow funding to be available for planners to proactively evaluate project areas and projects for future beneficial reuse through the Brownfield Redevelopment process and the EPA Community-Wide Assessment Grant. To re-emphasize our previous discussion, a grant award will provide the financial means to the City for conducting due diligence activities PRIOR to acquiring any future properties during the life of the grant. Moreover, these funds can be used to assist local development projects and your developers by providing the funds to conduct their due diligence activities, as well as planning for the type and location of floodwater mitigation measures, future greenways and public gathering spots, retail and housing opportunities, and place-making opportunities to link neighborhoods to urban downtown venues.

We understand that our clients are doing more with less and as a result, have neither the time nor expertise to provide the necessary oversight of an EPA Brownfield Grant. Our professionals not only prepare grant applications and implement the environmental activities within the grant, but we also assist our communities with the documentation necessary to fulfill the EPA project manager, grant manager, and grant specialist requirements.

Typical elements of an awardees' quarterly and annual documentation include:

- Quarterly reporting of grant expenditures
- Grant recipient and contractor updates
- MBE/WBE (form 5700-52A) annual/semi-annual reporting
- FFR form 425 (replaces SF 269) annual financial updates

- Lobbying certification (form 5700-53) and other closeout reports
- Davis-Bacon wage rate requirements (not typical but occasionally required for assessment grants)
- ACRES property profile reporting system
- Administrative records, decision documents, and EPA community relations plan

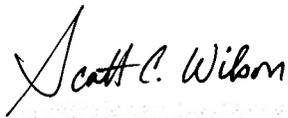
Ayres Associates has extensive experience helping communities fulfill these requirements, and, when requested, we've assisted clients with setting up the ASAP automated banking account information for funding draw-downs from the EPA's Headquarters. Our coordination with the EPA disadvantaged business program manager has allowed our firm to plan field activities in which our clients regularly exceed their MBE/WBE employment goals. If awarded the grant, we can write into the work plan our costs for administering the grant and in so doing, ensure minimal effort by the City so as not to occupy City staff time and resources.

This proposal and agreement for services involves applying for an EPA Brownfield Community Wide Assessment Grant, with an application submission date of no later than December 19th, 2014. Actual date of potential award of the grant is at the discretion of the EPA; however, it is reasonable to assume that the EPA Grant program would announce to the City whether your grant will be funded by mid to late-May 2015. Then, it would take a minimum of several months to finalize a contract between EPA and the City.

If you find our agreement acceptable, please countersign and return the agreement to my attention as soon as possible. Please call me at (800) 666-3103 if you have any questions or concerns.

Respectfully,

Ayres Associates Inc



Scott C. Wilson, PSS
Vice President – Environmental Services

SCW:sem

Enclosure

SCOPE OF SERVICES

Environmental Protection Agency (EPA) Assessment Grant Program

Scope of Work

EPA's investment in the Brownfields Program has resulted in many accomplishments, including leveraging more than \$6.5 billion in Brownfield cleanup and redevelopment funding from the private and public sectors. This program has created approximately 61,000 new jobs, leveraging several dollars for every dollar expended by EPA. Moreover, storm water runoff from Brownfield redevelopment is 47 to 62 percent lower than what occurs on greenfield developments. Lastly, beneficial reuse of Brownfield sites can increase residential property values 2 to 3 percent when nearby Brownfields are assessed, remediated, and brought back into productive reuse. The momentum generated by the EPA Brownfields Redevelopment Program is leaving an enduring legacy. The Brownfields Program has provided guidance and incentives to many municipalities across the nation in support of economic revitalization. The EPA Brownfield Program continues to look into the future by expanding the types of properties it addresses, forming new partnerships, and undertaking new initiatives to help revitalize communities across the nation.

The City of Aztec, NM is submitting an EPA Community Wide Assessment Brownfield Grant application in the amount of \$400,000. The City will use the requested Assessment Grant funds to support Brownfield redevelopment in the City where redevelopment reduces threats to health, welfare, and the environment; creates new jobs, taxes, and economic activity for your community; and eliminates blight. These assessment funds will also be used to support projects that result in creation, protection, and restoration of community waterways, mitigate flooding, and expand green space and public access points within the City project area.

Recent EPA policy clarifications now allow use of assessment grant dollars for completion of environmental site assessments in conjunction with efforts to promote area-wide planning within the vicinity of identified Brownfield sites. This may allow some funding to be available for activities associated with evaluation by planners of target areas and projects that are potential candidates for future beneficial reuse through the Brownfield Redevelopment process and the EPA City Grant. To re-emphasize our previous discussions, a grant award will provide the financial means to the City for conducting due diligence activities PRIOR to acquiring any future properties during the life of the grant. Moreover, these funds can be used to assist local development projects and their developers by providing the funds to conduct their due diligence activities with the City.

Ayres Associates will prepare and submit an EPA City Grant application as described below.

- Obtain the necessary paperwork and applicant eligibility requirements from the City.
- Request Letters of Support from Aztec political representatives in Congress, if needed.
- Prepare a formal description of the City and its urban in-fill objectives and discuss in depth the nature and magnitude of the environmental, social and economic injustice present in Aztec.
- Describe in detail how sites will be selected for assessment, including access issues for private landowners, site inventory, and prioritization efforts by the City or other development end-users.
- Identify the City's community need(s) and prepare a written description of the City's ability to identify additional resources and its ability to manage federal funds as required by EPA.
- Prepare an estimated project budget.
- Describe the sustainable reuse of the City's potential redevelopment areas.

- Identify and describe the “reduction of threats to human health and the environment” associated with the potential project redevelopment sites with the City.
- Identify and describe the “planned reuse” of potential project sites.
- Identify use of existing and potential green space within the City’s proposed redevelopment areas.
- Describe and coordinate community involvement practices as they pertain to the overall project.
- Prepare and submit the final application documents required under the “Competition for the 2015 National Brownfields Site Assessment Grant Program,” which will be due for submittal no later than December 19th, 2014.
- Describe all jurisdictions covered under the proposal and provide general demographic data.
- Prepare applicable mandatory attachments

City Responsibilities

The City will ***not*** be required to supply a cost share (match) for the EPA Assessment Grant; however, you will be required to identify other leveraged funding sources or potential sources of funding for completion of related development projects conducted with use of the EPA Assessment funding, including other State redevelopment grants and/or in-kind labor and expense that the City will expend in working on this redevelopment initiative.

The performance period for this assessment grant is three years AFTER the City and EPA enter into a cooperative agreement for the assessment grant.

Respond promptly to Ayres Associates requests for supporting information to accompany the grant request.

Provide Ayres Associates success stories of the City’s previous urban in-fill and Brownfield Redevelopment projects.

Time Schedule

The EPA Assessment grant will require submission no later than December 19th, 2014. Actual award of the grant is at the discretion of the funding agency. However, it is reasonable to assume that notification of an award will be sometime in late spring 2015 (mid-May). Should the City be awarded the grant, the EPA will request that the City file several federal forms related to the grant award and agreement, as well as a work plan that, in general, describes the proposed uses of the funding. The work plan need not go into detail on the actual project sites; just generalities for the proposed expenditures of the funding (e.g. number of anticipated Phase 1 ESAs, Phase 2 ESAs, Remedial Action Plans, etc.). If the City is successful in getting the grant award, the paperwork (form submittals) and work plan development and submittal must occur during the summer months of 2015 and be submitted by September 30th, 2015.

Additional Services

The EPA will require that a series of federal forms be completed in addition to preparation of the work plan prior to the EPA issuing a cooperative agreement to the lead City partner (City) for implementation of the grant. It has been Ayres Associates experience with many other communities in which we assisted in the EPA grant process that those municipalities have engaged Ayres Associates to prepare the work plan and fill out the necessary federal forms. We can and will assist the City in completion of these forms. Once the EPA cooperative agreement is executed by both parties, the programmatic costs associated with the grant can reimburse expenses to the City if specifically accounted for in the assessment grant work plan.

Ayres Associates has a long history of working with communities in assessing and remediating urban properties using EPA Assessment and EPA Cleanup and RLF Grants. We are prepared

and qualified to assist the City of Aztec in applying for and implementing future EPA Cleanup Grants and EPA RLF Grants and Loans in the future.

Fee

We will perform the above services for a lump sum fee of \$_____.

Contract Terms and Conditions

Attached are "Contract Terms and Conditions" which will apply to the services and which are incorporated into this proposal by reference.

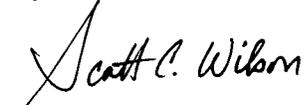
Acceptance

If this proposal and terms and conditions are acceptable to you, a signature on the enclosed copy of this letter will serve as our authorization to proceed.

Proposed by Consultant:

Accepted by:

Ayres Associates Inc



Scott C. Wilson, PSS
VP - Environmental Services

Signature

Attachments: Contract Terms and Conditions

Date: November 30, 2014

Date

**AYRES ASSOCIATES
CONTRACT TERMS AND CONDITIONS**

1. Performance of Services: Consultant shall perform the services outlined in its proposal to Owner in consideration of the stated fee and payment terms.

2. Billing and Payment: Invoices for Consultant's services shall be submitted to Owner on a monthly basis. Invoices shall be due and payable within 30 days from date of invoice. If any invoice is not paid within 30 days, Consultant may, without waiving any claim or right against Owner, and without liability whatsoever to Owner, suspended or terminate the performance of services. Accounts unpaid 30 days after the invoice date will be subject to a monthly service charge of 1.5% on the unpaid balance. The amount of any excise, value-added, gross receipts, or sales taxes that may be imposed on payments shall be added to Consultant's compensation. No deductions or offsets shall be made from Consultant's compensation or expenses on account of any setoffs or back charges.

3. Access to Site: Owner shall furnish right-of-entry on the project site for Consultant and, if Owner does not own the site, warrants that permission has been granted to make planned explorations pursuant to the scope of services. Consultant will take reasonable precautions to minimize damage to the site from use of equipment, but has not included costs for restoration of damage that may result and shall not be responsible for such costs.

4. Location of Utilities: Consultant shall use reasonable means to identify the location of buried utilities in the areas of subsurface exploration and shall take reasonable precautions to avoid any damage to the utilities noted. However, Owner agrees to indemnify and defend Consultant in the event of damage or injury arising from damage to or interference with subsurface structures or utilities which result from inaccuracies in information or instructions which have been furnished to Consultant by others.

5. Hazardous Materials: In the event that unanticipated potentially hazardous materials are encountered during the course of the project, Owner agrees to negotiate a revision to the scope of services, time schedule, fee, and contract terms and conditions. If a mutually satisfactory agreement cannot be reached between both parties, the contract shall be terminated and Owner agrees to pay Consultant for all services rendered, including reasonable termination expenses.

6. Insurance: Consultant shall maintain Workers' Compensation, General Liability, and Automobile Liability Insurance during its services for Owner. Consultant shall furnish a Certificate of Insurance to Owner upon written request. Owner agrees that Consultant shall not be liable or responsible to Owner for any loss, damage, or liability beyond the amounts, limits, exclusions, and conditions of such insurance.

7. Limitation of Professional Liability: Owner agrees to limit Consultant's professional liability to an amount of \$50,000 or Consultant's fee, whichever is greater. In the event that Owner does not wish to limit Consultant's professional liability to this sum, Consultant agrees to raise the limitation of liability to a sum not to exceed \$1,000,000 for increased consideration of ten percent (10%) of the total fee or \$500, whichever is greater, upon receiving Owner's written request prior to the start of Consultant's services.

8. Opinions of Probable Costs: Consultant's opinions of probable project costs are made on the basis of Consultant's experience, qualifications and judgment; but Consultant cannot and does not guarantee that actual project costs will not vary from opinions of probable cost.

9. Construction Review: Consultant does not accept responsibility for the design of a construction project unless the Consultant's contract includes review of the contractor's shop drawings, product data, and other documents, and includes site visits during construction in order to ascertain that, in general, the work is being performed in accordance with the construction contract documents.

10. Construction Observation: On request, Consultant shall provide personnel to observe construction in order to ascertain that, in general, the work is being performed in accordance with the construction contract documents. This construction observation shall not make Consultant a guarantor of the contractor's work. The contractor shall continue to be responsible for the accuracy and adequacy of all construction performed. In accordance with generally accepted practice, the contractor will be solely responsible for the methods of construction, direction of personnel, control of machinery, and falsework, scaffolding, and other temporary construction aids. In addition, all matters related to safety in, on, or about the construction site shall be under the direction and control of the contractor and Consultant shall have no responsibility in that regard. Consultant shall not be required to verify any part of the work performed unless measurements, readings, and observations of that part of the construction are made by Consultant's personnel.

11. Standard of Performance: The standard of care for all professional services performed or furnished by Consultant under this contract will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Consultant does not make any warranty or guarantee, expressed or implied, nor is this contract subject to the provisions of any uniform

commercial code. Similarly, Consultant will not accept those terms and conditions offered by Owner in its purchase order, requisition, or notice of authorization to proceed, except as set forth herein or expressly agreed to in writing. Written acknowledgement of receipt or the actual performance of services subsequent to receipt of such purchase order, requisition, or notice of authorization to proceed is specifically deemed not to constitute acceptance of any terms or conditions contrary to those set forth herein.

12. Ownership of Documents: All documents produced by Consultant under this contract are instruments of Consultant's professional service and shall remain the property of Consultant and may not be used by Owner for any other purpose without the prior written consent of Consultant.

13. Electronic Files: Owner and Consultant agree that any electronic files furnished by either party shall conform to the specifications agreed to at the time this contract is executed. Electronic files furnished by either party shall be subject to an acceptance period of 60 days during which the receiving party agrees to perform appropriate acceptance tests. The party furnishing the electronic file shall correct any discrepancies or errors detected and reported within the acceptance period. After the acceptance period, the electronic files shall be deemed to be accepted and neither party shall have any obligation to correct errors or maintain electronic files. Owner is aware that differences may exist between the electronic files delivered and the printed hard-copy documents. In the event of a conflict between the hard-copy documents prepared by Consultant and electronic files, the hard-copy documents shall govern.

14. Termination of Services: This contract may be terminated at any time by either party should the other party fail to perform its obligations hereunder. In the event of termination for any reason whatsoever, Owner shall pay Consultant for all services rendered to the date of termination, all reimbursable expenses incurred prior to termination, and reasonable termination expenses incurred as the result of termination.

15. Controlling Law: This contract is to be governed by the law of the place of business of Consultant at the address in its proposal to Owner.

16. Assignment of Rights: Neither Owner nor Consultant shall assign, sublet or transfer any rights under or interest in this contract (including, but without limitation, moneys that may become due or moneys that are due) without the written consent of the other, except to the extent mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this contract. Nothing contained in this paragraph shall prevent Consultant from employing such independent subconsultants, as Consultant may deem appropriate to assist in the performance of services hereunder.

17. Third Party Benefits: This contract does not create any benefits for any third party.

18. Dispute Resolution: Owner and Consultant agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to exercising their rights under the following dispute resolution provision. If direct negotiations fail, Owner and Consultant agree that they shall submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this contract or the breach thereof to mediation in accordance with the Construction Industry Mediation Rules of the American Arbitration Association effective on the date of this contract prior to exercising other rights under law.

19. Exclusion of Special, Indirect, Consequential, and Liquidated Damages: Consultant shall not be liable, in contract or tort or otherwise, for any special, indirect, consequential, or liquidated damages including specifically, but without limitation, loss of profit or revenue, loss of capital, delay damages, loss of goodwill, claim of third parties, or similar damages arising out of or connected in any way to the project or this contract.

20. Amendments: This contract may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

Staff Summary Report

MEETING DATE:	December 9, 2014
AGENDA ITEM:	XII. Business Item (B)
AGENDA TITLE:	<u>NMDOT Riverside – Townsend Trail Grant and Resolution 2014-946</u>

ACTION REQUESTED BY:	William M. Homka AICP, Community Development Director
ACTION REQUESTED:	Authorize the application for RTP funds via resolution 2014-946 and guarantee matching funds, acknowledge maintenance
SUMMARY BY:	William M. Homka AICP

PROJECT DESCRIPTION / FACTS

Aztec has an opportunity to apply to New Mexico's Department of Transportation (NMDOT) for grant money to pay for new trails. The NMDOT program is called RTP (Recreational Trails Program). Statewide New Mexico has about \$4.3 million available for award. In November the Community Development Department worked with several city departments to prepare and submit two proposals to the Farmington MPO.

The first proposal was called the Ruins-Riverside Connector Path. It would connect the new path and bridge recently built in the north main extension area to the existing pedestrian bridge that connects to Riverside Park's trail system. The path would run alongside the river and connect existing trails underneath the bridges at Chaco Street and Aztec Boulevard. The path would measure approximately 3,350 linear feet and be built of crusher fines. The path would cross five (5) private parcels through which easements would need to be acquired. This proposal was estimated to cost \$295,000. The costs would include the materials, easements, clearing and site preparation; professional drawings; environmental review, project administration and contingency.

The second proposal was called the Riverside Park-Townsend Trail and would extend the Riverside Park trail into the 40 acres of undeveloped parkland the city purchased from the Townsend family. The city would need to acquire four properties, or easements thereon, consisting of about 1,541 lineal feet separating the park and the Townsend property. The total trail length is about 8,700 lineal feet made of crusher fines. This proposal was estimated to cost \$613,000 and would include materials, easement acquisition, clearing and site preparation, professional drawings, environmental review and studies, project administration and a contingency fund.

The Farmington MPO staff met with the NMDOT Region 5 representatives on Tuesday November 18 and called Mr. Homka for a conference call. The review very positive and overall the review team was supportive of both proposals. They recognized our strategy was to make the proposals interconnected which added strength to the request, but that each proposal also had strong merit on its own. The review team pointed out three issues. First they were certain that the amount of money budgeted for each proposal's environmental work was seriously under actual cost. They recommended raising the costs for both and estimated a total of \$50,000 should cover both proposals. Second, they said that some environmental work would

need to be prepared in advance of signing a grant agreement. The work should commence in February. Starting work ahead of a signed grant agreement means the work will not be reimbursable by the grant nor will it count toward the city's match requirement. This amount was also estimated to cost about \$50,000 for both proposals. Mr. Homka stated the Community Development Department is already working with an environmental firm and would seek to satisfy the requirement so Aztec remained competitive for the grant funding.

Last, the NMDOT staff inquired about the Community Development Department's administrative capacity. Mr. Homka explained his involvement with administering brownfield grants for many years in Ohio; explained he is familiar with the ERR (Environmental Review Requirements) and will be able to assist in the process to greatly help Aztec through the grant administration. The discussion centered around the various procedures, publication and timing requirements that are involved to administer the grant correctly. The NMDOT review team sounded satisfied and said it will look forward to our final submittals.

In effect the telephone review was positive, thorough, but expensive. It raised the cost of doing both projects by \$100,000. The diverse biological environment in the floodplain is at the root, plus two protected species that inhabit the area. Mr. Homka had only factored on an archeological dig. Thus the total cost for the Ruins-Riverside Connector Path proposal, the smaller of the two, would increase by about \$20,000 to \$315,000 plus \$20,000 up front for environmental work in February, 2015. The Riverside Park-Townsend Trail is estimated to have 60% of the increased environmental cost. Thus that proposal increased by \$30,000 to \$643,000 plus \$30,000 for up front environmental work in February, 2015. The revised figures would bring the total project proposals to \$958,000. The city's matching share of that (at 14.55%) would be \$139,389. Add the additional \$30,000 for environmental work that is neither reimbursable nor countable toward the match and the city's total liability would be \$169,389.

After informing the City Manager and several members of the team about our exciting news, we scheduled a project meeting. On Monday December 1, 2014 Ed Kotyk, Josh Ray, Steve Mueller and Bil Homka met to review both of the grants and the steps achieved to date. In reviewing both grants it was decided that it would be prudent to drop the Ruins-Riverside Connector Path and proceed with the Riverside Park – Townsend Trail. The reason is basically timing.

A few property owners along the proposed Ruins-Riverside Connector Trail route have expressed disinterest in past trail discussions. Indeed one owner was amenable until he didn't get a zoning approval so he changed his mind, apparently feeling there should have been a mutual exchange. Combined with the tight timeline, the team decided to focus on the other proposal that has four (4) property owners who have expressed interest in past discussions. Parcel owners between Riverside Park and Townsend parcel have previously met with city representatives about property sale. Appraisals were ordered in November 2013 on three of the four lots and now they are just a few weeks older than the maximum one year limit! We are working with the appraisal company on a reduced cost to re-appraise those lots and for another cost on the fourth lot. All totaled the costs is \$700 + tax for each of the recently appraised lots (\$2,250.94) and \$1,875.78 for the fourth lot. Thus the total appraisal cost sums to \$4,126.72.

The last issue to be concerned with is the environmental work that needs to be completed prior to signing a grant agreement. It was suggested by the review team that we proceed with the work in February, 2015. The estimated cost is around \$30,000 and would set the project stage by aiming for environmental clearances from the various state and federal agencies that need to

be consulted with for protected species, for example. The rest of the timing involves designing the project in the 2016 funding year and construction of the pathway in the 2017 funding year. The total sum of the Riverside Park-Townsend Trail project that will be covered by the grant agreement with the New Mexico Department of Transportation's Recreational Trails Program is \$643,000. The city's share that will be considered grant match/leverage will be \$123,557. Two additional costs not part of the grant but required to proceed are the new appraisals (\$4,126.72) and environmental study (\$30,000) that add an additional \$34,127 (rounding up). Therefore the total amount required of the city will be \$157,684.

PROCUREMENT / PURCHASING (if applicable)

Upon notification of award of funding (April 2015), environmental services will be procured this spring. Design services will be procured in the fall of 2015.

FISCAL INPUT / FINANCE DEPARTMENT (if applicable)

This project was not included in the FY15 Budget. Upon notification of award of funds, General Fund Contingency Funds will be used to procure environmental services. Design will be included in the FY16 Annual Budget and construction in the FY17 Annual Budget preparation.

SUPPORT DOCUMENTS: Support Resolution 2014-946
Trail Connectivity Map
Parcel Map with Project Costs

DEPARTMENT'S RECOMMENDED MOTION: Motion to approve the application for RTP Funds to create the Riverside Park-Townsend Trail Project and Support Resolution 2014-946

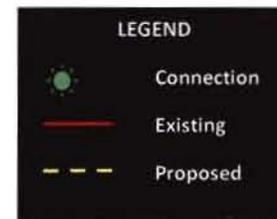


RIVERSIDE PARK - TOWNSEND TRAIL
Trail Connectivity Map

The adjacent map lists the route of the proposed Riverside Park-Townsend Trail. The proposed trail route is marked in yellow. Red lines represent existing trails that will connect to the new trail. The new "Townsend Trail" will enable a person to walk, run or bike within Riverside Park and also make use of an additional 40 acres of parkland that the City of Aztec owns. This property was purchased from the Townsend Family. It is currently undeveloped and inaccessible to the public.

There are four property owners that own lots between the Townsend Property and Riverside Park. The concept is to acquire the parcels rather than just purchase easements or right of way because the value of the parcels is already very low. Purchasing easements or land for right of way from the parcels will leave undesirable sized parcels that will have a difficult time selling, especially with riverfront access shared via public pathway. Leaving remnant land could inevitably pose public nuisance issues to the City of Aztec.

The total length of the trail is approximately 8,700 feet. Private property owners control about 1,541 feet of riverfront with the remaining owned by the City of Aztec.



RIVERSIDE PARK - TOWNSEND TRAIL
Project Cost – Parcel Acquisition & Reference Map

COST

The budget for the project is:

Crusher Fine Trail	\$261,000
Easement Acquisition	\$165,000
Clearing & Site Prep	\$ 30,000
Professional Drawings	\$ 30,000
Environmental Review/Dig	\$ 42,000
Project Administration	\$ 10,000
<u>Contingency</u>	<u>\$ 75,000</u>
TOTAL	\$ 643,000

COST ESTIMATES

Map	Property Owner	Assessed Value
A	Land Locked LLC	\$45,000
B	John and Pamela Eichman Trust	\$88,000
C	Jaquez San Juan Properties LLC	\$32,500
D	Frank and Darla Martinez	Unknown (part of Eichman assessment of B)
TOTAL LAND ASSESSMENT		\$165,500

Crusher Fine Trail (yellow dashline) to create loop and connect Riverside Park / Towns and Property is 8,700 linear feet = **\$261,000**



Staff Summary Report

MEETING DATE:	December 9, 2014
AGENDA ITEM:	XIII. Land Use (A)
AGENDA TITLE:	<u>2014-215, New Oil Well requested by Conoco Phillips Company</u>
ACTION REQUESTED BY:	William M. Homka AICP, Community Development Director
ACTION REQUESTED:	Approve Oil & Gas Permit for Pubco Federal Gas Com 1N San Juan County, New Mexico
SUMMARY BY:	William M. Homka AICP

PROJECT DESCRIPTION / FACTS

Conoco Phillips Company applied for permission to install a new rig under the City of Aztec's Chapter 15 Oil and Gas Wells. The well will rest on a new pad situated on 1.58 acres located on land owned by nMrs. Liela B. and Mrs. Ora Uptegrove. A location description is provided, however so is the lat/long coordinates which are more easily discoverable using GIS and/or Google Earth. The directions to the Bottom Hole NAD 83 are:

LAT: 36^o 809958' N
LON: 107.954017^o

The rig will be dug to a depth of 7,049 feet. It is being installed by Aztec 777 Drilling Rig.

Chapter 15 sets forth the City of Aztec's jurisdiction within the city and in the Three (3) mile jurisdiction. In review of Article II Permit process it requires all applications be reviewed and receive a decision from the City Commission. Hence this application is brought forth and processed pursuant to Article II Section 15-12, and reviewed pursuant to Article III Performance Standards.

The Area of the production equipment is situated in a square measuring approximately 300' x 230' square. The Well Flag is in the center of the rectangle. The closest residence to the proposed location is more than 530', as such the facility lies entirely within the county. No adjoining property notices were provided as the properties must lie within a 400' radius per city code to receive notification.

The proposal has a dike, a reserve pit that is 12' deep and a containment one foot high containment berm. The berm is designed to direct any problem spill to a reserve pit. There is also a four foot (4') tall high wall that strengthens the berm mound. The other specifications about the site are attached as an exhibit.

In addition to the detailed site plan, the application also included a weed and vegetation plan. The Survey did not identify any New Mexico Dept. of Agriculture listed Class A or Class B noxious weed species within the project area. The overall vegetation cover was about 40% of the proposed project area, with woodland tree canopy covering about 15% of the area. The

vegetation community in the project area is best described as Pinyon-Juniper according to a survey undertaken by an SME biologist on October 18, 2012.

A proposed seed mix was chosen from the BLM's "seed menu" for the Pinyon-Juniper Community (BLM 2013a) through consultation with the BLM environmental protection staff. The mix will be used to re-vegetate the areas not needed for production/operation of the proposed action.

No unique soil reclamation techniques are planned for the reclamation of the proposed project. However the re-contouring of slopes and ripping of compacted earth should occur prior to replacing any topsoil. Best practices are outlined in the report to produce and promote the best vegetation reclamation for areas not needed for the drill site. However the challenges to successful reclamation may include grazing, rapid run-off, low precipitation, and clayey soils. Any monitoring and reporting on the success of reclamation efforts will be completed according to FFO Bare Soil Reclamation Procedure B as outlined in the Farmington Field Office Bare Soil Reclamation Procedures.

A Visual Mitigation Plan is also included and states that the proposed well project is in compliance with the City of Aztec Code Section 15-32. This section has requirements for locating facilities away from prominent natural features, crossing hills and ridges, slope bases, avoiding damage/disturbance to earth adjacent to stream beds as well as avoiding damage to existing trees and vegetation as prescribed in the code.

The application contains a large section titled 'Wildlife Mitigation Summary.' It was prepared by SME Environmental Inc. which conducted a biological field survey of the project area on June 7, 2012 and again on August 29, 2012. The scope of the survey included an analysis of habitat potential for federal and state listed threatened and endangered species as well as BLM special management species. The study puts forth a certification by Nathan Kirker, Biologist for SME Environmental Inc. that the project would not violate any provisions of the Endangered Species Act provided successful implementation of mitigation measures are undertaken should any habitats be found based on actual field examinations while undertaking the project.

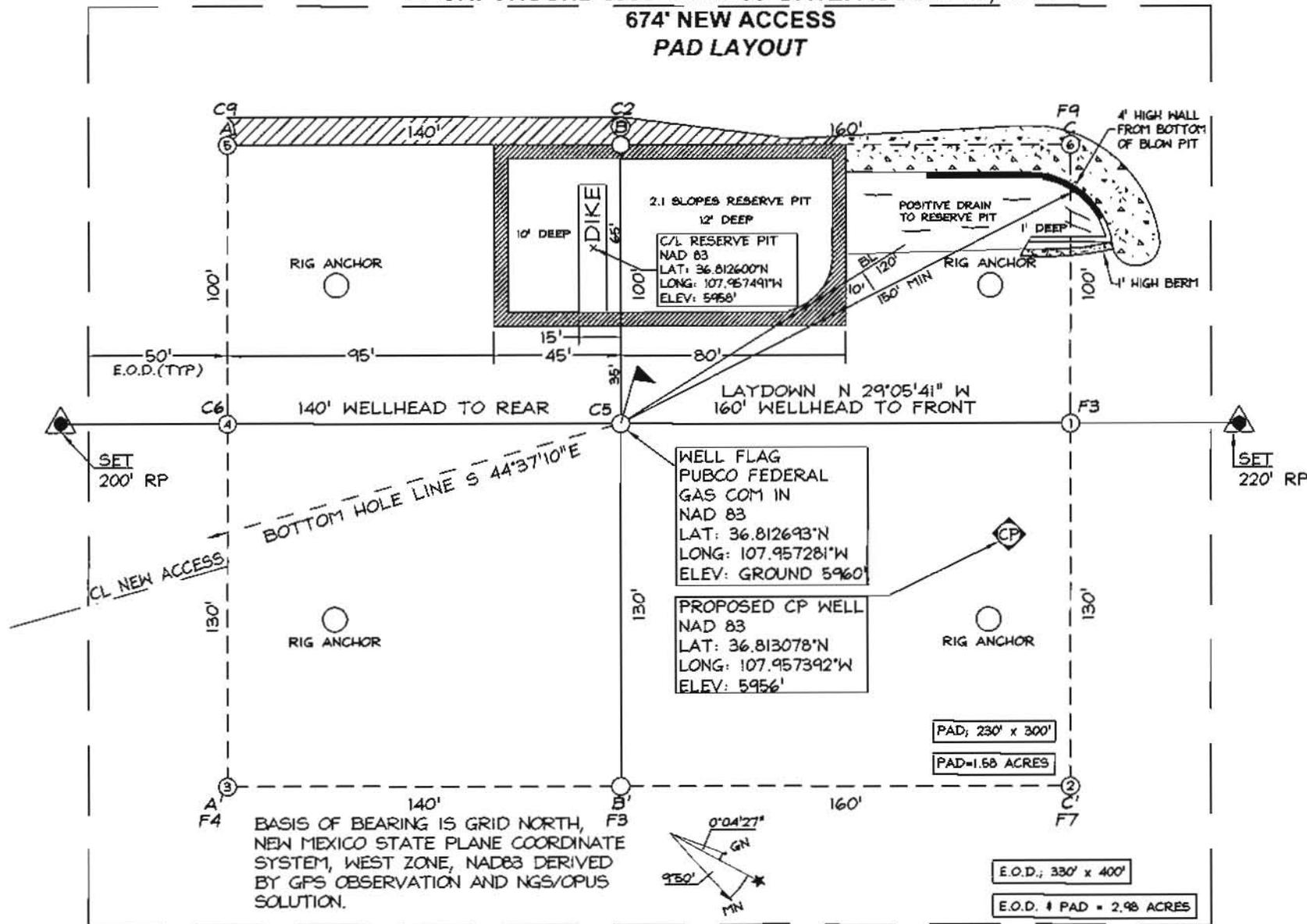
The Environmental Assessment reviewed project scoping and phasing. It sent consultation letters to the various agencies and governmental units that have jurisdiction and or interests in overseeing the various federal and state acts that are applicable to the development. Air quality, water quality, soils, livestock, cultural heritage, migratory birds, and American Indian Religious Concerns and Artifacts are all evaluated for context in the site. The Assessment proposes two Alternative actions, the first that there is no Environmental Assessment (EA) needed because there is no negative impact. The second alternative, Alternative B – Proposed Action, involves ConocoPhillips making any adjustments fo the drilling direction to minimize the surface disturbance.

After a review of all the proposed studies, tables, images and maps, it appears there are no negative impacts resulting from drilling a well at the proposed site. Therefore staff recommends the commission approve this application.

SUPPORT DOCUMENTS: Project Location Map and 400' Radius Map

DEPARTMENT'S RECOMMENDED MOTION: Move to approve 2014-215 Oil & Gas Permit because No Negative Impact to the Environment has been predicted, indicated, or observed via professional studies produced by requirement of the City of Aztec Oil and Gas Code.

CONOCOPHILLIPS COMPANY
 PUBCO FEDERAL GAS COM 1N - 2336' FSL, 1667' FEL
 SECTION 14, T-30-N, R-11-W, N.M.P.M., SAN JUAN COUNTY, NEW MEXICO
 ELEV.: GROUND 5960' NAVD88 DATE: AUGUST 27, 2012



CCI
CHENault CONSULTING INC.

P.O. BOX 328
 BLOOMFIELD, NM, 87413
 PHONE: (505)325-7707

NOTES:

- RESERVE PIT DIKE TO BE 8' ABOVE DEEP SIDE (OVERFLOW-3' WIDE AND 1' ABOVE SHALLOW SIDE).
- THE TOE OF SLOPE AND TOP OF CUT DEPICTED HEREIN ARE PROJECTED.
- C.C.I. SURVEYS IS NOT LIABLE FOR UNDERGROUND UTILITIES OR PIPELINES. CONTRACTOR SHOULD NOTIFY ONE-CALL FOR LOCATION OF ANY MARKED OR UNMARKED BURIED PIPELINES OR CABLES ON WELL PAD AND OR ACCESS ROAD AT LEAST TWO (2) WORKING DAYS PRIOR TO CONSTRUCTION.

