Buckman Direct Diversion

# AGENDA

## The City of Santa Fe
## And
## Santa Fe County

## Buckman Direct Diversion Board Meeting

## Thursday, September 6, 2018
## 4:15 PM
## CITY HALL
## CITY COUNCIL CHAMBERS
## 200 LINCOLN

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. APPROVAL OF MINUTES FROM THE AUGUST 2, BUCKMAN DIRECT DIVERSION BOARD MEETING
5. REPORT ON SEPTEMBER 4, 2018 FISCAL SERVICES AUDIT COMMITTEE (FSAC)

**INFORMATIONAL ITEMS**

6. Monthly Update on BDD operations. (Michael Dozier)
   - San Juan Chama Project 2018 Status (Bill Schneider) **VERBAL**
7. Presentation of the Buckman Direct Diversion Project Annual Financial Report for fiscal year ended June 30, 2017. (Mackie Romero and Laura Beltran-Sanchez, CliftonLarsonAllen, LLP)
8. Report on 4th Quarter Financial Position FY 17/18. (Mackie Romero)
9. Report from the Interim Facilities Manager. (Nick Schiavo) **VERBAL**
10. Update on Rio Grande Water Quality Study Session and LANL Environmental Reports. (Kyle Harwood) **VERBAL**

**RECEIVED AT THE CITY CLERK'S OFFICE**
**DATE: 08/29/2018**
**TIME: 9:01 AM**

11. Discussion on the refinement of the scope of services for the proposed TREAT study. (Nick Schiavo) **VERBAL**

**DISCUSSION AND ACTION**

12. Consideration and possible approval of Amendment No. 8 to the Project Management and Fiscal Services Agreement ("PMFSA") between the Buckman Direct Diversion Board and the City of Santa Fe. (Nancy R. Long)

13. Request to approve and accept Right-of-Way (ROW) NMNM 120617 renewal grant offer to construct, operate, and maintain the fiber optic line, to terminate December 31, 2047. (Nancy Long and Mackie Romero).

    - Estimated annual rental fee of $4,686.36.

**MATTERS FROM THE PUBLIC**

**MATTERS FROM THE BOARD**

**NEXT REGULAR MEETING: Thursday, October 4, 2018 @ 4:15pm, City Council Chambers, 200 Lincoln**

**ADJOURN**

***EXECUTIVE SESSION***

In accordance with the New Mexico Open Meetings Act NMSA 1978, §10-15-1(H)(7), discussion regarding pending litigation in which the BDDB is a participant, including, without limitation, *Buckman Direct Diversion Board v. CDM Smith, et al.*, First Judicial District Court Case No. D-101-CV-2018-01610. (Nancy R. Long)

***End of Executive Session***

**PERSONS WITH DISABILITIES IN NEED OF ACCOMODATIONS, CONTACT THE CITY CLERK'S OFFICE AT 505-955-6520, FIVE (5) WORKING DAYS PRIOR TO THE MEETING DATE**

# MINUTES OF THE

# THE CITY OF SANTA FE & SANTA FE COUNTY

# BUCKMAN DIRECT DIVERSION BOARD MEETING

## September 6, 2018

This meeting of the Santa Fe County/City Buckman Direct Diversion Board meeting was called to order by Councilor Peter Ives, Chair, at approximately 4:20 p.m. in the Santa Fe City Council Chambers, 200 Lincoln Avenue, Santa Fe, New Mexico.

Roll was called and the following members were present:

**BDD Board Members Present:**
Councilor Peter Ives, Chair
Commissioner Anna Hamilton
Councilor Michael Harris
Commissioner Anna Hansen [County alternate]
J.C. Helms [Citizen Alternate for Denise Fort]

Tom Egelhoff [non-voting]

**Member(s) Excused**:
Commissioner Roybal
Denise Fort

**BDD Board Alternate Members Present**:
Councilor Joanne Vigil Coppler [City alternate]
Ginny Selvin [Las Campanas alternate]

**Others Present**:
Nick Schiavo, Interim BDD Facilities Manager
Nancy Long, BDD Board Consulting Attorney
Mackie Romero, BDD Finance Manager
Bernardine Padilla, BDD Public Relations Coordinator
Michael Dozier, BDD Operations Supervisor
Shannon Jones, City Public Utilities Department Director
Bruce Frederick, County Attorney Director
Michael Kelley, County Public Works
Rick Carpenter, City Manager Water Resources and Conservation
Jerry Schoeppner, County Hydrologist
Joe Gonzales, County Utilities Department
Ben Underwood, DOE EM-LA
Bill Schneider, City Utilities
Kyle Harwood, BDD Co-counsel
Laura Beltran-Schmitz, CliftonLarsonAllen

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## 3. APPROVAL OF AGENDA

[*Exhibit 1: Agenda*]

CHAIR IVES: Are there any changes from staff?

NICK SCHIAVO (Interim Facilities Manager) No, sir.

CHAIR IVES: Very good. Any changes from the Board?

COMMISSIONER HAMILTON: No, Mr. Chair.

NANCY LONG (BDD Board Counsel): Mr. Chair, I do have a change under item 7. For some reason the name of the accountant was put in incorrectly. It's Laura Beltran – and it's Schmitz.

CHAIR IVES: Thank you for that correction of a typo.

COMMISSIONER HAMILTON: Mr. Chair, move to approve the agenda as mildly amended.

CHAIR IVES: Very good. Is there a second?

COUNCILOR HARRIS: Second.

CHAIR IVES: Any further discussion?

**The motion passed by unanimous [5-0] voice vote.**

## 4. APPROVAL OF MINUTES: August 2, 2018

CHAIR IVES: Are there any changes from staff?

MR. SCHIAVO: Mr. Chair, I'll defer to Ms. Long.

NANCY LONG (BDD Board Counsel): No, I don't believe we have any changes to the minutes. I think everything was made en route to getting them here.

CHAIR IVES: From the Board. Commissioner.

COMMISSIONER HANSEN: On page 13, under Ms. Romero, it's about 96,000. Do you think that should have a dollar sign in front of it? Since we're talking about money. Or are we not talking about money? And also the line above it, where it says 90,000.

COMMISSIONER HAMILTON: Motion to approve.

CHAIR IVES: On that point, it does have a dollar sign in front of the $110, so I think it would be appropriate to include a dollar sign in front of the other dollar figures. Very good. Any other changes from the Board to the minutes? What is the pleasure of the Board?

COMMISSIONER HANSEN: I move to approve with changes.

COUNCILOR HARRIS: We have a motion and a second. Any further discussion?

**The motion passed by unanimous [5-0] voice vote.**

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## 5. REPORT ON SEPTEMBER 4, 2018 FISCAL SERVICES AND AUDIT COMMITTEE

MACKIE ROMERO (BDD Financial Manager): Hello. Thank you. Mr. Chair, members of the Board, a Fiscal Services and Audit Committee meeting was held on Tuesday, September 4th. In attendance was myself, BDD Financial Manager, from the City, Councilor Harris, Andrew Erdman. From the County we had Commissioner Hamilton, Erik Aaboe, Bruce Frederick, Joe Gonzales and Stephanie Schardin Clarke. And from Las Campanas, Ginny Selvin. We discussed the completion of the financial statement and the findings, which will be presented later to the Board. We went through the fourth quarter financial report for expenses through June 30, 2018, and I provided an update on the final billings which have been submitted to the partners for payment.

With the completion of the billings we are scheduled to have an entrance conference next week with our auditors to begin our fiscal year 17/18 audit. We discussed amendment #8 to the PMFSA agreement where the County presented a discussion draft with additional changes to the amendment that is in your packet, which will be discussed further during the presentation of this item.

We also discussed the renewal grant offer that was received from the Bureau of Land Management on the renewal of our right-of-way for our fiber optic line. All of the items discussed will be presented as part of this agenda so are there any questions at this time?

CHAIR IVES: Questions from the Board? Very good. Thank you for your report and we'll move right on into the other items.

## INFORMATIONAL ITEMS

## 6. Monthly Update on BDD Operations

CHAIR IVES: Michael, welcome.

MICHAEL DOZIER (Operations Superintendent): Hello. Mr. Chair, members of the Board, today the operations report will consist or two items. First I'll convey the monthly operational values and answer any questions pertaining to BDD operations. For the second part I will hand the podium over to Mr. William Schneider for a verbal update on the 2018 San Juan Chama water rights pertaining to questions at the previous meeting.

So for the month of August, well water diversions were 7.08 million gallons a day. Drinking water deliveries through booster station 4A/5A, 6.33 million gallons a day. Well water delivery to Las Campanas averaged .66 million gallons a day and onsite treated and non-treated water storage was about.09 million gallons.

The BDD is providing 65 percent of the City's water supply at this current time and I stand for any questions.

CHAIR IVES: Questions for Mr. Dozier? Very good. Thank you for that report. That brings us to the second half of item #6.

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- **San Juan Chama Project 2018 Status** *[Exhibit 2: City of Santa Fe Annual Production]*

BILL SCHNEIDER (City Utilities): Thank you, Mr. Chair, members of the Board. I reviewed the meeting minutes and I believe I sort of established where there may be three points that may require a slight bit of clarification, so I developed very brief visual aids to support that discussion, so I'd like to share that with you please.

The focus on my brief discussion will be to touch on some inquiries regarding the management operation of the 2018 San Juan Chama water with focus and emphasis on deliveries and storage. The second part would be really the role of meeting the total demand of both the city and the county. Then third was the inquiry regarding turning the river off.

So the first thing I'd like to touch on and it's really in terms of the packet is on page 1 is the 22-year history of production regarding to meet demand from the four primary sources of supply. And the key take away that I think hopefully becomes very evident with this visual is that since the BDD has come on line is that the City and the County proper have transitioned to basically being more dependent on a sustainable surface water supply. So for example, all you have to do is look at 2002 where you can see that we were relying on 93 percent groundwater.

Since the BDD's come on line we've exceeded 80 percent use of surface water. So that's kind of the key take-away. There's a lot of information on this figure but that was pretty much what I wanted to bring to your attention. On the second slide there was a question regarding how much water was produced to meet demand from the BDD. So since 2011, and I should clarify this is for the City's quantities only in this case, that we've basically in almost every case exceeded 4,000 acre-feet per year, which is approximately 50 percent of our total demand. It's a little bit less. And then there's a lot of sort of nuances to this information that could bring value in terms of how we operate and move forward in terms of optimizing our production.

We should remind ourselves of the Cerro Grande fire, in terms of water quality issues, the sedimentation that the BDD has had to deal with, and where we had emphasized dewatering the reservoirs at Nichols and McClure when we were doing repairs and improvements on the dams, and so the real main take-away is the BDD could have even produced more than what we're seeing here and I think will in the future.

COMMISSIONER HANSEN: But this graph only shows the City.

MR. SCHNEIDER: Fair point.

COMMISSIONER HANSEN: [away from the microphone]

MR. SCHNEIDER: I concur. Thank you. There were two questions pertaining to the management of San Juan Chama water with specifically 2018 and I thought I could just spend three minutes walking you through how the water is distributed and stored and called for, just so there's no misunderstanding and may be helpful in your role on the Board. On the third page is what I show – this again is for the City, but I certainly could speak to the County if needed, where how we manage our water on a monthly time step.

So from a very high level, I just want to kind of bring it in from the standpoint of both the City and the County receives their water at the Heron Reservoir, managed by

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Reclamation. That reservoir was dedicated for the sole purpose of the San Juan Chama Project. The City has a waiver that allows us to carry the water over. Normally, under congressional authorization, that water would have to be evacuated by December 31st of every water year where it reverts back to the communal pool. By having this waiver, what that allows us to do is get an additional nine months of storage in Heron where there's essentially no evaporation from a quantitative standpoint, and the benefit that that brings the Rio Grande, as well as the operations parts for the City and the County is the fact that the waters move in such a way that we're trying to sustain flows when the river is really, really low below Heron in the wild and scenic stretch of the Rio Chama, where there's basically a very prolific trout population and other ecological benefits.

So what happens is through this agreement, the water is called for from Heron, runs down the Rio Chama and goes down and gets parked in El Vado, where then it gets released through that wild and scenic stretch and then gets put in Abiquiu. So it's a three-step process. At the point at which it reaches Abiquiu it's fully the City's water, and then we call for it at the BDD to be delivered and then consumed. So that really is sort of – we have contracts with the federal government for Heron, and we have a contract with the Water Authority for Abiquiu. And that's really, really in its most simplistic sense. So maybe I'll stand for questions and see if there's any questions.

CHAIR IVES: Questions from anyone?

COMMISSIONER HANSEN: Do we have the same agreement about being able to store water at Heron with the County also? Is it a County-City agreement or is this just the City?

MR. SCHNEIDER: Yes. So because of the separate partnerships, it is a City-Department of Interior agreement. Jerry, do you know if the County had one this year?

JERRY SHOEPPNER (County Utilities): [away from the microphone] We don't. We had one with ABCWUA for storage in Abiquiu Dam.

CHAIR IVES: You see as of yesterday I noticed that we had in excess of our yearly allocation that was stored in Heron, and I understand that runs through either September 15th or September 30th when we'll have to move that water if we don't enter into any type of new agreement with BOR. Is that correct?

MR. SCHNEIDER: Thank you for that clarification. If you go back to that third slide, to really exhibit that very scenario, the blue line represents the volume of water in Heron that the City owns. So basically in August of 2017 it was in excess of 10,000 acre-feet. And then you'll see a sharp decline of water and what you're visualizing there is the actual release as part of evacuating the water out per the waiver requirements. It temporarily passed through El Vado and then ended up as you see the green line spike in Abiquiu. So we do have a waiver.

So what you're going to see when we come back next month is a very similar decline that will drop to the City's 5230, which is our annual allotment and so that's pretty much how it's managed. And I guess, Councilor Ives to that point which I think is really valuable to note is that the City – if you see here in Abiquiu right now we have roughly 7,600 acre-feet of water in reserve. The real goal of this is to try to basically keep two to three years of storage in Abiquiu for a rainy day.

CHAIR IVES: I will say my recollection of the amount from last month was that it was more in Abiquiu than Heron. So my thinking was – whether it was

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because of anticipating the release of the stored water in Heron I wasn't totally sure. And we have rights to store up to 15,000 acre-feet in Abiquiu in the pool there?

MR. SCHNEIDER: That's absolutely correct.

CHAIR IVES: And my recollection on the figures we saw yesterday at PUC was that it was actually about 5,600 acre-feet in Abiquiu as opposed to the 7,600 reflected here. Maybe I'm –

MR. SCHNEIDER: Yes, that would differ from my understanding.

CHAIR IVES: I'm sure you're right. Commissioner.

COMMISSIONER HANSEN: So my next question might be for Jerry and he might want to come down here also. One of the complaints that I know from the people who live around Heron Lake is that they want the water stored there. So do we at the County store our water at Heron for the whole time? Because this is just a City report. I would like to know what's happening at the County also, what we're doing.

MR. SCHOEPPNER: So over the last several years we've actually been leasing our San Juan Chama water to BOR. And this is the first year that we haven't done that. So our full allotment per year is 375 acre-feet. We received about 354 acre-feet this year which is in Heron. We'll have to move that into Abiquiu by the end of the month. So the plan is to move into Abiquiu and we currently have about 550 acre-feet in Abiquiu currently. So we will store it there and I'm not sure if Bill is going to discuss what the plan is between all the other parties – ABCWUA, some of the pueblos, BOR, the City and the County. We hope to participate in releasing some of our San Juan Chama water to keep the river flowing throughout the end of October. So we'd like to participate in that also but we're just looking at what we have available and getting management to support that.

COMMISSIONER HANSEN: Thank you.

CHAIR IVES: Other questions from any member of the Board? Thank you very much for that report. Appreciate it and we appreciate the visuals that help interpret that information.

**7. Presentation of the Buckman Direct Diversion Project Annual Financial Report for Fiscal Year Ended June 30, 2017** *[Exhibit 3: Audit Exit Conference Report]*

MS. ROMERO: Mr. Chair, members of the Board, we are pleased to present the Buckman Direct Diversion Project's annual financial report for fiscal year ended June 30, 2017. Laura Beltran-Schmitz from CliftonLarsonAllen is here and she's going to present our audit findings and our audit results So I'm going to go ahead and pass out a handout and we'll go through that. Thank you.

LAURA BELTRAN-SCHMITZ: Good evening Mr. Chair, members of the Board. Thank you for having me this evening to present the audit for the year ending June 30, 2017. We did have a formal exit conference as required by New Mexico statute at the conclusion of the audits on July 16th, so about a month and a half ago with members of management, Councilor Ives was in attendance as was Commissioner Hamilton, so we had that required communication. This presentation to the full Board complies with further requirements to then present the audit and financial results to the full Board in an open meeting, so that is why I am here to go over this information with

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you.

CHAIR IVES: Before you continue just a point of order. I tried to communicate with Board Member Fort and it turns out that she had a family emergency and so actually had to go out of state, and so is sorry she will not be here and just wanted you to know, J. C. you are now our citizen alternate. So thank you for letting me take that moment. Please continue.

MS. BELTRAN-SCHMITZ: So in front of you, you have the presentation that we went over at the exit. It's also on the screen so I'll advance the slides. But there are some required communications that I'll be discussing with you all. We'll go over it at a high level, the audit results at a high level over the results of the findings throughout the audit.

Our responsibilities are to communicate the fact that we performed our audit under generally accepted auditing standards for the purpose of issuing an opinion on whether or not the financial statements presented are fairly stated. That includes the balances and the disclosures that are included. If there were any significant accounting policy changes from last year to this year we would be required to discuss that with you. There were no significant changes. There are some significant disclosures related to the financial statements pertaining to the restatements that we'll discuss a little bit further as well as it relates to the material weakness that we'll be discussing. But the restatement of the Buckman's beginning net position for the fact that we had to reduce the opening capital asset balances as well as consolidate the fund structure for the Board, based on the type of fund and the type of entity that the Board actually operates.

The audit adjustments, materially adjustments we're required to bring to your attention. This adjustment relates to the aforementioned restatement pertaining to capital assets. Then the agency funds were also consolidated with your overall fund structure that resulted in a reduction of your beginning net position of approximately $195 million. If there were any past audit adjustments we'd be required to discuss that you. Past would mean it didn't rise to the level of our materiality threshold that would require us to actually record it and reflect it in the financial statements, but there were none of those.

Inherent in financial statements and transactions there's management estimates. Not every number at year-end is known. For example, the lives of capital assets. Lives are associated based on economic value, economic salvage life assigned by management. A building may last 30 years; it may last ten, but that value is used to calculate depreciation. So inherently there are estimates for depreciation in your net book value with your capital assets.

Similarly with compensated absences, it's an estimate to determine how much you will have to pay out for compensated absences. You don't know how many people will leave during the year. It's an estimate. So those are some key estimates that are included in your financial statements.

We're required to discuss difficulties that we encounter during the audits. We did not encounter any difficulties working with BDD staff, with Buckman staff. We want to make that very clear. The difficulties more lied with, for one, we're in September 2018 presenting the June 2017 audit results so there were some significant delays pertaining to some staffing issues with the City and the City being the Board's fiscal agent that was just a ripple effect of our inability to complete the Board's audit until we were able to complete the City's audit and it was just a ripple effect. So we had some closing entries

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that were provided to us all the way through April of 2018 and then compounded with the issues with the restatement, with the capital assets and then the funds sort of escalated the matter. But all of our interactions with Buckman staff were pleasant. Mackie was great to work with and got us information as quickly as she could.

We didn't have any disagreements with management and to the best of our knowledge, there was no consultation with other accountants. It's not to say it's not allowed; simply that if the Board wanted to discuss – have conversations with other accountants we'd want to make sure they have the same facts and circumstances that we do, so that they can be evaluated on an even playing field.

There weren't any matters discussed prior to management retaining us – selecting us as the auditors for the last year, and management did sign a representation letter stating that everything we asked for was provided to us in whole. Nothing was withheld from us and Mackie and other members of management, and then we asked the City as your fiscal agent to also sign the representation letter.

And now the results of the audit report: We do issue two reports that are included in the financial statements. The first report starts on page 2 of the hard copy. That's just our standard independent audit report which identifies the opinion that is issued on the overall financial statements. We did issue an unmodified or a clean opinion. That's the best opinion that you want to obtain. That means the financial balances and disclosures that are in the statements are materially stated. We also have a report on internal control over financial reporting and that starts on page 32 in the financial statements. This gives information about the internal controls. It identifies the findings, but we do not provide an opinion on the Board's – on Buckman's internal control structure. We test internal controls to help us evaluate the operations but we don't provide an opinion on those internal controls.

And as identified in that report and as previously mentioned we did have a material weakness this year because of the restatement for capital assets and for the agency funds, and the issue with the capital assets in a nutshell is the fact that the plant and the dam, the entire project, was included on three audited financial statements – Buckman's, the City's and the County's, and that can't happen, because the full value cannot be on three different sets of financial statements. So that's in a nutshell why we had to restate Buckman's opening financial statements and that required us, because of the timing of all of this, the City and the County's CAFR were already completed. We could not include those assets on Buckman's financial statements and issue a clean opinion. So we did remove those from Buckman's financial statements, which is why it's a restatement of approximately $195 million. So that's the assets that are coming off. It's not cash that left. It's not a restatement of your revenue. It's assets that are coming off. That's just really high level, a lot of conversation that went on about this.

And then the other finding that is included in the report is a compliance finding because we didn't meet it by the statutory deadline as outlined by the New Mexico State Auditor's Office, which would have been – I believe it would have been December 15, 2017, which would have been the required deadline. So because we didn't issue at that time we had to issue a compliance finding.

That is all of our required communications and I stand for any questions.

CHAIR IVES: Questions from the Board? Councilor.

COUNCILOR HARRIS: So at FSAC we didn't discuss – I know it's not a

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material weakness, but maybe provide a little bit more detail on the funds previously reported as agency funds. That note. Can you provide a little bit more detail on that? I'm looking at the required governance communication.

MS. BELTRAN-SCHMITZ: Of course. So previously, there were agency funds and actually you can also look at Schedule 2 of the financial statements.

COUNCILOR HARRIS: Good. Thank you.

MS. BELTRAN-SCHMITZ: This will help me discuss this as well. So Schedule 2 of your financial statements –

COUNCILOR HARRIS: What page would that be?

MS. BELTRAN-SCHMITZ: Page 31. Our copy page 31.

MS. ROMERO: 34 of your packet.

MS. BELTRAN-SCHMITZ: Oh, 34 of the packet. Apologies. So this schedule is essentially what your agency funds would be reflected as if we had left these described as agency funds. But the definition of an agency fund means that Buckman would be holding cash in a purely custodian capacity and it's simply being passed through to external parties, parties who are not part of the Board. Because these previously identified agency funds were holding money from the City, the County and Las Campanas, those are the partners of the Board, therefore the Board is not holding money for entities outside ownership of the Board, rather than money is being held for a specific purpose. We left those purposes intact in the emergency reserve and in the major repair and replacement reserve fund.

Those restrictions are still intact. Simply that money is now restricted in that position at the end of the year, rather than being held in an agency fund. Because the agency fund would only be if Santa Fe County was not a partner to the Board, say, for example. If Santa Fe County wasn't a partner to the Board, however, gave money and then would get it back it would be distributed to somebody outside the Board, that could remain an agency fund. But these monies do ultimately go to serve expenses of the Board. It's not just being a pass-through. An agency fund truly means you're just receiving it and then cutting a check for somebody that does not belong to the organization.

COUNCILOR HARRIS: -- increase in net position, increase of net position in the amount of $3,589,862. So basically you said you've just recharacterized the money, is one way to express it, it seems. And so as an agency, as agency funds it did not show up as a net position and so that basically the monies, the dollar amounts are not any different, whether they're agency or characterized as reserve fund. But it did increase our net position. The BDD recognized that now as part of our net position.

MS. BELTRAN-SCHMITZ: Yes, that's exactly right. When it was an agency fund you would simply be getting cash, recording asset and liability, and there'd be no income statement impact. However, now, you are recognizing that revenue, but it's immediately going down into your restricted net position.

COUNCILOR HARRIS: Right.

MS. BELTRAN-SCHMITZ: So you still can't just use that money for whatever you want, which you never were. That's why they were restricted. So this schedule that's on page 34 of your hard copy, it is – 31 of the financial statements, 34 of the packet.

COUNCILOR HARRIS: Oh, okay.

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MS. BELTRAN-SCHMITZ: So 31 of the hard copy. It's titled Scheduled Changes in Restricted Net Position by Partner. This was your agency fund schedule previously, and it was just called Schedule of Changes in Fiduciary Assets and Liabilities. So we left all of it intact; we just had to change the name, change the titling and position of it for financial statement presentation purposes, and all of the dollars are the same, treating it exactly the same. This is simply – you put it perfectly. It's a recharacterization of how it's presented for financial reporting purposes.

COUNCILOR HARRIS: Okay. Thank you.

COMMISSIONER HAMILTON: So we actually talked about this at the audit meeting and then at FSAC a couple of days ago but it might be of general interest. So could you say a couple of words about the restatement of the capital that was done for this year, for all the reasons you stated, but I think there still has to be some discussion about what we do moving forward, and then we have to do that pretty quickly or else we're going to put Mackie way behind the eight ball again and she's going to start throwing eight balls back at us, for the next year audit. So the idea of how the assets are listed still needs to be discussed.

MS. ROMERO: Mr. Chair, Commissioner Hamilton, you are correct. We are scheduled to have an entrance conference with our auditors next week and that's where I will discuss this with them and then we will try to plan a meeting with both City and County Finance staff so that we can all get together and see if this is something we can resolve between all our financial statements, or do we need a little bit more time and possibly hiring maybe not this audit firm but another audit firm to come in and re-evaluate Buckman's structure and what's the correct way to record these assets.

COMMISSIONER HAMILTON: Fabulous. And I knew you had it handled. I just wanted it on the record for everybody who wasn't at the previous meeting. So thank you.

MS. ROMERO: Thank you.

CHAIR IVES: So obviously, the resolution of this for purposes of this audit on the capital, this $190 million, was to move it out of BDD and presumably into the City and the County. In my understanding that was with the agreement of the City and the County. Am I correct in that?

MS. ROMERO: Mr. Chair, so the City and the County already had the assets in their books so all we did was get a confirmation from the City and the County of what the asset number and accumulated depreciation number was, and we just removed that from BDD's books.

CHAIR IVES: And then in terms of that total dollar figure, do you know how it appears on the City's and County's financial statements?

MS. ROMERO: I do not, but maybe Laura knows how the City –

MS. BELTRAN-SCHMITZ: I can only speak for the City's books, because we do the external audit for the City as well, not the County. But the City does have the value included in their water fund. And so that was part of our procedures to double check to really verify are these truly record in multiple places and it was the exact same asset ID number, same years. It was pretty blatant. It was even titled BDD, so it was pretty – zero room for is this right?

CHAIR IVES: Apparently nobody was trying to hide it.

MS. BELTRAN-SCHMITZ: No, it was pretty darn clear. When we just

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started pulling on that thread it just unraveled.

CHAIR IVES: So to me it sounds like the City and the County needs to get together because it sounds like a decision was made not to reflect it on BDD, although I suppose that's something we could bring back into the fold in future timeframes. But it sounds like City and County Finance folks need to get together to talk about how that $190 million is going to be reflected on our financial statements. So I appreciate that.

I noticed on the one material weakness that was identified, there was a recommendation. We recommend that Buckman evaluate financial reporting requirements to ensure generally accepted accounting principles are followed appropriately. And so a question for Mackie, what if anything do we need to do to get there? It sounds like we've already taken those steps.

MS. ROMERO: Mr. Chair, you are correct. It mainly had to do with the classification of our agency funds and some other funds, so making sure that all those funds are properly classified, meet the correct definitions and then correctly reporting them on the financial statements. So I believe that was done as part of this report.

CHAIR IVES: Thank you. Those were my only questions. If there are no others we will thank you for your presentation and move on to the next item on the agenda. Thank you.

## 8. Report on 4th Quarter Financial Position FT 17/18

MS. ROMERO: Mr. Chair, members of the Board, this report is to update the BDD Board and its partners on our 4th quarter financial position as of June 30, 2018. In your packet I have provided the final expenditure numbers for fiscal year 18. You will see a budget overview. This is the budget that was approved by the Board including any adjustments. I have also presented all expenditures from the first through fourth quarter. From the presentation you'll see we've spent about 88 percent of our operating budget.

You'll also notice we exceeded our budget in some of our major categories: electricity -- we exceeded our budget by $42,726. Chemicals is another category where we exceeded our budget by $9,028. Materials and supplies was $4,935 that we've exceeded our budget, those particular line items. But overall, we spent $7,112,267. That includes our operating budget and then our federal funds from the Department of Energy.

In my presentation I've also shown you the bills. All expenses have been billed to the partners for about $6,844,048. The remainder of our expenditures were made up through other revenues. We have our PNM solar rebate revenue, which we received $178,164, and then our federal grant money of $90,056. So that equals the total of our expenditures.

On the next page, page 3 of your packet, I've also shown you our funds, which are the major repair and replacement fund, and the emergency fund. The major repair and replacement fund was – all partners are billed for the yearly contribution of $626,706. I've also provided a financial position which indicates our cash balances. So our emergency reserve fund does include interest earned. Our emergency reserve fund is currently funded at $2,063,495. Our major repair and replacement fund, which includes our yearly contributions and interest earned has a balance of $2,307,184.

Then I've also shown you the expenses that have been authorized by the BDD

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Board. So the BDD Board authorized from that fund of roughly over a million dollars, and we've spent $922,234 of that authorized money from the major repair and replacment fund.

So again, this report is just my presentation to the Board and the partners to let everybody know – this is a projection of where we're ending our fiscal year for June 30, 2018. Are there any questions?

CHAIR IVES: Questions? Commissioner Hansen.

COMMISSIONER HANSEN: On electricity, where we went over budget by $42,000. We got the solar rebate. So does that have anything to do with it? Or do we need more solar to reduce our electricity? Could you explain?

MS. ROMERO: Electricity is technically a budgeted item, so from a budget perspective, it does include the expenditure for the solar. It's just – the revenue, I don't bill the partners for that. I don't bill the partners for it because we have revenue from PNM to support that. So whether we need additional solar, I'm not sure. It's just from the budget we under-projected what our electrical costs were going to be for the last quarter and that's why we have exceeded our budget by that amount, if that makes sense.

CHAIR IVES: Mackie, let me just ask, is there anything in here that is unusual or you would bring to our attention in connection with this report?

MS. ROMERO: No, there is not.

CHAIR IVES: Do we need to engage in any actual budget adjustment based upon the fourth quarter?

MS. ROMERO: Mr. Chair, members of the Board, no. The fourth quarter – making any adjustments is done with at this point. From a BDD standpoint we're definitely going to have to monitor our expenditures for the current year and try to do a better job at projecting the costs that we need in these categories and then making any adjustments and bringing them to the Board for approval.

CHAIR IVES: I'm just curious. I know we have of course our BARs at the City every quarter that we consider where we do make adjustments to the budget based upon actions that are taken. I just wasn't sure that an item as large as the electrical one where we have exceeded the budget by $42,000+ required or necessitated any type of positive or affirmative action by the Board.

MS. ROMERO: I can check with the City finance policies and see if they will allow me to make any adjustments, considering the fiscal year if over, and if they do then I can bring it back to the next meeting.

CHAIR IVES: Okay. I would appreciate that. Commissioner.

COMMISSIONER HAMILTON: When we were talking about this year's budget, are we doing something about bringing this fund up to full funding level?

MS. ROMERO: So, Mr. Chair, members of the Board, Commissioner Hamilton, you are correct. So the major repair and replacement fund was supposed to be re-evaluated to ensure that the funding contributions from the partners was going to be adequate to continue funding any major repair or replacement items in the future. Our fiscal administrator was working on that project and I haven't had a chance to evaluate where she left off and see if we're going to be able to present something, hopefully during our budget presentation for the next fiscal year but we'll re-evaluate that and see how soon we can bring that back to the Board.

COMMISSIONER HAMILTON: Great. Thanks, Mackie.

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MS. ROMERO: Thank you.

CHAIR IVES: Follow up to that, what's our target level for that fund?

MS. ROMERO: So right now we've just been funding it at $626,706 per year. If you remember prior – I think about two years ago, we were funding it at $411,000 per year. I don't have the end target number off the top of my head but we know that the $411,000 and probably even the $626,000 was not going to be adequate. We do need to do a further analysis of all the capital analysis to try and determine what is the number that we need from the partners so that we can make sure that there's adequate balances in those funds as repairs come up.

CHAIR IVES: I guess then what I'd like to do is ask for our next meeting to have a specific update on that in hopes of making that an item of significance for those who are doing that work so that we can look at that and make sure it gets addressed and that the needs of the BDD are being taken care of. So if we could have that on our next agenda and if there are problems getting that please let me know and we'll try and work through any logjams.

MS. ROMERO: Okay. Thank you.

CHAIR IVES: Thank you very much for your report.

**9. Report from the Interim Facilities Manager**

CHAIR IVES: Nick Schiavo, great to have you sitting there. Looking forward to your report. Let's leave it at that.

MR. SCHIAVO: Thank you, Mr. Chair. Just briefly, I've been working with BDD over the last few weeks on an interim basis and have established regular hours with actually being physically out at the plant and established a weekly meeting with the managers of the facility. I've worked with Mackie to move some paperwork forward to post vacant positions, and then I've been coming up to speed on some of the mechanical components of the facility, where we're at with replacement. Also the proposed TREAT study and the litigation. So with that I'll stand for any questions.

CHAIR IVES: Questions. I don't know if everybody knows Nick or not. Commissioner.

COMMISSIONER HANSEN: Welcome, Nick.

MR. SCHIAVO: Thank you.

COMMISSIONER HANSEN: Nice to have you here. I don't have any questions. I just wanted to acknowledge you.

MR. SCHIAVO: Thank you very much.

CHAIR IVES: Questions anyone? Councilor.

COUNCILOR HARRIS: Hello, Nick.

MR. SCHIAVO: Hello, Councilor.

COUNCILOR HARRIS: It's not a question. So this is your newest hat and we talked about a number of different capacities. I wish you well. So I guess I should say that Nick and I worked a lot together on the airport when he was interim out there, so I'm very comfortable with his ability, because the airport was outside of his normal expertise. I think this is much closer to where you've been trained and your experience so I think it will go well. But time is a factor and your spread pretty thin, so just everybody needs to acknowledge that. I know that became an issue out at the airport a bit.

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So we'll do what we can to support you but I also really want to know at some point – not tonight – just kind of your assessment of some of the threads that have been underway, whether it's TREAT or the issues with the intake, some of which were addressed in part. Some of which have languished. So I guess at some point you can do it in a month's time, really give a very realistic assessment of the work that needs to be done and I think that's part of your job.

MR. SCHIAVO: Mr. Chair, Councilor, absolutely. I will work to put that report together for October.

COUNCILOR HARRIS: Okay. Very good. Thank you. Good luck.

CHAIR IVES: Other questions from the Board for Nick? I will say I've worked extensively with Nick at the Water Company. We used to have weekly meetings and he always brought a keen intelligence, not only for the operations of the Water Company but also for handling the complexities of a billing system that was in at points in serious need of attention. The whole conversion to smart meters throughout the city and a host of other things. So I do have a very high level of confidence in Nick's capacity as a manager as well as his knowledge of water issues and water operations. So it's good to have you aboard. Very good. In that case we will move on.

## 10. Update on the Rio Grande Water Quality Study Session and LANL Environmental Reports

KYLE HARWOOD (BDD Counsel): Thank you, Mr. Chair. Good evening, Board. Just two quick items requested from the last meeting. The first is the much discussed water quality study session. As I think many of you know or can view from the minutes, Board Member Fort asked that an expert in public health be added to the panel and I committed to the Board that the next time we tried to coordinate the study session I would do a poll of both Board members and invitees to the study session and a public health person, to the best of my knowledge, has yet to be identified, which is why I've not proceeded with the poll to identify the new date. So we can –

COMMISSIONER HANSEN: Do you need help with finding somebody?

MR. HARWOOD: As I indicated at the last meeting, I don't know of an expert in public health that would fit into the agenda that we've discussed. I know Board Member Fort offered to identify that person and so we're awaiting that composition of people as was directed by the Board at the last meeting.

COMMISSIONER HAMILTON: Mr. Chair. Okay. I think I'd like to float an idea with regard to the agenda. If we want to recall what our original goals for the study session were, and maybe Mr. Harwood could restate those, rather than have me mumble through them.

MR. HARWOOD: Certainly. So the initial idea behind the study session was that we were getting sort of piecemeal updates on various Rio Grande surface water quality programs that are in existence by the regulators that regulate the source surface water system and it was coming forward on different months, different pieces of the picture and so there was expressed a desire to have a non-decisional educational opportunity for the Board to focus on sort of getting a common base of knowledge about particularly state and federal water quality programs as it relates to the water that the project diverts.

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So we had at one point identified inviting Concerned Citizens for Nuclear Safety, Amigos Bravos, a presentation by New Mexico Environment Department, and one by staff, to sort of set the tone and that those would be modest 15- to 20-minute presentations. On the part of the environmental groups it was to look back and look forward, observe what has changed on the Rio Grande and what they were hoping to see change in the future to then inform an open discussion by the Board on where it might want to put some of its energies. Under the staff presentation we were going to report out the Board and staff's participation in the 2009 Triennial Review that resulted in the integrated Section 303B work that we've discussed several times here at the Board. And the Board had asked that a series of questions be answered by each of the presenters. So does that answer your question?

COMMISSIONER HAMILTON: It does. And some of what you said was important and the overarching piece that I think is important is our goals for having this information which helps focus what we want to do on an ongoing basis in terms of pushing – understanding how to work with the agencies and with other entities to improve water quality conditions, protect BDD position, that sort of thing.

So it's not – it has to focus back on what our mandate is in running the BDD and what not. So we can be getting pretty far afield. It's not a three-day study session. It's like a three-hour study session and in the interim I've actually talked to some additional people and put Denise in touch with an additional person at NMED that has information that's related – knowledge that can be presented that's related to the idea of contaminants of concern that may not be regulated and how that's dealt with in the current regulations.

And so I've been thinking that that's the level that's probably pertinent for this first study session. The idea of getting an expert who can say the next step, which is, okay, once you know something about these unregulated contaminants what are the details of human health impacts. Because the human health impacts are used for setting criteria levels. I'm kind of thinking that's a next step thing that might be something that can be presented to the Board subsequently. So if we could go ahead – and since we only have three hours I think we might be biting off a little too much. We get the first round of information and maybe if between now and when we have the study session, if Member Fort identifies a person they can come and listen – participate but not make a presentation and can do that subsequently. Just a thought for not only moving it forward but having a coherent agenda.

COUNCILOR HARRIS: I think when Member Fort mentioned it there wasn't as complete a response as you just gave, Commissioner, but that was the thinking that we really needed to have some of the baseline information before we really moved into any discussion or any presentation on public health impacts. That's what I remember. So it seems that – if we agree that we could move forward without having that public health individual expert component in place. To do a presentation. Maybe that person would benefit if they were attending, I don't know, but I think that's what you said. So that's what I remember. Thank you.

COMMISSIONER HANSEN: I support what Commissioner Hamilton said but also I wanted to through out the name of Pat Longmire. Does nobody else here know him? Doesn't he do public health? I just remember him coming and speaking to the River Commission for the City on water quality and pharmaceuticals and a lot of stuff. But I agree. I think we need to move forward and if the public health issue isn't addressed

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in the first session it could be addressed at the Board afterwards. Because it seems like we keep putting this off and putting this off and I think we need to move forward. So that's my feeling.

COMMISSIONER HAMILTON: And if I may, it's not a matter of ignoring it entirely by any means. It's a matter of dealing with it – getting the background information on how it's dealt with currently in the regulations and maybe a little bit about – because there are monitoring requirements for unregulated compounds of concern and so we can get that background on what people do that and what the general thoughts are and then we can move to more specific things. And that's why it took me a while, like Councilor Harris, you're absolutely right. And I agreed with it before but it took another whole month or two of thinking to agree with myself and realize why I felt that and to think about the step-wise approach.

MR. HARWOOD: I'll proceed accordingly and let Citizen Member Fort know that anybody she identifies be invited but will not be included now in the selection of the date, and then –

CHAIR IVES: And if timing permitted, and I think that would be fine, but yes, I think you're hearing everybody's sense that we want to go forward and find a date for the study session and get that cranking forward. I will say that some of what I struggle with in all of this is that when I think of the Buckman Direct Diversion, obviously we are a water production facility, first and foremost. And we have various water quality standards that we know we have to comply with and at least based upon the TREAT studies that have been performed that the water that is delivered is high quality water according to those standards.

When it comes to trying to get into the depths of trying to get the segments of the Rio Grande, their DL standards and those types of standards I wonder whether some of that might not be more appropriate for the City and the County as the actual owners of the water that BDD produces to carry those banners forward. So just throwing that out there because I'm still not sure. I think it's – let me put it this way. Greater information is great and certainly we're together on this Board so for purposes of doing a study session I think that's ideal, but whether or not this Board is the appropriate one for carrying the standard forward on new water quality standards for the Rio Grande I'm not sure.

So enough said. We will look forward to getting a date set.

MR. HARWOOD: Very good. I'll proceed as you've indicated. The second part of my verbal update is just to report back to the Board that we had a number of presentations from LANL staff over the past year. There was a question posed at the last Board meeting on where some of the hoped for updates stood from LANL and the Environmental Management Group and -- I recently spoke with individuals there, including Mr. Hintze who you remember and Mr. Underwood, who's here tonight who attended that. And they have committed to the October 4th BDD Board meeting date to come and provide updates. There were a number of April – early this year, April reports that were submitted to NMED on the chromium plume and also on the watershed sediment transport mitigation project. And so certainly the chromium plume has been a topic that has been requested an update on.

And then the other item that I had on my list was the update on the transition to a new contractor that I think everyone is familiar with the process that's going on up there. So I've alerted them to know we'd like to tie off those elements from the prior

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presentations. I don't know if there's anything else you'd like to make sure that they're prepared to speak to October 4th, but this will be a direct LANL-Board opportunity for discussion as I think you requested.

CHAIR IVES: Questions? Commissioner.

COMMISSIONER HANSEN: I know that there was a presentation done of the LANL at the Fuller Lodge in September I believe it was, and also Governor Martinez from San I presented and I would like to have the same presentation here to know what San I and how they're participating in this cleanup. Also I would like an update on the perchlorate plume that is also co-located with the hexavalent chromium plume. Also, I know we have at the moment the MOU for the sampling but I would like a discussion or an update with LANL on what they are doing on their end about sampling, also.

MR. HARWOOD: Just so I'm clear, Commissioner, the same presentation as San I that was on the chromium plume topic?

COMMISSIONER HANSEN: I believe it is, because their land is right next to it. I believe that they are working somehow – I don't know. That's why I would like information. If I knew then I wouldn't have to ask for the information.

MR. HARWOOD: Yes, of course. I just wanted to make sure I was referencing the right presentation. So it's not that you want San I to come and present, it's that you would like LANL to present the presentation that they made to San I?

COMMISSIONER HANSEN: No. San I presented at this meeting. I'm assuming Mr. Underwood was at the presentation at Fuller Lodge in September, I believe it was.

MR. UNDERWOOD: [From the audience] I wasn't there.

COMMISSIONER HANSEN: Oh. Okay. I read the agenda and Governor Martinez was one of the presenters. Perry Martinez from San I. I just want to be clear about what Martinez we're talking about.

MR. HARWOOD: We'll figure that out. Very good. That concludes my presentation.

CHAIR IVES: I'll go ahead and make a point. I serve as the Mayor's alternate on the Regional Coalition of LANL Communities and we did have Mr. Hintze do an update presentation at our last board meeting. And as much fun as it is to have folks from the Hill come down and do a whole bunch of presentations I think we can be perhaps more efficient in those presentations and so I'm going to ask that on a going-forward basis, if you wouldn't mind reaching out to the new executive director in the person of Mr. Eric Vasquez to coordinate these types of presentations because I think it's the same information that gets presented at each one of these things. I know Commissioner Roybal was there and privy to that presentation. So if we can figure out a way to get everybody at one and I wouldn't mean to not include folks from Las Campanas and so perhaps we do that here rather than the Regional Coalition but let's see if we can do a little bit better job at coordinating so that we're just getting it all done in one meeting rather than two or more.

MR. HARWOOD: I'll report back on coordination.

CHAIR IVES: Thank you. Are there more questions?

COMMISSIONER HANSEN: Just a comment. Those of us who are not on the Regional Coalition have no idea whatever happens at the Regional Coalition. And

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so I really feel like I do not – if the Regional Coalition needs to be updated then that's separate from us but I feel very strongly that Buckman Direct Diversion, this Board has a whole different make up than that board and that we need to be updated.

CHAIR IVES: Well, and that's why I say if we do the coordination, because again, the intent would not be to exclude anyone from Las Campanas from participating, but I think it's just easier to get one report and have participants from the various folks to whom that report would otherwise be given be aggregated for purposes of efficiency. Good. Thank you.

## 11. Discussion on the Refinement of the Scope of Services for the Proposed TREAT Study

MR. SCHIAVO: Mr. Chair, member of the Board, so an RFP was issued and we've actually received two proposals. So I'm in the process of reviewing those with staff. It's my intention to review those, refine the scope of what we need for this TREAT study and then if I'm able to do it, bring that back in October so you would actually see a recommendation on a consultant with a clear contract, a clear scope of what we want to get accomplished through that study.

CHAIR IVES: And let me just ask, can you share anything when you say refine the scope what your thinking is so that we're clear on that point.

MR. SCHIAVO: Mr. Chair, at this point I've been kind of running between positions and so I don't open that up. But I can – I would assume that it would be fine that once I got a closer scope I could send it out to all of the Board members.

CHAIR IVES: Do we think we'll have all that ready for the next meeting?

MR. SCHIAVO: I think that one is going to be tough, given that we haven't reviewed the two proposals yet. So I think realistically probably the November meeting but I would hope to have a draft scope that I can get to this committee prior to the next meeting so that there could be a discussion.

CHAIR IVES: So what – do we add it as a discussion item and then we'll look forward, hopefully, to hearing a more full presentation and maybe even a contract in November. Questions? Commissioner.

COMMISSIONER HAMILTON: Yes. I know we had a little discussion about that. So I'd like to see, if we're going to do major revisions to the scope of the TREAT study that there's a common understanding of what the goals of the TREAT study were, because maybe just to put it on the record that from my recollection the TREAT study was laid out in four or five sampling events, and this is covering the last two of those. And what happened in the interim was that the data were collected and evaluated and there were some perceived problems with the study and those data were given over to Glorieta GeoScience to review and the recommendation that came out of that was one of the problems was the sampling was done without clear data objectives and what the samples were being collected for, and the process wasn't really clear and so there were potential analytical problems and what not. And the resolution of that was the remaining components of the TREAT study should be done with those things rectified, so that we know why we're sampling. We know – that's the big we – we know how we're sampling and then how the analysis is going to be done.

So there were enough questions about what things were coming into the source

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water and where they were dropping out that couldn't really be answered effectively because of those analytical or sampling problems and the variation that was seen. Nobody could scientifically say whether the variation between the three existing sampling periods was because of poor sampling or was it a real, valid representation of variation, that we probably need those two remaining sampling periods. I know it was a real question Nick had because it's sort of a big commitment and what the goals were. But I have no problem at all with reviewing it but I think that's sort of my input on what the motivation for doing the remainder of the study is. So if that can be accounted for I think that would be wonderful.

MR. SCHIAVO: Mr. Chair, Commissioner Hamilton, thank you for your input.

COMMISSIONER HAMILTON: Thank you, Nick.

COMMISSIONER HANSEN: So can we say who the two applicants are or is that not to be shared? I'm assuming it cannot. It's procurement. You're still in the procurement process, right?

MR. SCHIAVO: Mr. Chair, Commissioner Hansen, yes. We're still in the procurement process.

CHAIR IVES: Any further questions on this matter?

## DISCUSSION AND ACTION

**12. Consideration and Possible Approval of Amendment No. 8 to the Project Management and Fiscal Services Agreement ("PMFSA") between the Buckman Direct Diversion and the City of Santa Fe** *[Exhibit 4: PMFSA Amendment #8 Redline PMFSA; Exhibit 5: PMFSA Amendment #8 Comparison; Exhibit 6: Cost of Service for the BDD]*

MS. LONG: Thank you, Mr. Chair, members of the Board. As directed by the Board, the committee that was constituted to address the new PMFSA and the amendment to increase the project manager fee met since the last Board meeting and is recommending that an interim amendment and the one that was presented to you to increase the project manager fee be adopted, and that increase is from one percent to four percent as we've discussed. And the remaining aspects of the PMFSA would be continued to be discussed as this committee meets again.

In addition to the increase in the project manager fee the amendment that you have in your packet also fixes the issue with the financial statement audit, the requirement in the PMFSA being that they were due 90 days after the fiscal year and Mackie Romero felt that we were unable to complete that, since we really have until the end of the calendar year for audit purposes. So we made that fix in the interim, and then I also changed the definition of Las Campanas, because it still had the old definition of the Las Campanas limited partnership and of course we all know the assignments have taken place. So those were kind of some minor fixes that are also in the amendment.

And I understand there was discussed at the FSAC committee and the County has, through Mr. Frederick has presented some additional revisions. Some of those are minor comments to the amendment that I prepared, just more in terms of wording. But the County has also proposed, and I don't know if you all have this amendment but we'll

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hand this out. And then I have a comparison version that I can hand out as well, that the Board, by way of this interim amendment, have the ability to supervise the facilities manager as well as recommend and interview anyone for the facilities manager position and make any recommendations regarding discipline or other employment decisions. And I can let Mr. Frederick speak to the details of that since he put that together, but this is – I just wanted to present that to the Board.

And then for – it may be helpful for you to see the provisions in the existing PMFSA that are being addressed, so I have just a very short comparison version. And one more thing, if I can add – I know that when our committee met we received some figures from the City as to what their calculations are as to what is the actual cost to be the project manager and fiscal agent and there's been some updating that occurred since then that Mr. Jones has done, and that number that Mr. Jones has presented to us is $407,000. Four percent of $9 million, which is our operating budget is $360,000, so somewhat less than what the calculation by the City is for the cost of managing for BDDB. Just so you know what those numbers are. And the committee did have some discussion about the actual costs and there was an update done that increased those costs since our committee met by about $50,000 or so.

COMMISSIONER HAMILTON: Mr. Chair.

CHAIR IVES: Yes.

COMMISSIONER HAMILTON: So just to that point, do we have detailed backup of that increase of what goes into the $407,000?

MS. LONG: Yes. Mr. Chair and Commissioner Hamilton, I believe that you should have a copy that was passed out by Mr. Jones earlier at your place. So the largest increase that I saw was under public utilities from the comparison we have.

COMMISSIONER HAMILTON: $407,000 or $360,000? I have the numbers from $360,000. I don't have the $407,000. Today? Just now?

MS. LONG: It was just today. Yes.

COMMISSIONER HAMILTON: Yes. Okay. We just got that today. Okay.

MS. LONG: Yes, Commissioner.

COMMISSIONER HAMILTON: Okay, I'll speak further to that in a bit. I don't actually have it.

MS. LONG: The first sheet of that handout is the summary and then the backup is behind it, and at the bottom of that coversheet you will see there is an amount that is deducted from the total cost as a baseline cost of being a partner. And then Mr. Jones arrived at $407,000. And then comparing that to the figures we looked at at our committee meeting, Commissioner Hamilton, the largest increase was in public utilities, which went up by about $50,000.

COMMISSIONER HAMILTON: So we actually – the discussion at the FSAC meeting where Mackie and Councilor Harris were there – in principle we agreed we wanted to get to a resolution of this since two months ago we said in two months. And then that's where we are today: two months. But that's kind of a big increase. And even Tuesday we discussed that knowing we were going to get revisions this is the document – I'm assuming the City budget people have already looked at it but County Finance needs to be able to go through and get some clarity on. Because that's a lot of money.

And I do have some questions about what personnel – like $407,000 is probably

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five full-time FTEs. It's a lot. So I think getting some clarity on it. I just wanted to put out there that I think it's appropriate to not vote on this tonight but to be able to make it retroactive when we do so we can review this, as it is down to the real numbers. We were in agreement about the principle of doing this and we're theoretically pretty close on the numbers, so that's what was discussed Tuesday night, that if to give the ability to review this and to discuss the content when we do vote on it we can make the approval of it retroactive to September 1st.

COUNCILOR HARRIS: Yes, I just want to confirm what Commissioner Hamilton said. This is a very substantive discussion. I don't think – and Mr. Frederick was there and presented amendment #8, or actually not the full amendment but just the new additions related to the BDD's role vis-à-vis the facilities manager. That's a very substantive discussion. We just received these numbers tonight. I've been working with the numbers. I actually need to talk to Mr. Jones about the public utilities numbers. I have some questions about that as well.

So clearly we need to scrub the numbers and make sure we understand them and just – for instance, they break it down between direct and indirect costs and there's HR, there's Risk and there's Public Utilities, as well as others. And one of the questions that I had was to make sure that the right people were at the table reviewing this information and it didn't seem, for instance – maybe I missed it – that the City Attorney's office was not represented. And certainly the City Attorney's Office I think needs to be involved in the discussion if we change the whole dynamic in terms of the facilities manager and some of the other subtleties, and remember, I raised the issue of well, does BDD have a personnel policy? For instance, if the BDD Board is really working through the evaluation, the hiring and firing of the facilities manager but is subject to City personnel policy – I could see any number of contradictions that are inherent in that situation.

But yes, you're right, Commissioner Hamilton. We did discuss it at length. It was a good discussion and I think we felt that we really wanted to move it forward but that we really could not vote on it tonight and it would be our hope that we could settle it in October and that any number that we did agree to or any formula, and we talked at length about formulas. Do we just do a percentage? Do we do a fixed cost? Could be understood by all parties and worked through during the next 30 days by the committee, I should say, that has the representation that it needs, and then perhaps we can work on October and that it would be retroactive.

It would be retroactive. I think what you were saying, for instance, correct me if I'm wrong, if we just keep it at the one percent now and we make the adjustment at the end or we make the adjustment retroactive to the beginning of the fiscal year. Was that correct?

COMMISSIONER HAMILTON: I was actually saying till September 1st, which is not the beginning of the fiscal year.

COMMISSIONER HANSEN: That's what I understood also –

COMMISSIONER HAMILTON: Anything can be on the table for discussion but that's what –

COMMISSIONER HANSEN: -- from the County Manager but I also understand that we would like to ensure that this amendment about the project manager of the BDD report to the Board. And that the project manager reports to the Board, and that we have some say in who was hired. We might not do the entire interview process.

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We might have City personnel do the first round of interviews and the last three, or the top three are brought to the Board as discussion as a possibility. I'm just throwing these things out because I have not been in some of these other discussions so I do not know what was discussed, but I feel very strongly that this Board, if the facilities manager reports to this Board that we have a say in who is hired as the facilities manager. And that is extremely important to me.

I also feel that our County Finance Department needs to look over these numbers and go over what we're really paying for. Is it really four percent, because as Commissioner Hamilton has mentioned, if we're up past $360,000 that's at least four or five FTEs at the City and so are we paying for City employees to be working at the Buckman Direct Diversion or are we paying for a portion of those City employees to work at the Buckman Direct Diversion?

So I think there's some details that need to be cleaned up and answered and also that our County Finance Director look at these numbers and understand what the percentage is also. It just seems a really high increase from what we have been paying and I believe the County feels that the facilities manager needs to be hired by the Board.

COUNCILOR HARRIS: Yes, it's a high increase because what the fiscal agent, the City of Santa Fe has been paid is one percent for well over two years, so if we really are going to – I really misunderstood. I thought you at least concede going back to the beginning of the fiscal year, not just to September. So there's a lot of things to work out here that I'm not prepared. I don't think you are either. I heard you say, Commissioner Hansen, that you want your Finance Department to look at it. That's fine, but again, this is going to be a tough conversation. Anybody who doesn't believe that is just not seeing it correctly. This is a tough conversation about how the Board is going to be run, where the money comes from.

So again, I want to be clear at the very least who's on this committee that will be working to sort this out. Ms. Long, can you illuminate this?

MS. LONG: Mr. Chair and Councilor Harris, I think the committee has all of the requisite representation on it. The City Attorney Office is there. I think at our last meeting perhaps County Finance was not there. We had two meetings. I think there was a conflict. So we need to make sure County Finance is there. But in terms of representation you also have the Chair and the Vice Chair on that committee from this Board. And I do think we have really good, in both utilities, really good representation on that committee.

COUNCILOR HARRIS: Okay.

MS. LONG: But the amendment that you were discussing at FSAC was not discussed at the last committee meeting. So that's why we didn't have the weigh in of the City Attorney's Office and the City on that.

COUNCILOR HARRIS: Okay.

CHAIR IVES: Because of the time, yes.

BOARD MEMBER HELMS: [away from microphone – asked for names of the committee members.]

CHAIR IVES: If it would be all right, just because we have to be out of here in five minutes, we'll get that information out to all the members via email, hopefully tomorrow. If not tomorrow, Monday. But we just need to move on. We have one more action item.

BOARD MEMBER HELMS: [away from microphone - stated it was

SFC CLERK RECORDED 10/24/2018

clearly an important topic and could perhaps be visited in executive session.]

CHAIR IVES: We can only consider what has been noticed. But I think a motion to postpone consideration of any amendment #8 to the PMFSA to the next meeting of the Board, which is scheduled for October 4th would be appropriate. Does anybody care to make that motion?

COMMISSIONER HANSEN: So moved.

COUNCILOR HARRIS: Second.

CHAIR IVES: We have a motion to postpone to the next Board meeting. Is there any further discussion?

**The motion passed by unanimous [5-0] voice vote.**

**13. Request to Approve and Accept Right-of-Way NMNM 120617 Renewal Grant Offer to Construct, Operate, and Maintain the Fiber Optic Line, to Terminate December 31, 2047**

- **Estimated Annual Rental Fee of ~~$4,686.36~~ $390.53**

MS. LONG: Mr. Chair, members of the Board, for your consideration is the renewal of the right-of-way permit that the Board holds with the BLM for our fiber optic line. That permit expired before our other permits for some reason last year. It was a ten-year permit. We're seeking approval from the Board to extend that now for 30 years. The BLM has approved that. The good news I have for you is that the BLM did not calculate the rent correctly. When I started asking them for worksheets and how they came up with the amount, so the rental amount that was stated to be estimated on the agenda of approximately $4,000 is actually going to be $390.53 per years.

COMMISSIONER HAMILTON: What's an order of magnitude among friends?

COMMISSIONER HANSEN: $390 –

CHAIR IVES: Let's stay focused because we've only got a couple of moments.

MS. LONG: Their schedule of rent that's currently published, increases goes through 2025 and so it will go up to the year 2025 to $451.66 and then there will be a new schedule. So I would expect it to increase in small amounts after that. They just did the math wrong.

CHAIR IVES: Very good.

COMMISSIONER HANSEN: I have one question, obviously. How will we be affected if this land becomes State land? How will we be affected?

MS. LONG: Mr. Chair and Commissioner Hansen, our application is still pending to convert those to perpetual easements, if that exchange happens it happens for this permit as well. What we're hearing though is that project is probably not going to happen, from candidates for that office and the Land Commissioner, the current one, has sort of thrown in the towel and said the federal government took too long to get the appraisals done, so I don't think that will be going forward.

COMMISSIONER HANSEN: Do we need a motion to approve?

CHAIR IVES: Yes, we do.

COMMISSIONER HANSEN: I move to approve.

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COMMISSIONER HAMILTON: Second.

CHAIR IVES: We have a motion and a second. Is there any further discussion?

COMMISSIONER HAMILTON: I just want to take the opportunity to thank Ms. Long for actually checking into that because that was discussed at the FSAC meeting. We asked how that was calculated and to know whether that was reasonable and to have taken the time to do that is very much appreciated.

CHAIR IVES: Very good.

**The motion passed by unanimous [5-0] voice vote.**

## MATTERS FROM THE PUBLIC

CHAIR IVES: Is there anybody here to address the Board? If not we will close that portion of the meeting.

## MATTERS FROM THE BOARD

CHAIR IVES: In connection with that, I would make a statement that I state for the record and our minutes that the only matter discussed during the executive session of our last Board meeting on August 2, 2018 was the matter as stated in the motion to go into executive session. No action was taken.

**NEXT REGULAR MEETING: Thursday, October 4, 2018 @ 4:15pm**

## EXECUTIVE SESSION

**In accordance with the New Mexico Open Meetings Act NMSA 1978 Section 10-15-1(H)(7), discussion regarding threatened or pending litigation in which the BDDB is, or may become a participant, including without limitation: *Buckman Direct Diversion Board v. CDM Smith, et al.*, First Judicial District Court Case No. D-101-CV-2018-01610**

CHAIR IVES: Are we adjourning and going into executive session?

MS. LONG: Yes, Mr. Chair, members of the Board. You are adjourning and going into executive session for the purpose as stated on the agenda to discuss litigation in *Buckman Direct Diversion Board v. CDM Smith, et al.*

COMMISSIONER HAMILTON: Mr. Chair, I move that we go into executive session for the purposes Ms. Long just stated.

COUNCILOR HARRIS: Second.

CHAIR IVES: We have a motion and a second. Is there any further discussion?

**The motion to go into executive session passed by unanimous [5-0] roll call vote as follows:**

| | |
|---|---|
| Councilor Ives | Aye |

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| | |
|---|---|
| Commissioner Hamilton | Aye |
| Councilor Harris | Aye |
| Commissioner Hansen | Aye |
| Board Member Helms | Aye |

**ADJOURNMENT**

Having completed the agenda, this meeting adjourned at approximately 6:00 p.m.

Approved by:

Peter Ives, Board Chair

Respectfully submitted:
Debbie Doyle, Wordswork

**FILED BY:**

GERALDINE SALAZAR
SANTA FE COUNTY CLERK

**ATTEST TO:**

YOLANDA Y. MYERS
SANTA FE CITY CLERK

COUNTY OF SANTA FE )
STATE OF NEW MEXICO ) ss

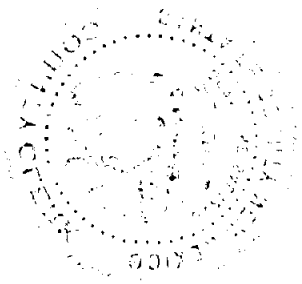
BUCKMAN DIRECT DIV MIN
PAGES: 25

I Hereby Certify That This Instrument Was Filed for Record On The 24TH Day Of October, 2018 at 01:43:38 PM And Was Duly Recorded as Instrument # 1870887 Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Geraldine Salazar
Deputy E Stella Martinez County Clerk, Santa Fe, NM

SFC CLERK RECORDED 10/24/2018





Buckman Direct Diversion

EXHIBIT 1

# AGENDA

## The City of Santa Fe
## And
## Santa Fe County

## Buckman Direct Diversion Board Meeting

## Thursday, September 6, 2018
## 4:15 PM
## CITY HALL
## CITY COUNCIL CHAMBERS
## 200 LINCOLN

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. APPROVAL OF MINUTES FROM THE AUGUST 2, BUCKMAN DIRECT DIVERSION BOARD MEETING
5. REPORT ON SEPTEMBER 4, 2018 FISCAL SERVICES AUDIT COMMITTEE (FSAC)

**INFORMATIONAL ITEMS**

6. Monthly Update on BDD operations. (Michael Dozier)
   - San Juan Chama Project 2018 Status (Bill Schneider) **VERBAL**
7. Presentation of the Buckman Direct Diversion Project Annual Financial Report for fiscal year ended June 30, 2017. (Mackie Romero and Laura Beltran-Sanchez, CliftonLarsonAllen, LLP)
8. Report on 4th Quarter Financial Position FY 17/18. (Mackie Romero)
9. Report from the Interim Facilities Manager. (Nick Schiavo) **VERBAL**
10. Update on Rio Grande Water Quality Study Session and LANL Environmental Reports. (Kyle Harwood) **VERBAL**

**RECEIVED AT THE CITY CLERK'S OFFICE**
**DATE: 08/29/2018**
**TIME: 9:01 AM**

11. Discussion on the refinement of the scope of services for the proposed TREAT study. (Nick Schiavo) **VERBAL**

**DISCUSSION AND ACTION**

12. Consideration and possible approval of Amendment No. 8 to the Project Management and Fiscal Services Agreement ("PMFSA") between the Buckman Direct Diversion Board and the City of Santa Fe. (Nancy R. Long)

13. Request to approve and accept Right-of-Way (ROW) NMNM 120617 renewal grant offer to construct, operate, and maintain the fiber optic line, to terminate December 31, 2047. (Nancy Long and Mackie Romero).

    - Estimated annual rental fee of $4,686.36.

**MATTERS FROM THE PUBLIC**

**MATTERS FROM THE BOARD**

**NEXT REGULAR MEETING: Thursday, October 4, 2018 @ 4:15pm, City Council Chambers, 200 Lincoln**

**ADJOURN**

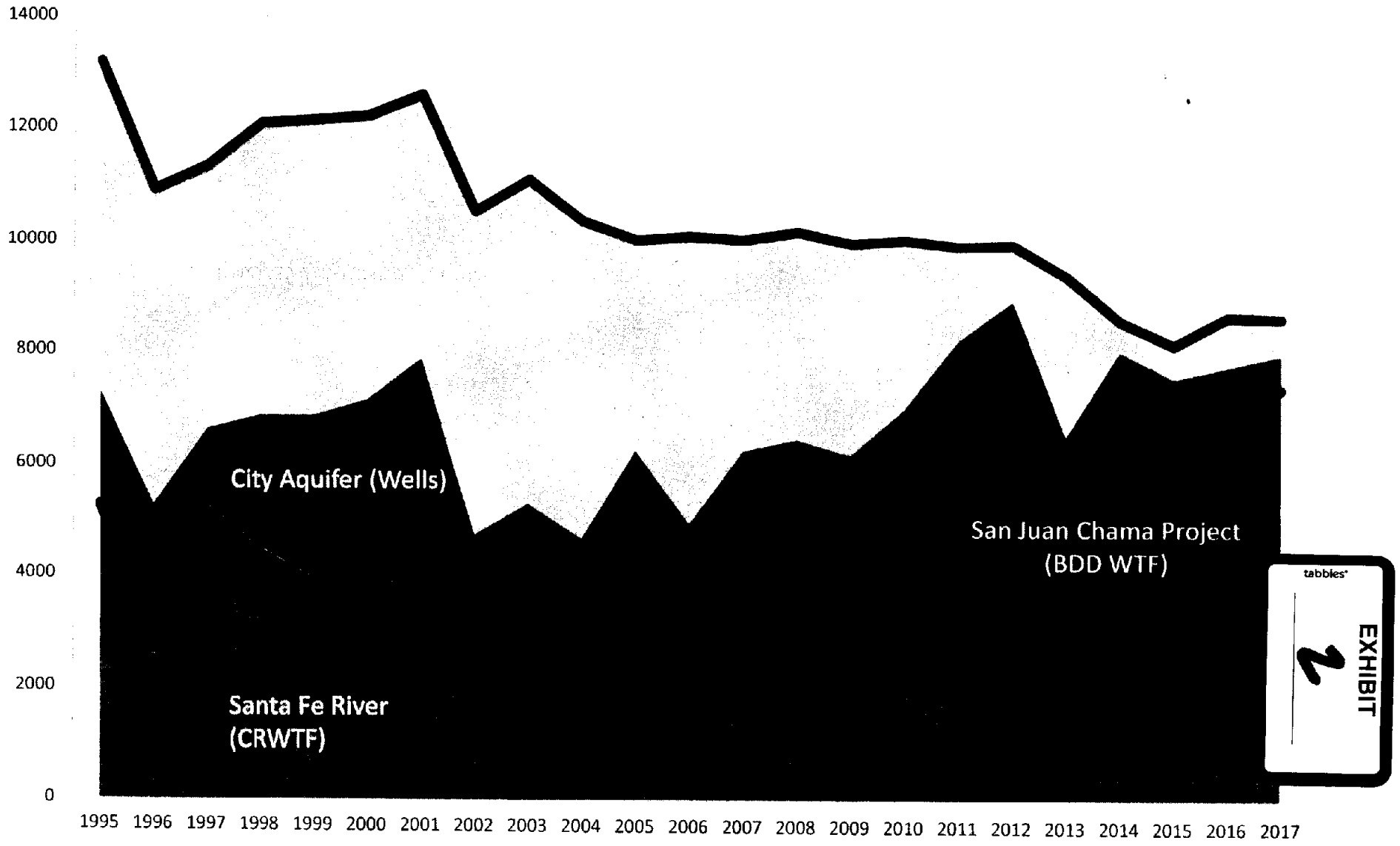
***EXECUTIVE SESSION***

In accordance with the New Mexico Open Meetings Act NMSA 1978, §10-15-1(H)(7), discussion regarding pending litigation in which the BDDB is a participant, including, without limitation, *Buckman Direct Diversion Board v. CDM Smith, et al.*, First Judicial District Court Case No. D-101-CV-2018-01610. (Nancy R. Long)

***End of Executive Session***

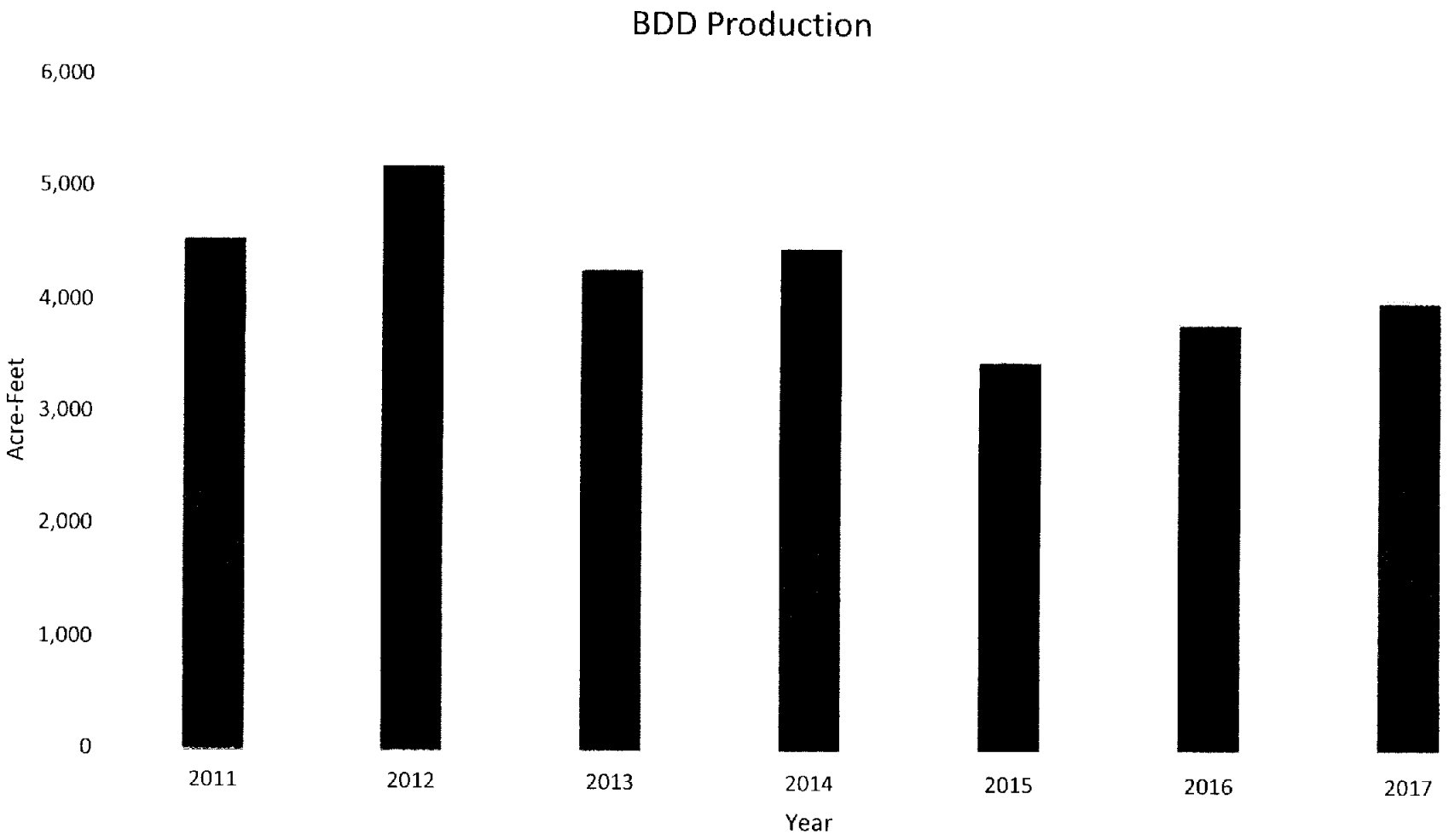
**PERSONS WITH DISABILITIES IN NEED OF ACCOMODATIONS, CONTACT THE CITY CLERK'S OFFICE AT 505-955-6520, FIVE (5) WORKING DAYS PRIOR TO THE MEETING DATE**

# City of Santa Fe Annual Production (af/yr)

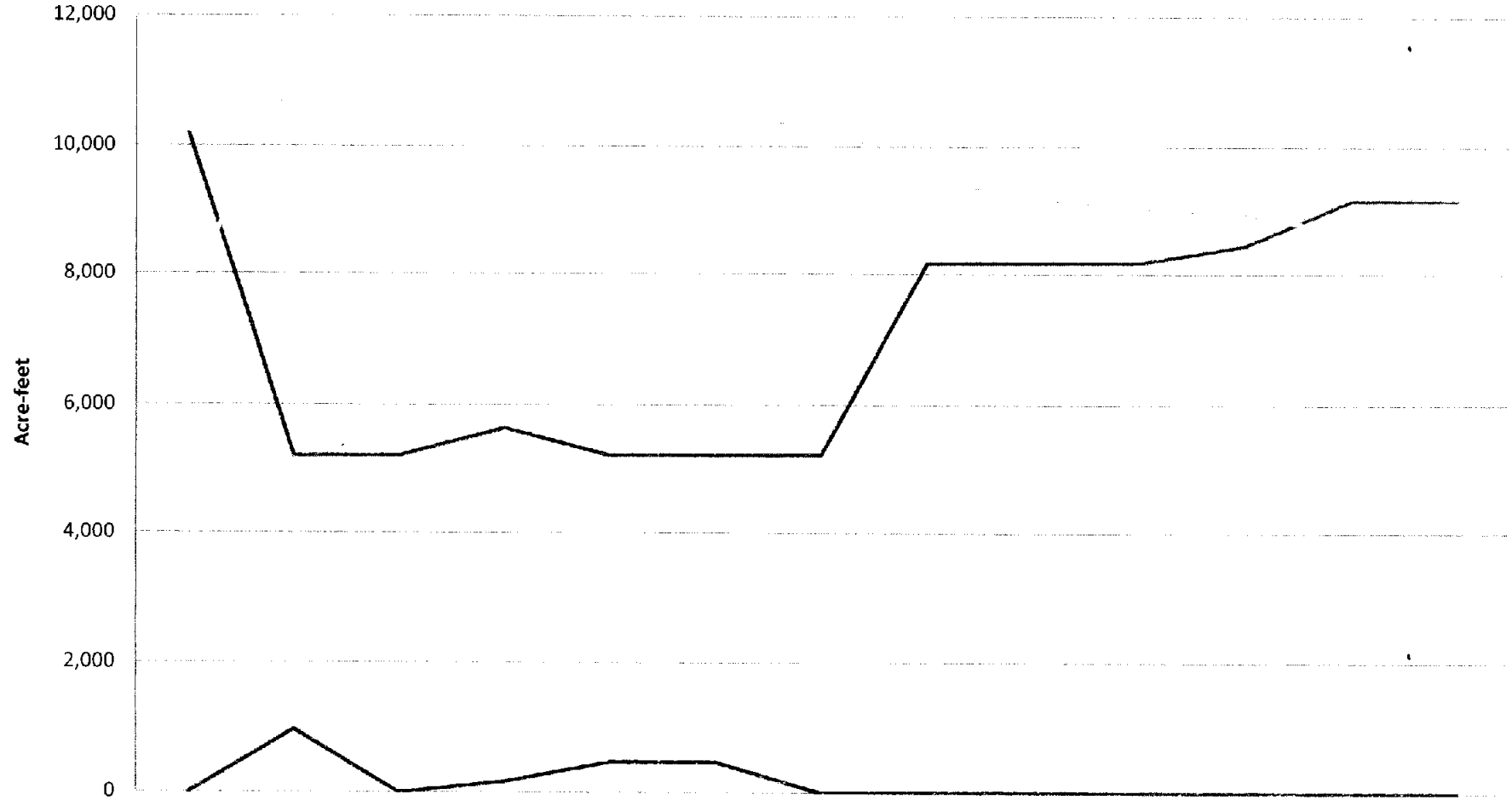



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EXHIBIT 2

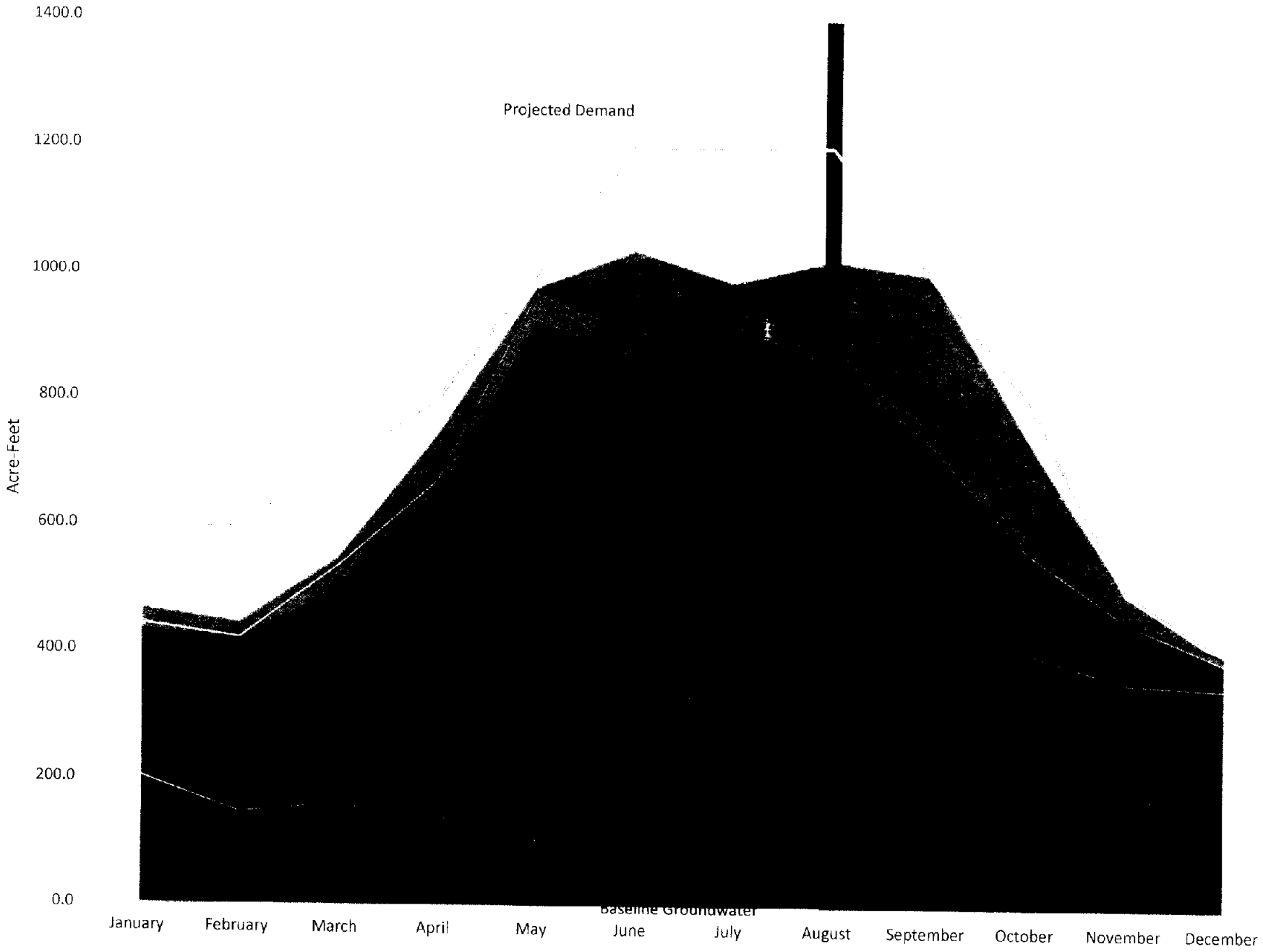

BDD Production
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# City of Santa Fe San Juan Chama Project Storage




| | Aug-17 | Sep-17 | Oct-17 | Nov-17 | Dec-17 | Jan-18 | Feb-18 | Mar-18 | Apr-18 | May-18 | Jun-18 | Jul-18 | Aug-18 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Heron | 10,209 | 5,230 | 5,230 | 5,655 | 5,230 | 5,230 | 5,230 | 8,170 | 8,170 | 8,170 | 8,442 | 9,149 | 9,149 |
| ElVado | 0 | 992 | 0 | 175 | 480 | 479 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Abiquiu | 7,858 | 11,095 | 11,417 | 10,927 | 10,655 | 10,282 | 10,443 | 9,502 | 9,203 | 9,052 | 8,952 | 8,606 | 7,619 |
| Totals | 18,067 | 17,317 | 16,647 | 16,757 | 16,365 | 15,991 | 15,673 | 17,672 | 17,373 | 17,222 | 17,394 | 17,755 | 16,768 |

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# We promise

## to *know you* and *help you*.

WEALTH ADVISORY | OUTSOURCING | AUDIT, TAX, AND CONSULTING

Investment advisory services are offered through CliftonLarsonAllen Wealth Advisors, LLC, an SEC-registered investment advisor



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**Buckman Direct Diversion Project**

June 30, 2017 Audit Exit Conference

tabbies

EXHIBIT 3

# Agenda

- Required Governance Communication
- 2017 Audit Results
- Review of Schedule of Findings and Questioned Costs
- Concluding Steps for Audit Completion

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# Required Governance Communications

- Auditor's responsibility under U.S. Generally Accepted Auditing Standards
- Significant accounting policies
  - No significant changes from prior year
- Financial statement disclosures
  - Note 14 – Restatement: Buckman's beginning net position is restated for the following reasons:

Reduction to capital assets because the value of certain assets are reported on the City of Santa Fe's and Santa Fe County's financial statements as their respective investments in the capital assets used in the operation of Buckman. Reduction of Capital Assets and Beginning net position of $198,546,752 (net of asset balance and accumulated depreciation).

Funds previously reported as agency funds, but don't meet the definition of agency funds because Buckman is not holding the money in a custodial capacity. Rather, the balances represent cash from partners that are restricted for specific purposes related to Buckman's emergency fund policy and repair and replacement fund policy. Increase of net position in the amount of $3,589,862.

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# Required Governance Communications

- Audit adjustments
  - Restatement – reduction of beginning net position - $194,956,890
- Passed audit adjustments
  - None
- Management judgments and accounting estimates
  - Estimated useful lives of capital assets
  - Compensated absences
- No difficulties encountered with BDD personnel in performing the audit
  - Delayed issued due to challenges completing the City's audit, ability to perform testwork over pooled cash, closing entries provided through April 2018, restatement
- No disagreements with management
- Management did not consult with other accountants on the application of GAAP or GAAS
- No significant issues were discussed with management prior to engagement
- Management representations

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# 2017 Audit Results – Financial Statements

- Independent Auditors' Report – Unmodified "clean" opinion that the financial statements are presented fairly, in all material respects, in conformity with U.S. Generally Accepted Accounting Principles (GAAP).
- Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards.*
  - 1 material weakness
    - ◊ Restatement
  - No significant deficiencies
  - No material findings associated with compliance with laws and regulations or other matters
  - Compliance finding required to be reported for delayed issuance (NM Audit Rule)

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# Compliance finding

**2017-001 Late Submission of Audit Report (Compliance and Other Matters)**

**Condition:** Buckman's audit report for the year ended June 30, 2017 was not submitted as of the due date of December 15, 2017 because Buckman's fiscal agent did not perform a timely reconciliation of its financial records and Buckman's cash is included in the pooled cash accounts along with the fiscal agent. Additionally, Buckman's internal reconciliation and closing journal entry process was ongoing throughout the audit, which created delays in audit testwork.

**Criteria:** Audit reports not received on or before the due date are considered to be in noncompliance with the requirements of Section 2.2.2.9.A of the State Audit Rule.

**Management's Response:** Management of Buckman agree that this audit was not in compliance with the requirements of Section 2.2.2.9.A of the State Audit Rule. Buckman financial staff will continue to evaluate the procedures and the process pertaining to the accounting of Buckman's transactions, to ensure a more timely year-end reconciliation. The Financial Manager is responsible for ensuring this is addressed by the submission of the FY18 audit.

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# Material Weakness

**2017-002 Financial Reporting (Material Weakness)**

**Condition:** Beginning net position was restated due to the following:

1. Reduction to capital assets because the value of certain assets are reported on the City of Santa Fe's and Santa Fe County's financial statements as their respective investments in the capital assets used in the operation of Buckman.

2. Funds previously reported as agency funds, but do not meet the definition of agency funds as Buckman is not holding the money in a custodial capacity. Rather, the balances represent cash from partners that are restricted for specific purposes related to Buckman's emergency fund and repair and replacement fund policy.

**Criteria:** Capital asset balances may only be reflected in the financial statements of one reporting entity. Agency funds represent assets that are held in a custodial capacity and will not be used for operations of the reporting entity.

**Cause:** The reporting entity is based on a joint venture with three separate partners. As such, some financial reporting aspects were complex because of the inter-related aspects of these matters.

**Effect:** Beginning net position was reduced by $194,956,890.

**Recommendation:** We recommend that Buckman evaluate financial reporting requirements to ensure Generally Accepted Accounting Principles are followed appropriately.

**Management's Response**: Management of the Buckman Direct Diversion concurs with this finding. Buckman will procure additional consulting services with an independent audit firm to re-evaluate the complexity of the joint venture for recommendations on financial reporting. The Financial Manager is responsible for ensuring this is addressed by the submission of the FY18 audit.

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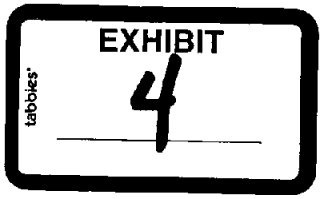


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Thank you for your help and patience during this audit


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505-222-3526




**AMENDMENT NO. 8**
**TO**
**PROJECT MANAGEMENT AND FISCAL SERVICES AGREEMENT**
**BUCKMAN DIRECT DIVERSION PROJECT**

This Amendment No. 8 to the Project Management and Fiscal Services Agreement (hereinafter referred to as "Amendment No. 8") is ~~entered into by and~~ between the Buckman Direct Diversion Project Board (the "BDD Board") ~~, an entity organized and existing~~ under that ~~certain~~ Joint Powers ~~Agreement by and between the City of Santa Fe ("City") and Santa Fe County ("County"), dated March 7, 2005,~~ and the ~~Sangre de Cristo Water~~ Division ~~of the~~ City of Santa Fe ("City" or "Project Manager").

**WHEREAS**, the BDD Board was established under that certain Joint Powers Agreement ("JPA"), effective on March 7, 2005, between the City and Santa Fe County ("County");

**WHEREAS**, the JPA is subject to JPA Amendment No. 1, effective November 7, 2006, and JPA Amendment No. 2, effective _____;

**WHEREAS**, pursuant to the JPA, as amended, the BDD Board and the Project Manager entered into the Project Management and Fiscal Services Agreement (the "Agreement") for the Buckman Direct Diversion Project ("Project") on November 8, 2007;

**WHEREAS**, the purpose of the Agreement was to specifically describe the duties and responsibilities of the BDD Board, the duties and responsibilities of the Project Manager, how the ~~project~~ Project will be operated and maintained by the Project Manager on behalf of the BDD Board, how contributions by the partners will be paid and credited against the obligations in connection with the Buckman Direct Diversion Project, the duties and responsibilities of the Project Manager as fiscal agent for the Project, and other necessary terms;

**WHEREAS**, the Agreement was amended pursuant to Amendment No. 1 to the Agreement to increase the Project Manager's monetary authority to enter into contracts and

expenditures for the Project from $20,000 to $30,000; pursuant to Amendment No. 2 to the Agreement to increase the Project Manager's monetary authority from $30,000 to $50,000; pursuant to Amendment No. 3 to the Agreement to clarify that the monetary authority is exclusive of gross receipts tax; pursuant to Amendment Nos. 4, 5 and 6 to extend the term of the Agreement; and pursuant to Amendment No. 7 to increase the Project Manager's monetary authority from $50,000 plus applicable gross receipts tax to $60,000.00 plus gross receipts tax;.

**WHEREAS**, the BDD Board and the Project Manager desire to ~~enter into this Amendment No. 8 to increase the Project Manager's compensation~~further amend the Agreement as set out below;

**WHEREAS**, the County has reviewed and approved this Amendment No. 8.;

**NOW, THEREFORE**, for ~~the covenants, promises and consideration described in this Amendment No. 8~~consideration, the BDD Board and the Project Manager agree as follows:

1. **Article 1. Definitions**. Section L is deleted in its entirety and replaced with the following:

> L. "Las Campanas" means the Las Campanas Water and Sewer Cooperative, a New Mexico cooperative association and the Club at Las Campanas, a New Mexico not for profit association, both signatories of the FOPA.

2. **Article 3. RESPONSIBILITIES OF THE BDD BOARD.** Subsection B is deleted in its entirely and replaced with the following:

> B. Supervise the performance of the Project Manager pursuant to §§ 4 and 12 of the JPA, as amended, including interviewing and supervising the Facilities Manager, as described below under Article 6, Subsection O.

3. **Article 6. SPECIFIC RESPONSIBILITIES OF THE PROJECT MANAGER DURING OPERATIONS.** Subsection O is deleted in its entirely and replaced with the following:

B. Provide all necessary staff, materials, and supplies necessary to operate and maintain the Project consistent with Board funding. All Project staff shall be employees of the City, including a Facilities Manager who shall be responsible for reporting to the BDD Board, day-to-day operations of the Project, and supervising all other Project staff. The BDDB shall interview candidates for the Facilities Manager position and only those candidates recommended by the Board shall be considered for hire by the City. The City shall not have the authority to hire, fire, or discipline the Facilities Manager without the recommendation of the BDD Board. The BDD Board shall have general supervisory authority over the Facilities Manager and shall have the right to recommend any necessary personnel decisions regarding the Facilities Manager to the City. The BDD Board shall describe in writing the duties and responsibilities of the Facilities Manager from time to time, shall conduct an annual performance review of the Facilities Manager, and shall conduct other periodic reviews as needed.

~~2.~~4. **Article 7. Fiscal Agent Responsibilities**. Subsection A(6) is deleted in its entirety and replaced with the following:

(6) After the end of each fiscal year, and in accordance with the New Mexico state audit rule, provide copies of audited financial statements to the City, the County and Las Campanas, showing the assets, liabilities, revenues, expenses, equity balances and budget comparisons for the BDD Project fund on an annual basis for the prior fiscal year in accordance with GAAP and GASB, complete the Management's Discussion and Analysis (MDA) for the annual financial report, and provide upon request, a monthly general ledger report. The Project Manager shall be allowed to recommend that its auditors produce the financial statements, dependent on staff availability and the complexity of the reporting requirements.

~~3.~~5. **Article 8. Compensation.** Section A is deleted in its entirety and replaced with the following:

A. The Project Manager shall be compensated for its services as fiscal agent to the Project in an amount equal to four percent (4%) of the total annual operating budget of the Project in each fiscal year.

6. Except as expressly modified by this Amendment No. 8 and previous amendments, the Agreement remains in full force and effect in accordance with its terms.

[*Signatures on next page*]

~~In all other respects, the Agreement shall remain in full force and effect in accordance with its terms.~~

~~**IN WITNESS WHEREOF**, the BDD Board and the City of Santa Fe, New Mexico, have caused this Amendment No. 8 to be executed and delivered by its duly authorized representatives as of the date specified below the signatory for the City of Santa Fe.~~

~~**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;**~~

~~**SIGNATURE PAGE FOLLOWS]**~~

**BUCKMAN DIRECT DIVERSION BOARD**

By: _____
Peter Ives,
BDDB Chair

Date: _____

**APPROVED AS TO FORM:**

_____
Nancy R. Long, BDDB Counsel

**SANTA FE COUNTY APPROVAL**

By: _____
Anna Hansen, Chair
Board of County Commissioners**APPROVED:**

_____
~~City Finance Director~~

_____
~~Business Unit/Line Item~~

**ATTEST:**

_____
Geraldine Salazar
County Clerk

Approved as to form:

_____
R. Bruce Frederick
County Attorney

**CITY OF SANTA FE**

By: _____
Alan Webber,
Mayor

Date: _____

**APPROVED AS TO FORM:**

_____
City Attorney

Date: _____

**APPROVED:**

_____
City Finance Director

_____
Business Unit/Line Item

_____
Yolanda Vigil, City of Santa Fe Clerk

Date: _____

_____
~~Yolanda Vigil, City of Santa Fe Clerk~~

~~Date:~~ _____




PMFSA COMPARE
WITH PROPOSED AMEMDMENT NO. 8

**Article 1 Definitions.**

**Original Language:**

L. "Las Campanas" means the Las Campanas Limited Partnership, a Delaware Limited Partnership, and a signatory of the FOPA.

**Proposed new language:**

L. "Las Campanas" means the Las Campanas Water and Sewer Cooperative, a New Mexico cooperative association and the Club at Las Campanas, a New Mexico not for profit association, both signatories of the FOPA.

**Article 3. RESPONSIBILITIES OF THE BDD BOARD. Subsection B.**

**Original Language:**

B. Supervise the performance of the Project Manager pursuant to §§ 4 & 12 of the JPA;

**Proposed New Language:**

B. Supervise the performance of the Project Manager pursuant to §§ 4 and 12 of the JPA, as amended, including interviewing and supervising the Facilities Manager, as described below under Article 6, Subsection O.

**Article 6. SPECIFIC RESPONSIBILITIES OF THE PROJECT MANAGER DURING OPERATIONS. Subsection O.**

**Original Language:**

O. Provide all necessary staff, materials and supplies necessary to operate and maintain the Project consistent with BDD Board funding;

**Proposed New Language:**

O. Provide all necessary staff, materials, and supplies necessary to operate and maintain the Project consistent with Board funding. All Project staff shall be employees of the City, including a Facilities Manager who shall be responsible for reporting to the BDD Board, day-to-day operations of the Project, and supervising all other Project staff. The BDDB shall interview candidates for the Facilities Manager position and only those candidates recommended by the Board shall be considered for hire by the City. The City shall not have the authority to hire, fire, or discipline the Facilities Manager without the recommendation of

the BDD Board. The BDD Board shall have general supervisory authority over the Facilities Manager and shall have the right to recommend any necessary personnel decisions regarding the Facilities Manager to the City. The BDD Board shall describe in writing the duties and responsibilities of the Facilities Manager from time to time, shall conduct an annual performance review of the Facilities Manager, and shall conduct other periodic reviews as needed.

**Article 7. Fiscal Agent Responsibilities. Subsection A(6).**

**Original Language:**

(6) within 90 days after the end of each fiscal year, provide copies of financial statements to the City, the County and Las Campanas, showing the assets, liabilities, revenues, expenses, equity balances and budget comparisons for the Project fund on an annual basis for the prior fiscal year in accordance with GAAP and GASB, complete the Management's Discussion and Analysis (MDA) for the annual financial report, and provide upon request, a monthly general ledger report but may recommend that its auditors produce the financial statements, dependent on staff available and the complexity of the reporting requirements;

**Proposed New Language:**

(6) After the end of each fiscal year, and in accordance with the New Mexico state audit rule, provide copies of audited financial statements to the City, the County and Las Campanas, showing the assets, liabilities, revenues, expenses, equity balances and budget comparisons for the BDD Project fund on an annual basis for the prior fiscal year in accordance with GAAP and GASB, complete the Management's Discussion and Analysis (MDA) for the annual financial report, and provide upon request, a monthly general ledger report. The Project Manager shall be allowed to recommend that its auditors produce the financial statements, dependent on staff availability and the complexity of the reporting requirements.

**Article 8. Compensation. Section A.**

**Original Language:**

(A) Following execution of this Agreement, the Project Manager shall be compensated for its services as fiscal agent to the Project in an amount equal to one percent (1%) of the total annual operating budget of the Project in any given fiscal year, which the Project Manager may deduct from revenues dedicated to the Project.

**Proposed New Language:**

(A) The Project Manager shall be compensated for its services as fiscal agent to the Project in an amount equal to four percent (4%) of the total annual operating budget of the Project in each fiscal year.

EXHIBIT
tabbies
6

# Cost of Services for the

| Direct Cost | |
|---|---|
| **Resource** | **Total Annual Cost** |
| Human Resources | $ 5,490.10 |
| Finance Department | $ 74,258.78 |
| Public Utilities | $ 103,959.47 |
| Fleet Maintenance | |
| Information Technology | $ - |
| Risk and Safety | $ 26,308.96 |
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| Indirect Cost | |
|---|---|
| **Resource** | **Total Annual Cost** |
| Human Resources | $ 2,745.05 |
| Finance Department | $ - |
| Public Utilities | $ 19,439.04 |
| Fleet Maintenance | $ 55,242.00 |
| Information Technology | $ 102,083.00 |
| Risk and Safety | $ 29,442.48 |
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| Total Annual Cost | $ 418,968.87 |

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| Baseline as a Partner | |
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| Public Utilities | $ 7,873.00 |
| Financial | $ 3,171.85 |
| **Total** | **$ 11,044.85** |

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|---|---|
| **Service Cost** | **$ 407,924.02** |

# Cost of Services for the Buckman Direct Diversion

Department: Human Resources

| Direct Cost | | | | | |
|---|---|---|---|---|---|
| Resource | Cost | Unit | Annual Amount | Total Annual Cost | Comment |
| Clerk | $ 21.42 | hour | 10 | $ 214.20 | Celeste vacancy notice, ad copy and files (2.5 hrs per) |
| HR Analysis | $ 36.80 | hour | 18 | $ 662.40 | Bartlett, Recruitment screening |
| HR Analysis | $ 36.80 | hour | 10 | $ 368.00 | Bartlett, Recruitment screening Work Keys (4 recruitments) |
| HR Analysis | $ 36.80 | hour | 0 | $ - | Bartlett, Interviews |
| Clerk | $ 31.55 | hour | 10 | $ 315.50 | Melinda/Aaron, PA Processing, Entry and DL Check |
| HR Analysis | $ 36.80 | hour | 16 | $ 588.80 | Bartlett, Corrective/Disciplinary Actions |
| HR Analysis | $ 33.10 | hour | 12 | $ 397.20 | Bartlett, Tapia, Pincheria FMLA |
| HR Analysis | $ 36.80 | hour | 0 | $ - | Bartlett, Job Descriptions |
| HR Analysis | $ 36.80 | hour | 80 | $ 2,944.00 | Bartlett, Consultation |
| | | | | | |
| | | | | | |
| | | | Total | $ 5,490.10 | |

| Indirect Cost | | | | | |
|---|---|---|---|---|---|
| Resource | Cost | Unit | Annual Amount | Total Annual Cost | |
| Celeste vacancy notice, ad copy and files | $ 107.10 | Annually | 1 | $ 107.10 | 50 % Benefits |
| Bartlett, Recruitment screening | $ 331.20 | Annually | 1 | $ 331.20 | 50 % Benefits |
| Bartlett, Recruitment screening Work Keys | $ 184.00 | Annually | 1 | $ 184.00 | 50 % Benefits |
| Bartlett, Interviews | $ - | Annually | 0 | $ - | 50 % Benefits |
| Melinda, PA Processing, Entry and DL Check | $ 157.75 | Annually | 1 | $ 157.75 | 50 % Benefits |
| Bartlett, Corrective/Disciplinary Actions | $ 294.40 | Annually | 1 | $ 294.40 | 50 % Benefits |
| Bartlett, Tapia, Pincheira FMLA | $ 198.60 | Annually | 1 | $ 198.60 | 50 % Benefits |
| Bartlett, Job Descriptions | $ - | Annually | 1 | $ - | 50 % Benefits |
| Bartlett, Consultation | $ 1,472.00 | Annually | 1 | $ 1,472.00 | 50 % Benefits |
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| | | | Total | $ 2,745.05 | |

Total Cost of Service: $ 8,235.15

# Cost of Services for the Buckman Direct Diversion

Department: Finance

| Direct Cost | | | | | |
|---|---|---|---|---|---|
| Resource | Cost Per Hr | Unit/ Hrs | Annual Amount X 12 months | Total Annual Cost | Comment |
| T. Garcia | $ 75.83 | Hours | 100 | $ 7,582.50 | Management, Audit, General Ledger, Questions |
| Bradley Fluetsch, CFA | $ 60.30 | Hours | 100 | $ 6,030.00 | Questions, meetings, debt, investments |
| Erica Martinez | $ 64.25 | Hours | 125 | $ 8,030.63 | Journal entries, posting, General Ledger, questions |
| Emily Pisula, CPA | $ 41.69 | Hours | 50 | $ 2,084.25 | Fixed Assets, Audit, Depreciation |
| Andy Hopkins | $ 53.06 | Hours | 50 | $ 2,652.75 | Budget, Bars, ERP |
| Kent DeYoung | $ 47.43 | Hours | 50 | $ 2,371.50 | Budget, Bars, ERP |
| Purchasing Officer | $ 60.00 | Hours | 250 | $ 15,000.00 | Procurement, contracts |
| Accounts Receivables | $ 51.17 | Hours | 10 | $ 511.65 | |
| Accounts Payable | $ 51.17 | Hours | 100 | $ 5,116.50 | |
| Payroll | $ 61.40 | Hours | 200 | $ 12,279.00 | 26 payrolls |
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| Overhead | $ 10.00 | 1260 | 1260 | $ 12,600.00 | |
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| | | | Total | $ 74,258.78 | |

| Indirect Cost | | | | | |
|---|---|---|---|---|---|
| Resource | Cost | Unit | Annual Amount | Total Annual Cost | |
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| | | | Total | $ - | |

Total Cost of Service: $ 74,258.78

# Cost of Services for the Buckman Direct Diversion

Department: Public Utilities

| Direct Cost | | | | | |
|---|---|---|---|---|---|
| **Resource** | **Cost** | **Unit** | **Annual Amount** | **Total Annual Cost** | **Comment** |
| Director | $ 53.04 | hour | 156 | $ 12,411.36 | Shannon Jones |
| Engineer | $ 39.07 | hour | 24 | $ 1,406.34 | Robert Jorgensen (RFP,RFB Submittal Review |
| Water Resource | $ 35.92 | hour | 48 | $ 2,586.24 | Bill Schneider Water rights and LANL |
| Project Manger | $ 45.06 | hour | 670 | $ 45,281.28 | Rick Carpenter - EIS, Grant and LANL |
| Contract Administrator | $ 37.02 | hour | 350 | $ 19,437.08 | Maya Martinez - Contract development and procurement |
| Office Manager | $ 26.87 | hour | 520 | $ 20,954.70 | Stephanie Lopez - BDDB |
| Line Locator | $ 18.04 | hour | 12 | $ 324.79 | Ernest Ortiz |
| Regulatory Compliance | $ 43.27 | hour | 24 | $ 1,557.68 | Alex Puglisi - Plan Review and permitting |
| | | | | | |
| | | | Total | $ 103,959.47 | |

| Indirect Cost | | | | | |
|---|---|---|---|---|---|
| **Resource** | **Cost** | **Unit** | **Annual Amount** | **Total Annual Cost** | |
| 811 Contract | $ 12,000.00 | Annually | 0.25 | $ 3,000.00 | Service Agreement |
| GIS | $ 10,000.00 | Annually | 1 | $ 10,000.00 | Service Agreement |
| Grant Applications | $ 45.06 | hour | 16 | $ 720.96 | Rick Carpenter |
| Personnel Actions | $ 53.04 | hour | 52 | $ 2,758.08 | Shannon Jones |
| Distribution Monitoring | $ 2,388.00 | Annually | 1 | $ 2,388.00 | SCADA |
| Customer Service | $ 11.00 | hour | 52 | $ 572.00 | Espransa Vigil |
| Employee Benefits | $ - | Lump Sum | $ 0.42 | $ - | |
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| | | | Total | $ 19,439.04 | |

Total Cost of Service: $ 123,398.51

# Cost of Services for the Buckman Direct Diversion

Department Fleet Maintenance

| Direct Cost | | | | | |
|---|---|---|---|---|---|
| **Resource** | **Cost** | **Unit** | **Annual Amount** | **Total Annual Cost** | **Comment** |
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| | | | Total | $ - | |

| Indirect Cost | | | | | |
|---|---|---|---|---|---|
| **Resource** | **Cost** | **Unit** | **Annual Amount** | **Total Annual Cost** | |
| Internal Service Fee FY18 | | | | $ 55,242.00 | |
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| | | | Total | $ 55,242.00 | |

Total Cost of Service $ 55,242.00

# Cost of Services for the Buckman Direct Diversion

Department ITT

| Direct Cost | | | | | |
|---|---|---|---|---|---|
| **Resource** | **Cost** | **Unit** | **Annual Amount** | **Total Annual Cost** | **Comment** |
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| | | | Total | $ - | |

| Indirect Cost | | | | | |
|---|---|---|---|---|---|
| **Resource** | **Cost** | **Unit** | **Annual Amount** | **Total Annual Cost** | |
| Internal Service Fee FY18 | | | | $ 102,083.00 | |
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| | | | Total | $ 102,083.00 | |

Total Cost of Service $ 102,083.00

# Cost of Services for the Buckman Direct Diversion

Department: Risk Management

| Direct Cost | | | | | |
|---|---|---|---|---|---|
| **Resource** | **Cost** | **Unit** | **Annual Amount** | **Total Annual Cost** | **Comment** |
| Safety Manager | $36.59 | hour | 20 | $ 731.80 | Pre-hire background checks/ drug testing for CDL drivers |
| Safety Specialist | $29.46 | hour | 10 | $ 294.60 | Random drug testing program |
| Risk & Safety Training Coordinator | $25.04 | hour | 5 | $ 125.18 | Safety trainings/bulletins/DDC class |
| Work comp claims paid | $12,578.69 | total to date | 2 | $ 25,157.38 | Work comp medical payments |
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| | | | Total | $ 26,308.96 | |

| Indirect Cost | | | | | |
|---|---|---|---|---|---|
| **Resource** | **Cost** | **Unit** | **Annual Amount** | **Total Annual Cost** | |
| Random drug testings | $94.50 | Annually | 4 | $ 378.00 | Number of tests vary according to random selection |
| Vehicle insurance | $10,408.00 | Annually | 1 | $ 10,408.00 | $25,000 deductible |
| Work comp insurance | $5,502.00 | Annually | 1 | $ 5,502.00 | $600,000 deductible |
| Employee Benefits | $ 26,308.96 | Lump sum | $ 0.50 | $ 13,154.48 | |
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| | | | Total | $ 29,442.48 | |

Total Cost of Service: $ 55,751.43