Buckman Direct Diversion

AGENDA

The City of Santa Fe
And
Santa Fe County

Buckman Direct Diversion Board Meeting

THURSDAY, NOVEMBER 1, 2018
4:00 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 OCTOBER 4, 2018 BUCKMAN DIRECT DIVERSION BOARD MEETING
5. REPORT ON OCTOBER 30, 2018 FISCAL SERVICES AUDIT COMMITTEE (FSAC)

INFORMATIONAL ITEMS

6. Monthly Update on BDD operations. (Michael Dozier, BDD Operations Manager, mldozier@santafenm.gov, 955-4501)
7. Presentation of the results from the TREAT studies. (Daniela Bowman, BDD Regulatory Compliance Officer, dkbowman@santafenm.gov, 955-4504 and Nick Schiavo, Interim BDD Facility Manager, naschiavo@santafenm.gov, 955-4507)
8. Report from the Interim Facilities Manager. (Nick Schiavo, Interim BDD Facilities Manager, naschiavo@santafenm.gov, 955-4376 or 955-4507) **VERBAL**

RECEIVED AT THE CITY CLERK'S OFFICE
DATE: 10/25/2018
TIME: 8:27 AM

DISCUSSION AND ACTION

9. 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 Long, BDD Legal Counsel, nancy@longkomer.com, 982-8405)

10. Request for approval of the Buckman Direct Diversion Vehicle Replacement Policy. (Mackie Romero, BDD Financial Manager, mmromero@santafenm.gov, 955-4506)

11. Request for approval to purchase two new replacement vehicles, in accordance with the BDD Vehicle Replacement Policy. (Mackie Romero, BDD Financial Romero, mmromero@santafenm.gov, 955-4506)

    - Budget Adjustment Resolution from the Major Repair and Replacement Fund for $72,278.00.

MATTERS FROM THE PUBLIC

MATTERS FROM THE BOARD

NEXT REGULAR MEETING: Thursday, December 6, 2018 at 4:00pm

ADJOURN

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

November 1, 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 4:00 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
J.C. Helms [Citizen Alternate for Denise Fort]
Councilor JoAnne Vigil Coppler [City alternate]
Commissioner Roybal
Tom Egelhoff [non-voting]

Member(s) Excused:
Denise Fort
Councilor Michael Harris

BDD Board Alternate Members Present:
Commissioner Anna Hansen [County 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
Stephanie Lopez, City Utilities Department
Bernardine Padilla, BDD Public Relations Coordinator
Michael Dozier, BDD Operations Supervisor
Bruce Frederick, County Attorney
Michael Kelley, County Public Works
Rick Carpenter, City Manager Water Resources and Conservation
Kyle Harwood, BDD Counsel
James Bearzi, Glorieta Geoscience
Alex Puglisi, City Utilities, Environmental Compliance Specialist
Joni Arends, CCNS
Adrian T. Garcia BDD Maintenance Superintendent

Jay Lazarus, Glorieta Geoscience
Sara Smith, County Constituents Liaison
Daniela Bowman, BDD Regulatory Compliance Officer
John Dupuis, County Utilities
Marcos Martinez, Assistant City Attorney

3. APPROVAL OF AGENDA

[*Exhibit 1: Agenda*]

Staff requested that Information Item #7, "Presentation of the results from the TREAT studies," be heard at the end of the agenda to accommodate the presenter's arrival.

Mr. Helms asked whether there would adequate time to discuss item #9, the proposed consideration to the Project Management and Fiscal Services Agreement. Chair Ives said it was staff and the Board's intent to have sufficient time.

Mr. Helms opined that the BDD Board should spend more time on decision items and less time on informational items. Chair Ives said the point was well taken.

Commissioner Hansen moved to approve the agenda as amended. Her motion was seconded by Commissioner Roybal. The motion passed by unanimous voice vote. [Commissioner Hamilton was not present for this action and arrived immediately thereafter.]

APPROVAL OF MINUTES: October 4, 2018

The following corrections were noted:
Pages 18 and 19: Ms. Fort was referred to as Ms. Ford
Page 18: A line was duplicated

Commissioner Hansen asked that the report Doug Hintze presented regarding the Los Alamos National Laboratory Cleanup Efforts be forwarded to the Board members. BDD Board Counsel Long said the packet was emailed out and Mr. Harwood would resend it.

Commissioner Hamilton moved to approve the minutes as corrected. Commissioner Roybal seconded and the motion passed by unanimous voice vote.

5. REPORT ON OCTOBER 30, 2018 FISCAL SERVICES AND AUDIT COMMITTEE (FASC)

CHAIR IVES: Mackie.

MACKIE ROMERO (BDD Financial Manager): Mr. Chair, members of the Board, a Fiscal Services and Audit Committee meeting was held on Monday, October 30th In attendance was myself, BDD Financial Manager, Nick Schiavo, BDD Facilities Manager, from the County we had Commissioner Hamilton, Stephanie Schardin Clarke,

County Finance Director, John Dupuis, County Utilities Director. From Las Campanas, Tom Egelhoff and Ginny Selvin. I was unable to provide an update on the BDD audit and financial statements for fiscal year 17/18 so I would like to provide that update now. I did get a schedule back from the auditors and they are scheduled to be on site at BDD the week November 26th which includes audit preparation and financial statement preparation also. So their schedule is that they're going to deliver the audit report to the State Auditor on December 14th so from the 26th to the 14th gives us about three weeks to have the audit and financial statements prepared. I know that's a very aggressive timeline and BDD will be doing everything in our power to make sure we have everything completed on our side to make sure the auditors can complete that deadline.

CHAIR IVES: And at that meeting will you be serving turkey, mashed potatoes and gravy? [laughter]

MS. ROMERO: Yes, it's going to be busy. We discussed in detail discussion and action items 9, 10, and 11 which will be presented later on in the agenda and unless there are any questions, that is my update.

CHAIR IVES: I know there is at least one question. Commissioner.

COMMISSIONER HAMILTON: Yes, that is a very aggressive schedule. Is that a realistic schedule in as much as they haven't made themselves available to you yet and so do you have enough prior knowledge and information to be able to prepare things preemptively for them, etc. etc. or is there some further assistance that we should ask for?

MS. ROMERO: Mr. Chair, Commissioner Hamilton, given the struggles that we had with the prior year financial statements and audit, assuming that there are no additional changes, I feel like I can definitely get those at least drafted in a draft format until they are done with their work. So if I need additional resources, the City has offered help from the City's finance group. I definitely if I feel like I need some additional assistance I will definitely reach out to the City to make sure that we can comply with these deadlines.

COMMISSIONER HAMILTON: And before they are able to submit on December 14th is there any cycle that has to go through us that is putting you in a bind because of the timeline?

MS. ROMERO: Mr. Chair, members of the Board, no. The financial statements do not have to come back to the Board until they are complete.

COMMISSIONER HAMILTON: Right, right. Thank you.

CHAIR IVES: Other questions from the Board?

MS. ROMERO: Thank you.

CHAIR IVES: Very good, thank you, Mackie.

INFORMATIONAL ITEMS

6. Monthly Update on BDD Operations

CHAIR IVES: Michael.

MICHAEL DOZIER (Operations Superintendent): Mr. Chair, members of the Board, raw water diversions for October were at 5.66 million gallons a day on average. Drinking water deliveries to Boosters 4A/5A were at 5.08 million gallons a day. Raw water deliveries to Las Campanas averaged .53 million gallons a day. And there

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was .05 treated and non-treated water storage at the plant. This month we are providing around 81 percent of the water for the City and County water system and I stand for any questions.

CHAIR IVES: Questions from the Board? I had only one. Usually we get an update on reservoir levels and water in storage and all such things. I know we usually get that after the PUC has theirs, so I'm not sure if it is prepared for that meeting and then usually because we follow the next day, we usually get it then.

MR. DOZIER: I know we were not able to put it in this packet but I believe there has been no real changes other than our usage.

NICK SCHIAVO (Interim Facilities Manager): So, Mr. Chair, it has gone up just a little bit. We have had some going in for the last few days so we were last month, the end of last month at about 35 percent and now it is at 40 percent. Some gains but nothing too significant.

CHAIR IVES: Is that 40 percent, is that one or both of the reservoirs?

MR. SCHIAVO: Mr. Chair, that is combined, that is 40 percent total.

CHAIR IVES: Very good. No other questions? Thank you.

MR. DOZIER: Thank you.

7. Postponed [See Page 17]

8. Report from the Interim Facilities Manager

MR. SCHIAVO: Thank you, Chair. With respect to the study session that Kyle Harwood has been trying to set up, it looks like it has been narrowed down to one of two possible days, Tuesday the 27th or Thursday the 29th.

COMMISSIONER HAMILTON: What month?

MR. SCHIAVO: I apologize for the month of November. So I think Kyle may be sending out one final request or he may just be picking a date because I think – I believe those dates worked for everyone. So stay tuned, you will be getting an invite for that study session.

COMMISSIONER HANSEN: Mr. Chair.

CHAIR IVES: Yes.

COMMISSIONER HANSEN: Mr. Chair, what are the dates that you suggested?

MR. SCHIAVO: Chair, member, it's Tuesday the 27th either the morning or the afternoon and Thursday the 29th in the afternoon.

COMMISSIONER HANSEN: I just want to state for the record that Tuesday the 27th in the afternoon is a BCC meeting.

MR. SCHIAVO: Very good.

COMMISSIONER HANSEN: And the 29th Commissioner Hamilton and I have a monthly investment meeting on the 29th at 3 p.m. So I'm just wondering how those times work. It looks like the morning of the 27th might be the best time.

MR. SCHIAVO: Very good and I'll look over to see what Kyle is doing. He is giving a thumbs up.

CHAIR IVES: And alternatively, would the morning of the 29th work?

COMMISSIONER HAMILTON: Well, yeah, it just wasn't presented as a

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possibility.

MR. SCHIAVO: Chair, the morning of the 29th wasn't an option. It was only the afternoon.

CHAIR IVES: And I don't know if 1 o'clock in the afternoon might be a possibility if the investment meeting is at 3 that would still give us two hours to accomplish that. Just looking at possibilities.

MR. SCHIAVO: Absolutely, Mr. Chair. I will meet with Kyle after this.

CHAIR IVES: Good, excellent. Thank you for that.

MR. SCHIAVO: With respect to staffing, we have selected two charge operators. Those individuals were hired from within BDD so we'll be posting two AWT positions here in the next week or so. I've asked Bernardine Padilla to give an update in December, a recap, of the different outreach work and the tours that she's been doing over the course of 2018. So that will be happening in December.

And then lastly, this is Mike Dozier's last meeting. He's decided to take the position at the City of Santa Fe as the Wastewater Treatment Plant Division Director. And so I thought I would just embarrass him a little bit. Mike is a great, great employee and a great person to work with. He's actually been with BDD since the beginning, September 2010 and I've had the pleasure of working with Mike over the last five years in the different roles that I have had and have gotten to know him. He is just a wonderful solid employee. So absolutely Wastewater's gain and our loss. And with that, that's all I have.

CHAIR IVES: And in that case, thank you for that report. And, Mike, thank you for your service to the BDD. Sorry to hear that you're leaving but glad that you're staying within water here in Santa Fe and excited for your new opportunity. So, thank you very much. Would other Board members care to say anything?

COMMISSIONER HAMILTON: Yes, thank you. As they say in the movies, "ditto." Whoever approved this leaving – you didn't ask me over coffee or something. Very good luck in your new position but sorry we're losing you.

COMMISSIONER ROYBAL: Mr. Chair.

CHAIR IVES: Yes.

COMMISSIONER ROYBAL: I would just really want to express my gratitude for all your hard work. You always bring professionalism when you come forward to give us reports here and I've seen you in other places and we've talked just out in the community. So I just want to say thank you for everything and good luck.

MEMBER HELMS: I would like to thank you also. I'm sorry to see you leave.

COMMISSIONER HANSEN: Yes, likewise. Sorry to see you go and good luck in your position. And I just want to mention that Daniela is now here.

CHAIR IVES: Good. Well, thank you, Nick, for that report and for your service, Michael.

DISCUSSION AND ACTIONS

9. 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 [*Exhibit 2: Amendment 8*]

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CHAIR IVES: I'm not sure who is presenting. Nancy, are you?
NANCY LONG (BDD Counsel): Yes.
CHAIR IVES: Please.
MS. LONG: Yes, and if we need others to weigh in we will get them here.

Mr. Chair and members of the Board, before you is proposed Amendment No. 8 to the Project Management Fiscal Services Agreement between the Board and the City and also to be approved by the County. We've had a lot of discussion about this amendment as well as the new PMFSA as I'll refer to it and the committee that was put together to present a new PMFSA to you which is required under the Joint Powers Agreement. The committee will continue to work on a completely new agreement to present to you and our hope is to have that done before the next fiscal year but in the interim there were several pressing issues that we thought should come forward in an amendment and that we shouldn't wait until we had the whole new agreement ironed out.

In truth, I think that these are such key issues to the agreement itself and the new agreement that having had these worked out we're hoping that our job will be much simplified as we put the new agreement together.

This amendment does several things. It increases the project manager fee. So the fee that goes to the City is increased from 1 percent to 4.5 percent and that was the subject of negotiations, examination and work by the committee to come up with that amount. It is out of our budget but excluding – it does exclude the litigation expenses as well as the reserve funds so that's about a $7 million budget so it's 4.5 percent of that each fiscal year.

It also provides for certain involvement of the Board with the position of the Facilities Manager. This is an issue that we worked out with the City primarily the attorneys worked on this aspect of it although the entire committee was aware of this part of the amendment. It allows that the Board will be briefed in executive session about any candidates for the position of Facilities Manager and should the Board want, it may appoint the citizen member or alternate citizen member to that interview panel. The reason being that it would be citizen member or alternate citizen member is the City Charter prevents City Councilors from being involved in personnel decisions at any level including hiring, including firing, including promotion and anything of that nature. It was deemed to be sort of a fair thing that if the City Councilors couldn't do it, the County Commissioners probably shouldn't be on that committee either but the citizen member could represent the Board. They do not have that same restriction of the City Charter. And likewise because of the City Charter restrictions the Board would not be involved in the disciplinary or other personnel actions regarding the Facilities Manager but instead the City Manager will inform the City Attorney, the County Attorney and the Board attorney of any contemplated actions so that, should there be any effects that need to be discussed from that personnel action, that those could be discussed at the attorney level. Again, not involving individual members and bringing them within a possible prohibition of the City Charter.

We also changed the definition of Las Campanas, a very minor change but we thought we might as well do it now. It is no longer the partnership it is the co-op and the club. So we changed that definition.

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And then there was also a change that we needed in terms of our audit so we wouldn't have an audit finding and that is Paragraph 4, Fiscal Agent Responsibilities. We have changed the requirement for providing auditing financial statements from 90 days after the fiscal year to just after the end of the fiscal year because it was not happening within 90 days. So that just puts us in line with what the City already does with its audit. That was a cleanup matter as was the Las Campanas matter.

The substantive changes were to the Facilities Manager position involvement of the Board and the Board's attorney and the City and County's attorney in that as well as the increase in the fee from 1 to 4.5 percent.

CHAIR IVES: Thank you for that. Questions from the Board? Let me start with JC.

MEMBER HELMS: I have a lot of questions and I don't want to hog the time here. Does someone else have a small question or shall I just wade in?

CHAIR IVES: We have one small question.

COUNCILOR VIGIL COPPLER: Thank you, Mr. Chair. Nancy, I was wondering on the first page, third paragraph on the proposed language in red –

MS. LONG: In the compared document?

COUNCILOR VIGIL COPPLER: Yes. Why where it says, "upon receiving a written resignation," etc. why suspension wasn't included in that? Would mean that --

MS. LONG: It probably should be.

COUNCILOR VIGIL COPPLER: Usually when you follow progressive discipline –

MS. LONG: I think that would be a good addition. I don't think the City would have a problem with that. The County says they don't. We could include "suspension" that would be helpful.

COUNCILOR VIGIL COPPLER: Just so long as you have the laundry list. Thank you.

CHAIR IVES: Any other short questions? JC.

MEMBER HELMS: All right but feel free to interrupt me because I know I'm going to be windy.

This is a very important topic it seems to me and I just received this document when I arrived in this room. Now I am a pretty quick reader and it's a short document but if I stumble around a little bit please bear in mind the reason. Basically, what I'm seeing as sort of an outsider to government here as being a citizen member. I'm seeing the guts of this whole topic are two-fold. One we have responsibility as a board to the City to provide good water. And with that authority, responsibility, excuse me, equals a certain amount of power but this document says to me that we don't have any power at all. And that really troubles me and I can go on and on in this regard but the basic point is that we are responsible to the community for the water but City staff makes all the hiring and firing decisions. And let me tell you something, at the public level what counts is hiring and firing it is not discussing parts per billion of some chemical I've never heard about or how the geology affects the dispersion of this and that. That's not where it is at. That's staff level stuff.

Board level stuff is hiring the Facilities Manager and having authority over him to fire him if he's no good and giving him authority to hire and fire his own staff. You

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cannot run an outfit delegating hiring and firing to City staff and make sense. And that's not addressed in this document. There's a lot of detail here and we can talk about the detail. But I see here and I'm assuming the word "project manager" refers to the City. So this Board is to supervise the City; well, what does supervise mean? It should have the authority to kick the City out if it's doing wrong. We cannot have responsibility for pure water in this town and not have the authority to get it done and I don't see that around here.

That's the primary point and then it goes on and on and as I say there are details. Then we get down to the question of the money the City is going to get, 4.5 percent. I find that excessive primarily because I don't think the City should be running it in the first place. That 4.5 percent should be reserved for Buckman to possibly hire more people or give higher wages to get a good staff. But the heart of the matter operationally is the staff that should be reporting to the Board and the ultimate responsibilities and the powers that go with it should be at the Board level so I am firmly against whatever I read here.

CHAIR IVES: Let me just respond in part. This and of course I was not on this Board when all of these documents were being setup and the relationship was being setup and I don't believe any of us were, quite frankly. So the decision was made when the Buckman Board was set up to have the City be the project manager, the fiscal for the organization. In connection with that, all of the employees at Buckman were City employees and therefore subject to City employment rules. And the way Santa Fe's charter is formed, you know, I, as a City Councilor, have nothing to do with personnel decisions. That is all handled by the City Manager. So to some degree this is as a result of constructs that have been long in place and I don't think they have served the City poorly and certainly there are different mechanisms and some of what we're trying to accomplish or the intent in trying to do amendment number 8 was to true-up some of the compensation arrangements because 1 percent everybody has acknowledged for at least four years now that was inadequate to compensate for that. And the best estimates based upon the committee that was formed many years ago was that initially they had looked at 4 percent. There was some indication in the more recent discussions that that amount at least in this past year was at least 5+ percent but we were looking for a figure that seemed justifiable on a going forward basis and the 4.5 was the point where City and County staff including all of our financial folks came to as a reasonable compensation for the services that were being rendered.

Part of the objective to was to begin to change the Board's relationship with the City in regards to the Facilities Manager so that – we were looking for ways that we would be able to have more input and more information given sort of recent circumstance but without doing a wholesale change to the fundamental relationship which is that portion that counsel had indicated that we want to look at to have ready to move forward hopefully by the end of the fiscal year. So the objective would be to continue to talk about those hosts of issues with an eye towards potentially changing that but using this to cover the period between now and the start of the new fiscal year so that there was fair and reasonable compensation. And we created additionally an opportunity for input and information flow with regards to the job duties and the selection of the Facilities Manager.

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MEMBER HELMS: Let me go back – I should have mentioned this earlier but I forgot. Ms. Long brought up an extremely important point which is the prohibition of the City Charter on City Council being involved in hiring and firing. Now that is a real problem. Obviously, we can't be redoing the charter here, it is what it is. I don't have any authority. But great god, I've said that we are responsible to the City for good water. If someone starts dying because a chemical slipped in, who the heck is going to be responsible? We are. And I don't like responsibility without authority. If you can't hire your own staff one way or another and some little mechanisms have been thought about, you're in trouble. You cannot run anything that way.

We effect our decisions and our policies through staff. We don't do it ourselves. No one on this Board goes down there and monitors the chemicals but that's where the action is in monitoring the chemicals. So we have to be able to hire good people that we really trust and have confidence in and my own recommendation is we should up the salary of the Facilities Manager. Or maybe I shouldn't be saying this in the presence of Mr. Schiavo – he's not listening so good.

But the point I'm making is, and I don't know, you sort of said I think that this is kind of an interim topic that is going to glide on to something bigger and more permanent later on. But, whatever, the whole concept of being a board, being a member of a board has to be taken much more seriously than just supervising City staff whom I never meet with. I don't know who is handling it. What does City staff mean? I suppose that Mr. Schiavo is technically City staff. That's a strange word "supervise." That's not adequate in my world. The buck has to stop somewhere and I don't think it is exactly fair that it stops at the staff level, quite frankly. I think it should go beyond the staff to the Board but that means the Board should have the power to put in place people who really can handle the job. I'm not casting aspersions on anyone personally who has been on staff. But I just found the way we handled our last topic of Facilities Manager it all seemed really strange but it really didn't come to the Board. It was all handled by City staff and that didn't sit well with me and I don't think it would sit well with anyone who knows what his responsibilities are.

We're not just here to look pretty. We're here to make really serious decisions. And I would like to dig into this a little bit more. I don't find this amendment adequate. But it goes way beyond the amendment, the whole agreement is inadequate and I'd like to take this opportunity to throw it out, frankly.

CHAIR IVES: Well, the alternative is to keep functioning under the current agreement which again penalizes the City I believe unfairly at this point in times in terms of its compensation.

MEMBER HELMS: You're talking about the dollars and that's not really where my mind is. It's a minor point, frankly.

CHAIR IVES: Well, not an insignificant one.

MEMBER HELMS: No, to be fair but still.

CHAIR IVES: And I certainly agree that it's going to take a much more lengthy discussion which is the intent of the Board – and it is the intention to have that discussion. So do we want to do something that at least allows for that type of information flow and participation in the interim or just to go back to the way it has been which is basically the City performing its obligations according to its Charter as it has been doing in the past? So I understand that we don't have – this is what a committee

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that was assigned to create and work on this has brought forward. Originally, it was just going to deal with the compensation but folks wanted to deal with some of these issues as well and counsel for the City, counsel for the County as well as counsel for the Board have sat down and discussed those issues and come up with this as the compromise that could be put in place at this point in time not intending to avoid those deeper discussions but to cover the interim so that there is that information flow that I think everybody really wanted recently in the past.

MEMBER HELMS: I think some other people want to talk.

CHAIR IVES: Commissioner.

COMMISSIONER HAMILTON: Thank you, Mr. Chair. So just to be clear, Mr. Helms is correct. Absolutely correct that it is an issue that has been under discussion and nobody on the Board should fool themselves into thinking it isn't an issue to have responsibility with no power.

That is why we have all agreed and why it's really critical that we all live up to that agreement to continue the discussions on the JPA. That said, and it's a very serious issue. That said, that is why this amendment was done this way. It allows the expediency of correcting the financial issue and it adds in that at the very least, between now and the time that we are able to discuss and revise the JPA we are knowing that the placement of the Facilities Manager is potentially going to occur before we get any, you know, we achieve any further revisions of the JPA. It will at least assure that we get notification of issues in a timely manner. Issues that are likely to impact decisions we have to make. That's all it achieves but it is something.

COMMISSIONER HANSEN: So was the SWMA model looked at by this Boards, by the lawyers that we have? And the SWMA Board functions completely different and it is a joint City-County Board and we hire and fire the director. So was that model used?

COMMISSIONER HAMILTON: Mr. Chair, that whole portion of the discussion is what is being – that's going to take place in the continued discussions. The idea was that, that actually requires JPA revision not just an amendment and takes more time to do. So it hasn't been accepted or rejected or reviewed. It is just a time issue.

COMMISSIONER HANSEN: And so are we guaranteed that this discussion will continue and we will revise the JPA or are we just getting into a month to month decision or we getting into a year decision? What is the timeframe that we're looking at?

CHAIR IVES: Again, as indicated by Board counsel, the intent is that this amendment would see us through the end of this fiscal year and that by the beginning of the next fiscal year, we would have taken into consideration those issues and come up with a plan or an agreement for the future. So the only guarantee that exists is if we all continue those discussion and that's certainly my intent. I know of no intent of anybody else on this Board to avoid that. So would I say that we're guaranteed to come up with a SWMA model or the RECC model, no. But the decisions, yes, I think we are all committed to that.

MS. LONG: Mr. Chair, I think you really covered what I was going to say. We have talked about some of those models. We talked about the impediments and the challenges and the differences as with the SWMA model, the Board does hire their director but those employees are that director's employees and employees of that agency.

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Here if the Board were to hire the Facilities Manager and the employees were City employees then it creates some problems. So we have to really switch the model up to a completely different version than what exists now. But those discussions are ongoing and they have been had in the past as well, but those are the challenges to following some other models that we just are not exactly like. It hasn't been an apples to apples, that's for certain.

CHAIR IVES: And I would note that the Board has bono fide functions and powers that we exercise, such as budgetary. And so it's not that we are without power. We do not hire and fire and that's how everybody agreed to set it up way back in the day. I'm not aware of any failure on the part of people who have been operating the organization to perform their duties in terms of delivering drinking water to the citizens of Santa Fe and Santa Fe County. I think we have had competent staff onboard that have done good jobs at performing their duties and obligations as employees and operators of the BDD.

I understand the point you're making and I agree that it's something that we certainly need to discuss and consider on a going forward basis.

MEMBER HELMS: I guess it all goes back to the JPA and we're just talking about a tidbit here, a little part of the JPA. But the basis of it is to turn over the guts of the power to the City of Santa Fe and that's not surprising because the City of Santa Fe is the biggest entity around here. It's obviously more important, at least, than this part of the County in terms of population and power and all of that good stuff. Are we really simply saying that that's a fact, that the City of Santa Fe has the power and that's the way it's going to be and don't bother with anything further. And if that's what we're talking here why are we beating our gums then if there's no chance in changing the fundamental structure which is what I am suggesting. I do not like the current structure. It defers too much to staff and it is not that I have anything against staff and I am certain that they're competent and honest. But sooner or later if you are a member of a board you've got to have the power to run things. Whether that suits you or not. If that doesn't suit you then you shouldn't be on the board. Board members have duties and we have to tell staff how to behave. We don't take orders from staff. We tell the staff what to do. That's my view of a board's duty. And I'm wondering if we have any possibility of going in that direction or am I just wasting my time?

CHAIR IVES: It would obviously take determinations both by this Board and by the County and by the City and I believe by Las Campanas.

MEMBER HELMS: How about the US Government? Is it requiring that the City of Santa Fe run this outfit? I mean, this is a big topic. It goes back to the Department of Reclamation and the Bureau of Reclamation or whatever you call it –

CHAIR IVES: I'm not aware of the federal government dictating the terms of the JPA in any way, shape or form, but again, I was not there when it was formulated.

MS. LONG: No, Mr. Chair. The JPA provides that fiscal and management services shall be provided by the City or the County or a regional entity.

MEMBER HELMS: But who decided to make the City the single one who really makes decisions? Where is that coming from?

MS. LONG: The City –

MEMBER HELMS: I live in the City. I am not anti-City of Santa Fe.

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MS. LONG: Yes, the City is the project manager.

MEMBER HELMS: Yes, but who chose the City to be project manager?

MS. LONG: I wasn't around at that time but I understand it was probably the Board and the City and the County decided that the City could best handle the project management obligations and –

MEMBER HELMS: So what you're saying is the Board could reverse that decision if it wanted to.

MS. LONG: According to the JPA the Board could pick one of the three as a the project manager. The City, the County or a regional entity unless the JPA is amended.

MEMBER HELMS: It couldn't pick itself as the project manager?

MS. LONG: Not as currently structured under the JPA.

MEMBER HELMS: This Board can't set up its own management agency to run this facility?

MS. LONG: No.

MEMBER HELMS: Who says that?

MS. LONG: Under the Joint Powers Agreement it is either the City, the County or a regional entity.

MEMBER HELMS: But what I want to say, could we get us in the Joint Powers Agreement and set up something new and say we're going to run our own show; is that a possibility?

MS. LONG: There's management functions I think that the Board certainly has and could continue to enlarge. But that's just what the JPA provides. So after the initial agreement had an expiration date, there was a committee that was put together that included City and County and some staff members to decide who best should continue, and I believe this was in 2013, to provide those project management services. And that committee looked at a regional authority, they looked at the County and they came back and said, We think the City should continue to be the –

MEMBER HELMS: There's something missing here and I know this gentleman wants to say something and I'm kind of hogging the time. But it seems to me that a board that really wanted to run things would simply create – in itself be the project manager and would delegate all of that power to the staff that sits down there at the Buckman facility and that would be their job. They wouldn't be worrying about stuff up here at City Hall. They would be reporting to us out of that little facility down there on whatever that road is called. That's the structure that I would envision and I don't see why we have to be constantly having little side agreements with different entities and pretty soon – City staff is a complicated topic and there are a lot of pressures on people down here – handle out there and they'd be concerned with the water and nothing else.

And I just don't get this structure and I need a real explanation of why anyone agreed to it in the first place. It doesn't make sense.

MS. LONG: Maybe Kyle was there at the beginning, he came up with the plan so we'll see what he says.

KYLE HARWOOD (BDD Counsel): That was a heck of a way to hand off the baton. Thirteen years ago there were only two of us that are here still today that worked on briefing the initial County Commission and the initial City Council on the structure of the BDD project and that's Rick Carpenter and myself. And if it would be

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helpful to this conversation I would like to offer to sit down and walk you through the memos that were done 13 years ago that vetted different structures. So that at least the one that we have today can be placed in context. And if that would be helpful to you –

MEMBER HELMS: It would be helpful but I think I've sort of made clear that these sessions where we meet for an hour and a half, maybe two hours, once a month. And we should be trying to reach decision at these sessions. And if we constantly punt toward another information session off stage, sort of speak, and I can meet with you and would love to meet with you and I'm sure you can tell me a lot, but does it produce a decision? I think that the people in this Board in this room have got to recognize that we must make decisions and live with them.

What I'm trying to say is that I'm not rejecting your offer which I appreciate. But I am trying to push this Board towards a decision about this document and something – these decisions always slide away, slide away. We run out of time. We run out of days and it never gets done and we must make a decision. If we like this structure and I should think you'd have to defend the structure to the whole Board not just to me, fine, then we like the structure. I don't like the structure though, that's all that I'm trying to say. And I want these other members to hear my point of view.

MR. HARWOOD: Understand.

CHAIR IVES: And I would certainly indicate that I think we're clear on that. Although I think we are also ready to make a decision on the matter that is before us and that is with the understanding that we're going to continue these discussions along the lines that you have highlighted and do a serious look at the structure and see whether or not that's something folks want to continue and if we want to change it what that would entail and involve because it would be significant. That much I know.

So, other questions on Amendment number 8. Councilor.

COUNCILOR VIGIL COPPLER: Thank you, Mr. Chair. I move that the Board approve Amendment number 8 to the PMFSA with the understanding that it also has to move forward for approval to the City Council and the Board of County Commissioners.

MS. LONG: Councilor Vigil Coppler, would that also include the addition of your suggestion of suspension included?

COUNCILOR VIGIL COPPLER: Exactly, with the amendment. Thank you.

COMMISSIONER HAMILTON: Second.

CHAIR IVES: We have a motion and a second. Further discussion? All those in favor signify by saying aye. Opposed. Any abstentions?

The motion passed by majority [4-1] voice vote with Mr. Helms voting against.

CHAIR IVES: That matter carries so we will put it in place and increase the information flow with regards to the significant decision of the facilities manager and that will govern the agreement through the end of the fiscal year and this Board will be undertaking to consider further changes. Good. Yes, Commissioner.

COMMISSIONER HAMILTON: Just that I know that we had talked about this but we should schedule the next committee meeting if we haven't done that.

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MS. LONG: Yes, Commissioner Hamilton, and I think Mackie and I have discussed that and we're going to start getting a standing time for people that works.

COMMISSIONER HAMILTON: That's excellent. Thank you.

MS. LONG: And meet very soon.

COMMISSIONER HAMILTON: Good idea.

10. Request for approval for the Buckman Direct Diversion Vehicle Replacement Policy

MS. ROMERO: Mr. Chair, members of the Board, in 2014 the BDD Board adopted the Major Repair and Replacement Fund Policy. This policy established the resources needed to assure BDD's ability to cover the repair and replacement cost of capital assets already in existence within BDD.

The purpose of the Vehicle Replacement Policy is to provide procedures for evaluating vehicles that have been identified a candidates for replacement. This policy is a subsection of the Major Repair and Replacement Fund Policy and the intent is to continue to define all assets owned by BDD to establish a more inclusive policy with distinct replacement values and cycles. All BDD vehicles and heavy equipment have been entered into the SAMS program and estimated replacement cost and estimated replacement cycles.

In your packet I did provide an example of the replacement cycle needed over a 20-year period. Just as a note, to remember that the program is a working software and staff will continue to update with repair and replacement costs as well as update replacement cycles based on the evaluation criteria established in the policy. Any vehicles requiring replacement from the Major Repair and Replacement Fund will also have to be authorized by the Board. Are there any questions concerning the policy?

CHAIR IVES: Questions from the Board? Commissioner.

COMMISSIONER HAMILTON: There were two things that we talked about, well, at least a couple of things about this policy sort of somewhat at the detail level. And one of them was it seemed appropriate and the question was brought up and I thought you could speak to it a little for the record and for everybody else's edification on the inclusion of the backhoe and the potential differences from how between regular vehicles and heavy equipment and whether that needed to be in a different section of the asset management and whether it was appropriately covered in this. It did seem like the verbiage in this was fine but I just wanted you to speak to that and if anybody else had questions about that.

MS. ROMERO: Yes, Mr. Chair, members of the Board. So if you notice in this cycle it did include heavy machinery equipment, again, this was just pulled out of the asset management plan and if management feels it is appropriate we can always move that to a different section in the asset type category. It would still be in the cycle for replacement but it just may not be in this particular policy for vehicles. Our intent is to come back with more inclusive replacement for other assets within BDD so that maybe it becomes part of the heavy equipment policy and that was what the Commissioner was asking about. As whether it was appropriate to have it in the vehicle section or a different asset class type.

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COMMISSIONER HAMILTON: And so the other thing was, you know, there's sustainability objections, the City, the County, the BDD and some of them are very important. And those are sort of overarching considerations that intersect with lots of other policies and in this case it intersects with how that might be incorporated within the Vehicle Replacement Policy, per se. So is there the intent to consider, as appropriate, electric or hybrid vehicles and whatnot?

MS. ROMERO: That is correct. So management's intent is to include that as part of our assessments. As future years come down and different policies get established between the City and the County regarding electrical vehicles then those would actually absolutely be considered.

COMMISSIONER HAMILTON: So part of the question – this is sort of the nuts and bolts of a vehicle replacement policy. It's the get it in the schedule and it's the asset management aspect of it. Do you think, does anybody think there's a need to put some verbiage regarding sustainability in that will be considered when appropriate into this for it in terms of the criteria for considering vehicles?

CHAIR IVES: I certainly, on that point, would and having been an advocate and having passed resolutions at the City asking that that be a consideration in their replacement and selection of new vehicles. I think it is highly appropriate for that to be a factor in the evaluation of the replacement vehicles, so, yes.

COMMISSIONER HAMILTON: Thank you. I think it's a good idea. It's not in – this is great as it is so far but that might be a good thing to add. I don't know how to achieve that.

CHAIR IVES: I think that if we approve this, we would approve this with the addition of consideration of those factors as part of the selection of a replacement vehicles.

MS. ROMERO: And we can add that, yes.

COMMISSIONER HAMILTON: Great, thanks.

CHAIR IVES: Other discussion, questions? What is the pleasure of the Board?

COMMISSIONER ROYBAL: I'd like to move approval, Mr. Chair, with that addition.

COMMISSIONER HAMILTON: Second.

CHAIR IVES: We have a motion and a second. Is there further discussion? All those in favor signify by saying "aye." Any opposed, any abstentions. Very good the matter carries.

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

11. Request for approval to purchase two new replacement vehicles in accordance with the BDD Vehicle Replacement Policy

- **Budget Adjustment Resolution from the Major Repair and Replacement Fund for $72,278.00**

CHAIR IVES: This is the first step, I suppose, in this process. So I know you'll address how these are energy efficient vehicles as part of this, Mackie, please.

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MS. ROMERO: Mr. Chair, members of the Board, with the approval of the Vehicle Replacement Policy, BDD management has identified the following two vehicles which have been evaluated and are in need of replacement in the current fiscal year. We currently have two Ford Rangers, they are both 2011, 4 x 4, super cabs. Due to the nature of our rugged working conditions, fortunately, the BDD vehicle fleet are subject to daily wear and tear that has caused the vehicles to deteriorate prior to their intended useful life. And these two vehicles, in the memo I have provided the mileage on there, they still are fairly low mileage but they are in very poor condition. The vehicles are used by our operation staff and maintenance staff to travel to all areas of the plant including the very rugged road down to the raw water lift station and the diversion section. So, therefore, it was recommended by management that these vehicles get replaced with 2019 Chevy Silverado, 2500 Crew Cab 4 x 4s and this would be utilizing the New Mexico State Price
Agreement. That would cost a total of $72,278.00 for the replacement of the two vehicles. Are there any questions?

CHAIR IVES: Questions from the Board?

COMMISSIONER HAMILTON: Just for the record, it was suggested that they some of the Board members out for a ride in these vehicles if there was any question about their condition.

CHAIR IVES: And the only question I had, and I know this probably does not comply with the BDD Disposal Policy, but do we ever consider using those vehicles as trade-ins.

COMMISSIONER HAMILTON: It's a good question.

MS. ROMERO: It is a good question. They did bring that up in FSAC and so we were going to look at the City's policy and see if that was an option. The current disposal policy has been drafted and it's in draft form but we would like to circulate that back to the partners and staff to make sure we're in compliance with everything. So that hasn't been considered yet. I don't know if Nick has any comments about trading the vehicles. We have not looked at that yet.

MR. SCHIAVO: We were actually going to take a look to see what we would get potentially at auction versus the trade-in value to make sure that was going to work with our finance department .

COMMISSIONER HAMILTON: And in particular, actually, just to expand on that it was a discussion that Nick brought up that that would be in comparison – the net comparison of what we have to pay on the price agreement compared to what we would pay someplace else net after trade-in. So when you get the price agreement in auction compared to that. That's just the obvious comparison. It sounded good to me, for sure.

CHAIR IVES: And if we did go to auction, those funds would be credited to BDD?

MS. ROMERO: Mr. Chair, so that would be – that's in the draft disposal policy. That was one of the concerns, what do we do with the proceeds given the structure of the entity. So in that disposal policy we will address where those funds would go. But my intent or recommendation would be that the funds get retained within BDD either back to the Major Repair and Replacement Fund to continue to fund replacements or possibly a new capital improvement fund so that maybe those proceeds

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could be used to purchase new assets within the BDD. Again, those are recommendations that would go out with the disposal policy and we'll look for feedback from the partners.

CHAIR IVES: And just out of curiosity, the Replacement Policy that we just approved references the BDD Disposal Policy. But you are speaking of it as if it did not exist.

MS. ROMERO: That's why there was no details it was just that we would – disposal would follow the policy. We'll bring the policy in the December meeting for you to approve.

CHAIR IVES: Very good. Yes.

MEMBER HELMS: I assume that the two vehicles that we want to get rid of we bought new; is that correct? We are the only owner.

MS. ROMERO: That is correct. We bought those when the project first started back in 2011 or maybe a year before that.

MEMBER HELMS: So if we went to auction we could advertise them as single-owner vehicles.

MS. ROMERO: Yes.

MEMBER HELMS: It's important.

CHAIR IVES: What is the pleasure of the Board.

COUNCILOR VIGIL COPPLER: Mr. Chair.

CHAIR IVES: Yes.

COUNCILOR VIGIL COPPLER: I move to approve the purchase of two new replacement vehicles in accordance with the BDD Vehicle Replacement Policy.

COMMISSIONER ROYBAL: I'll second.

CHAIR IVES: We have a motion and a second. Is there any further discussion? All of those in favor signify by saying "aye." Any opposed, any abstentions?

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

MS. ROMERO: Thank you.

CHAIR IVES: Do we need to approve the budget adjustment separately?

MS. LONG: I think it is part of that agenda item and the motion encompassed that replacement.

CHAIR IVES: Is that the understanding of the maker of the motion?

COUNCILOR VIGIL COPPLER: Yes.

CHAIR IVES: Is that the understanding of the second?

COMMISSIONER ROYBAL: Yes.

CHAIR IVES: Very good, any other questions of the Board? Good, thank you.

INFORMATIONAL ITEMS (cont.)

7. Presentation of the results from the TREAT Studies

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DANIELA BOWMAN (BDD Regulatory Compliance Officer): Mr. Chairman and members of the Board, we are here today to present the results from the TREAT Study. You have this presentation in your packets and you have two reports and a reference that was published in *Scientific Magazine*. This presentation goes together with the TREAT Report and the CFA Report that is your Board packets and that is important because it doesn't explain every single result; however, I would like to tell the Board that I have the report open and if any of you have questions and any other numbers than the ones that are in this presentation I'm ready to flip immediately to the report and explain those results if necessary.

Before we begin with the TREAT Report, I would like to give a historic perspective of this program. The Memorandum of Understanding between the Board and DOE - Los Alamos National Lab was signed first in 2010. It covered four seasons as you see on the slide, 2011, 2012, 2013, 2014. After that we have signed two more Memorandum of Understandings which have been slightly revised from the original one and that's 2015 for three seasons and 2017 for additional three seasons. The programs of the MOU have always been the same. They are three programs: early notification system, the surface water monitoring of the Rio Grande and initially in 2010 the contaminant fate analysis for one year and then it was upgraded to the TREAT Study. That was run for also one year. Very briefly, I'll go over the programs of the MOU. The early notification system or the ENS monitors the flows in Los Alamos Canyon watershed by using Los Alamos National Lab gauges and notifies the BDD operators when there is more than 5 cfs flow in the Los Alamos Canyon. When that happens, the operators can decide whether they will stop diversion of raw water or they will continue diverting raw water.

This was intended as a preventative program. Preventing flows from Los Alamos Canyon – contaminated flows from Los Alamos Canyon to enter into the BDD system.

The second program, surface water monitoring of the Rio Grande at BDD, reported previously the following results: the Rio Grande surface water continues to be monitored for sediments, radionuclides, metals and organics. The concentrations of the contaminants in the Rio Grande collected at BDD continue to exceed Rio Grande background levels and continue to exceed some of New Mexico Water Quality Control Commission standards for metals, gross alpha, total PCGs and D/Fs. Based on the analysis it was determined that the sources of radioactive materials are both, Los Alamos Canyon Watershed and the Rio Grande Watershed. And the sources of metal and organics were both Los Alamos Canyon Watershed and the Rio Grande Watershed.

The last program of the MOU initially was the contaminants fate analysis. It was conducted from March 2012 until February 2013. It was funded entirely by DOE-Los Alamos National Laboratory. The report of the CFA is attached with your packet. Unfortunately, the results are inconclusive as to the treatment deficiencies. And the deficient sampling design – we determined that the sampling design was deficient in evaluating the treatment technologies and that is why this particular assessment was replaced with the TREAT Study which based a sampling design from a reliable scientific reference. And that one that is attached with your packet.

The TREAT Study under the 2015 MOU, the TREAT Study initially was planned to be conducted for three years and to conduct two sampling events each year for a total of six sampling events. Unfortunately, we only conducted four sampling events which

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lasted for – which were conducted over the period of one calendar year. This report, this brief report, presents the results from the first three sampling events. And the budget of $30,000 per year was dedicated to this particular project. Unfortunately, again, that budget was insufficient. It was exceeded every single fiscal year.

Before we dive in to the TREAT Study results I want to review the environmental programs at BDD. BDD mainly is a water treatment facility that produces drinking water. It is staffed as such and its main goal is to produce drinking water. In the compliance program, we run five compliance programs. They are regulatory programs and they are mandatory. That's the NPDES, EPCRA, the Safe Drinking Water Act, the RCRA Waste Disposal which includes universal waste and a tiny bit of haz waste and the solid waste disposal. The program run under the MOU of the programs, are completely voluntary programs.

Design of the TREAT Study, the design idea of the TREAT Study was to sample the raw water pumped from the river and follow the same volume of water as it is treated by the different types of treatment at BDD. Conventional treatment and advanced treatment. The design was adopted from the reference provided in your packet. The design of TREAT continues – the sampling stations were enumerated as such: the sampling station at the Rio Grande, a sampling station after the Lakos but before conventional treatment, a sampling station after conventional treatment, a sampling station after advanced treatments/the membranes and the last station was after the GAC.

As I mentioned before, the design of the TREAT Study follows and samples the same volume of water from the river to the finished water tank. We decided to analyze for a very wide range of constituents regulated and unregulated. The budget was modest and we decided to go with an in-house study conducted by the Operations and Compliance Departments. The report, we considered that the TREAT was a great improvement in comparison to the CFA Study. We considered the results to be excellent for contaminants that adhere to solid particles. The TREAT Study proved very high removal efficiency for selected contaminants. What are those contaminants? The selected contaminants are contaminants that adhere to solid particles. BDD is designed to remove solid particles and suspended sediments and we think that BDD is working exactly as designed. It removes a very high percentage of solid particles.

In this particular table we selected special contaminants. First is the SSC, it stands for suspended sediment concentration. I don't know that you can see that. The removal efficiency for solid or suspended sediments was always more than 97 percent. This is a great result. Some metals are more soluble than others. For example, aluminum is very insoluble in water and it adheres to solid particles very well. As you see here in this particular table, aluminum is removed always more than 96 percent efficiency. Some of the numbers in your table have numbers that are greater than. It's greater than because the concentrations of those contaminants in the finished water are non-detect. So we took the detection limits of those non-detect requests and divided them by the initial concentrations. The quality of the Rio Grande is very good so the initial concentrations are very low. So even though you might see low numbers such as arsenic here, arsenic in the first TREAT Study showed a removal efficiency of greater than 38 percent. This is not a small removal efficiency. It only shows small because the finished water arsenic is non-detect and the initial concentration is very low and that gives only the impression of

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low removal efficiency but as you see, the sign is "greater than." We just cannot determine the exact efficiency for example for this particular study.

As you see, lead which people are very much concerned about, is removed with very good efficiency. Greater than 81 percent, greater than 86 percent, greater than 91 percent. Manganese is very well removed. And I will take any questions. If you would like I could flip to the table of the report. If you'd like me to comment on any of the efficiencies in the appendix of the report or otherwise, I can just continue.

CHAIR IVES: Please.

MS. BOWMAN: The results of the organic constituents are consistent with other studies and we are very happy about that. This gives us a very high confidence in all the results of the TREAT Study not only the results with organic studies. Results for organics in a little more detail: the drug residue category has very variable efficiencies. Organics are different than metals and radionuclides. They are very variable in the structure and property with respect to solids. Their solubility in water and the fate in the environment. Organics are variable in occurrence and concentration in source water as the report indicates. It is almost impossible to predict or to make a profile of those organics specifically the drug residues in the Rio Grande. Sometimes they are extremely low and sometimes they are little more elevated. Except for total PCBs all drug residue organics are unregulated and they are of a very low concentrations. They occur in the Rio Grande in the parts per trillion.

As I mentioned previously, the efficiency for selected organic compounds are very compatible with the reference that I presented and that is in your packet and that gives us a very good confidence in this study. Efficiency for most organics is good to excellent considering the low source concentrations in the Rio Grande. As I explained, the efficiency depends on the initial concentrations. If it is very low the removal efficiency does not show up as a very good percent and also it depends on the final concentration.

Conclusions and recommendations: the most important part of this presentation. The BDD staff thinks the TREAT Study has provided us with very good results on a very modest budget. The scale and the complexity of the study was greater than initially contemplated which increased the workload for BDD staff. And BDD is not a research facility. As I mentioned earlier, our main objective is to produce good drinking water; therefore, if any consulting staff is selected for that they need to have the correct experience to run such studies. We, the BDD staff, think we have done a great job and we think we have confirmed the treatment efficiencies at BDD. So we don't think we need any more TREAT Studies; however, we will leave that decision to the BDD Board and we would like to ask that if the BDD Board would like to continue those TREAT Studies that it consider the following additional recommendations: we would recommend that a different implementation approach, like for example, smaller scale studies or multiple phases, focused sampling. We don't need to study at once every single treatment. We can divide this study into studying only the conventional treatment or maybe studying only the advanced treatments, and only the GAC or the membranes and so on and so forth. Since we have done most of our studies at low sediment flows, we would recommend that if any future studies are desired that they are conducted and coincide with high sediment flows in the Rio Grande so we can examine what happens when there are higher concentration contaminants in the Rio Grande because we already

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know that a lot of metals adhere to solid particles and when most sediments are brought down they we're going to have higher initial contaminants in the source water. And of course we would like to recommend for any future studies that the Board consider increasing the funding for this type of studies. And I will take any questions if you have any.

MEMBER HELMS: I really appreciate and this is fabulous. I am going to ask you a very humble question way below your pay grade. How much money do you get for these studies from LANL and DOE and how much would you like?

MS. BOWMAN: As I mentioned before, only the first study was financed exclusively by LANL. These studies that I presented the brief report the Board financed exclusively all of those studies and the budget per year was only $30,000 and that's why we mentioned that this was a very modest budget. It was exceeded because it was not sufficient and we consider our results to be very good – the execution of that study very good on this modest budget. I don't know, it will depend on any future goals of the studies and how we conduct them. Whether we decide to phase them. Whether we study one treatment at a time but at this point I cannot give any estimate of budget. But if the Board would like us to look into that matter and to make plans for future studies we will definitely do so and we can come up with an idea.

MEMBER HELMS: Well, I would like that. I don't know about the rest of the Board, but yes, an estimate of what kind of monies she would like to carry out her duties. $30,000 strikes me as being kind of low, to be honest with you.

MS. BOWMAN: It was.

MEMBER HELMS: That's all I have.

CHAIR IVES: We can certainly ask staff to look at those issues. I know there has been discussion about – originally they were thinking that there would be six different sampling regimens and I think they have done four, whether or not more are necessary given the quality control work that was done on the last of the studies, I'm not sure. But we'd certainly be interested in recommendations potentially from staff on that front and what the costs would be.

MR. SCHIAVO: Absolutely.

CHAIR IVES: We can figure that out.

COMMISSIONER HAMILTON: Well, certainly I can see that some of the percentages look really good. But frankly they're based on numbers that were shown to have serious QC problems and none of these are accounted for here. That QC review was done by a highly qualified consultant. I reviewed it myself. I am highly qualified in this. So we need to ask what was the purpose of doing the TREAT Study because frankly if we were only trying to look at whether the BDD was achieving its general treatment goals, which is understandable, then all we needed to do was sample the raw water and finished water for things that are regulated. And we could say, yes, we are meeting those goals. And even that, the fact is – we did four samplings, there were a number of data issues that were outlined which included changing labs, differing associated changes in detection limits, a number of instances where those detection limits differed between the two labs, a number of instances where there were highly unexpected results like total values that were exceeded by dissolved values that, you know, even Spock would say, Even logic must give way to physics. That shouldn't be possible. And a couple of

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instances where method blanks and other QCs procedures that were done by the labs that you paid had detections and sometimes those detections exceeded.

So those things all give me issue. Those things have to be addressed when we make these conclusions. So as a Board member and a scientist it is not very satisfactory to me to say, We're clearly doing our job. The TREAT Study, the goals of the TREAT Study unless the Board wants to wholly disregard or reject those original objectives of the TREAT Study which was to look at efficiencies at different places and think about engineering issues or engineering tweaks, that's the technical term, that might be applied to improve process then this was a wholly a waste of money. But I also don't actually – I'm sure some of these conclusions might be quite valid. I have every reason to believe from my knowledge of the literature that many removal efficiencies are good because of the association with sediment. But basically what we're saying now is that we're accepting that because it's generally true. That's all we're saying and that's not acceptable to me. So during the time the TREAT Study was being done there was in fact some engineering tweak that was done that you guys are – and that had to do with removing some of the GAC some proportion of it from the filter column because it was so packed it seemed inefficient doing that improved operational efficiencies. So from there there were other things that were along those lines that were intended to use this data to review like even things that aren't necessarily regulated, like caffeine and other priority pollutants and pollutants of emerging concern and so forth that showed less than desirable efficiency to see if we might be able to increase those but we haven't analyzed the data at that level. So I think that is still on the table to do while at the same time we really need to account for the sampling and data deficiencies.

So in my mind and it is partly up to the Board if we want to walk away from those goals, there might be a reason to do that, but we have put this information out there and there are now people who are interested and concerned about this. To do that we would need to do at least one more, more appropriately implemented and QA QC sampling study to be able to address that whole set of concerns.

The other thing that concerns me – so that's my main comment. But the other thing that concerns me is that there was some additional sampling that was not reported on here at all which was the GAC sampling. That was agreed that that was not done appropriately. It was put out there to the public as representing radionuclide concerns and now it's just not being spoken to. It's just walking away from a problem and letting it disappear is also not appropriate. So do we need to continue sampling that or to do at least one more sampling of that.

MS. BOWMAN: Mr. Chairman, members of the Board. We don't have anything that we're walking away from. There are two samplings that have happened. We have the TREAT Study which samples the treated water. Sampling event number 4, which from the very beginning showed contamination problems were excluded from the study and that is where some of the dissolved was higher than totals. These results that are presented here have no QA QC problems whatsoever. So all the efficiencies that you see, that are calculated, do not have any QA QC problems. Yet indeed the whole Environmental Laboratory did have a higher detection limits and that is why a lot of the efficiencies are greater than.

But I believe you are referring to the GAC sampling and this is the actual solid media and those were reported to the regulatories as required by the regulatory program

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and they're making decisions on that sampling right now. That has been for a while that they're making that decision.

COMMISSIONER HAMILTON: Yes, but you actually haven't addressed my point. My point still stands.

CHAIR IVES: Questions. I know when we had the presentation by Glorieta Geoscience, I thought they had performed some of that quality control work to try and true-up what the realities were, so functionally the –

COMMISSIONER HAMILTON: Is true-up one of those fancy legal terms that I'm not familiar with?

CHAIR IVES: No, but they were trying to do quality control on the sampling that had been done.

COMMISSIONER HAMILTON: No, no, best of my knowledge, they reviewed all of the existing data and what quality control was done on it. And you can only report on what was done and not done and whatnot. It wasn't any resampling or reanalysis. If there's an appropriate QC done you can then take those results. If sampling is done and there are methods, blanks and all of the appropriate blanks and controls done you compare that to your detection limits and whatnot and you can use that to determine how you report out your data as to whether you have detections or not. So, I just want to see these data reported appropriately with according to the QC that was done and otherwise eliminated if it's not correctable. And, frankly, show the analysis from treatment step to treatment step to address the original objectives of the study.

CHAIR IVES: So, I'm not quite sure where that leaves us. Perhaps with a continuing question on our prior efforts of trying to assess water quality at some broad level and also whether or not the studies that have been done have actually answered the questions related to the motivation for the TREAT Study which was the efficiency of the system itself. Do you feel we have some indications of that if not a perfect sense of what the samples do or do not demonstrate to a high level of confidence. Am I stating that correctly?

COMMISSIONER HAMILTON: I have no idea what you've just asked. I'm sorry.

CHAIR IVES: Well, then we're even. [laughter]

COMMISSIONER HAMILTON: That may be my deficiency.

CHAIR IVES: Well, it sounds like what you're suggesting is that we may want to continue with at least one additional sampling having undertaken the appropriate quality control parameters before doing the sampling to ensure that the data that is generated is accurate so that we can get a true sense of whether or not the plant is operating efficiently.

COMMISSIONER HAMILTON: We need to have a discussion about the KISS principle. That is not the only conclusion that can be drawn. I think there is further analysis of this that is required before – I don't think that this is presented in a way that makes conclusions easy to substantiate. I have a problem with that. I don't think it necessarily takes much to fix that problem but I'm capable of pouring through the poring through the table and figuring out some things. But to be honest, I would have to go back and look at all of the QC data. That should have already been done. And then some of the conclusions had to do with conventional pollutants. There are no conclusions in this –

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there is gross alpha and gross beta. But some of those are quite variable so there are additional summaries that really are needed.

Looking at some of the raw data I don't have a problem with how the BDD is operating. That is not the point at all, right? I don't think we have any gigantic issues but there were other issues with gross alpha and gross beta and uranium and plutonium that were brought up that ought to be more explicitly addressed and related to the GAC sampling because those were issues that were presented to the public before and now they really ought to be clarified. But for TREAT itself, I think aside from the QC issues, I think one problem is that the results ought to be presented station by station so that the parameters that are well removed, are easy to spot, and the ones that are not efficiently removed are shown. And the places that they're not removed are visible so that if there is some engineering tweak, and there may not be that's not my area of specialty, I think that would be a really useful thing to present to the Board. Like there are these parameters that show up and never disappear or they don't disappear until here and where in the plant is the problem. And if somebody else is doing that or that's being done at another place –

CHAIR IVES: That's a good question.

MS. BOWMAN: We attached the reference and we did the analysis exactly like the water treatment facility in that article. We have a scientific article in your packets and we designed the TREAT Study and we analyzed the data. That's how they analyzed it. They took the finished water concentrations and they divided them by the concentrations in the source water; however, there is one major difference. If in the finished water that facility obtained non-detect value then they concerned that to be 100 percent removal. We decided that that's not an appropriate approach. We placed the sign "greater than" the particular value which came from the non-detect – the detection limit divided by the initial value. So we actually followed the analysis in that particular scientific article.

COMMISSIONER HAMILTON: Great, and that's not a problem.

MS. BOWMAN: And the QA QC of all of this data, we have it. And all of this data is 100 percent good and I can show you the tables where the QC qualifiers have been generated. The Geoscience did not give us those deliverables. Danny Carter, our lab analyst, for two weeks dug out every single qualifier and we attached them to tables and the data you see in front of you in the appendix, is 100 percent good.

COMMISSIONER HAMILTON: Nobody's data is every 100 percent good. I would be skeptical about that just based on basic scientific principles. But the data could be good but in science I don't have to take word for it. I actually want to see the results. They should be presented here. That's what I'm saying. And the things that I quoted from the Glorieta Geoscience report are facts. So you will have to show me why those all of a sudden, the method problems, the method detect problems, all of a sudden magically are not an issue.

CHAIR IVES: Well, I don't think that we're going to be able to resolve those issues unfortunately here today.

COMMISSIONER HAMILTON: Right.

CHAIR IVES: It is a valid question though whether or not we want to present data where there has been questions raised.

COMMISSIONER HAMILTON: Can I add one more thing?

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CHAIR IVES: Please.

COMMISSIONER HAMILTON: So one of the issues, for example, the issue in switching labs, means you really can't compare month to month to month. But it may not be necessary to compare between months to evaluate how the efficiency of the process from station to station within one month. So that's why I said there are multiple conclusions. There could be valid reasons not to have to continue the TREAT Study but there were a number of QC issues that were found so we have to get a better summary of all of those QC problems and decide whether they don't amount to enough to – it's possible that at least for some months they don't amount enough to have to do another sampling but that's what I would like to see.

CHAIR IVES: I'm thinking that perhaps what we might want to do on a going forward basis; let me ask Nick to weigh in on this.

MR. SCHIAVO: Mr. Chair, I have been trying to come up to speed and it was actually really good to work with staff on this presentation and I have had a chance – so it's been really good for me to come up to speed and work with staff on this presentation. It has helped me understand some of the past history and I've had the chance to talk with Commissioner Hamilton and in listening to her, I think that I understand the last remaining questions, the last pieces. So if I could follow-up with Commissioner Hamilton offline to make sure have properly documented her concerns than I think we can move forward and do a study to address those concerns and bring that back before this committee.

COMMISSIONER HAMILTON: Or possibly decide it is not necessary but one way or another that would be great and appreciate it.

CHAIR IVES: Certainly seems like a reasonable course moving forward.

MR. SCHIAVO: Thank you.

CHAIR IVES: Good. Other questions from the Board? Thank you for that presentation.

MATTER FROM THE PUBLIC

CHAIR IVES: Is anybody here to address the Board. Please, come down.

JONI ARENDS: Good evening. My name is Joni Arends. I am with Concerned Citizens for Nuclear Safety. Based on the uncertainties associated with the conclusions for this report, CCNS believes the Board should go forward with additional funding to confirm the results of the TREAT Study and then further enhance it. I want to just point out that we had a lot of concerns about this report that you cited on page 11 about the Howe Report. We had many, many concerns back in 2008 about the inaccuracies. We thought that the conclusions were wrong based on the data that supported his conclusions. Now it has taken 10 years, a decade, for someone finally to say, we have problems with this Howe Report. So I think that it is really important as Commissioner Hamilton explained that there needs to be detailed information about how these conclusions came together and to look at the data more carefully so that, if we're comparing data in another decade that we have something that shows us where we were then.

I also think that the laboratory should continue to fund these studies. And, my third point is that the plumes are moving. The contamination is moving to the river. And

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the fact that the Buckman is a water treatment facility, it is not a nuclear facility, it is not a laboratory, it's not as Mr. Helm's pointed out several times today, there is a duty to provide clean water for the residents of the City and the County. It is important that vigilance continues with regard to watching what is going on.

There is hearing next week that starts on Wednesday with regard to land application of treated chromium, perchlorate and the RDX which is a high explosive, in Los Alamos County. All three of those plumes which show a trend – the fact that there are actually plumes that are moving towards the Rio Grande indicates that the lab has not taken care of its responsibilities as a good neighbor and a good steward and that we need to be more vigilant in protecting the water.

So I wanted to thank you for this opportunity to make a public comment.

CHAIR IVES: Is there anybody else who would wish to address the Board. There being none.

MATTERS FROM THE BOARD

None were presented.

NEXT REGULAR MEETING: Thursday, December 6, 2018 @ 4:00 p.m.

ADJOURNMENT

Having completed the agenda, Chair Ives adjourned the meeting at 5:55 p.m.

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BUCKMAN DIRECT DIV MIN
PAGES: 26

I Hereby Certify That This Instrument Was Filed for Record On The 31ST Day Of January, 2019 at 11:44:17 AM And Was Duly Recorded as Instrument # 1877988 Of The Records Of Santa Fe County

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

Approved by:

Peter Ives, Board Chair

Respectfully submitted:

Karen Farrell, Wordswork

FILED BY:

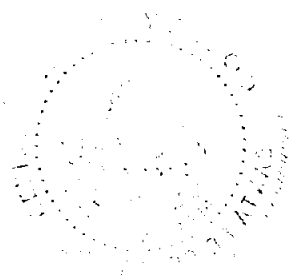
GERALDINE SALAZAR
SANTA FE COUNTY CLERK

ATTEST TO:

YOLANDA Y. VIGIL
SANTA FE CITY CLERK

SFC CLERK RECORDED 01/31/2019





Buckman Direct Diversion

EXHIBIT

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AGENDA

The City of Santa Fe
And
Santa Fe County

Buckman Direct Diversion Board Meeting

THURSDAY, NOVEMBER 1, 2018
4:00 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 OCTOBER 4, 2018 BUCKMAN DIRECT DIVERSION BOARD MEETING
5. REPORT ON OCTOBER 30, 2018 FISCAL SERVICES AUDIT COMMITTEE (FSAC)

INFORMATIONAL ITEMS

6. Monthly Update on BDD operations. (Michael Dozier, BDD Operations Manager, mldozier@santafenm.gov, 955-4501)
7. Presentation of the results from the TREAT studies. (Daniela Bowman, BDD Regulatory Compliance Officer, dkbowman@santafenm.gov, 955-4504 and Nick Schiavo, Interim BDD Facility Manager, naschiavo@santafenm.gov, 955-4507)
8. Report from the Interim Facilities Manager. (Nick Schiavo, Interim BDD Facilities Manager, naschiavo@santafenm.gov, 955-4376 or 955-4507) **VERBAL**

RECEIVED AT THE CITY CLERK'S OFFICE
DATE: 10/25/2018
TIME: 8:27 AM

DISCUSSION AND ACTION

9. 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 Long, BDD Legal Counsel, nancy@longkomer.com, 982-8405)

10. Request for approval of the Buckman Direct Diversion Vehicle Replacement Policy. (Mackie Romero, BDD Financial Manager, mmromero@santafenm.gov, 955-4506)

11. Request for approval to purchase two new replacement vehicles, in accordance with the BDD Vehicle Replacement Policy. (Mackie Romero, BDD Financial Romero, mmromero@santafenm.gov, 955-4506)

    - Budget Adjustment Resolution from the Major Repair and Replacement Fund for $72,278.00.

MATTERS FROM THE PUBLIC

MATTERS FROM THE BOARD

NEXT REGULAR MEETING: Thursday, December 6, 2018 at 4:00pm

ADJOURN

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

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

This Amendment No. 8 ("Amendment No. 8") to the Project Management and Fiscal Services Agreement ("Agreement") is between the Buckman Direct Diversion Project Board (the "BDD Board") and the City of Santa Fe ("City" or "Project Manager").

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 further amend the Agreement as set out below;

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

NOW, THEREFORE, for consideration, the BDD Board and the Project Manager agree as follows:

1. **ARTICLE 1. DEFINITIONS**. Section L of Article 1 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 of Article 3 is deleted in its entirety and replaced with the following:

> B. Supervise the performance of the Project Manager pursuant to §§ 4 and 12 of the JPA, as amended.

3. **ARTICLE 6. SPECIFIC RESPONSIBILITIES OF THE PROJECT MANAGER DURING OPERATIONS.** Subsection O of Article 6 is deleted in its entirety 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 and the City Manager, for the day-to-day operations of the Project, and for supervising all other Project staff. Consistent with the City Charter, only the City Manager has the authority to hire, fire, and discipline the Facilities Manager.
>
> Prior to hiring the Facilities Manager, the City Manager will brief the BDD Board in executive session regarding the candidates for the position, and the BDD Board may appoint the Citizen member or his/her alternate to be on the interview panel.
>
> Upon receiving a written resignation from the Facilities Manager, and before issuing a demotion, dismissal, or re-assignment of the Facilities Manager, the City Manager shall brief the County Attorney, the City Attorney, and the BDD Board Attorney regarding the effects, if any, of the action on the operation of the BDD or other matters concerning the BDD.
>
> *The Parties do not intend to create any third-party beneficiaries to this Agreement and nothing herein is intended to create or affect the rights or obligations of any City employee, including the Facilities Manager, or conflict with the City Charter*;

4. **ARTICLE 7. FISCAL AGENT RESPONSIBILITIES**. Subsection A(6) of Article 7 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.

5. **ARTICLE 8. COMPENSATION.** Section A of Article 8 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 and one-half percent (4.5%) of the total annual operating budget (excepting reserve funds and litigation expenses) of the Project in each fiscal year.

6. Except as expressly modified by this Amendment No. 8 and prior Amendment Nos. 3, 6, and 7, the Agreement remains in full force and effect in accordance with its terms.

[*Signatures on next page*]

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

ATTEST:

_____
Geraldine Salazar
County Clerk

Approved as to form:

_____
R. Bruce Frederick
County Attorney

APPROVED:

_____
Stephanie Schardin Clarke
Finance Director

CITY OF SANTA FE

By: _____
Alan Webber,
Mayor

Date: _____

APPROVED AS TO FORM:

_____
City Attorney

_____
City Finance Director

_____
Business Unit/Line Item

_____
Yolanda Vigil, City of Santa Fe Clerk