

Las Cruces Utilities
Minutes of the Regular Meeting on
Thursday, July 9, 2020
3:00 pm
via Zoom Video Transmission

Board Members Present

William Little, Chairman
Ed Archuleta, Vice-Chairman
Johana Bencomo, Commissioner
Jim Carmichael, Commissioner
Dr. Harry Johnson, Commissioner
Dr. Harry Hardee, Commissioner
Gill Sorg, Commissioner

Ex-Officio Members Present:

Jorge A. Garcia, Utilities Director
David Maestas, Director Public Works

Others:

Cassie McClure, Public Outreach Consultant
Suzanne Michaels, Public Outreach
Consultant
Jay Stein, Stein & Brockmann, PA
Patrick Peck, South Central Solid Waste Authority

City Staff Present:

Dominic Aragon, Digital Media Coordinator
Candace Brown, Internal Auditor
Robert Cabello, Senior Assistant City
Attorney
Carl Clark, Deputy Director Environment/
Technical Support
LeeAnn DeMouche, Chief Budget Officer
Rhonda Diaz, Water Conservation Program
Coordinator
Lucio Garcia, Deputy Director Natural Gas
Robin Lawrence, Deputy Director Solid Waste
John Mrozek, Deputy Director Wastewater
Lizeth Nanez, Senior Office Assistant
Jose Provencio, Deputy Director Business
Services
Mario Puentes, Gas Business Analyst
Peggy Risner, Administrative Assistant
Alma Ruiz, Senior Officer Manager
Delilah Walsh, Assistant Utilities Director
Adrienne Widmer, Deputy Director Water
Stephanie Zorie, Senior Assistant City
Attorney

Chair Little called the regular meeting to order at approximately 3:00 p.m.

Chair Little: The meeting is being conducted remotely so we need to observe the following guidelines. I need to give you the names of the Board Members who are participating remotely. Whenever you speak, you need to identify yourself so that the record shows who is speaking, and those people who are watching us on YouTube will know who is speaking. Members of the public do have access by YouTube. If any of this fails, I need to suspend discussion and all of the votes will be by role call and there will be a recording of the meeting and there will be minutes maintained of the meeting.

Any comments or questions about that? Seeing none.

1. Conflict of Interest:

Chair Little: The first order of business is to inquire if any Member of the Board or any City staff present have any Conflict of Interest with any item on the agenda. Vice -Chair Archuleta? Oh, I guess we need to unmute everyone so that they can answer. Ok, Vice-Chair Archuleta?

Archuleta: No.

Chair Little: Bencomo.

Bencomo: None.

Chair Little: Commissioner Carmichael.

Carmichael: No.

Chair Little: Commissioner Hardee?

Hardee: No.

Chair Little: Commissioner Johnson?

Johnson: No.

Chair Little: Commissioner Sorg?

Sorg: No.

Chair Little: The Chair no and the staff?

Dr. Garcia: No, Mr. Chair.

Chair Little: Thank you.

2. Acceptance of Agenda:

Chair Little: Next order of business is Acceptance of Agenda. Can I have a motion to accept the agenda?

Bencomo: So moved, Councilor Bencomo.

Chair Little: Thank you and a second?

Sorg: Commissioner Sorg seconds.

Chair Little: Thank you. All those in favor, by voice vote?

Commissioner Archuleta - Aye; Commissioner Bencomo - Aye; Commissioner Carmichael - Aye; Commissioner Hardee - Aye; Commissioner Johnson - Aye; Commissioner Sorg - Aye; and Chair Little - Aye.

The Agenda was Accepted Unanimously 7-0.

3. ***Acceptance of Minutes:**
 - *a. **Work Session from February 13, 2020**
 - *b. **Regular Meeting on February 13, 2020**

The Minutes were Approved Unanimously 7-0.

4. Public Participation:

Chair Little: Do we have any public participation comments by e-mail? Okay, there were none. Thank you.

There was none.

5. Administrative Report

Chair Little: The next item of business is the Administrative Report.

Dr. Garcia: I'm going to start with Mr. Provencio.

Provencio: Good afternoon Chairman, Commissioners. Jose Provencio, Deputy Director of Business Services. The update I provide at this point is the statistics involving the Utility Assistance Programs that we have for our customers, and this will reflect the June activity. The current slide in front of you presents the statistics that were logged for this month for each one of the programs that we have to help tide customers over for utility payment.

The next slide provides the other programs that we have, namely the Casa de Peregrinos, Utility Assistance Program. As I've been updating you over the past couple of months this funding was fully exhausted for Fiscal Year 2020. Shortly thereafter, two months ago, the City Council funded an additional emergency assistance fund in the amount of \$125,000.00 that we have been administrating for the past two months.

This information represents the number of requests both from residential and commercial customers and the funding that has been dispersed in assistance. Pertinent information summarized is the gross assistance available from the \$125,000.00 funding from City Council to assist our Utility customers.

At this point, we fully expect, to date, that this secondary emergency funding will be fully exhausted and probably by mid-month of July. However, since we've rolled into the new Fiscal Year, we now have funding access for the \$100,000.00 that we typically have at the beginning of every Fiscal Year to assist our customers.

I will keep you posted on the activity as we go forward. I'll standby for any questions you may have.

Chair Little: Okay. Thank you. Questions? Obviously, we will need to watch the balance and keep the City Council and the Mayor advised as to how that balance is shrinking.

Provencio: Chairman, Commissioners. We do provide a weekly update to the staff at City Hall. They are well aware, on a weekly basis, what the status is of the emergency funding.

Chair Little: Okay. Great. Commission Bencomo. You had a question?

Bencomo: Yes. Thank you. I just had a clarification question. This, what you said would be tapped out by mid-July, that is not the same fund as the emergency fund or it is? You think the emergency funding would be tapped out?

Provencio: Chairman, Commissioner Bencomo. The data I have in front of you is what is available under the City Council funding of \$125,000. I also noted that since we've transitioned and moved into a new Fiscal Year, we have \$100,000 available to continue that assistance going forward. We will track that progress and the fund reserve as we go through the first half of the year.

Bencomo: Okay. Thank you. I appreciate that clarification.

Provencio: You're welcome.

Chair Little: Okay. Thank you. Go ahead.

Dr. Garcia: Ms. Walsh.

Walsh: Commissioners, Chairman Little. This is Delilah Walsh, Assistant Director. I'm going to give you a brief report on our HR activities. As you know, our vacancies have gone up; we've continued to grow to 51. We actually have a higher start. However, with retirements and some changes and transfers we'll probably still be at 51 or 52 by the end of this week, in spite of that.

If you look at the graph on the right, the vacancies by line of business, you'll see that for most lines of business our progress looks flat. Although, that's not necessarily true simply because we are hiring in those lines of business. However, due to promotions, retirements, transfers within the City, and those issues, we can't keep up essentially. That's just part of doing business in this COVID environment.

That said, especially in this COVID environment, our strategic business plan goal to fill our vacancies within six weeks is very far off. It's taking us an average of almost 30 weeks now to get a position filled. If you look at the hiring workflow by task owner, a lot of it is sitting in HR, and those HR demands and responsibilities. We can't move a hiring process forward until we complete a step in HR, and so it is a rough environment. This is happening throughout the City, it's not just Utilities, and it's just a tough hiring environment for us.

That said, again that progress may look flat, however, we filled almost 40 positions just in the Fiscal Year alone. We started out with 47 openings, we filled 40 of them, but we've incurred more vacancies even in that process. We're still awaiting the six reclassification requests from HR. This means we've moved a position maybe from Wastewater to Business Services, or somewhere else throughout the Utility. We are still waiting on four new job descriptions in order to post those jobs. As of the date of this report, we were awaiting hiring Review Committee Determination, meaning can we move forward with those new hires? However, that's been resolved, and we are moving forward and some of our positions are getting posted.

On our intern update, our newest intern Omar [Munoz] has started. He signed his contract with LCU (Las Cruces Utilities), so he'll start working for us. He has enrolled as a student with the Doña Ana Community College (DACC). I think I mentioned last time he came from Las Cruces Public Schools (LCPS) ACE (Academic Career Experience) program out of Mayfield High School. It's exactly what we want is a student to have that academic and career experience, move to Doña Ana Community College and possibly NMSU (New Mexico State University), and then come and have a lifetime career with Las Cruces Utilities. This will be a good start for us. Unfortunately, I'm sad to report that LCPS's ACE program is suspended, so we won't be able to take advantage of that career exposure as part of their curriculum this semester. Hopefully, things change in the Spring, but for fall just based on the decisions of LCPS and keeping their students safe, they don't want them moving around in those career environments.

Looking forward, the Human Resources (HR) coordinator position is still our top priority. We're waiting on a PAQ (Personnel Analysis Questionnaire) approval, that means we don't have a job description from HR yet. We can't post anything until the position exist within HR. We are focusing on staffing while complying with the COVID-19 policies; we'll talk a little bit more during the COVID presentation.

The overtime reports pending—I'm still having some challenges, just breaking out what you need to give you a comprehensive look of what the vacancies means to our overtime. Our longevity and potential retiree analysis are pending. I have to wait on HR for some information because we have employees who have had prior careers with NMSU, State Government, the County, and it counts toward their retirement credits, so I don't have a full picture of who we could possibly lose. As you know we have a very well experienced staff throughout the Utility, and that's common throughout the country. We have so many specialized positions. Typically, you do have a more experienced work force.

Also, our staffing analysis with temporary employees is pending. We are entering into new contracts with our temporary staff and so we'll be able to update those reports more completely. Do you have any questions on the HR side before we get into the COVID?

Chair Little: Any questions? I have one.

Walsh: Yes sir.

Chair Little: Among those items that are stuck at HR somewhere, is one of them the hydrogeology position that Commissioner Archuleta and I were interested in?

Walsh: Mr. Chairman, Commissioners. We have designated a position as the hydrogeologist. Adrienne's staff has done a great job. They've sent me the initial description, what we call the PAQ, all the items we have to put into that to create the job description. I can't submit that until we get the other ones back. What happens is that questionnaire has to go to a consultant, the consultant drafts a job description, HR has to approve it, they set the salary standards, and it comes back to us. It is in our budget and we have the initial questionnaires.

My fear is we're not getting anything else back. We have a lot of priorities that need to be resolved. It is a priority, but it's going to be pending until HR completes the other job descriptions. We're ready.

I'll give you an example. The HR coordinator position you all asked Fiscal Year for 2019-2020 and we budgeted for 2019-2020. We still don't have the position. I'm hoping that's not indicative of what's going to happen with the hydrologist.

Chair Little: Okay. Thank you. Go ahead.

Walsh: All righty. Commissioners. On our Continuity of Operations Plan we submitted that early on in the start of the calendar year. We're still under that plan. All programs in the Utility are 100% operational. Nobody is working part-time or half time. We're meeting 100% of our operational needs. Our return to work plan is still in effect as it was for July 1st. That is because the Governor has delayed the Phase 2 reopening to July 15th. That means we remain at 50% staffing levels. We only allow 10 or less people to gather at one point only with masking and social distancing. Our common areas remain closed.

There is a press conference today at 4:00 p.m. I am imagining the Governor has new orders to come out simply because the other press conference was scheduled for the 14th of July and we received notice yesterday that there will be one today. I'm sure there's going to be changes to the current order.

We continue the weekly situational reporting to the City Manager and LCU Board. As Mr. Provencio mentioned, we do report the balance of those Utility Assistance Funds, and I've added that to the SitRep, so it's at the top of weekly reporting in the SitRep so they are aware on management's side. We are continuing to track our PPE (Personal Protection Equipment). We do have adequate supplies for all associates. We are fully functioning within our

warehouse and everybody has what they need in order to keep safe while working.

We are working on compliance with the Family's First Coronavirus Response Act (FMLA), and we've been fully compliant within the City of Las Cruces. What that means is we have to make sure our employees have completed their COVID FMLA paperwork with HR in order to have those time off benefits related to the coronavirus available on their system.

We are averaging about three associates per week out for either quarantine, extraordinary leave, or emergency paid sick leave. This has gone down; we were averaging about eight early on. We're at three now but, I expect that number to go up quite a bit when school starts. On that note, LCPS has notified parents and students that they will attend school physically only two days a week, meaning that our associates with kids—their children will be home three days a week.

As with everybody else in the City, any COVID positive cases, we are quarantining those staff. We continue our increased sanitization. We've actually started tracking our extraordinary leave a lot better now simply because what was supposed to be maybe a four week incident or maybe a two month incident, we anticipate going until the end of the calendar year, just based on some of the activities that we see happening. I know my eldest son works for the State of New Mexico and his boss told him and you're not coming back from home until October or November. He works for DOT, so he'll be working from home for a while.

We are continuing to track that growing paid leave accruals. People can't travel obviously, so they're not taking time off. We expect that will change when school starts. There will be some changes, but our employees continue to rack up that time off simply because we're running at full operations and there really is no time to take. We do encourage them to just take their time off and get a break. Everybody needs to have a day off every once in a while, and so we're able to accommodate that.

We haven't heard any updates from City Management regarding pay differential. I know they've got a lot; they've got the entire City and all their union contracts to consider. We just haven't heard an update at this point. Are there any questions related to our COVID responses?

Chair Little: Any questions?

Carmichael: Could I go back to the staffing report just for a second? I'm not sure I quite understood the status of the HR Coordinator. It's been in process for so long. Is there something that needs to be resolved to get this started on the right track, like for sure we're going to do that or something. Are there some questions out there that we can't seem to get resolved?

Walsh: Mr. Chairman, Commissioner Carmichael. That's an absolutely valid question. I do ask for updates monthly. I understand HR has quite a bit going on right now regarding the FMLA leave as well as other requests. Those all go to a consultant and I don't have a status update. I do get a response saying, yes, we're working on it and it's in the pipeline, but I really don't have an answer to that question.

Carmichael: It's just a pushed very low on the priority list apparently. Is that what I'm hearing?

Walsh: I really don't know. I can't give you an answer. It feels that way, but there's no way for us to know what challenges that they're dealing with at City Hall.

Carmichael: Perhaps we could get a report next month or in another two or three months from the Director, perhaps.

Walsh: Absolutely. I will definitely follow up and ask again.

Chair Little: Okay. Mr. Maestas has something.

Maestas: Yes, Sir. Thank you, Mr. Chairman. I appreciate the acknowledgement and Members of the Board, this is David Maestas, Interim City Manager. As Ms. Walsh pointed out with the pandemic and with the changes in several of the leave status for employees, our HR Department has had a change and their emergency responses for questions, comments, changes in each of those leave statuses. They've been quite busy tasked with that.

However, based on the number of vacancies, we were looking at the trend and as Ms. Walsh pointed out, the number of vacancies for Utilities have gone up. Although, they filled a lot of positions. They have done a great job on filling several positions since we've seen the change in the vacancies.

I have gotten with HR and I will be working with them to make sure that the coordinator position for Utilities is a high priority. The reason for that, even though they're tasked with so many different other items to work on, if we can get this coordinator position in place then they can focus primarily on Utilities positions and work to help keep that vacancy number from increasing. Hopefully, if all works well, bringing it down substantially. I will let you know that we will make that a priority. Keep that a priority. At each of these meetings you'll have an update as to how that position progress is coming along.

Chair Little: Thank you.

Carmichael: Thank you. Helpful.

Maestas: Thank you.

Chair Little: We would appreciate that. Any other comments or questions? Seeing none. Go ahead.

Dr. Garcia: The next item Mr. Chairman, Delilah. It's a first of a series of presentations on energy transition. With that I don't know if Chairman you wanted to say a few words about that, you and I have discussed that.

Chair Little: Yes, I did. Thank you. This is going to be an initial briefing and it too joins a relatively long line of issues that this Board is going to have to take up at length, in person, as soon as we can. Today's briefing is really a first taste. We'll look forward to a Work Session in the future. With that, we'll go ahead.

Walsh: Thank you very much, Mr. Chairman. So as Chairman Little mentioned, this is somewhat of a briefing of just where we are now and what the status is and why we're bringing this to you and why we'll need a Work Session in the future. Energy transition and LCU. Why are we talking about this today? Why are we bringing this to you as a concern, or not even a concern, I like to think of it as an opportunity for us to do better and to be ready and prepared. We do have responsible planning. We have long term plans here at LCU. This is what we're doing. We're recognizing there's changes coming down the pike and we need to be ready and we need to prepare on how we're going to transition into this new energy future.

The first reason was a Climate Action Plan was presented to the City Council on April 27th. In that plan, it included several proposed strategies for the Council's consideration. Those strategies are ultimately to reduce greenhouse gas emissions for the City of Las Cruces. Some of those strategies will impact the Natural Gas Utility. We're talking about energy, we understand what natural gas does, and we understand there's emissions related to the use of natural gas.

Lisa Larocque is our Sustainability Officer. Lisa was really great in making sure I stayed informed and stayed involved with the Greenhouse Gas Emission Reductions Steering Committee. That was a really big name. That steering committee was responsible for a lot of the input leading to the strategies and ultimate Climate Action Plan. That action plan has not been approved by City Council and the strategies have been presented, just like we're doing today just information for the Council's consideration and will come as a Resolution later on down the road. I don't know when that is. Lisa and I have talked, and she's said she'll keep me informed of how we're going to move forward. We're not there yet.

In addition to that, the State of New Mexico in recent years has enacted the State Energy Transition Act. That is an Amendment to the Energy Portfolios with the Renewable Energy Act that was passed earlier in the 1990s. I believe that when that one came out. In the State Energy Transition Act, it applies mostly to REAs, the Rural Electric Cooperatives, and the public utilities. It does not apply to Las Cruces Utilities because it does not cover or

set the goals for municipal providers. But, in that Act and that Transition Act there is a push, and it's a great goal, for an 80% all renewal energy portfolio for our energy providers. Of course, our major provider is El Paso Electric. Under this Act, 80% of their generation has to be from renewables by the year 2040. One hundred percent of their generation has to be carbon free. They could burn natural gas as long as it's carbon free, meaning that they have scrubbing technology. We don't know what kind of technology will exist by 2045 is the goal.

Those are the things we have to think about too. It's a change in the way New Mexico is working. We want to look at solar, we want to protect our environment, we want to have clean air. That said, those initiatives do have impact to our Gas Utility should we be required either through our own City ordinances, through the adoption of some of these strategies, or through State of New Mexico statutory regulations. We don't even know what the Federal Government would do when it comes to renewables and energy transition, but we know we're headed in that direction.

With that said, we have to consider that as a Natural Gas Utility we do not service the City of Las Cruces only. We are a regional utility when it comes to natural gas, and we service over 40,000 customers throughout the entire County and the area. We have major industrial obligations to NASA, to NMSU, and to Zia Gas. I was talking to Lucio earlier today and even NASA in order to complete the experiments that they've committed under their federal contracts, they want expanded gas lines leading out to the NASA site for that experimentation. We have an obligation for that economic development within our community to be able to provide that service.

Additionally, on that same thread, we have responsibility for Economic Development (ED) and industry recruitment impact within the City of Las Cruces. One of the most recent ED "gets" that ED had, was the Big Tuna facility. We saw it was a great job opportunity; great new technology coming in in pipeline construction. Really interesting, but one of the major factors to them being in Las Cruces in addition to our dry air and our warm months is they needed 9 million BTU's per hour and we could provide that easily with our Natural Gas Utility. It became a factor. I know even in Socorro, in my home county, Gruff Coal Mines, their perlite mine and their processing, they changed all their processing for natural gas because it is a cheaper alternative in energy.

Lastly, under the Gas Utility we have several financial obligations related to Debt Service. The City Council just recently passed the \$23 million bond issue under Joint Utility Bonds. The word "joint" is very important because when we issue bonds, we don't issue bonds under the Gas Utility, the Water Utility, the Wastewater Utility, because if water had to go buy bonds itself it couldn't afford them. We combine all the resources of our joint utility system in order to bond and support that debt as well as demonstrate the revenues available to service that debt. By doing that, we actually lower our bond

pricing, meaning we get a better interest rate from investors, and we pass that savings on to our consumers, our ratepayers.

This is just to give you an idea of the emission survey that happened in the Greenhouse Gas Emission Reduction Steering Committee and what came out of that. Part of that was Lotus group did an inventory of greenhouse gas emissions by sector within the City of Las Cruces. Now keep in mind that NMSU was not included because they're not considered within City limits. In the City of Las Cruces this came right out of the Climate Action Plan, transportation is responsible for 53% of greenhouse gas emissions, followed by the commercial and industrial building use, then residential. This is a pretty good picture of where the strategies need to focus. Obviously, the strategies that the City Council will be presented are going to address those major pieces of the pie.

On that note, I've also included a slide in here, I'll say Joe Provencio has because he's been providing a lot of this information. The prime sources of carbon emissions in the U.S. as a whole, again transportation is the majority of it. What's interesting here is electricity generation is the next biggest user of natural gas. I make that point because El Paso Electric's current energy portfolio does not include coal. That means we actually have a better emissions count than communities our size because EPE does not use coal generation to deliver electricity, but they do use natural gas. They have several plants. They have their solar plants, their wind farms for their portfolio. It's interesting because natural gas really is a big component when it comes to general energy production throughout the United States.

This is another national slide, based on natural gas consumption. Most of it goes to electric power and industrial usages. Again, transportation is a big one. Again, we talked about greenhouse gas emissions on the prior slides, this slide is simply natural gas consumption, gas itself. Electrical generation is the big one.

What we like to do is take a local picture and the Climate Action Plan did a good job of doing that. It was a great effort to say, this is what Las Cruces looks like today. What strategies can we implement to reduce those greenhouse gas emissions, how can we make our community better at what we're doing in protecting our air and our environment. We'd like to do the same thing and take that same strategy and sort of run with it, in the sense that what we'd like to do today is start to quantify the current Natural Gas Utility emissions within the City limits at the 2020 levels.

The Climate Action Plan started that inventory and we can work with Lotus and work with Ms. Larocque to get a good number saying this is the use of Las Cruces Utilities Natural Gas equals X Greenhouse Gas Emissions, and that's our baseline. Then what we'd like to do is estimate our incremental growth based on the growth of the City of Las Cruces and our own historical knowledge of growth. I think it's really interesting, on Tuesday we had a staff

meeting and our Community Development Director, Larry Nichols, he said in June, last month, was the highest number of residential Certificates of Occupancy issued for the City of Las Cruces, I think he said since 1985. That tells you our community is growing.

In addition to that information, we do know that in the last 12 months we've had 668 new connections, and each one of those connections when it comes to gas, new connections to gas, we know that we have about 1,300 metric tons related to that new connection, growth and that's just based on the typical consumer household using natural gas. We did that through our billing cycles and doing an analysis of our actual customer use today.

With that information, we believe we can set our baseline of today's emissions and say, we're going to cap it, that's the most LCU Natural Gas will ever be. Ideally, we want to reduce that but we're going to start with just the baseline and cap it. Then careful planning to mitigate the impact of that future growth that I just listed above. In other words, we're going to cap our emissions at X, and then whatever that differentiation is moving on to growth or future or whatnot, we're going to ensure through other programs or other ideas that we pull that back down to zero and keep our X flat. Ideally, we want to reduce our X overall, but we have to do it with responsible planning and strategic decisions over the long term.

How do we do that? Right now, we have current offsets and projects that we're doing to reduce our emissions and our impact on the community and the environment. One is our Co-Generation project at our Wastewater Treatment Plant. Commissioner Hardee, I'm not sure if we briefed you on this yet. I know you haven't had a tour, but we actually use Co-Generation engines at the treatment plant using the methane gas in combination with our electricity and generate that power. That's something we can expand upon as this was only the first part of our project experiment.

Another thing to consider is what we're doing today. We actually have existing tree carbon sequestration happening within Doña Ana County. It was not included as part of the Climate Action Plan as a consideration for carbon offset. What was interesting and Joe Provencio actually found this with the pecan growers is that we estimate our orchards here in Doña Ana County actually removed about 83,000 metric tons of greenhouse gas emission from our environment. Having that agricultural impact is important. We can start measuring that in the future. You know, do we have those offsets within our community?

In addition to that or on that same thread, is an urban tree canopy, and this is something that's come up a lot in Elevate Las Cruces, which is the City's Comprehensive Plan. Again, we were looking at it and typically 25 medium sized trees can sequester a metric ton of carbon each year. What can Las Cruces Utilities do to partner in that Comprehensive Plan and promote our urban tree canopy. We all know shade helps with cooling, we want to make

sure we're conscientious of our water usage, making sure we have desert viable planting, but we can also have an impact. Having the Utility support such projects means we're mitigating our own emissions.

Another is the East Mesa Water Reclamation Facility. We've installed a solar PV (Photovoltaic) system there. We're moving forward even more under the new Purchase Power Agreements that Lisa [Larocque], Joe [Provencio], and Adrienne [Widmer] have been working on with Ameresco. Those contracts should be starting very soon. Public Works is actually taking the lead on these construction projects. We will have solar PV sites at some of our production wells wherein they're producing their own power, we're using it at that well site, and Ameresco's managing those Purchase Power Agreements right now.

I do want to mention legislatively wherever you generate solar energy you have to use it at that site. That's why we don't have a community solar program. That's why we don't have giant arrays out by our East Mesa site where we can deliver energy to other customers, because that's just not allowed under today's State law. If you generate at your site and use at your site, just like having solar panels on the top of your roof, that is allowable under current regulatory environment in New Mexico.

In addition to what we're doing today, we can look at that future growth related emissions and ideas. Number one, promoting and supporting energy efficient programs. We haven't really had that conversation yet about rebates or how do we have energy efficiency in any part of our usage within the Utility. We can through the Utility, support carbon sequestration, offset or reduction projects. If that means the City has an urban tree canopy project— if we can contribute to that project either financially or through other types of support or with our water conservation program, whatever we can do to support that development, and then count it toward our efforts to reduce our emissions. It's kind of a balance. We'll support these efforts in order to offset our emissions growth based on usage.

We can also partner with researchers for development of carbon scrubbing or carbon reduction technology and research. As I mentioned, with the Energy Transition Act, the push is not for 100%, renewables in 2045, it's 100% carbon free options. We can actually be part of that research and part of that technology. We've got excellent researchers here at NMSU. Of course, I'm partial to New Mexico Tech since that's my alma mater, but they are doing a lot of sequestration research there also. We can actually be part of that, just like we've been part of the algae growth and experimentation at the Jacob Hands Treatment Center with NMSU. We have those opportunities.

We also can continue to develop solar PV sites for our operations and perhaps support the financing of such at other City facilities, not just at the Administration Building for Utilities. Perhaps we help do something at City

Hall or another facility that's not just Utility related in order to offset our emissions growth.

Finally, we can look at somehow supporting or expanding PV generation for our own local residents. As you know, if I'm an average user, and I have to make a choice between a \$25,000.00 initial investment to produce solar or to feed my family, solar is going to be pretty low on the list, especially when you're in a lower income area. Maybe there's something that we can do to encourage community solar sites whether it's through lobbying action to the State Legislature or volunteering for pilot programs, and that's actually something Lisa and I talked about with another consultant on a different study. We'll just throw ourselves out there as the guinea pig for community solar; we will be the pilot project. We can make that happen simply because Las Cruces Utilities already has the administrative backbone and infrastructure available to generate a resource, in this case solar power, and then deliver it to the customer and bill for it, just like we produce water and deliver it to our customer. We could do that with solar power, if allowed by the legislature. Maybe that's a project that we invest in in the future.

This slide is just my own sale of I love our Natural Gas Utility. It does great for the Utility as a whole and it is the financial backbone for not only our Utility but even for the City of Las Cruces. When we are included with City financials we do well. The Las Cruces Utility system is a great enterprise system to have in your economic portfolio as a City.

The point I want to make is about the energy generation and that goes back to the first few slides that we talked about earlier. It's the use of natural gas of the flame is so much more efficient than the use of natural gas and electric generation. We're about 92% efficient. When you light your stove, and you use up that natural gas, there's very little loss in that whole process, in the transmission process, in use process, you're using up over 90% of the natural gas to generate that heat and generate the energy. When an electric utility burns natural gas in order to generate electricity it takes three times as much natural gas to come out with the same net unit of energy. What we don't want to do is have electrification for the sake of electrification. We want to have electrification only when it's for the purpose of using a renewable, a renewable energy options such as solar PV.

The last thing we wanted to do is change City ordinances or encourage electrification without having that renewable infrastructure in place because we are shifting the burden to the electricity provider who could easily just burn more natural gas, then we completely shoot ourselves in the foot in what we're trying to do in carbon emission reduction.

Additionally, this is just a fun fact, 70% of new homeowners do prefer gas for water heating, cooking, and space heating. Myself, I know during the steering committee I mentioned it several times, I want living in Las Cruces when it comes to getting power, getting energy, getting water, getting trash

services, as a citizen who plans to be here for the rest of her life, I want that price as low as possible for our citizens. Our residents need to get the best service for the lowest price. Quite frankly that's what natural gas does today and makes living here affordable and it's something we want to promote.

This slide is just an introductory slide at what we did is we looked at, if you had a fully electric household in today's world for your water and space heating, what would that do to your winter bill? It increases it \$90.00 a month with our standard analysis in Las Cruces. We also looked at the cost of initial PV investment. Like I said, they're estimated between \$20,000.00 and \$25,000.00. Quite frankly we're in a lower income community that's lacking in affordable housing. That is not a cost we want to pass on to people. That's a cost that we need to have available in the community, whether it be through community solar or another option because it comes down quite frankly, to equity. Are the things that you're doing and the actions you're taking fair to every citizen in the City of Las Cruces? Or are you making actions and activities and making decisions that negatively impact those at a lower income level? I came from a poor county so I'm very, very sensitive to that, of how our decisions can impact a lower income family.

Instead of having those impacts on our people, maybe through work sessions and other ideas we can actually incentivize and support solar production within our own community without putting that financial burden back on the consumer who quite frankly in a lower income community cannot afford it.

I'll open to questions, though I may have to defer a lot to Joe [Provencio] or Lucio [Garcia] and other members of our team. All of us, we're meeting a lot to come through this, help summarize as best we could, what we're looking forward to in energy transition. What I want to emphasize is because of those long term obligations, because of those delivery obligations to large entities like NMSU, NASA, Zia Gas, because of our commitment to affordability, to our citizens, for all those reasons, we just want to make sure that our decisions moving forward are very strategic and that we meet those obligations while getting to this better future.

Chair Little: Okay. Thank you, questions. Commissioner Sorg had a question.

Sorg: Excellent. I'm so glad we're talking about this. Thank you, Delilah. This is a good thing to do. I just was kind of curious when I first saw it, how it got its start in doing this presentation? What started it out? And you explained it well. Yes, our Climate Action Plan we're working on in the City Council or in the City staff. That's something that we want to continue to work on. Ms. Larocque is working on that hard. The State Energy Transition Act, you gave the impression that that might include natural gas. I wasn't aware that it included natural gas. Is that so?

Walsh: Commissioner Sorg. You're right. It does not include natural gas. It's only at the generation point for those public utilities. However, I think we can all

agree that recent trends that we're going to have to address as far as those changes. That's really, it's not that it's more demonstrative of the fact that we're seeing these changes happen. And I know you and I even talked during the committee meetings at a federal level, it could change also.

Sorg: Well, I was going to mention at the end that things at the federal level may change what we are looking at here today.

Walsh: Yes.

Sorg: Yes, so we're talking about electricity generation as far as natural gas goes, but the use of natural gas isn't part of that Act. On the other hand, we need to plan for the future because all of us, someday, we've got to reduce our natural gas use not maybe to zero, but as far down as we can get it.

Now I'm looking at a couple other things. I'm going through the slides myself right now and yes, the important one on slide three is the transportation, 53%. You know that's our cars and trucks we drive around town and all over the place. I've said this in Council or some committee meetings too, that's where we need to concentrate our efforts first because that's 53% of that. We could whittle that down to something in the name, single digits maybe even or not close to that with electric vehicles, electric trucks, and so on and they're coming. It's going to take a 10, 15, 20 years to get a good electric fleet going for people in the City. That's where my main thing is but of course at the same time you can't use electricity that's been generated by natural gas or coal, or any other fossil fuel. We have to have a simultaneous reduction of our electrical energy generation by renewable energy or at least carbon free. Then working on buildings, both industrial, commercial, and residential. Efficiencies are always important there too.

If we work on those two things that will go a long way to reduce our greenhouse gas footprint in the City. Of course, the prime sources of emissions in the U.S. shows the similar thing. Natural gas consumption by sector, that's true. Natural gas, carbon emissions qualify, okay. Yes, it's going to be hard as new development and growth in the City comes along, it's going to be a difficult thing to try to keep our natural gas use down to the levels that we're having now. How can we make our natural gas use even more efficient? That might be something to look at.

Continuing on down, you mentioned in one of the slides that we have Utility bonds that are supported by our natural gas, part of the Utility. as far as getting it, how long are those bonds taken out for? Are they 15, 20, or more years?

Walsh: Mr. Chair, Commissioner Sorg. They're typically 20 years.

Sorg: Twenty years.

Walsh: We're having those discussions on our financial side.

Sorg: Yes, 20 years from now will be 2040 and everything we've done so far should be paid off by that time, so it might be a good way to look at it. We'll see what we have to bond in here in the next few years, that would happen. Think about that.

Trees. Very important here is the trees, our existing pecan tree orchards. Yes, they are doing some sequestration no doubt about it, but what is the future of those trees? Are they going to be around for 20, 40, 50 years?

Chair Little: Gill. We need to wrap this up, let some other people...

Sorg: I'm sorry. I really have some important things to say here Chairman and I really need to do this. I think I have the right to have the floor here.

Chair Little: Speed it up as best you can.

Sorg: Four things to go. I only have a couple more things to go and that is that on the solar PV and the tree situation, the tree canopy; I only wish our City could plant more trees faster. Support in that in any way we can get is good. Power Agreements, good. The last one is on—I'll just go to the last slide here, which was on the economic impact. There is something to consider on the graph there. The all electric bar, you got to consider that, about two-thirds of that bar is electricity's produced by natural gas. When you subtract that from it, there's not a whole lot of difference between the two bars, as far as natural gas goes.

Walsh: That's a good point.

Sorg: We can always talk about PV systems and the solar in the community solar. The cities of Santa Fe, Albuquerque, and Las Cruces have formed a coalition. We call it our Sustainability Coalition, which we are pushing hard to get community solar going in the state.

Walsh: That's great. It has to happen at the legislative level.

Sorg: That's right. Thank you, Mr. Chairman.

Chair Little: All right. Thank you. Now Commissioner Bencomo.

Bencomo: Thank you, Mr. Chair. I have seen Dr. Garcia's hand up. I don't know if you wanted to address some of that before I go.

Chair Little: Go ahead. Be brief.

Dr. Garcia: No, Mr. Chairman. I had raised my hand to clarify the issue of the bonding. Each Utility: Gas, Water, Wastewater pays their own debt. However, the

pledge in front of the bond holders is the Joint Utility System. That's the importance of the Gas Utility. Our concern after the April 27th Work Session where you were entertaining a draft, a Climate Action Plan. If I were a bond holder, I would be worried about what I was reading in that document because it gave the impression that while we were bonding and pledging those revenues, the Council was planning on getting rid of the Gas Utility. That's exactly what that document said.

We submitted some comments that are more reasonable to the Sustainability Office where we can have the Gas Utility basically cap its emissions, if at all possible, and continue to be a financial asset for the Utility in the City. That's what started this discussion. I'm sure you will be having lots of discussions on the matter. You cannot on one side issue bonds pledging revenues of the Gas Utility, and on the other hand having policy that the City Council does that says the Gas Utility will go away in this period where we are pledging the revenues. I believe that's illegal. Anyway, that's what started this discussion. I think this Board will have many more discussions on this item, advising the City Council that you can probably do both; have a healthy Gas Utility that promotes solar PV and efficiency programs. So, I wanted to add that to the discussion.

Chair Little: Thank you. Now Commission Bencomo.

Bencomo: Thank you Mr. Chair. Thanks so much for that presentation Delilah. I felt really proud to hear the commitment of the LCU to some of these initiatives. Also, I think for me most importantly is to hear you say the commitment to keeping rates low for our communities and our families. My only question I wondered, you were talking about how our community is growing and it very much is and pretty rapidly. I wonder how that impacts rates as a community grows, do rates lower, do rates get more expensive? How does that work?

Walsh: Mr. Chair, Commissioner Bencomo. Our rate analysis: you'll actually get a really good class when we're able to meet again. We have a lot scheduled for you on how we do rate development.

Typically, when it comes to infrastructure, if I'm going to develop a new subdivision, as a developer I pay for all the pipeline going into my subdivision. I pay for the roads; I pay for that whole development. Then of course as I sell lots, I make my money back. The ratepayers are not responsible for that development. In addition to that, we have Impact Fees for adding to our system that pay for and absorb some of that.

Actually, the rates come down to our efficiency of delivering that service, of producing the thing, whether that thing be water or gas or taking away wastewater, and then the transmission of that. It could be trucks on the road, it could be all of those expenses.

Our ratepayers benefit most when we're responsible with our money. That's really the bottom line; we're planning infrastructure well into the future. We replace lines timely so they're not major expenses when we have to do line replacements. A lot of that is just our ability to manage the Utility as a whole in order to keep those costs down and be as efficient as possible.

Bencomo: Thanks Delilah. Super helpful.

Chair Little: Thank you. Okay, what's next?

Walsh: You won't hear from me anymore.

Chair Little: Okay. I see no other questions on that. So, let's go ahead and go on to the next topic.

Dr. Garcia: The next topic is a briefing Mr. Chairman on the Joint Utility Bonds. During the budget process you were briefed on the need to issue additional bonds for Water, Wastewater; those bonds were sold through the New Mexico Finance Authority. They close on June 29th. I don't think you can get monies much cheaper than this at 1.996 total interest on \$13.9 million. About \$10 million of that is for the Water Utility and about \$3.9 million to the Wastewater Utility. As those projects get developed and bid out, of course, you will be seeing each of those projects and approve each of those projects. The funding will be available towards the end of July. We're working with the budget office to incorporate those in the Fiscal Year 2021 budget, and then Mr. Clark can do the engineering and issue some of those projects out and bring them to the Board for approval. You've seen those again as part of the CIP presentation in the budget, but you will see those as they get awarded for construction.

The next item that got funded is approximately \$9.8 million, the subordinate lien for the Energy Performance Contract with Johnson Controls; that's Part 2. The Guaranteed Performance Contract that we're going to do energy efficiency upgrades at the Wastewater plant. That's about \$9.8 million and it's a 2.17%. The payback originally estimated at 16 years is going to be even shorter than that.

Again, as we move forward with that project, you all approved that subject to approval of the funding; the Council approved the funding. We will be getting the funding in the budget again and we can issue notice to proceed to Johnson Controls to proceed with all those different energy measures that we're going to be doing at the plant. I just wanted to briefly you on that. It's a good time to be issuing bonds. We would proceed with those projects as we move forward.

Chair Little: Thank you. Questions on the bonds? Seeing none.

Dr. Garcia: Next item, Mr. Chairman is the update. We will start with an update on Texas v. New Mexico water litigation update. I've asked Mr. Stein, our attorney, to join us to give us a briefing. Given that we have new Board Members, particularly Commissioner Hardee had some questions, I asked Mr. Stein to give a brief introduction as to where we are in the case. Then give us an update as to some of the recent developments that are very promising in terms of our participation through Dr. Wilson. With that, Mr. Stein, we'll move to your first slide.

Stein: Thank you, Jorge. The slides deal with a part of my presentation that's going to come down the road. They deal with the testimony of our witness, Dr. Wilson, but I want to back up the train a bit as you suggested and give a little background as to the case. The case of Texas vs. New Mexico and Colorado is a case in the original jurisdiction of the United States Supreme Court. The cases—when one state sues another the case is automatically in the United States Supreme Court because of the importance of the two parties.

The court in Washington does not sit as a trial court. They do not take the evidence. They appoint a distinguished judge or jurist, a Special Master to hold the trial segments and to take the evidence and to report to them. In this case, there have been two Special Masters. The first was an attorney in New Orleans, Louisiana named Gregory Grimsal. He was not satisfactory for a number of reasons. The present Special Master is an Emeritus Federal Court of Appeals judge in Cedar Falls, Iowa, named Michael Malloy, and he appears to be quite good.

In this case, which was filed in December 2013, Texas is alleging that New Mexico has violated the Rio Grande Compact. The Rio Grande Compact is an arrangement between Colorado, New Mexico, and Texas to divide the surface water of the Rio Grande. Colorado was obligated to provide a certain amount to New Mexico at the state line between Colorado and New Mexico, and New Mexico's required to put a certain amount of water into Elephant Butte Reservoir. Now Texas had said that's all well and good, but when the water is released from Elephant Butte Reservoir and it's released to be divided between the Rio Grande Project components, which are Elephant Butte Irrigation District in New Mexico and El Paso Water Improvement District in Texas, Texas is saying, "Well that's fine, but when you in New Mexico have been drilling wells since 1938 since the Compact was finalized, and you've been drilling wells in areas that are hydrologically connected to the surface flows, the result of this has been that you're intercepting and taking the surface flows that were on route down to Texas. So, you've been taking their water." They're saying, "Well that's a violation of the Rio Grande Compact. We're entitled to have you shut down these wells or to get offsets for your depletion effects, and also to pay us money for past damages for what you've done."

The United States was granted intervener status. It jumped in to say, "Well in addition to these claims the groundwater that's been used by New Mexico entities where your wells are drilled into the ground such as those by Las Cruces, that's not State Water; that's all Federal water. So, the State of New Mexico had no authority and no jurisdiction to issue permits. It had no authority to issue the City of Las Cruces any permits to drill water from the ground. That's all illegal. You should have come to the United States to get a contract first to use that water because it's not State water, it's all Federal water that we've owned since 1903." Those are the principal issues that had been raised by first of all Texas, and then the intervener, United States.

There are a number of amici or friends of the court that aren't parties to the case strictly speaking, but they're interested entities that are allowed to appear and file briefs and the like. Las Cruces has been an extremely active amicus on the side of our party, the State of New Mexico. We filed briefs urging the court not to even to take this case. Then we filed briefs in support of a motion to dismiss, but we've been very active and very much aligned with New Mexico.

Certain groups within Elephant Butte Irrigation District (EBID), not the Board, but certain groups within EBID such as the Pecan Growers and the Diverse Croppers, have also joined as amici aligned with New Mexico, and so has the City of Albuquerque, which is also represented by our law firm, my partner Jim Brockmann. Their concern is that principles that are established in the lower Rio Grande will later be imported up into the middle Rio Grande and create issues there for Albuquerque and for other entities there. Now Texas has amici as well and they consist ironically of EBID. They frequently appear on Texas's side and the United States side, so does El Paso Water Improvement District No. 1 and so does the City of El Paso. Essentially those are the nature of the issues.

The first Special Master, well New Mexico filed a motion to dismiss after the court have taken the case; that motion was denied. It was denied in a report by the first Special Master Mr. Grimsal from New Orleans that went way beyond the scope of his reference and seemed to get into many of the final questions on the merits, including the hydrology and the like. He was replaced, and there was a new Special Master. The new Special Master really has discounted that report. He's opened up the trial, if there is to be one, to all the issues so New Mexico will not be facing the negative weight of that first report that was issued by Special Master Grimsal.

What has occupied the party's time has been the drafting of the expert reports. These cases are normally tried by expert witnesses in a wide variety of disciplines, like water rights administration, hydrology, and hydrologic modeling. Most of the issues here involve agriculture, so the issues involve crop irrigation requirements, things of that nature. Economics is a factor. Texas is claiming that it was injured and so they have to prove the extent to which they were, if they were at all. The parties have submitted a huge

number of expert reports, both in their cases in chief and also in response to other parties reports from their cases in chief.

What is occurring now is discovery, interrogatories, depositions for the attorneys to probe deeply into the bases and the reasons for the conclusions reached by the experts on the other side to prepare for trial, which is now set to begin in April of next year at the headquarters of the Eighth Circuit, which is in St. Louis, Missouri. Trial would go on probably for the better part of a year, on for several weeks, off for several weeks, on for several weeks, off for several weeks, divided according to the various areas that the master is taking evidence on; history of the Compact, hydrologic modeling, agricultural issues, and the like.

The City's interest of course is that the result of this case does not impair our existing water rights, which we've acquired under State law and which we've managed very well. That it does not impair in any way our ability to acquire additional rights in the future as the City grows. The City of Las Cruces has convinced the State to present our hydrogeologist, Lee Wilson, as a witness for two purposes; one is to of course display the very solid and wise management of the water management of the City of Las Cruces, and our water use has very little impact, very little depletion impact on the surface flows of the river. Secondly, to show how the State of New Mexico has managed the system well, at least in so far as the City of Las Cruces is concerned.

The deficits that Texas is complaining about, if they exist, and there are many issues as to what they are or how much, are almost entirely the result of the agricultural community. The municipal and industrial community accounts for 7% to 10% of the effects on the Rio at most, and Las Cruces is only a percentage of those, and we don't think it has any effect at all. I'll get into those now with the slides that summarize very succinctly the basic points that our witness would make at trial.

Essentially, he would be responding to statements that were made by Dr. Phil King, who is a consulting hydrologist for EBID, but has submitted a report on the plaintiff side, on the side of the United States and Texas. His principal complaint is it's set out there in the final arrow is that, "There is no effective administrative scheme for non-project groundwater uses to offset their impact on the RGP (Rio Grande Project) and therefore on EBID. What he's complaining about is that New Mexico has allowed there to be depletions from surface flows on the Rio Grande without requiring that those be offset by any of the parties that are causing those depletions, and the City of Las Cruces is not one of those.

He's going to go over the City's water rights. The City's principle water rights are the Valley rights, which are grouped together under LRG-430 et al., and they have been adjudicated in the court proceeding here in Las Cruces for 21,869 acre-feet with a very senior priority date of 1905.

The manner in which the City uses water is that of the of the gross amount that is diverted it consumes about 50% and returns the remaining 50% back into the Rio. It also returns return flows from other entities that use water, but whose discharges back into the Rio Grande are from the City's water treatment plant under our NPDES permit, one of the principal ones of these is New Mexico State University. Because of the City's early priority date of 1905, it is not required to offset any of its depleted effects under LRG-430, but has agreed to do, return all of those effluent discharges into the Rio in circumstances or in years in which the allocation and EBID is two-acre feet or less.

The City has two other principal water rights, Water Right Well Field Permits. The one at the top refers to the City's water rights on the East Mesa, and those are 10,200 acre feet of water. The East Mesa is hydrologically disconnected from the Rio. In other words, its depletions have virtually no effects on the Rio. The consequence of this is that effluent that is derived from uses of East Mesa water are additive to the Rio. In other words, they surplus it, they're imported water which bring water into the Rio that wouldn't have been there previously other than through the efforts of the City of Las Cruces. Nevertheless, is a very small offset requirement which is negligible at something like 100 acre-feet after 100 years.

The City has a fourth or third well field which is on the West Mesa. That's in the bottom bullet that offers the City 8,000 acre-feet per year. That's in close proximity to the Rio and the City will have to do a one to one offset when that well field comes online at some point in the 2030s. In other words, if the City were to divert the full 8,000 acre-feet at some point, it would be returning half of that, or 4,000 because it only consumes 50% and would have to come up with offsets for 4,000 acre-feet of water.

The bottom line is that Dr. Wilson will show that the City has been very conscious of the need to be in compliance with Rio Grande Compact obligations and with the need not to deplete the Rio Grande in a manner that takes water rights, that takes water that's owed to others, and accomplishes this through several factors; the importation of water from the East Mesa, by virtue of the fact that half of the use occurs during the non-irrigation season. In other words, during the winter, so it can't affect irrigation uses at that time. That it contains an ongoing amount of wastewater discharge both from its own use as well as from others that it carries. It's a way of showing to the court that Las Cruces in particular, and secondarily the State have been conscious of the need to protect surface flows of the Rio as an equity in New Mexico's favor. Dr. Wilson's deposition is presently set for the 23rd and 24th of July. I'd be happy to answer any questions.

Hardee:

Thank you. That's a bigger mess than I thought it was. I appreciate all that detail. Is there any danger that El Paso's going to outspend us in the fight against them?

Stein: Always. There is always that danger.

Hardee: Yes.

Stein: The legislature has been very generous to us and understands fully the importance of maintaining water rights in New Mexico for use by New Mexicans.

Hardee: You think we're covered pretty good.

Stein: So far so good.

Hardee: Okay. Well this is certainly money well spent. Thank you for that detail. I appreciate it.

Stein: Thank you Commissioner.

Chair Little: Thank you. Any other questions?

Dr. Garcia: Thanks for your time. We're going to go to the next slide, the Griggs Walnut. Mr. Chairman, I already briefed you. The Consent Decree was filed in Federal court. Originally we thought that one of the private entities that are in the litigation was going to oppose the filing, it doesn't look like they will, so attorneys have informed us that the Consent Decree should be approved by the court very soon.

There's a court scheduled mediation with the Rawson operation, that's the other private, and I want to correct this slide. It should be August 10, 2020, not August 20, 2020. The original date was for August 10th, I believe we're still lined up for that. That's where we are on that litigation. After that is filed then, as I briefed you at the last meeting, we are settled with the Federal Government and we have the duty to continue to do the clean up with some of the funds that we will receive from the National Guard. Hopefully, we can have a settlement with the other two private entities that likely contributed to the site and they can bring something to the table. I don't know what's going to happen with those two entities.

I also brought up the new item the West Griggs property of some alleged contamination. That came out of testing done in 2002 by the USGS (United States Geological Survey). That is tied to this project technically because the hydrology indicates that some of the contamination started in the valley and moved toward the east to where the well field is and where we found the contamination. There was also local contamination at the guard property and at the old airport in many areas near their wells. The West Grigg's property; Ms. Widmer is working with consultants to respond by July 13th as to how we're going to plan to address the parking lot issue. We anticipate hopefully

that it's going to be a simpler solution to mitigate and we'll see what we find, but we will have to do additional testing on that.

Ms. Robin Lawrence will tell you about a project that was initiated by staff during this pandemic and we're very proud of the work they did to provide a walking path and beautify some of the surrounding areas of the building. With that, Ms. Lawrence.

Lawrence:

Good afternoon Chairman, Commissioners. Robin Lawrence, Deputy Director for Solid Waste. Yes, so we have an area kind of on the perimeter of the property here at Utilities. The red line kind of indicates where this path is, and staff has used it for the last several years, kind of walking when they have breaks or during lunch—to just kind of get out and away from their desk.

The pictures on the right-hand side essentially show what it used to look like, and we would track in goat heads at times, and there's dirt and stuff like that. We came up with this concept to kind of repurpose some items. I'll show you some pictures of our progress.

On the left-hand side, we actually have two heavy equipment operators from solid waste that have been working on this project: Joshua Dominguez and Cody Murillo. They come in on Saturdays and they work on this area. The left hand side shows the dirt work where they cleaned up some stuff, filled in some holes under the fences and different things like that. Then the right hand side, we brought some composted mulch from our Foothills facility, so this is the product where the green waste gets turned into composted mulch. Some of my staff from the Foothills location transported this product down here, and so it's been spread out, compacted and watered.

Going to the next slide; we've been working with the Streets Department and some of the millings from some of the road projects that we have—we will get millings from different areas across the City. So, the Streets Department has allowed us to repurpose some of the millings to put down as the walking area.

The left hand photo shows the initial placement of it, this is kind of where we're at right now. Once all the millings are placed throughout the path Joshua and Cody will go back in and kind of hand rake it and get it all squared up and looking pretty. Then we will roll it and water it and get it more compacted so it's a nice level surface to walk on. The Gas Department has helped us out a lot as far as loaning us equipment because we typically don't have that type of equipment. We've been using backhoes and they've been helping with renting rollers and stuff like that.

The last two pictures on the right hand side of this slide is kind of our vision of the final product where it shows the path, the millings, the compost, and perhaps in the future, we can expand some water conservation type plants in

there and work with Rhonda Diaz to make it even prettier. It's kind of a fun project that we've been working on. It's about a little over a third of a mile from beginning to end. It's a good little break for staff to utilize and kind of help the property look a little bit better. Does anybody have any questions?

Chair Little: Thank you. Questions? Looks nice.

Lawrence: Thank you.

Dr. Garcia: We have projects now, Mr. Chairman.

Chair Little: Go ahead, please.

Clark: Thank you Chairman, Commissioners. This is Carl Clark, Deputy Director, Environmental and Technical Support. Here to give you the three projects that I selected for July 2020. The Pre-1965 Foothills Landfill Excavation, the Jacob Hands Wastewater Treatment Facility Improvements Project, and the City of Las Cruces Gas Operation Connections of Customers at Talavera.

The Pre-1965 Foothills Landfill Excavation; we technically have four contracts out there right now for this project with a total combined contract cost of approximately \$1 million. The contract time is 104 working days. We will be asking for an extension of time on this project. I did make the Board aware that we had introduced a screening mechanism out there at the site. It's called the flip screen. It's been working really well. Prior to the flip screen we were delivering a lot of sand to the South Central Solid Waste Authority Corralitos Landfill. Now we've flipped the tables and we're delivering a lot of waste and not sand, but it has slowed down our progress.

As you can see down on the next lines here, the start date was March 18th. We have an estimated construction completion date of now February 26th. We hope to reduce that a bit by introducing another flip screen out there, but we're still working on that aspect.

We've already hauled a total waste amount of approximately 22 tons of material from, actually it would be all of cell number 3 and some of cell number 2. We still have a way to progress through before we're completed with this project. Any questions regarding this one? If not, I'd like to move forward to the next one.

Chair Little: Go ahead please.

Clark: The next project I have is the Jacob Hands Wastewater Treatment Facility Site Improvements. Basically, this was a paving and drainage project at that site. As you recall, we had projects where we built five metal buildings for the Utilities, two of them at the Jacob Hands Wastewater Treatment Facility where we were moving the collections group out there, and so it needed to

be paved and we needed to address some drainage issues out there. That's what this project did.

The upper right photo in the corner, there is the actual finished pavement with some striping and they're working on the fencing around the pavement area and drainage area. The lower right photo is the completed pond. There was a question asked about irrigation one time and landscaping. We weren't able to include it in this project. However, we are working on it right now to update the landscaping in that area.

The project is complete. They actually had a final inspection this week. You can see the items that were completed as part of this project. The contract cost was approximately \$200,000.00 with 60 working days and we finished ahead of schedule. If there's no questions on this one, we can move on to the next.

Chair Little: Go ahead please.

Clark: The next project is the Talavera Gas System Project - Gas Operations Customer Connections. This is more of an update—updating the Board on gas operations and connecting customers out there in Talavera. Because we're in between contracts right now, we're working on the Phase 3A contract with Smithco Construction to install more low pressure gas line. Gas operation has been helping out there on site. They have actually purged 19,000 linear feet of the PV gas line that we installed as part of the Soledad Canyon Road project from Dripping Springs to Ventana View, they completed that. There's a potential for eight customer connections out there due to that purging that are immediately off of Soledad, front Soledad really. They've also extended approximately 630 feet of 2-inch PV gas line; I think I showed you that a month or so ago where we picked up the first customer. They've also expended another 3,300 lineal feet and picked up two to three large customers that are off the same road, it changes from Talavera and bleeds into Mystic View Road.

Dripping Springs Road, we have one customer signed up. That's the single house that you first run into as you're heading east towards the mountain. They've already signed up for a meter install and that's pending. Any questions regarding this project?

Chair Little: Any questions? Thank you.

Clark: Thank you very much. I appreciate it.

Chair Little: Thank you. What's next?

Dr. Garcia: Board Resolutions, Mr. Chairman. Going back to the other water litigation items, I didn't see any hands up, so I don't know if there were any questions. If not, we can proceed with Board Resolutions for discussion.

Chair Little: I think that Commissioner Hardee's was the only comment.

6. Resolutions for Consent Agenda:

6a. *Resolution 20-21-LCU005:

The motion was Unanimously Approved 7-0.

7. Resolutions for Discussion:

7a. Resolution 19-20-LCU001A:

Chair Little: We have a number of resolutions. The first one is Resolution 19-20-LCU001A: A Resolution Approving an Amendment to Resolution 19-20-LCU001 with Stein and Brockmann, P.A., Law Firm Specializing in Water Rights and Water Litigation Matters, and Authorizing Professional Legal Services Under the Existing Legal Services Contract as Amended for Fiscal Year 2019/2020 Adding an Additional \$60,000.00 for a New Total Contract Amount Not to Exceed \$510,000.00.

Sorg: Move to approve.

Chair Little: Thank you. A second.

Johnson: Second.

Chair Little: Thank you. Discussion.

Dr. Garcia: Thank you, Mr. Chairman, this is Garcia speaking.

This is a Fiscal Year 2020 Resolution. We are amending the Resolution from the prior Fiscal Year because we will be exceeding the \$450,000.00 allocated to this project. I think you've seen from Mr. Stein's presentation the extensive activity in preparing our witness and also attending a lot of the depositions and analyzing all of the depositions from all the parties. So that will take us over the \$450,000.00 when we get the June billing. With this amendment then we will pay the June bill and then close out this purchase order the following—there's a Resolution down your list today that starts the new Fiscal Year starting July 1. With that, I'll entertain questions.

I did a graph of the litigation expense. As you can see the increase with Texas v. New Mexico that started in 2013 and 2014 has been expensive. It's been a lot of activity on the legal side, on staff's side, and on the hydrologist, but I don't think we have a choice. The City needs to participate in this litigation to defend our position with respect to State issue groundwater permits. With that I'll entertain any questions, Mr. Chairman.

Chair Little: Okay. Questions. Seeing none. Commissioner Johnson.

Johnson: Yes. This is just a clarification. We're taking FY20 money but applying it to FY19 cost simply because we've gone across the border.

Dr. Garcia: Mr. Chairman, Commissioner Johnson. No. What it is, we are adding \$60,000.00 to the prior approval of 19/20, that's Fiscal Year 2020 so that we can pay the bills for the month of June that come in July. They should be coming probably this coming week.

Johnson: If this has happened a month or so ago, we wouldn't be going across the fiscal years, so that's the reason for this.

Dr. Garcia: If we had exceeded before we still would have to come to you raising the amount. Yes. I'm bringing it today, separate from the FY21 and I believe Commissioner Hardee's question via e-mail was, it is confusing because we have two Resolutions, one is adding \$60,000.00 to FY20. Then once we pay the June bill, that year is closed. Then, we have a new allocation for the billing of July, August, September and so on.

Johnson: Okay. I think I understand. Thank you.

Chair Little: Anything else? Ready for a vote.

Commissioner Archuleta - Aye; Commissioner Bencomo - Aye; Commissioner Carmichael - Aye; Commissioner Johnson - Aye; Commissioner Sorg - Aye; Commissioner Hardee - Aye; and Chair Little - Aye.

The motion was Unanimously Approved 7-0.

7b. Resolution 19-20-LCU002A:

Chair Little: The next resolution is Resolution 19-20-LCU002: A Resolution Approving the Amendment and First One Year of Three One-Year Extensions to the Sole Source Indefinite Quantity, Indefinite Cost Professional Services Agreement Between the City of Las Cruces and Maldegen, Templeman & Indall, L.L.P., in Matters Related to the Legal Services on Behalf of the Joint Superfund Project Consisting of the City of Las Cruces and Doña Ana County for Fiscal Year 2020/2021, with an Effective Date of July 1, 2020. Motion to approve.

Sorg: I'd moved to approve.

Chair Little: A second.

Johnson: Second.

Chair Little: Okay. Commissioner Johnson seconds. Discussion.

Dr. Garcia: Mr. Chairman. You've seen this contract before. This is a contract for insurance recovery. This firm specializes in insurance recovery. This is the firm that brought Travelers and USF&G with all policies to pay for the defense

of the Griggs Walnut through the Martin Law Firm. As you know, we are not paying for the Martin Law Firm that took us to the Consent Decree because they are paid by insurance. Well this is the firm that brought the insurance companies to pay for the legal aspects and other insurance recovery monies. In addition to starting the first year of a new series of renewals at the firm, we are adding an amendment to this contract to cover the new property, the West Griggs property. The company has already filed a tender with insurance in case we need to have extensive remediation in that property we will be filing that under the same policies. The Maldegen, Templeman, the payment for this is in the Griggs Walnut fund from insurance recoveries from the various policies of the City and County prior to the time that there was pollution exclusion. With that I'll be able to entertain any questions you may have.

Chair Little: Okay. Any questions? Okay. Ready for a vote.

Commissioner Bencomo - Aye; Commissioner Carmichael - Aye; Commissioner Hardee - Aye; Commissioner Johnson - Aye; Commissioner Sorg - Aye; Commissioner Archuleta - Aye; and Chair Little - Aye.

The motion was Unanimously Approved 7-0.

7c. Resolution 19-20-LCU003A:

Chair Little: The next resolution is Resolution 19-20-LCU003: A Resolution Approving the Extension for the First Year One of Three One-Year Renewals of the Sole Source Indefinite Quantity, Indefinite Cost of the Professional Services Agreement with David B. Medeiros for Legal Consultation Services Related to the Griggs Walnut Superfund Project for Fiscal Year 2020/2021 with an Effective Date of July 1, 2020.

Sorg: Move to approve.

Chair Little: Okay. Commissioner Sorg. And a second.

Hardee: I second.

Chair Little: Thank you. Discussion.

Dr. Garcia: Mr. Chairman. Again, Mr. Medeiros, for the benefit of Commissioner Hardee and the new Councilor Bencomo. Mr. Medeiros has extensive experience in the project. He was a former Assistant County Attorney. When he retired, we asked him to stay on, on a contract basis to help us. He's like an internal attorney now for the City and County under the Joint Superfund Project. He's very instrumental in the mediations, in the Consent Decree given his history with the project because through his years in the County he was involved with this project from the beginning. We're renewing his contract, and I anticipate we will be needing his services until we settle with the other two entities and then we close up all of the litigation.

Again, Mr. Medeiros is funded by the insurance recovery monies from all policies from the City and County, mainly County, prior to pollution exclusion, so we're able to recover some monies. Those are the funds in the Griggs Walnut fund that are paying for this legal expense.

Just for clarification again with the new Commissioners, the Utility ratepayers are not paying for these legal services. The Griggs Walnut Fund is again the litigation is funded by insurance recoveries and by environmental gross receipts tax monies. The Utility is mainly the manager and operator of the cleanup system, but there is no component of the cost of Griggs Walnut on to any of the Water or Wastewater Utilities. With that I'll entertain any questions you may have.

Chair Little: Any questions? Commissioner Hardee.

Hardee: Okay. No, I just want to say I appreciate that further explanation. I kind of understand now what is going on. Thank you.

Dr. Garcia: Thank you sir.

Chair Little: Other questions? Ready for a vote.

Commissioner Archuleta - Aye; Commissioner Bencomo - Aye; Commissioner Carmichael - Aye; Commissioner Hardee - Aye; Commissioner Johnson - Aye; Commissioner Sorg - Aye; and Chair Little - Aye.

The motion was Unanimously Approved 7-0.

7d. Resolution 20-21-015:

Chair Little: Next resolution is Resolution 20-21-015: A Resolution Awarding a Sole Source Contract for Project No. 20-21-015, Talavera Advanced Metering Infrastructure to Mountain States Pipe and Supply of Colorado Springs, Colorado, for a Total Award Amount of \$159,150.10.

Sorg: Move to approve.

Chair Little: Thank you. And a second.

Bencomo: Second.

Chair Little: Discussion on this one.

Clark: Mr. Chairman, Commissioners. Carl Clark, Deputy Director Environmental Technical Support. This is my contract Resolution that I brought forward. To address the sole source, Mountain States Pipe and Supply is the sole vendor that represents Itron in this region, so there will be nobody else that could supply Itron to the City of Las Cruces without going through this vendor.

Instead of having a prime contractor come and put their markup on top of Mountain States, we went directly to Mountain States.

Purchasing rules require us to get a sole source vendor ruling, we got that obviously, we just spent \$22 million on the Itron system, that advanced metering infrastructure. We're carrying this out to the Talavera area so that way we can have the same advanced metering infrastructure in Talavera for our new gas system that's going to be located out there. That was a reason for the sole source. We've worked with Mountain States in the past. They're prepared and ready to move forward in installing repeaters and collectors in that area so that it can gather the meter data via the advanced metering infrastructure. Any questions?

Chair Little: Questions?

Hardee: I thought that was a very good explanation on the sole source even when I read it, that was well done. Thank you.

Clark: Thank you very much. We appreciate that. I did install a couple of photos. We are going to be powering these repeater collectors which only take about six watts with solar panels. It was much cheaper to do the solar panels than to try and have El Paso Electric come in and bring all their underground lines and all the metering fees and everything else that we would have to pay. We're going to use these solar power units and hopefully we'll be successful. We believe they will, and we're going to move forward.

Chair Little: Okay. Other questions?

Commissioner Archuleta - Aye; Commissioner Bencomo - Aye; Commissioner Carmichael - Aye; Commissioner Hardee - Aye; Commissioner Johnson - Aye; Commissioner Sorg - Aye; and Chair Little - Aye.

The motion was Unanimously Approved 7-0.

7e. Resolution 20-21-LCU001:

Chair Little: Okay. The next resolution is Resolution 20-21-LCU001: A Resolution Approving a Sole Source Professional Services Agreement with Stein & Brockmann, P.A., Law Firm Specializing in Water Rights and Water Litigation Matters for Fiscal Year 2020/2021 in an Amount Not to Exceed \$450,000.00, Effective July 1, 2020, for One Year with Four One-Year Renewals Subject to Approved Budget Appropriations and Annual Renewals.

Sorg: Moves to approve.

Chair Little: Thank you. And a second.

Johnson: Second.

Chair Little: Thank you. Discussion.

Dr. Garcia: As I explained before, this is now the Stein & Brockmann contract for Fiscal Year 2021 which starts in July, so the July billings will be paid with this approval. You approve this contract on a year-by-year basis. I believe Commissioner Hardee had a question as to why we have two Resolutions in the same action. We had separate Fiscal Year 2020 from Fiscal Year 2021. This starts us with Fiscal Year 2021.

A little bit on the sole source. Stein & Brockmann was retained by the City since the mid-1980s and the reason we've continued the relationship is basically because they have provided results. The reason the City has 51,000 acre-feet of water rights when we're using 22,000 is because of the efforts both on the West Mesa well field, the East Mesa well field approval, the offer of judgment in the 1905 priority, and all of the things we've done over the last 30 years with the firm. That's the reason why we continue to bring to the Board.

Before the Board we used to take these contracts to the City Council because they've delivered results, and the results are seen in our water rights portfolio, in some of the successes we've had in defending our position in the Lower Rio Grande System. We are asking for approximately \$450,000.00. I don't know that that will be enough. We'll see. He just talked about the fact that the trial may take the whole year and we will have our attorneys at trial. For now, we're starting the year with a base amount for both the legal aspects and the technical experts, mainly Dr. Wilson and Dr. Shomaker. Probably midyear, around December or January. We will brief you as to where we are and see if we need to amend the contract again to increase it.

Given this pandemic and the whole situation everybody's going through, Mr. Stein has agreed to keep his prices fixed, at least for the first six months. We'll revisit midyear. He has some increased costs, but he understands that maybe some Utility revenues will be impacted, so he agreed to keep his costs the same for the first six months of this fiscal year. With that, I'll entertain any questions.

Chair Little: Any questions. Commissioner Archuleta. Okay. No questions. Ready for a vote.

Commissioner Archuleta - Aye; Commissioner Bencomo - Aye; Commissioner Carmichael - Aye; Commissioner Hardee - Aye; Commissioner Johnson - Aye; Commissioner Sorg - Aye; and Chair Little - Aye.

The motion was Unanimously Approved 7-0.

7f. Resolution 20-21-LCU002:

Chair Little: Okay, next one is Resolution 20-21-LCU002: A Resolution Authorizing the Execution of a Memorandum of Understanding Wherein South Central Solid

Waste Authority Provides Full Funding of a Dedicated Solid Waste Related Customer Service Representative Position to the Las Cruces Utilities Department.

Sorg: Moves to approve.

Chair Little: Thank you. And a second.

Bencomo: Second.

Chair Little: Thank you. Discussion.

Walsh: Commissioners. Delilah Walsh again, Assistant Director. You weren't rid of me yet. This Resolution gives authority for us to enter into a Memorandum of Understanding (MOU) with South Central Solid Waste Authority in order for them to fully fund one full-time position of customer service rep at Customer Central within LCU.

In addition to this action, we've also reclassified a position to create another customer service rep position for Customer Central within our LCU budget. We'll have two new positions that are CSRs, and they will handle a one stop or one number call for all Solid Waste collections, which we do. We drive the trucks and we pick up the brown trash cans. The landfill, which is managed by South Central Solid Waste Authority and recycling which is a partnership between South Central and Friedman Recycling. We pick up the brown cans and Friedman picks up the blue cans. Because those three partnerships exist, we have had some consternation with customers having to call different lines in order to get their questions answered. We are centralizing all solid waste service, no matter what the service is, whether it be landfill, collection, or ad recycling into one customer service line.

All this MOU does is commit South Central to funding that position. That employee position will then become a City of Las Cruces employee; however, the expense obligation will always exist with South Central. We'll treat that person just like we would any LCU customer service rep, however South Central will 100% fund all salary and benefits. Any questions?

Chair Little: I see that Patrick Peck has joined us if we have any questions.

Carmichael: Just a couple of questions. Since this deals with recycling, I assume that that telephone number that's all-inclusive will be used to answer all recycling questions like, what to recycle and they miss my pickup and that sort of thing. How will they be trained?

Walsh: Mr. Chairman, Commissioner Carmichael. That's an excellent question. We'll actually be doing a cross training between South Central, LCU, and Friedman. Every FAQ that they have available and what they use for their current

customer service reps, we will cross train these two new positions so they can answer the gamut.

Carmichael: Great. Thank you.

Chair Little: Thank you. Commissioner Johnson now.

Johnson: Yes, I think you may have answered my question. The same thing is, we're not going to have to say, "Okay this other person will have to answer that question, I'll answer this question." but they're both knowledgeable in both areas and either one can answer.

Walsh: Yes, sir. Absolutely. Mr. Chair, Commissioner Johnson. Absolutely. That is the ultimate goal.

Johnson: Thank you.

Chair Little: Anything else? Ready for a vote on this.

Commissioner Archuleta - Aye; Commissioner Bencomo - Aye; Commissioner Carmichael - Aye; Commissioner Hardee - Aye; Commissioner Johnson - Aye; Commissioner Sorg - Aye; and Chair Little - Aye.

The motion was Unanimously Approved 7-0.

7g. Resolution 20-21-LCU003:

Chair Little: Next one is Resolution 20-21-LCU003: A Resolution Approving Funding for Professional Legal Services Under the Existing Assigned Contract Approved in City Council Resolution 20-101 with Stevens Law, LLC, for One Year Term, Specializing in Matters Before the New Mexico Public Regulation Commission Involving El Paso Electric Related Regulatory Matters, and for the Alternative Energy Matters Including but not Limited to Power Purchase Agreements Requiring Expertise in the Field of Utility Regulatory Law and Authorizing a Purchase Order in an Estimated Amount up to \$160,000.00.

Sorg: Moves to approve.

Chair Little: Thank you. And a second.

Archuleta: Second.

Chair Little: Discussion.

Provencio: Chairman, Commissioners. This is Jose Provencio, Director for Business Services. Resolution 20-21-LCU003 is the resolution requesting funding of up to \$160,000.00 for Stevens Law Firm. Anastasia Stevens has presented the City and its position with issues before the New Mexico Public Regulatory Commission in the past several years with a high degree of competency.

Recently El Paso Electric has filed numerous filings of decisions and ultimate actions from commission. I have listed four of what I would consider very pertinent cases that are in the queue to be heard before the Commission or just within the next month or two to be adjudicated and for a decision to be rendered by commissioners.

The more near-term hearing that will be heard by the Commission next month will be EPE's Application for a Certificate of Convenience and Necessity to construct, own, and operate a new generating unit at the Newman Generating Station. There is considerable ambiguity in terms of how El Paso Electric is going to either consider or retire their existing generating units that have reached end of life. However, not addressing what they're going to do with that, this is an important filing that we have to represent our concern and our position in front of the Commission.

Following that would be the filing that you filed last year involving their amended Renewable Energy Act Plan and transition for the Renewable Energy Act. That would probably be heard towards the latter part of the year. Also, this concerns us as to how El Paso Electric's bringing in Renewable Powers comply with the Energy Requirement Proposal that they're mandated to meet. Of course, recently that has been completed and is waiting for a final decision from the Commission, the approval for long term Purchase Power Agreements that they filed. This was an interesting filing because all three of the long term Purchase Power Agreements filed involved photovoltaic energy or photovoltaic generation. Two of the projects referring straightforward, one was very neat, I hadn't seen that in terms of their technology but it's a combination of photovoltaic generation and battery storage. This is awaiting a final order from the Commission on that regard.

Of course, the one that's at the very top is their anticipated filing for the general rate increase for retail rates. There's a lot of on the plate here to review and there's a significant number of issues that have to be resolved to make sure that what's included in their filing and what's ultimately included in your electric rates is just and reasonable. Those are the key points of the filings that are on a table for discussion and our intervention status before the Commission representing not only the Utility Department but the citizens of the City of Las Cruces. Just to wrap up the \$160,000.00 funding request, that's the Utilities Department's portion to pay for Stevens Law Firm expenses. I'll stand by for any questions you may have.

Chair Little: Commissioner Sorg.

Sorg: Well I, at first I found it a little peculiar that we were taking this up in the Utilities Commission, but seeing that the money is coming from the Utilities that understands, so that's why I put my hand down right away.

Chair Little: Okay. Thank you. Other comments or questions? Seeing none. Ready for a vote.

Commissioner Archuleta - Aye; Commissioner Bencomo - Aye; Commissioner Carmichael - Aye; Commissioner Hardee - Aye; Commissioner Johnson - Aye; Commissioner Sorg - Aye; and Chair Little - Aye.

The motion was Unanimously Approved 7-0.

7h. Resolution 20-21-LCU004:

Chair Little: Now, this is the one we've been looking for. Resolution 20-21 LCU004: A Resolution Authorizing Funding for Professional Legal Services Under the Existing Assigned Contract Approved in Utilities Resolution 13-14-033 with McCarter & English, LLP, Specializing in the Energy and Natural Gas Industry and Authorizing a Purchase Order in an Estimated Amount of up to \$25,000.00 for Fiscal Year 2020/2021, Effective July 1, 2020.

Sorg: Move to approve.

Chair Little: Thank you. And a second.

Bencomo: Second.

Chair Little: Thank you. Discussion.

Puentes: Yes, Mr. Chairman and Commissioners. Good afternoon. This is Mario Puentes, Gas Business Analyst for the record. The purpose of this Resolution is to authorize funding for professional legal services with a specialty in the Energy and Natural Gas industry under the existing contract with the McCarter & English Law Firm.

The law firm has represented the City individually or as a member of the El Paso Municipal Customer Group for over 25 years. The group is made up of nine customers on the El Paso Natural Gas Pipeline and are similar in size, or smaller than Las Cruces. For group work the cost for legal services is allocated to each member of which the City pays about 27% or \$145.00 per hour based on the group's rate of \$535.00 per hour. For exclusive City related work, the hourly rate is \$495.00 per hour.

Now this pooling of legal resources has proven effective and efficient and is a main element to justify a sole source provider of legal services related to this industry. The firm represents the City on its contractual relationships with natural gas suppliers and with its natural gas transportation provider which is El Paso Natural Gas Company. The firm also represents the City on matters before the Federal Energy Regulatory Commission, FERC, predominantly as it relates to the El Paso Natural Gas Company as the gas company is regulated by the FERC.

Now for the benefit of the newest Commissioners, the City buys its gas from the San Juan and Permian Basins and is delivered to the City by the El Paso

Natural Gas pipeline. The San Juan Basin is located up there in the four corners area, whereas the Permian Basin is encompassed by the eastern New Mexico and West Texas. Now the pipeline has two main lines, a northern trunk and the southern trunk, kind of similar to the way Interstate 10 and Interstate 40 run east to west from Texas to California.

Next week, I believe there's a tour scheduled with some of the Commissioners, so if there are questions that are not answered today, maybe they can be answered, I believe it's next Tuesday. Based on what we know today, Mr. Chairman, the requested amount should be sufficient to cover Fiscal Year 2021. With that, I'll stand for questions.

Chair Little: Commissioner Sorg had a question.

Sorg: Yes, Mario answered it already. Thank you, Mr. Chairman. But I miss Mario's face.

Puentes: Mr. Chairman. I believe that one of these days my computer will have a camera. I think I am in line for one in this coming fiscal year.

Sorg: I see. Thank you.

Puentes: Yes sir.

Chair Little: Okay. Other comments or questions? Ready for a vote.

Commissioner Archuleta - Aye; Commissioner Bencomo - Aye; Commissioner Carmichael - Aye; Commissioner Hardee - Aye; Commissioner Johnson - Aye; Commissioner Sorg - Aye; and Chair Little - Aye.

The motion was Unanimously Approved 7-0.

8. Old Business:

Chair Little: The next item is Old Business.

Dr. Garcia: Yes, Mr. Chairman. Just a reminder that for the new Commissioners we have a tour scheduled tomorrow and a follow up on Tuesday. Tomorrow we will visit some water facilities, the East Mesa Water Reclamation Plant, our green compost operation at the closed landfill. We may drive by the Pre-1965 landfill that you were briefed on today. Hopefully, we will have time to stop by the Griggs Walnut plant on the way back, and then we'll have a brief lunch and answer questions. I believe Commissioner Sorg was going to join us as well.

I want to remind everybody to be here at the building at 8:30. We will be wearing our face coverings and we will drive in two vehicles and different staff will meet us at different places. I'll drive one vehicle and Ms. Widmer will be driving the other vehicle.

Again, we'd rather leave early, we'll have some coffee but, it's going to be a hot day so dress appropriately and bring good shoes to walk around a little bit. Then, we should be done by noon hour where we will have lunch again and we will answer questions that you may have. I know that Commissioner Hardee was interested in additional questions probably on the Griggs Walnut, and I know Councilor Bencomo has some questions on development here in the Industrial Park nearby, so we can answer some of those questions for them. That's all I have for Old Business from staff, Mr. Chairman.

Chair Little: Thank you.

9. New Business:

Chair Little: The next item is New Business. Commissioner Sorg, you had a question.

Sorg: Not a question. I just, I have another meeting tomorrow morning, so rather than trying to sandwich everything together I'm just going to have to pass tomorrow, but I will go on Tuesday next week.

Dr. Garcia: Okay. Very well. That's fine, sir.

Chair Little: Okay, New Business.

Dr. Garcia I'm going to invite Rhonda Diaz, our Water Conservation Coordinator to give you an update on our new demonstration garden.

Diaz: Hi, good afternoon, Mr. Chairman, Commissioners. Rhonda Diaz, Water Conservation Program Coordinator. I just wanted to give you an update on a project that we recently were able to do. Since 2015, the demonstration garden here at the Utilities Administration Building, on the west end of the building, hasn't been upgraded. We replaced a plant here or there and made sure irrigation is good, but we had the opportunity recently to really do a good, thorough upgrade. The demo garden has really been a wonderful tool for not only the water conservation program but the community and of course the City associates that are right here in the building.

We removed about 70 plants and I know that seems so extreme however there was a lot of plant material that had overgrown its space, it was impeding walkways. We kind of cringed every time we had somebody in the garden because the yuccas had grown to eye-poking heights and we were really scared that somebody was going to walk into it. We removed about 70 plants.

We also removed a Bermuda turf plot that was 530 square feet. It was quite large. We planted 130 trees and shrubs and we replanted the 530 square feet turf plot that we removed with Buffalo grass plugs and seed. If you know anything about Buffalo grass it's a very low water use turf, low maintenance, very drought resistant, and so I'm really looking forward to that area growing

in so that it can be used as a demonstration for an alternative variety for turf here in our community.

We included four new trees in our ponding area in this upgrade of the demonstration garden hopefully using that expansion to include it in the demonstration garden. I don't know if you noticed when you drove in, but we removed our little sickly willow tree that had been here for a very, very long time but was also very, very infested with borers. We removed one and we planted four which I think is a really good ratio.

Included in the upgrade, we made sure that every plant had efficient irrigation on it, not over watering. We also went around and plugged all the drip emitters, the little spaghetti tubing so that we're not putting water out on a plant that no longer exists. We are still working on a couple of things in the demonstration garden, we will install new plant identification stakes. These will include the common name of the plant and the botanical name. It will also coincide with the demonstration garden book that we also have available both, it's currently online and in hardcopy. It's used as a self-tour guide with a lot of information for the plant material that's there. We're also redoing the demonstration garden book to account for all the new plant material that we have out there.

We are also upgrading the irrigation in the pond area. We'll be expanding that area to cover the pond with overhead irrigation and use different types of overhead irrigation which are sprinklers as to show efficiency and coverage. Also having the opportunity to use the ponding area to plant larger trees and in listening to our conversations today, larger trees create larger tree canopies and that's what we really want within our community. Once this is all done, we're looking at maybe the end of July, mid-August, only if the temperatures aren't 105 degrees, I would love to provide Mr. Chairman and Commissioners a tour of the garden. I think you'll really be impressed by that. Well thank you for your time.

Sorg: Mr. Chairman.

Chair Little: Thank you. Go ahead.

Sorg: Could we ask somebody to stop sharing the screen so that we can see everybody? Thank you.

Diaz: Any questions?

Chair Little: Seeing none. We will look forward to a tour, preferably when it is not 108.

Diaz: Yes, sir. Thank you.

Chair Little: Okay. Other New Business.

Ruiz: Thank you Alma Ruiz, Senior Office Manager for the Utilities Department. I have been selected to be the bearer of sad news, and that consists of notifying the Board that Suzanne Michaels after 10 years has announced her retirement. She is going to enjoy her retirement up in the State of Washington where her husband lives and will commute back to El Paso to visit her father every now and then. We really wanted to appreciate and give our thanks to Suzanne for the great public outreach that she has provided for the Utilities Department over the years. We will miss her insight and her words that allowed the public to get to know the Utilities Department and our services. She has agreed to stay on at least until August when we anticipate bringing a resolution to the Board hopefully identifying a new local Public Outreach consultant to fill her current contract that ends in February of 2021. With that, I want to give Suzanne some time to say a few words.

Michaels: I said to Dr. Garcia yesterday how honored I was to have worked for Las Cruces Utilities and for him and for the amazing staff there. Thank you so much for allowing me to bring former reporting skills to Las Cruces Utilities, and to create the kind of outreach that we've had there. I'm hoping that this will be a seamless transition and Utilities can continue with the kind of outreach we've been able to provide. Thank you so much for the opportunity to work for you.

Sorg: You're awesome, Suzanne.

Michaels: Thank you.

Carmichael: Thank you. Good luck.

Michaels: Thank you very much.

Bencomo: Thank you for everything.

Michaels: Thank you so much.

Dr. Garcia: That's all we have for New Business, Mr. Chairman.

Chair Little: Okay. Suzanne, my thanks to you as well.

Michaels: Thank you Mr. Little.

10. Board's General Discussion:

Chair Little: The next item of business is Board General Discussion. Anyone have anything?

Sorg: Yes, I do.

Chair Little: Okay. Commissioner Sorg.

Sorg: I got just a couple of things really quick. Just a last word or two on the natural gas. I never wanted to imply that our natural gas had to be abandoned, at least not our lifetime maybe, for the reasons that are stated that we have to have that as part of our Utilities for bonding and so forth. Also, it's an inexpensive source of energy for our people with lower incomes especially.

In the greenhouse gas reduction, again I want to emphasize our concentration has to be on the transportation sector and secondarily the efficiencies of our use of energy. The City I hope can set an example in the transportation area, as we transform, transmission to electricity produced by non-fossil fuel I'll say, carbon free. That will be all the more important for the greenhouse gas thing. Controlling the expansion of the natural gas is something we'll have to consider. Supporting community solar as well as the PACE (Program of All-Inclusive Care for the Elderly) program.

I wanted to mention the PACE program, which is a program where people with lower incomes can get solar energy and have it slowly paid off on their property tax. Of course, if a person has that in their home and they need to sell or somehow move out of their house, that cost goes along with the buyer, the new owner of the house with the PACE program. Then last we saw in recent meetings that the new rates for water didn't seem to have any reduction in the use of water, so I think hopefully in future rate cases that we can try to do the rates the tiers so that it would help to reduce the conservation of water. Yet at the same time not put the burden on our low income, poor poverty people. That's what I'm hoping to see in the future. That's all, Mr. Chairman. Thank you.

Chair Little: Thank you. Any other Board General Discussion?

**11. Next meeting Date:
a. August 13, 2020**

Chair Little: Okay. Our next Board meeting is scheduled for August 13th. We are planning on that also being held remotely via Zoom, unless the governor relents, I will be in quarantine, and so I'm going to ask Commissioner Archuleta to come and Chair that meeting. Will you be available for that?

Archuleta Yes, I will.

Chair Little: All right. Thank you so much. Anything else?

12. Adjournment:

Chair Little: I will entertain a motion to adjourn.

Carmichael: So move.

Sorg: Second.

Chair Little: Those in favor say aye.

Meeting was adjourned at approximately 5:20 p.m.

William M. Little
Las Cruces Utilities Board Chair

Date

DRAFT