

LAS CRUCES UTILITIES BOARD RESOLUTION NO. 18-19-LCU008

A RESOLUTION RECOMMENDING A TALAVERA SUBDIVISION ASSESSMENT AGREEMENT TO CONNECT TO CITY NATURAL GAS SERVICE.

The Board of Commissioners for the City of Las Cruces Utilities, on behalf of the City of Las Cruces, is informed that:

WHEREAS, the Talavera Estates Subdivision ("Subdivision") is located southeast of the Las Cruces city limits between "A" Mountain and the Organ Mountains. Property Owner's of lots within the Subdivision have been working with Las Cruces Utilities Department Staff and Dona Ana County Commissioner Ben Rawson; and

WHEREAS, the City of Las Cruces ("City") is willing to extend its gas utility service to the Property Owner's developed residential tract if owners of the lot within the Subdivision sign a Gas Extension Agreement ("Agreement") agree to pay their pro-rated share of the City's project design and construction cost, and agree to connect to the Talavera Gas Extension Project ("Project") six (6) months after Project has been fully constructed and accepted by the City; and

WHEREAS, the City's objective is to apply existing incentives and extended payment terms to Property Owners to connect and utilize natural gas service within six months of notification. Property Owners foregoing the incentive period will not be entitled to the incentive package and will have to pay the full cost of the assessment plus the usual connection charges before being allowed to connect to the Project; and

WHEREAS, there are approximately 960 residential lots within the Subdivision. The approximate cost of the Project is \$5.78 million, which the City accepts as the final Project cost even if the final construction cost exceeds that sum. Therefore, the Property Owner will be responsible for paying the Talavera Subdivision

Assessment in the amount of \$4,620.00, after applying the Connection Incentive Allowance in the amount of \$1,400.00. The Property Owner may pay that sum in full when signing up for City gas service or may pay that sum plus annual interest of 3.78% over a 10- or 20-year period.

NOW, THEREFORE, Be it Resolved by the Board of Commissioners for the City of Las Cruces Utilities, on behalf of the City of Las Cruces:

(I)

THAT the Gas Extension Agreement, as shown as Exhibit "A" attached hereto and made part of this resolution is hereby approved for the Talavera Subdivision.

(II)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this 13th day of September 2018.

APPROVED:

By 
Board Chair

ATTEST:


Secretary

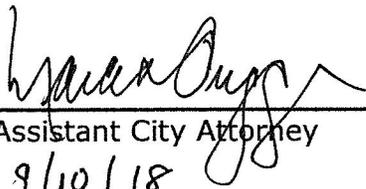
Moved by Sorg

Seconded by Carmichael

VOTE:

| | |
|--------------------------|---------------|
| Chair Little: | <u>Aye</u> |
| Vice-Chair Sorg: | <u>Aye</u> |
| Commissioner Archuleta: | <u>Aye</u> |
| Commissioner Baumgarn: | <u>Aye</u> |
| Commissioner Carmichael: | <u>Aye</u> |
| Commissioner Johnson: | <u>Aye</u> |
| Commissioner Vasquez: | <u>Absent</u> |

APPROVED AS TO FORM:



Sr. Assistant City Attorney
9/10/18

GAS EXTENSION AGREEMENT

This Gas Main Extension Agreement ("Agreement") is entered into on this _____ day of _____, 2018 between the City of Las Cruces ("City"), a New Mexico municipal corporation, and _____
[(Print Name(s))]
 ("Property Owner"), whose mailing address is
(Print Mailing Address)
 _____, as follows:

BACKGROUND

1. The Talavera Estates Subdivision ("Subdivision") is located southeast of the Las Cruces city limits between "A" Mountain and the Organ Mountains.
2. Property Owners of lots within the Subdivision have been working with Las Cruces Utilities Department Staff, and Dona Ana County Commissioner Ben Rawson. Utilities Staff has conducted one neighborhood meeting regarding the gas extension.
3. The Property Owner owns a lot within the Subdivision located at _____
(Print Street Address) and desires to connect the lot to City natural gas service.
4. The City of Las Cruces ("City") is willing to extend its gas utility service to the Property Owner's developed residential tract if owners of the lot within the Subdivision sign a Gas Extension Agreement ("Agreement") and agree to pay their pro-rated share of the City's project design and construction cost, and agree to connect to the gas extension within six (6) months after the Talavera Gas Extension Project ("Project") has been fully constructed and accepted by the City.
5. There are approximately 960 residential lots within the Subdivision.

6. The City's objective is to apply existing incentives and extended payment terms to Property Owners to connect and utilize natural gas service within six months of notification. Property Owners foregoing the incentive period will not be entitled to the incentive package and will have to pay the full cost of the assessment plus the usual connection charges before being allowed to connect to the Project.

CONDITIONS

1. The City will design and construct the Project within the Subdivision, within approximately 24 months from _____ day of _____, 2018. The City will notify the affected Property Owners when the Project has been completed.

2. After notification from the City that the Project has been completed, the Property Owner will be required to do the following:

A. Contract independently with a licensed plumber to proceed with permitting requirements to connect to the gas system; and

B. Sign up for City gas service within six (6) months after being notified by the City that City gas service is available.

3. The estimated cost of the Project is \$5.78 million which the City accepts as the final Project cost. Therefore, the Property Owner will be responsible for paying \$6,020.00, however if the parcel property owner elects to utilize the Connection Incentive Allowance which is a total credit of \$1,400.00, making the total Talavera Subdivision Assessment amount to be paid \$4,620.00. The Property Owner may pay that sum in full when signing up for City gas service or may pay that sum plus annual interest of 3.78% over a 10 or 20-year period, as follows:

* Equal monthly installments of principal \$4,620.00 and 3.78% annual interest over a 10-year period. That sum computes to \$46.29 per month.

* Equal monthly installments of principal \$4,620.00 and 3.78% annual interest over a 20-year period. That sum computes to \$27.46 per month.

4. If the Property Owner will be the gas service customer, the monthly installment will be added to the Property Owner's existing City utility bill or will be billed separately by the City.

5. If the Property Owner will not be the gas service customer, possibly because the property is being rented and existing City utility service is in the name of the renter, then the Property Owner is required to notify the Utilities Customer Service Section when gas service is requested that the monthly installment will to be billed separately to the Property Owner and to provide the Utilities Customer Service Section with a billing address.

6. Failure to pay the sums due under this Agreement may result in termination of all City utility service to the property; in a municipal lien being filed on the property; and in any other collection remedy available to the City.

7. If the Property Owner sells or transfers ownership of the property when there is a balance due and owing on the pro-rated Project cost, the unpaid balance is due on or before City utility service to the property is transferred to a new customer/property owner. The "due on sale or transfer" requirement also applies to foreclosure, deed in lieu of foreclosure, or short sales, and to probate or death transfers. Further, the "due on sale or transfer" requirement applies to sales under real estate contracts even if the Property Owner retains legal ownership of the property. However, the "due on sale or transfer" requirement does not apply if the property is being rented, and the new gas customer is a renter with a written lease. The purpose for this "due on sale or transfer" requirement is that the City deems the property has increased in value

due to the availability of natural gas service, and that the party selling or transferring ownership of the property, including but not limited to by deed, foreclosure, short sale, probate or death, or under a real estate contract, has recognized a gain in the property's value due to the availability to City gas service. Because of this "due on sale or transfer" requirement, the City may require proof of ownership when the name of the utility customer changes for the subject property.

8. Because of the "due on sale or transfer" requirement set forth above, the Property Owner's interest in this Agreement may not be assigned without the express written permission of the City's Utilities Director.

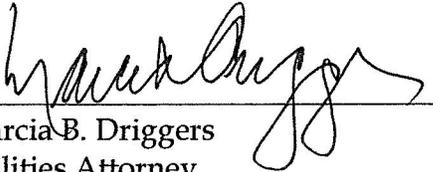
9. This Agreement contains the complete understanding of the parties concerning the extension of City gas service to the Property Owner's lot and payment for the extension.

10. The City's Utilities Director may sign on behalf of the City. If more than one individual or entity owns the lot, then all Property Owners will sign the Agreement.

CITY OF LAS CRUCES

By: _____
Jorge Garcia, Utilities Director

PREPARED AND APPROVED BY:



Marcia B. Driggers
Utilities Attorney

PROPERTY OWNER(S)

Talavera Gas Service Project Cost Estimate Fiscal Year 2019

| | COST* |
|------------------------------------------------------------------------------------|--------------------|
| Low Pressure Gas Mains and Appurtenances | \$4,857,160 |
| Contingency, 10% | \$485,716 |
| NMGRT, 6.75% | \$360,644 |
| Owner acquired materials | \$76,155 |
| Total = | \$5,779,675 |
| Number of Parcels in Project Area = | 960 |
| Per lot cost sharing = | \$6,020 |
| Per lot cost sharing w/\$1,400 credit if qualified per Gas Main Extension Policy = | \$4,620 |

| | | |
|------------------------------|--------|------------------|
| Other Costs Customer Side:** | | |
| Yard Piping | \$8/FT | (Estimated Cost) |
| Gas Fixture Conversion | \$300 | (Estimated Cost) |

* Costs based on Engineers Estimate

** Cost for customer side services are estimated, contact a plumber for true estimate



LAS CRUCES UTILITIES BOARD OF COMMISSIONERS ACTION FORM

For Meeting of September 13, 2018

(Adoption Date)

TITLE:

A RESOLUTION RECOMMENDING A TALAVERA SUBDIVISION ASSESSMENT AGREEMENT TO CONNECT TO CITY NATURAL GAS SERVICE.

BACKGROUND:

The Talavera Estates Subdivision ("Subdivision") is located southeast of the Las Cruces city limits between "A" Mountain and the Organ Mountains. Owners of lots within the Subdivision have been working with Las Cruces Utilities Department Staff and Dona Ana County Commissioner Ben Rawson. Utilities Staff has conducted one neighborhood meeting regarding the gas extension.

The City of Las Cruces ("City") is willing to extend its gas utility service to the Property Owner's developed residential tract if owners of the lot within the Subdivision sign a Gas Extension Agreement ("Agreement"), agree to pay their pro-rated share of the City's project design and construction cost, and agree to connect to the gas extension within six (6) months after the Talavera Gas Extension Project ("Project") has been fully constructed and accepted by the City. There are approximately 960 residential lots within the Subdivision.

The City's objective is to apply existing incentives and extended payment terms to Property Owners to connect and utilize natural gas service within six months of notification. Property Owners foregoing the incentive period will not be entitled to the incentive package and will have to pay the full cost of the assessment plus the usual connection charges before being allowed to connect to the Project.

The approximate cost of the Project is \$5.78 million, which the City accepts as the final Project cost even if the final construction cost exceeds that sum. Therefore, the Property Owner will be responsible for paying the Talavera Subdivision Assessment in the amount of

(Continue on additional sheets as required)

| | | | | | |
|-----------------------------------------------------------------------|--------------------------|--------------------------------------|------------------------|------------------------------|--------------|
| Name of Drafter: Jose F. Provencio <i>Jose F. Provencio</i> | | Department: Utilities | | Phone: 528-3508 | |
| Account Number: N/A | | Amount of Expenditure: N/A | | Budget Amount: N/A | |
| Strategic Plan Goal / Objective / Strategy Addressed: N/A | | | | | |
| Performance Budget Goal / Objective Addressed: N/A | | | | | |
| Department | Signature | Phone | Department | Signature | Phone |
| Utilities | <i>Jose F. Provencio</i> | 528-3512 | Budget | <i>Seamus DeMonche</i> | 541-2300 |
| Legal | <i>Michelle Duggan</i> | 541-2128 | Assistant City Manager | <i>Daniel P. Wilson</i> | 541-2271 |
| | | | City Manager | <i>[Signature]</i> | 541-2076 |

\$4,620.00, after applying the Connection Incentive Allowance in the amount of \$1,400.00. The Property Owner may pay that sum in full when signing up for City gas service or may pay that sum plus annual interest of 3.78% over a 10- or 20-year period.

SUPPORT INFORMATION:

1. LCU Resolution No. 18-19-LCU008.
2. Exhibit "A" – Gas Extension Agreement.
3. Exhibit "B" – Estimated Project Cost.

BOARD OPTIONS:

1. **VOTE "YES"** – Will approve Resolution 18-19-LCU008 and authorize a Talavera Subdivision Assessment to connect to City natural gas service.
2. **VOTE "NO"** – Will reject Resolution 18-19-LCU008 and not authorize a Talavera Subdivision Assessment to connect to City natural gas service. Staff still require strategic guidance.