



NOTICE OF A PUBLIC MEETING
TOWN OF RANCHO VIEJO
BOARD OF ALDERMEN
REGULAR MEETING
JULY 18, 2023
6:00 P.M.

NOTICE is hereby given of a REGULAR MEETING of the BOARD OF ALDERMEN of the TOWN OF RANCHO VIEJO, TEXAS, to be held on JULY 18, 2023, at 6:00 P.M., in the TOWN MUNICIPAL OFFICE, 3301 CARMEN AVENUE, RANCHO VIEJO, TEXAS to consider the following items:

1. Call to Order
2. Roll Call
3. Invocation and Pledge
4. Public Comment
5. Approval of Minutes – Regular Meeting June 13, 2023, Special Meeting June 29, 2023
6. Consideration/Action Of A Resolution By The Town Of Rancho Viejo, Texas Suspending The August 23, 2023 Effective Date Of The Statement Of Intent Of Texas Gas Service Company To Increase Rates Within Incorporated Areas Of Its Service Territory To Permit The City Time To Study The Request And To Establish Reasonable Rates; Finding That The City's Reasonable Rate Case Expenses Shall Be Reimbursed By The Company; Authorizing Participation With Other Rio Grande Valley Texas Municipalities; Hiring Legal And Consulting Services To Negotiate With The Company And Direct Any Necessary Litigation And Appeals; Finding That The Meeting At Which This Resolution Is Passed Is Open To The Public As Required By Law; Requiring Notice Of This Resolution To The Company And Legal Counsel.
7. Consideration/Action of Resolution Extending the Provisions of section 33.07 of the Property Tax Code which enables the Governing body to assess an Additional Collection Penalty
8. Consideration/Action on a Resolution of the Town of Rancho Viejo, Texas, appointing a Designated Officer or Employee to Calculate the No-New-Revenue and the Voter-Approval Tax Rates for Tax Year 2023
9. Street Committee Update
10. Comprehensive Planning Services Update
11. Consideration/Action to Adopt Procurement Policies and Procedures Concerning ARPA or Other Applicable Federal Programs
12. Consideration/Action to Approve Request for Qualifications (RFQ) for Architecture, Landscape Architecture, Park Planning Services to assist the Town of Rancho Viejo in its Implementation of a Project Funded by the US Department of Treasury under the ARPA program.
13. Consideration/Action to Approve Resolution Supporting Mexico Paying their Water Debt
14. June 2023 Police Report – Chief of Police
15. Adjourn into Executive Session, as authorized by Subchapter D of Chapter 551 of the Government Code to deliberate the purchase, exchange, lease, or value of real property.
16. Possible Action on Matters Discussed in Executive Session
17. Adjourn

Fred Blanco, Town Administrator



State of Texas
County of Cameron
Town of Rancho Viejo

I, the undersigned authority, do hereby certify that the above NOTICE OF MEETING of the Board of Aldermen of the Town of Rancho Viejo, Texas is a true and correct copy of said NOTICE, which has been posted on the Window of the Town of Rancho Viejo Municipal Office, 3301 Carmen Avenue, Rancho Viejo, Texas, a place convenient and readily accessible to the General Public, on July 14, 2023 at 5:30 P.M. and which will be continuously posted for a period of seventy-two (72) hours prior to the date and time said meeting was convened.

ATTEST: Fred Blanco, Town Administrator

1. Call to Order

by Mayor Guerrero

2. Roll Call

by Isabel Perales

Alderman Alfredo Hernandez

Alderman Mark Johnson

Alderwoman Laura Kaechele

Alderman Marcos Ricoy

Alderman Javier Vera

Legal Counsel, David Irwin

Town Administrator, Fred Blanco

3. Invocation and Pledge

The pledge of allegiance to the United States Flag:

"I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all."

AND the pledge of allegiance to the Texas State Flag:

"Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible."

4. Public Comment

5. Approval of Minutes- Regular Meeting June 13, 2023, Special Meeting June 29, 2023

MINUTES OF A REGULAR MEETING
TOWN OF RANCHO VIEJO
BOARD OF ALDERMEN
JUNE 13, 2023

A REGULAR MEETING of the BOARD OF ALDERMEN of the TOWN OF RANCHO VIEJO, TEXAS, was held on, June 13, 2023, at 6:00 P.M., in the TOWN MUNICIPAL OFFICE, 3301 CARMEN AVENUE, RANCHO VIEJO, TEXAS to consider the following items:

1. CALL TO ORDER:

The meeting was called to order by Mayor Pro Tem Javier Vera at 6:01 PM.

2. ROLL CALL:

Roll call was made by Isabel Perales, Assistant Town Secretary. Members present at the meeting were: Alderman Alfredo Hernandez, Alderwoman Laura Kaechele, Alderman Mark Johnson, Alderman Marcos Ricoy, and Alderman Javier Vera.

Members absent: Mayor Maribel Guerrero

A quorum was present at the meeting.

Legal counsel, Daniel Rentfro, Jr., Town Administrator, Fred Blanco, and Police Chief Robert R. Tyler were also present at the meeting.

Those present in the audience were:

Anthony Covacevich	Mariana Tumlinson	Ulrich Weisse	Rosa Weisse
Carmen Nordyke	Beth Pace	Pat Pace, Jr.	Claudia Krauss
Sasha Krauss	Silvia M. Garcia		

3. INVOCATION AND PLEDGE:

Mayor Pro Tem Vera led the group in the invocation and the pledge of allegiance to the American and Texas flags.

4. PUBLIC COMMENT:

Motion was made by Alderwoman Kaechele, seconded by Alderman Ricoy, and unanimously carried to open public comment. There were no comments from the public.

Motion was made by Alderman Hernandez, seconded by Alderman Johnson, and unanimously carried to close public comment.

5. APPROVAL OF MINUTES- REGULAR MEETING MAY 23, 2023:

Motion was made by Alderman Johnson, seconded by Alderwoman Kaechele, and unanimously carried, to approve the minutes of a Regular Meeting held on May 23, 2023, as written

6. TOWN OF RANCHO SAVE A LIFE, HANDS-ON PRACTICE FOR BOTH HANDS-ONLY CPR AND STOP THE BLEED TECHNIQUES – HOSTED BY THE TOWN OF RANCHO VIEJO, ROTARY CLUB OF RANCHO VIEJO, AND VALLEY REGIONAL MEDICAL CENTER – ANNOUNCEMENT BY MARIANA TUMLINSON:

Mariana Tumlinson, representative of the Rancho Viejo Rotary Club along with Valley Regional Medical Center announced that they are working with the Town of Rancho Viejo to host the Save a Life Event. There will be a presentation followed by practice for hands-only CPR and stop the bleed techniques. These techniques may help save a life. This event will be held on Saturday, July 15th from 9:00 AM to 11:00 AM and all residents are invited to attend.

7. CONSIDERATION/ACTION ON AMERICAN RESCUE PLAN ACT (ARPA) ADMINISTRATION SERVICES CONTRACT:

Town Administrator Fred Blanco briefly went over the highlight of the contract for the American Rescue Plan Act Administrative Services. He noted that the total billable amount would be \$24,077.00 and any funds need to be obligated by the December 31, 2024, deadline.

Alderman Vera asked about a list of priorities. Mr. Blanco then stated that once the contract is approved, they will set up a meeting with GrantWorks, Inc. for discussion and to create a list of priorities.

Motion was made by Alderman Johnson, seconded by Alderman Hernandez, and unanimously carried, to approve the American Rescue Plan Act (ARPA) Administration Services contract with GrantWorks, Inc.

8. COMPREHENSIVE PLAN UPDATE:

Town Administrator Fred Blanco stated that he had a virtual meeting with Ainsley Escobar and Nelda Barrera of GrantWorks, Inc. and they went over a timeline of events. They are currently working on a survey to send out to residents to request their feedback.

9. CONSIDERATION/ACTION ON EXTENSION OF CONTRACT WITH BUILDING INSPECTOR:

Town Administrator Fred Blanco mentioned that there were no changes to the existing contract or fees. Alderman Johnson asked about going out for bids for Building Inspector services. Mr. Blanco said that the position and application have been posted on the Town's website.

Motion was made by Alderman Hernandez, seconded by Alderman Ricoy, and unanimously carried, to approve the extension of a contract for the Building Inspector for one year with Brent Cannon, with no changes.

10. AUTHORIZATION TO ADVERTISE FOR BIDS FOR DEPOSITORY CONTRACT FOR TWO YEARS WITH THE POSSIBILITY OF THREE ONE-YEAR EXTENSIONS AT THE TOWN'S OPTION:

Town Administrator, Fred Blanco mentioned that the dates for the advertisement had changed the deadline for submittals is scheduled for July 27th at 2:00 PM and to be opened and read aloud at 3:00 PM and for review by the Board at the August 8th meeting.

Motion was made by Alderman Johnson, seconded by Alderwoman Kaechele, and unanimously carried, to approve the authorization to advertise for bids for a Depository Contract for two years with the possibility of three one-year extensions at the Town's option.

11. TOWN ADMINISTRATOR REPORT A. APRIL 2023 FINANCIAL REPORT B. BUILDING PERMITS REPORT:

Town Administrator Fred Blanco went over the April 2023 financial report and the May 2023 building report.

12. MAY 2023 POLICE REPORT – POLICE CHIEF:

Police Chief Tyler went over the April 2023 police report.

13. ADJOURN:

Motion was made by Alderman Hernandez, seconded by Alderman Johnson, and unanimously carried, to adjourn the meeting at 6:42 PM.

BY: _____
Fred Blanco, Town Administrator

APPROVED: _____
Maribel B. Guerrero, Mayor

DATE: _____

MINUTES OF A SPECIAL MEETING
TOWN OF RANCHO VIEJO
BOARD OF ALDERMEN
JUNE 29, 2023

A SPECIAL MEETING of the BOARD OF ALDERMEN of the TOWN OF RANCHO VIEJO, TEXAS, was held on, June 29, 2023, at 6:00 P.M., in the TOWN MUNICIPAL OFFICE, 3301 CARMEN AVENUE, RANCHO VIEJO, TEXAS to consider the following items:

1. CALL TO ORDER:

The meeting was called to order by Mayor Pro Tem Javier Vera at 6:00 PM.

2. ROLL CALL:

Roll call was made by Fred Blanco, Town Administrator. Members present at the meeting were: Alderman Mark Johnson, Alderman Marcos Ricoy, and Alderman Javier Vera. Mayor Maribel Guerrero arrived at 6:30 PM.

Members absent: Alderman Alfredo Hernandez, Alderwoman Laura Kaechele,

A quorum was present at the meeting.

Town Administrator, Fred Blanco, was also present at the meeting.

Those present in the audience were:

DeeDee C. Arismendez Fred Morris

3. WORKSHOP ON AMERICAN RESCUE PLAN ACT PROJECTS:

DeeDee Arismendez and Fred Morris from GrantWorks, Inc. presented on the American Rescue Plan Act (ARPA) Projects. They answered several questions from the Board.

4. ADJOURN:

The meeting was adjourned at 7:05 PM.

BY: _____
Fred Blanco, Town Administrator

APPROVED: _____
Maribel B. Guerrero, Mayor

DATE: _____

6. Consideration/Action Of A Resolution By The Town Of Rancho Viejo, Texas Suspending The August 23, 2023 Effective Date Of The Statement Of Intent Of Texas Gas Service Company To Increase Rates Within Incorporated Areas Of Its Service Territory To Permit The City Time To Study The Request And To Establish Reasonable Rates; Finding That The City's Reasonable Rate Case Expenses Shall Be Reimbursed By The Company; Authorizing Participation With Other Rio Grande Valley Texas Municipalities; Hiring Legal And Consulting Services To Negotiate With The Company And Direct Any Necessary Litigation And Appeals; Finding That The Meeting At Which This Resolution Is Passed Is Open To The Public As Required By Law; Requiring Notice Of This Resolution To The Company And Legal Counsel.

**MODEL STAFF REPORT REGARDING TEXAS GAS SERVICE
COMPANY'S STATEMENT OF INTENT TO INCREASE RATES IN THE
RIO GRANDE VALLEY SERVICE AREA**

**ACTION MUST BE TAKEN TO SUSPEND THE EFFECTIVE DATE ON OR BEFORE
AUGUST 23, 2023.**

On June 30, 2023, Texas Gas Service, a Division of ONE Gas, Inc. (TGS or Company), filed a Statement of Intent seeking to increase gas utility rates within the incorporated areas of the Rio Grande Valley Service Area (RGVSA). The affected Rio Grande Valley municipalities include the cities of Alamo, Alton, Brownsville, Combes, Donna, Edcouch, Edinburg, Elsa, Harlingen, Hidalgo, La Feria, Laguna Vista, La Joya, La Villa, Los Fresnos, Lyford, McAllen, Mercedes, Mission, Palm Valley, Palmhurst, Palmview, Penitas, Pharr, Port Isabel, Primera, Progreso, Rancho Viejo, Raymondville, Rio Hondo, San Benito, San Juan, Santa Rosa, and Weslaco, Texas (RGV Cities). In the filing, the Company asserts it is entitled to a \$9.81 million revenue increase from RGV Cities or an 25.94% increase over current adjusted revenues, excluding gas costs.

TGS has received annual rate increases in each of the past five years based on a cost-of-service (COS) tariff approved by the cities. Under the COS tariff, it was not necessary for cities to pass suspension resolutions. A traditional rate case requires cities with original jurisdiction to act to suspend, deny, or approve the Company filing before the effective date. Cities must pass the suspension resolution by August 23, 2023.

The law provides that a rate request made by a gas utility cannot become effective until at least 35 days following the filing of the application to change rates. TGS has proposed an effective date of August 23, 2023. The law permits the City to suspend the rate change for 90 days after the date the rate change would otherwise be effective. **If the City fails to take action regarding the filing before the effective date, TGS' rate request is deemed administratively approved.**

The purpose of the resolution is to extend the effective date of the Company's proposed rate increase. The resolution suspends the August 23, 2023 effective date of the Company's request for the maximum period permitted by law to allow the City to evaluate the filing, determine whether the filing complies with law, and if lawful, to determine what further strategy to pursue, including settlement and ultimately to approve reasonable rates. The Resolution must be passed before August 23, 2023.

Explanation of “Be It Resolved” Paragraphs:

Section 1. This section incorporates the “whereas” provisions in preamble into the Resolution.

Section 2. This section confirms that the City is authorized to protect the interests of the City and TGS customers residing in the City.

Section 3. The City is authorized to suspend the rate change for 90 days after the date that the rate change would otherwise be effective so long as the City has a legitimate purpose. Time to study and investigate the application is always a legitimate purpose. Please note that the resolution refers to the suspension period as the “maximum period allowed by law” rather than ending by a specific date. This is because the Company controls the effective date and can extend its effective date and, therefore, extend the deadline for final city action to increase the time that the City retains jurisdiction (for example, if necessary to reach settlement on the case). If the effective date is not otherwise extended by the Company, the City must take final action on TGS’ request to raise rates by August 23, 2023.

Section 4. This section authorizes the hiring of outside attorneys and consultants to work on this matter.

Section 5. This section provides that the City shall work in coalition with the other affected Rio Grande Valley municipalities to review and evaluate TGS’s filing.

Section 6. By law, the Company must reimburse the cities for their reasonable rate case expenses. Legal counsel and consultants approved by Cities will present their invoices to the City of McAllen which will then seek reimbursement from Texas Gas Service. The City will not incur liability for payment of rate case expenses by adopting a suspension resolution.

Section 7. This section merely recites that the resolution was passed at a meeting that was open to the public and that the consideration of the resolution was properly noticed.

Section 8. This section provides that both TGS’ designated representative and counsel for Cities will be notified of the City’s action by sending a copy of the approved and signed resolution to certain designated individuals.

Section 9. This section identifies the effective date of the Resolution as the time it is adopted.

Recommendation

The City Staff recommends adoption of the resolution suspending the effective date of TGS’s proposed rate increase.

RESOLUTION NO.

A RESOLUTION BY THE TOWN OF RANCHO VIEJO, TEXAS SUSPENDING THE AUGUST 23, 2023 EFFECTIVE DATE OF THE STATEMENT OF INTENT OF TEXAS GAS SERVICE COMPANY TO INCREASE RATES WITHIN INCORPORATED AREAS OF ITS SERVICE TERRITORY TO PERMIT THE CITY TIME TO STUDY THE REQUEST AND TO ESTABLISH REASONABLE RATES; FINDING THAT THE CITY'S REASONABLE RATE CASE EXPENSES SHALL BE REIMBURSED BY THE COMPANY; AUTHORIZING PARTICIPATION WITH OTHER RIO GRANDE VALLEY TEXAS MUNICIPALITIES; HIRING LEGAL AND CONSULTING SERVICES TO NEGOTIATE WITH THE COMPANY AND DIRECT ANY NECESSARY LITIGATION AND APPEALS; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL.

WHEREAS, on or about June 30, 2023, Texas Gas Service Company, a Division of ONE Gas, Inc. (TGS or Company) filed with the Town of Rancho Viejo (City) and the other affected Rio Grande Valley municipalities a Statement of Intent seeking to increase gas utility rates within the incorporated areas of the Rio Grande Valley Service Area effective August 23, 2023; and

WHEREAS, the City is a gas utility customer of TGS and a regulatory authority with an interest in the rates and charges of TGS; and

WHEREAS, the Gas Utility Regulatory Act § 104.107 grants local regulatory authorities the right to suspend the effective date of proposed rate changes for ninety (90) days; and

WHEREAS, the City retains its rights as a city with original jurisdiction including the right to suspend the application; and

WHEREAS, the City's consultants and attorneys recommend that the City suspend the application for further review.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE TOWN OF RANCHO VIEJO, TEXAS:

SECTION 1. That the findings and recitations set out in the preamble of this Resolution are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2. That the City is authorized to protect the interests of the City and protect the interests of TGS customers residing and conducting business within municipal limits.

SECTION 3. That the August 23, 2023 effective date of the request to increase rates submitted by TGS on or about June 30, 2023, be suspended for the maximum period allowed by law to permit adequate time to review the proposed changes and to establish reasonable rates.

SECTION 4. That the City joins the other Rio Grande Valley municipalities in this proceeding and, subject to the right to terminate employment at any time, hereby authorizes the hiring of Thomas L. Brocato of the law firm of Lloyd Gosselink Rochelle and Townsend, P.C., Karl J. Nalepa of the consulting firm of ReSolved Energy Consulting, L.L.C., and Lane Kollen of the consulting firm of J. Kennedy and Associates, Inc., to review the Company's filing, negotiate with the Company, make recommendations regarding reasonable rates and to direct any necessary administrative proceedings or court litigation associated with an appeal of city action.

SECTION 5. That the City shall work with other affected Rio Grande Valley municipalities in the review and evaluation of whether the proposed rates are appropriate, fair, just, and reasonable; and, intervene as a necessary party in the Railroad Commission of Texas' consideration of the TGS rate filing as it affects the customers in the unincorporated areas of the Rio Grande Valley region.

SECTION 6. That the City's reasonable rate case expenses shall be reimbursed in full by TGS.

SECTION 7. That it is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

SECTION 8. That a copy of this Resolution shall be sent to Stacey McTaggart, TGS at 1301 S. MoPac Expwy., Suite 400, Austin, Texas 78746 and to Thomas L. Brocato at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

SECTION 9. That this Resolution shall be and become effective from and after its adoption.

PASSED AND APPROVED this 18th day of July 2023.

Maribel B. Guerrero, Mayor

ATTEST:

Town Administrator

APPROVED AS TO FORM:

City Attorney

7. Consideration/Action of Resolution Extending the Provisions of section 33.07 of the Property Tax Code which enables the Governing body to assess an Additional Collection Penalty

RESOLUTION NO.

A RESOLUTION OF THE BOARD OF ALDERMEN OF THE TOWN OF RANCHO VIEJO, TEXAS, EXTENDING THE PROVISIONS OF SECTION 33.07 OF THE PROPERTY TAX CODE WHICH ENABLES THE GOVERNING BODY TO ASSESS AN ADDITIONAL COLLECTION PENALTY

WHEREAS, the Town of Rancho Viejo, Texas, had adopted the provisions of Section 33.07 of the Property Tax Code; AND

WHEREAS, this section of the code permits the governing body to assess an additional fifteen (15) percent collection penalty to defray the costs of collection;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE TOWN OF RANCHO VIEJO, TEXAS, that:

SECTION 1. That the provisions of 33.07 be adopted and that Ad Valorem taxes remaining unpaid on July 1, 2023, be subject to fifteen (15) percent collection penalty.

SECTION 2. That the governing body of the TOWN OF RANCHO VIEJO complied with Section 6.30 of the Code in that a delinquent tax collection contract is presently in force with Linebarger, Goggan, Blair & Sampson, LLP of Brownsville, Texas.

PASSED, ADOPTED AND APPROVED BY THE BOARD OF ALDERMEN OF THE TOWN OF RANCHO VIEJO, TEXAS AT A REGULAR MEETING ON THIS THE 18TH DAY OF JULY 2023.

Maribel B. Guerrero, Mayor

ATTEST:

Fred Blanco, Town Administrator

8. Consideration/Action on a Resolution of the Town of Rancho Viejo, Texas, appointing a Designated Officer or Employee to Calculate the No-New-Revenue and the Voter-Approval Tax Rates for Tax Year 2023

RESOLUTION NO.

CONSIDERATION/ACTION ON A RESOLUTION OF THE TOWN OF
RANCHO VIEJO, TEXAS, APPOINTING A DESIGNATED OFFICER OR
EMPLOYEE TO CALCULATE THE NO-NEW-REVENUE AND THE
VOTER-APPROVAL TAX RATES FOR TAX YEAR 2023

The Board of Aldermen of the Town of Rancho Viejo, Texas, does hereby designate the following employee to be the Town's designated employee for purposes set forth in Chapter 26 of the Property Tax Code. The following designated employee shall calculate the no-new-revenue and the voter-approval tax rates for the Town and shall certify the accuracy of applicable tax rate calculations worksheets.

Designated Employee:

Fred Blanco (Town Administrator)

Location of Office to be maintained by Designated Employee:

Rancho Viejo Town Hall
3301 Carmen Ave
Rancho Viejo, Texas 78575

The designated employee listed was designated by resolution of the Board of Aldermen of the Town of Rancho Viejo at a public meeting duly held on the 18th day of July 2023. This resolution shall remain effective unless rescinded or amended by resolution of the Board of Aldermen of the Town of Rancho Viejo.

PASSED, ADOPTED AND APPROVED BY THE BOARD OF ALDERMEN OF THE TOWN OF
RANCHO VIEJO, TEXAS AT A REGULAR MEETING ON THIS THE 18TH DAY OF JULY 2023.

Maribel B. Guerrero, Mayor

ATTEST:

Fred Blanco, Town Administrator

9. Street Committee Update

10. Comprehensive Planning Services Update

11. Consideration/Action to Adopt Procurement Policies and Procedures Concerning ARPA or Other Applicable Federal Programs



3301 Carmen Avenue
Rancho Viejo, Texas 78575
Phone (956) 350-4093 Fax (956) 350-4156

TOWN OF RANCHO VIEJO, TEXAS PROCUREMENT POLICIES AND PROCEDURES CONCERNING ARPA OR OTHER APPLICABLE FEDERAL PROGRAMS

The Town of Rancho Viejo, Texas follows the procurement standards in 2 CFR 200.317 – 2CFR 200.327 and Appendix II to Part 200 for procurement actions to be funded with Federal funds. All attempts are made to adhere to these policies and procedures and updates are made as needed. The entirety of the language found in 2 CFR 200.317 – 2 CFR 200.327 may not be applicable in all instances, programs, and/or situations. This document contains the most current 2 CFR 200.317 – 2 CFR 200.327 language available at the adoption of these policies and procedures. Notwithstanding any other provision herein, for any procurement not involving ARPA or other applicable Federal programs, the Town of Rancho Viejo's Purchasing Policy Limits Adopted by Board of Aldermen on October 12, 2021 shall remain in effect and shall supersede the policies and procedures herein described in the event of any conflict. In the event that a procurement by the Town involves ARPA or other applicable Federal programs, then the policies and procedures herein described shall supersede the Town of Rancho Viejo's Purchasing Policy Limits Adopted by Board of Aldermen on October 12, 2021.

§200.317 Procurements by states.

When procuring property and services under a Federal award, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will comply with §§200.321, 200.322, and 200.323 and ensure that every purchase order or other contract includes any clauses required by §200.327. All other non-Federal entities, including subrecipients of a State, must follow the procurement standards in §§200.318 through 200.327.

§200.318 General procurement standards.

(a) The non-Federal entity must have and use documented procurement procedures, consistent with State, local, and tribal laws and regulations and the standards of this section, for the acquisition of property or services required under a Federal award or subaward. The non-Federal entity's documented procurement procedures must conform to the procurement standards identified in §§200.317 through 200.327.

(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(c)(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

(2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements.

(f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also §200.214.

(i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following: Rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(j)(1) The non-Federal entity may use a time-and-materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time-and-materials type contract means a contract whose cost to a non-Federal entity is the sum of:

(i) The actual cost of materials; and

(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

[85 FR 49543, Aug. 13, 2020, as amended at 86 FR 10440, Feb. 22, 2021]

§200.319 Competition.

(a) All procurement transactions for the acquisition of property or services required under a Federal award must be conducted in a manner providing full and open competition consistent with the standards of this section and §200.320.

(b) In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

(1) Placing unreasonable requirements on firms in order for them to qualify to do business;

(2) Requiring unnecessary experience and excessive bonding;

(3) Noncompetitive pricing practices between firms or between affiliated companies;

(4) Noncompetitive contracts to consultants that are on retainer contracts;

(5) Organizational conflicts of interest;

(6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and

(7) Any arbitrary action in the procurement process.

(c) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(d) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

(1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(e) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

(f) Noncompetitive procurements can only be awarded in accordance with §200.320(c).

§200.320 Methods of procurement to be followed.

The non-Federal entity must have and use documented procurement procedures, consistent with the standards of this section and §§200.317, 200.318, and 200.319 for any of the following methods of procurement used for the acquisition of property or services required under a Federal award or sub-award.

(a) **Informal procurement methods.** When the value of the procurement for property or services under a Federal award does not exceed the *simplified acquisition threshold (SAT)*, as defined in §200.1, or a lower threshold established by a non-Federal entity, formal procurement methods are not required. The non-Federal entity may use informal procurement methods to expedite the completion of its transactions and minimize the associated administrative burden and cost. The informal methods used for procurement of property or services at or below the SAT include:

(1) **Micro-purchases—(i) Distribution.** The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (See the definition of *micro-purchase* in §200.1). To the maximum extent practicable, the non-Federal entity should distribute micro-purchases equitably among qualified suppliers.

(ii) **Micro-purchase awards.** Micro-purchases may be awarded without soliciting competitive price or rate quotations if the non-Federal entity considers the price to be reasonable based on research, experience, purchase history or other information and documents it files accordingly. Purchase cards can be used for micro-purchases if procedures are documented and approved by the non-Federal entity.

(iii) **Micro-purchase thresholds.** The non-Federal entity is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures. The micro-purchase threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations. Non-Federal entities may establish a threshold higher than the Federal threshold established in the Federal Acquisition Regulations (FAR) (<https://www.ecfr.gov/current/title-48/chapter-1/subchapter-A/part-2/subpart-2.1>) in accordance with paragraphs (a)(1)(iv) and (v) of this section.

(iv) **Non-Federal entity increase to the micro-purchase threshold up to \$50,000.** Non-Federal entities may establish a threshold higher than the micro-purchase threshold identified in the FAR in accordance with the requirements of this section. The non-Federal entity may self-certify a threshold up to \$50,000 on an annual basis and must maintain documentation to be made available to the Federal awarding agency and auditors in accordance with §200.334. The self-certification must include a justification, clear identification of the threshold, and supporting documentation of any of the following:

(A) A qualification as a low-risk auditee, in accordance with the criteria in §200.520 for the most recent audit;

(B) An annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or,

(C) For public institutions, a higher threshold consistent with State law.

(v) **Non-Federal entity increase to the micro-purchase threshold over \$50,000.** Micro-purchase thresholds higher than \$50,000 must be approved by the cognizant agency for indirect costs. The non-federal entity must submit a request with the requirements included in paragraph (a)(1)(iv) of this section. The increased threshold is valid until there is a change in status in which the justification was approved.

(2) **Small purchases—(i) Small purchase procedures.** The acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources as determined appropriate by the non-Federal entity.

(ii) **Simplified acquisition thresholds.** The non-Federal entity is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk and its documented procurement procedures which must not exceed the threshold established in the FAR. When applicable, a lower simplified acquisition threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations.

(b) **Formal procurement methods.** When the value of the procurement for property or services under a Federal financial assistance award exceeds the SAT, or a lower threshold established by a non-Federal entity, formal procurement methods are required. Formal procurement methods require following documented procedures. Formal procurement methods also require public advertising unless a non-competitive procurement can be used in accordance with §200.319 or paragraph (c) of this section. The following formal methods of procurement are used for procurement of property or services above the simplified acquisition threshold or a value below the simplified acquisition threshold the non-Federal entity determines to be appropriate:

(1) **Sealed bids.** A procurement method in which bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bids method is the preferred method for procuring construction, if the conditions.

(i) In order for sealed bidding to be feasible, the following conditions should be present:

(A) A complete, adequate, and realistic specification or purchase description is available;

(B) Two or more responsible bidders are willing and able to compete effectively for the business; and

(C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

(A) Bids must be solicited from an adequate number of qualified sources, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;

(B) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

(C) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;

(D) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(E) Any or all bids may be rejected if there is a sound documented reason.

(2) **Proposals.** A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. They are awarded in accordance with the following requirements:

(i) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(ii) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and making selections;

(iii) Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the non-Federal entity, with price and other factors considered; and

(iv) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby offeror's qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services through A/E firms that are a potential source to perform the proposed effort.

(c) **Noncompetitive procurement.** There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:

(1) The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (see paragraph (a)(1) of this section);

(2) The item is available only from a single source;

(3) The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;

(4) The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-Federal entity; or

(5) After solicitation of a number of sources, competition is determined inadequate.

§200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (b)(1) through (5) of this section.

§200.322 Domestic preferences for procurements.

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

§200.323 Procurement of recovered materials.

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

§200.324 Contract cost and price.

(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

(b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under subpart E of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

§200.325 Federal awarding agency or pass-through entity review.

(a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

(1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;

(2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

(3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;

(4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third-party contracts are awarded on a regular basis;

(2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

§200.326 Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

§200.327 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to this part.

Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

- (A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- (B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
- (C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
- (D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
- (E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate

of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See § 200.323*

(K) See § 200.216**

(L) See § 200.322***

***§ 200.323 Procurement of recovered materials.**

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

****§ 200.216 Prohibition on certain telecommunications and video surveillance services or equipment.**

(a) Recipients and sub recipients are prohibited from obligating or expending loan or grant funds to:

(1) Procure or obtain;

(2) Extend or renew a contract to procure or obtain; or

(3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

(c) See Public Law 115-232, section 889 for additional information.

(d) See also § 200.471.

*****§ 200.322 Domestic preferences for procurements.**

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

These Policies and Procedures were passed and approved by the Town of Rancho Viejo, Texas through the Board of Aldermen on July 18, 2023.

Maribel B. Guerrero
Mayor of the Town of Rancho Viejo, Texas

12. Consideration/Action to Approve Request for Qualifications (RFQ) for Architecture, Landscape Architecture, Park Planning Services to assist the Town of Rancho Viejo in its Implementation of a Project Funded by the US Department of Treasury under the ARPA program.

13. Consideration/Action to Approve Resolution Supporting Mexico Paying their Water Debt

RESOLUTION

WHEREAS, the Rio Grande is the only source of fresh water for the Rio Grande Valley of Texas; and,

WHEREAS, the Rio Grande flows are greatly dependent on inflows from Mexican tributaries that flow into the Rio Grande above Amistad and Falcon Reservoirs; and,

WHEREAS, the 1944 Treaty between the United States and Mexico allots to the United States one-third of the tributary inflow from six-named tributaries that flow into the Rio Grande above the international reservoirs and this one-third shall not be less than 350,000 acre-feet as an annual average over a cycle of five consecutive years; and,

WHEREAS, the only exception to the annual delivery of this water is if Mexico is experiencing extraordinary drought or has experienced serious accident to the hydraulic systems on the six-named tributaries; and,

WHEREAS, Mexico has accumulated over 2.9-million-acre feet of water in the reservoirs on the six-named tributaries since August 2022, and is an indication that Mexico is not in an extraordinary drought and there have been no reports of any accidents to their hydraulic systems; and,

WHEREAS, the current five-year Treaty Delivery Cycle commenced October 25, 2020, and Mexico is behind in their deliveries to the United States by over 550,000-acre feet of water; and,

WHEREAS, the United States ownership of water in the Amistad/Falcon Reservoir System is slightly less than one years' supply of water; and,

WHEREAS, Mexico has sufficient water in storage in the tributaries that the United States is entitled to receive water from and could release this water as called for by the 1944 Treaty.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Aldermen of the Town of Rancho Viejo, Texas strongly urges Mexico to comply with the terms of the 1944 Treaty and release the water due to the United States.

Adopted and approved by the Board of Aldermen of the Town of Rancho Viejo, Texas this 18th day of July 2023.

Mayor Maribel B. Guerrero

14. June 2023 Police Report – Chief of Police



RANCHO VIEJO POLICE DEPARTMENT
MONTHLY STATISTICAL REPORT
 MONTH OF: June 2023
 Chief Robert R. Tyler



I	PENAL CODE:	SECTOR	No.	Prior	YTD	ARST	COMMENTS
	SEXUAL ASSAULT						
	STALKING						
	ASSAULT FV		1		3		no charges per victim
	HARASSMENT						
	BURGLARY HAB						
	BURLGARY VEH						
	THEFT (M)						
	THEFT (F)		1		10	1	warrant requested
	FRAUD/CREDIT		2		3		see notes
	CRIMINAL MISCHIEF						
	POSSESSION (M)		1		4	2	citation issued
	POSSESSION (F)		1			1	Poss CS/ Cocaine
	Endangering Child						
	Indecency W/A Child						
	BAIL JUMPING FTA						
	DWI						
	Public Intox						
	DUTY STRIKING FIXT			2	2		
	CRIMINAL TRESPASS			1	15		
	UNLAWFUL RESTRT						
		TOTAL	6	3	37	4	
II	INCIDENT REPORTS:	SECTOR	NO.	Prior	YTD	Citation	COMMENTS
	DOMESTIC NV		1	1	8		300 Blk of Santa Ana
	Civil Dispute		3	4	17		see notes
	WELFARE CHECK		2	9	9		600 Blk Balboa
	Traffic Accident		2	3	13		
	Neighbor Disturbance				1		
	DIST (Music) (K9)		5	3	14		
	Natural Death Report						
	Suspicious V/P		8	6	7		3 persons / 5 vehicles
	LOST/FOUND PROP				2		
	LIVESTOCK DIST						
	VEH IMPOUNDMENTS		1		1		
	ALARM RESIDENTIAL		15	10	44		
	EMS		10	8	50		
	FIRE		1		7		
	Agency ASSIST			1	20		
		TOTAL	48	45	193	0	
III	TRAFFIC STOPS:		NO.	Prior	YTD	Collect	Warrants Issued
	Citations		67	244	311	\$9,973	

IV TRAFFIC WARRANTS		NO.	CLRD	DIFF		
WARRANTS		18	21	-3	84	
V SPEED TRAILER						
AVENUE	POSTED		AVG.		TOP	
CARMEN	25		27		35	
CARMEN	35		35		45	
MORELOS	25		24		35	
TESORO	25		26		35	
ESCANDON	25		26		35	
SANTA ANA	25		25		35	
SANTA ANA	15		18		25	
ZAPATA	25		25		35	
BALBOA	25		23		30	
PIZARRO	25		26		30	
CORTEZ	25		25		33	
BOLIVAR	25		23		32	
EL DORADO	25		25		30	
RANCHO NUEVO	25		23		33	
ALVARADO	25		26		35	
HIDALGO	25		28		32	
DELEON	25		25		30	
	25		25.294		33.2353	
VI POLICE MILEAGE:	Starting	Ending	Total	GIs	MPG	Miles Per Day
C-21	36896	38866	1970	166	11.8675	
F21 (OPSG)	19187	20,183	996	72	14	
C-20 (OPSG)	67230	68762	1532	142	10.7887	
C18	43,017	43291	274	24	11.4167	
F-18	0	0	0	0	0	out of rotation
F17	102,159	102853	694	68	10	
Totals	44748.17	45,659	5,466	472	10	
VII CHIEF'S COMMENTS						
<ul style="list-style-type: none"> - Theft of \$2000.00 400 Blk Balboa - Warrant was requested. - Fraud via Bitcoin reported approx. 30k -Felony Arrest for POCS working OPSG 1.1 grams cocaine 29 yo female from Brownsville -Past Assault 300 Blk Santa Ana -- Victim did not want to file criminal charges -Civil Dispute child custody/ Civil dispute 600 Blk Balboa/ Civil Dispute 400 Blk Balboa 						

Violations by Filed Date...			
STATE LAW		9	
TRAFFIC		52	
PARKING		2	
CITY ORDINANCE		4	
	Total Filed Violations		67

Completed Cases...			
Paid Fine...			
STATE LAW		3	
TRAFFIC		15	
PARKING		0	
CITY ORDINANCE		0	
	Total Paid Fines		18
Before Judge...			
STATE LAW		0	
TRAFFIC		16	
PARKING		0	
CITY ORDINANCE		6	
	Total Before Judge		22
	Total Completed		40

Other Completed...			
DISMISSED DSC SECTION 1			
STATE LAW		0	
TRAFFIC		2	
PARKING		0	
CITY ORDINANCE		0	
	Total		2
DISMISSED AFTER DEFERRED ADJ.			
STATE LAW		0	
TRAFFIC		2	
PARKING		0	
CITY ORDINANCE		0	
	Total		2
DISMISSED/PRESENTED INSURANCE			
STATE LAW		0	
TRAFFIC		2	
PARKING		0	
CITY ORDINANCE		0	
	Total		2
DISMISSED BY JUDGE			
STATE LAW		3	
TRAFFIC		3	
PARKING		0	
CITY ORDINANCE		0	
	Total		6
	Total Other Completed		12
	Grand Total Completed		52
	Net Difference Filed/Complete		15

Warrants...			
Issued...			
STATE LAW		8	
TRAFFIC		10	
PARKING		0	
CITY ORDINANCE		0	
	Total Violations		18
	Total Warrants Issued		18
Cleared...			
STATE LAW		5	
TRAFFIC		16	
PARKING		0	
CITY ORDINANCE		0	
	Total Violations		21
	Total Warrants Cleared		21
	Change in Total Warrants		3-

Other Paid Cases...			
Paid Fine...			
	Total Other Paid Fines		24
FINE FINE		\$3,384.80	
CCC20 CCC 2020		\$3,228.35	
TFC TFC		\$105.36	
AR ARREST FEE		\$260.51	
STF19 STATE TRAFFIC FEE		\$1,755.90	
LMCBSF Local Building Security Fund		\$255.29	
LTPDF Local Truancy Prevention Fund		\$260.51	
LMCTF Local Court Technology Fund		\$208.40	
LMJF Local Municipal Jury Fund		\$5.23	
ADMIN DEFERRED FEE		\$70.00	
TP-L TIME PAYMENT PLAN - LOCAL		\$92.34	
TP-S TIME PAYMENT PLAN - STATE		\$115.40	
TP-L-C TIME PAYMENT - LOCAL EFFICIENT		\$23.09	
TLFTA1 OMNI FEES		\$73.75	
TLFTA2 OMNI BASE STATE		\$22.12	
TLFTA3 LOCAL OMNI BASE FEE		\$14.75	
WRNTE WARRANT FEE		\$97.00	
Total Fees/Fines Paid		\$9,972.80	

15. Adjourn into Executive Session, as authorized by Subchapter D of Chapter 551 of the Government Code to deliberate the purchase, exchange, lease, or value of real property.

16. Possible Action on Matters Discussed in Executive Session

17. Adjourn