

# CITY OF WESTMORLAND

## REPORT TO CITY COUNCIL

**MEETING DATE:** March 5, 2025

**FROM:** Laura Fischer, Manager

**SUBJECT:** Public Hearing – Regarding the City’s application for funding a public safety building to be located at 198 E. 3<sup>rd</sup> Street through the United States Department of Agriculture Rural Development Disaster Relief Grant.

**ISSUE:** Shall the Board Open a Public Hearing to gather input Regarding the City’s application for funding a public safety building to be located at 198 E. 3<sup>rd</sup> Street through the United States Department of Agriculture Rural Development Disaster Relief Grant?

**GENERAL MANAGER’S RECOMMENDATION:**

- A) Open the Public Hearing to consider any comments Regarding the City’s application for funding a public safety building to be located at 198 E. 3<sup>rd</sup> Street through the United States Department of Agriculture Rural Development Disaster Relief Grant.
- B) After receiving comments, close the Public Hearing. Any and all comments from the public will be included in the project notes and reported to the funding agency. No further action needs to be taken at the meeting tonight.

**FISCAL IMPACT:**

The city recently was awarded a grant from USDA Rural Development Disaster Relief Funds in the amount of \$2,737,500 to remodel the existing building at 198 E. 3<sup>rd</sup> Street and to construct additional facilities in the lots to the east.

**There is a 25% match required for these funds, which amounts to \$912,500.** The city is currently waiting on notification from Congressman Ruiz who has included a grant to the city for an additional \$2,100,000 for the project, which can be used as our match to the USDA grant. Currently the city’s grant is included in the Federal budget, but the budget has not been approved and there is still a good chance that the city’s funds could be removed by the opposing party.

Should these matching funds not be available, staff will bring some alternative funding options to you. As you can see in the Letter of Conditions, the city must provide evidence that matching funds will be made available for the project and that these funds will be used first then the USDA funds. If no funds are available the project will not be eligible for USDA grant.

**Project Budget**—Based on Standard Form 424, “Application for Federal Assistance,” the project cost and funding will be as follows:

a. <u>Project Cost</u>	<u>Total</u>	<u>USDA Grant</u>	<u>Other</u>
Development	\$ 2,523,328.00	\$ 1,892,496.00	\$ 630,832.00
Legal Services	\$ 12,617.00	\$ 9,462.75	\$ 3,154.25
Arch. Eng. & Planning	\$ 807,465.00	\$ 605,598.75	\$ 201,866.25
Equipment	\$ 306,590.00	\$ 229,942.50	\$ 76,647.50
<b>TOTAL:</b>	<b>\$ 3,650,000.00</b>	<b>\$ 2,737,500.00</b>	<b>\$ 912,500.00</b>

b. Source of Funds

USDA Grant	\$ 2,737,500.00
Applicant	\$ 912,500.00
<b>TOTAL:</b>	<b>\$ 3,650,000.00</b>

**BACKGROUND:**

The purpose of the hearing is to solicit comments from interested persons regarding the City’s application for funding a public safety building to be located at 198 E. 3<sup>rd</sup> Street through the United States Department of Agriculture Rural Development Disaster Relief Grant.

**DISCUSSION:**

**To Be Considered at Public Hearing.**

Under consideration at the public hearing tonight is the location of the public safety building. The parcels to be used are all owned by the City of Westmorland and the improved property on the corner of E. 3<sup>rd</sup> Street and Center Street is currently being rented from the city by United Families. The lease with United Families expired several years ago and is currently on a month to month basis.

**Project Scope of Work.**

**Scope of work includes:** The proposed facility will serve as an Emergency Operations Center for the City of Westmorland police and fire departments. This will provide a safe, modernized space to ensure that the city’s essential service employees can adequately protect and serve our community from the threat of continual natural climate-driven disasters.

Any changes in funding sources following obligation of Agency funds must be reported to the processing official. Project feasibility and funding will be reassessed if there is a significant change in project costs after bids are received. If actual project costs exceed the project cost estimates, an additional contribution by the borrower may be necessary.

**Construction timeline.** There are still many conditions that the city must meet in order to start construction. Please read the letter of conditions attached to this report. The city still has to secure matching funds, complete the civil rights and equal opportunity requirements, permits, environmental review, architectural design and then start construction.

Staff anticipates that if every item needed is secured as quickly as possible, construction could start within 9 months.

**CONCLUSION:**

After opening a Public Hearing, gathering comments and information from the public, staff recommends closing the Public Hearing. Any and all comments from the public will be included in the project notes and reported to the funding agency.

No action will be taken on this item at the meeting tonight. Staff will continue to report to Council and the public on the status of the funding and project as it develops.

Respectfully Submitted,

Laura Fischer, Manager

Attachments:

Letter of Grant Award and Conditions.



February 19th, 2024

Laura Fischer  
City Manager  
City of Westmorland  
355 So. Center Street  
Westmorland, CA 92281

Subject: Letter of Conditions for a Community Facilities Grant to City of Westmorland FY23-DRG\_Emergency Services Building Project.

Dear Ms. Fischer:

This letter, with attachments, establishes conditions that must be understood and agreed to by the applicant before further consideration may be given to the application for Federal Assistance. The State and Area Office staff of USDA Rural Development (RD) will administer the grant funds for this project on behalf of the Rural Housing Service. All parties may access information and regulations referenced in this letter at our website located at: <https://www.rd.usda.gov/programs-services/community-facilities>. Any changes in project cost, source of funds, scope of services, or any other significant change (this includes significant changes in the Borrower's financial condition, operation, organizational structure, or executive leadership) in the project or applicant must be reported to and approved by USDA Rural Development by written amendment to this letter. **Any changes not approved by USDA Rural Development will be cause for discontinuing processing of the application.** If you do not meet the conditions of this letter, the Agency reserves the right to withdraw Agency funding.

This letter is not to be considered as grant approval or as representation to the availability of funds. The application can be processed on the basis of a USDA Rural Development grant not to exceed **\$2,737,500**. Funds for this project are provided by the Rural Housing Service (RHS).

Please complete and return the attached Form RD 1942-46, "Letter of Intent to Meet Conditions," and Form RD 1940-1, "Request for Obligation of Funds," within the next ten (10) days, if you desire that we give further consideration to your application. The execution of these and all other documents required by USDA Rural Development must be authorized by appropriate resolutions of the applicant's governing body.

The grant will be considered approved on the date Form RD 1940-1, "Request for Obligation of Funds," is mailed by USDA Rural Development.

**The applicant should not make any announcement on being selected for this funding until this selection has been announced by the Agency. If a prior announcement is necessary, approval from the Agency will be obtained.**

**Project Budget**—Based on Standard Form 424, “Application for Federal Assistance,” the project cost and funding will be as follows:

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TOTAL:	\$ 3,650,000.00

**Scope of work includes:** The proposed facility will serve as an Emergency Operations Center for the City of Westmorland police and fire departments. This will provide a safe, modernized space to ensure that the city's essential service employees can adequately protect and serve our community from the threat of continual natural climate-driven disasters.

Any changes in funding sources following obligation of Agency funds must be reported to the processing official. Project feasibility and funding will be reassessed if there is a significant change in project costs after bids are received. If actual project costs exceed the project cost estimates, an additional contribution by the borrower may be necessary.

Section I of the attached conditions (Items 1—9) must be satisfied prior to grant closing or before procurement begins, whichever occurs first, in either case not later than twelve (12) months from the date of this letter. **In the event the project has not advanced to the point of procurement within twelve (12) months, USDA Rural Development reserves the right to discontinue the processing of the application.**

**In addition to the conditions in Sections I-III, the applicant must fully comply with all requirements on Form RD 3570-3, Community Facilities Grant Agreement. The Agency reserves the right to cancel funds if the applicant does not fully comply with all requirements as presented or subsequently modified, as needed.**

If you have any questions, feel free to contact this office.

Sincerely,

Edgar O. Ortega  
Loan Specialist

cc: Justin Garey, Community Programs Director, USDA Rural Development, Davis

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**ATTACHMENT TO LETTER OF CONDITIONS**

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**SECTION I. CONDITIONS TO BE SATISFIED PRIOR TO GRANT CLOSING OR BEFORE PROCUREMENT OR CONSTRUCTION / BEGINS, WHICHEVER OCCURS FIRST**

1. **Disbursement of Funds**

- a. The applicant will provide evidence that funds from other sources will be made available for the project cost in the amount of **\$912,500**. This evidence should include a copy of the loan/grant award that addresses how funds will be disbursed.
- b. The applicant's contribution of funds toward the project cost shall be considered the first funds expended and must be deposited in its project account before construction is started. Please provide Rural Development evidencing applicant's contribution. After providing for all authorized cost, any remaining RHS project funds will be refunded to RHS.
- c. Agency funds will not be used to pre-finance funds committed to the project from other sources.

2. **Security Requirements**

- a. The applicant will be required to execute and complete Form RD 3570-03, "Community Facilities Grant Agreement"
- b. The grantee understands that any property acquired or improved with Federal grant funds may have use and disposition conditions which apply to the property as provided by 2 CFR part 200 in effect at this time and as may be subsequently modified.
- c. The grantee understands that any sale or transfer of property is subject to the interest of the United States Government in the market value in proportion to its participation in the project as provided by 2 CFR part 200 in effect at this time and as may be subsequently modified.

3. **Insurance and Bonding Requirements**—The applicant must provide evidence of adequate insurance and fidelity bond coverage by grant closing or start of construction / procurement, whichever occurs first. Adequate coverage, in accordance with USDA Rural Development's regulations, must then be maintained for the life of the grant and evidence must be submitted to Rural Development annually. Evidence that coverage is being maintained must be provided annually thereafter. It is the responsibility of the applicant and not that of USDA Rural Development to assure that adequate insurance and fidelity bond coverage is maintained. Applicants are encouraged to review coverage amounts and deductible provisions with their attorney, consulting engineer / architect, and/or insurance provider(s).

- a. Property Insurance—Fire and extended coverage will be required on all above-ground structures, including applicant-owned equipment and machinery housed therein. Provide USDA Rural Development with proof of coverage

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- b. Workers' Compensation Insurance—The applicant will be required to carry workers' compensation insurance for all employees in accordance with the State law. Provide USDA Rural Development with proof of coverage.
  - c. General liability and vehicular coverage must be maintained—Provide USDA Rural Development with proof of coverage.
  - d. Fidelity Bond—Persons who have access to the funds and custody to any property will be covered by a fidelity bond or an adequate crime policy that protects the applicant from an employee crime. Coverage may be provided either for all individual positions or persons, or through “blanket” coverage providing protection for all appropriate employees and/or officials.
4. **Civil Rights & Equal Opportunity**— The grantee has received an award of Federal funding and is required to comply with U.S. statutory and public policy requirements, including but not limited to:
- a. **Section 504 of the Rehabilitation Act of 1973** – Under Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), no handicapped individual in the United States shall, solely by reason of their handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Agency financial assistance. The Standard for compliance is the Architectural Barriers Act Accessibility Standards (ABAAS).
  - b. **Civil Rights Act of 1964** – All recipients are subject to, and facilities must be operated in accordance with, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and 7 CFR 1901, Subpart E, particularly as it relates to conducting and reporting of compliance reviews. Instruments of conveyance for loans and/or grants subject to the Act must contain the covenant required by Paragraph 1901.202(e) of this Title.
  - c. **The Americans with Disabilities Act (ADA) of 1990** – This Act (42 U.S.C. 12101 et seq.) prohibits discrimination on the basis of disability in employment, State and local government services, public transportation, public accommodations, facilities, and telecommunications.
  - d. **Age Discrimination Act of 1975** – This Act (42 U.S.C. 6101 et seq.) provides that no person in the United States shall on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
  - e. **Limited English Proficiency (LEP) under Executive Order 13166** - LEP statutes and authorities prohibit exclusion from participation in, denial of benefits of, and discrimination under Federally-assisted and/or conducted programs on the ground of race, color, or national origin. Title VI of the Civil Rights Act of 1964 covers program access for LEP persons. LEP persons are individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English. These individuals may be entitled to language assistance, free of charge. The recipient must take reasonable steps to ensure that LEP persons receive the language assistance necessary to have meaningful access to USDA programs, services, and information the recipient provides. These protections are pursuant to Executive Order 13166 entitled, “Improving Access to Services by Persons with Limited English Proficiency” and further affirmed in the USDA Departmental Regulation

4330-005, “Prohibition Against National Origin Discrimination Affecting Persons with Limited English Proficiency in Programs and Activities Conducted by USDA.”

- f. **Controlled Substances Act** - Even though state law may allow some activities, as a recipient of Federal funding, you are subject to the Controlled Substances Act. Specific questions about the Controlled Substances Act should be directed to the Servicing Official who will contact the Office of General Counsel, as appropriate.
- h. The following forms must be signed and submitted to the RD office
  - RD 400-1 Equal Opportunity Agreement
  - RD 400-4 Assurance Agreement

Agency financial programs must be extended without regard to race, color, religion, sex, national origin, marital status, age, or physical or mental handicap. The recipient must display posters (provided by the Agency) informing users of these requirements, and the Agency will monitor the recipient’s compliance with these requirements during regular compliance reviews.

The applicant is subject to a pre-grant closing civil rights compliance review by USDA Rural Development

As a recipient of Rural Development funding, you are required to post a copy of the Non-Discrimination Statement listed below in your office and include in full, on all materials produced for public information, public education, and public distribution both print and non-print.

Non-Discrimination Statement

“This institution is an equal opportunity provider and employer.”

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at <https://www.ocio.usda.gov/document/ad-3027>, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov).

If the material is too small to permit the full statement to be included, the material at a minimum includes the statement in print size no smaller than the text that “This institution is an equal opportunity provider and employer.”

- 10. **Policies, Procedures, Contracts, and Agreements** – The facility must be operated on a sound business plan which involves adopting policies, procedures, and/or ordinances outlining the conditions of service and use of the proposed system.
  - a. **Conflict of Interest Policy** – Prior to obligation of funds, you must certify in writing that your organization has in place up-to-date written standards of conduct covering conflict of interest. The standards of conduct must include disciplinary actions in the event of a



violation by officers, employees, or agents of the borrower. The standards identified herein apply to any parent, affiliate or subsidiary organization of the borrower that is not a state or local government, or Indian Tribe. Policies and accompanying documents shall be furnished to Rural Development upon request.

You must also submit a disclosure of planned or potential transactions related to the use of Federal funds that may constitute or present the appearance of personal or organizational conflict of interest. Disclosure must be in the form of a written letter signed and dated by the applicant's official. A negative disclosure in the same format is required if no conflicts are anticipated.

Sample conflict of interest policies may be found at the National Council of Nonprofits website, <https://www.councilofnonprofits.org/tools-resources/conflict-of-interest>, or in Internal Revenue Service Form 1023, Appendix A, "Sample Conflict of Interest Policy," at <http://www.irs.gov/pub/irs-pdf/i1023.pdf>. Though these examples reference non-profit corporations, the requirement applies to all types of Agency borrowers.

Assistance in developing a conflict of interest policy is available through Agency-contracted technical assistance providers if desired.

11. **Permits**—All permits involving Federal, State, and local agencies must be obtained and evidence thereof provided to USDA Rural Development prior to bidding
12. **Environmental Reviews**— The project as proposed has been evaluated to be consistent with the National Environmental Policy Act. Other Federal, State, tribal, and local laws, regulations and or permits may apply or be required. During any stage of project development, including construction, should environmental issues develop which require mitigation measures, USDA Rural Development applicants are required to notify USDA Rural Development and comply with such mitigation measures. Failure by an applicant to implement mitigation measures may disqualify the project from Agency funding. Mitigation measures identified or prepared as part of the State Environmental Act if applicable and NEPA environmental process must be implemented. If the project or any project element deviates from or is modified from the originally-approved project, additional environmental review may be required.

Rural Housing Service (RHS) has applied the Nationwide Programmatic Agreement among the U.S. Department of Agriculture Rural Development Programs, National Conference of State Historic Preservation Officers and The Advisory Council on historic Preservation for Sequencing Section 106 (NPA) for this project to avoid an impending pooling, interest rate change, or another financial deadline.

RHS has attached the RD Staff NPA Certification Checklist and NPA Applicant Awareness Certification forms to this agreement. These documents certify that RHS and the applicant are aware of their roles and responsibilities under the NPA.

RHS is aware that using the NPA conditionally concludes the Section 106 process. The disbursement of funds or construction may not begin until the Section 106 process has been completed and verified by the State Environmental Coordinator.

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**Architectural and Construction**

- a. USDA Rural Development must approve any agreements or modifications to agreements for professional planning and design services. AIA Document "Standard Form of Agreement Between owner and Architect," may be used when appropriate or other Agency approved forms of agreement
  - b. All construction will be completed under contract. The planning, bidding, contracting, and construction must comply with 7 CFR 1942, Subpart A, and any additional requirements of the State's law and the requirements of other County, State, or Federal agencies.
  - c. The following must be reviewed and approved by USDA Rural Development in the sequence indicated:
    - i. Preliminary Architectural Report
    - ii. Agreement for Architectural Services
    - iii. Final Plans and Specifications for the project
    - iv. Draft/Construction Bid Documents, prior to Going Out to Bid
    - v. Bid Award Information.
    - vi. Executed Contract Documents
  - d. Affirmative steps should be taken to assure that small, minority and/or women-owned businesses are utilized as source of supplies, equipment, construction, and services.
  - e. The Plans & Specifications must be reviewed and approved, when applicable, by any regulatory or other agencies that are required to review these documents.
  - f. A representative of USDA Rural Development will attend all pre-construction conferences in connection with this project. These conferences must be held prior to the issuance of the Notice to Proceed to the contractors. The applicant's architect will conduct the conference and document the discussions and agreements.
13. **System for Award Management Registration and Unique Entity ID**—You as the recipient must maintain the currency of your information in the System for Award Management (SAM) until you submit the final financial report required under this award and all grant funds under this award have been disbursed or de-obligated, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term. Recipients can register on-line at (<https://www.sam.gov>) You as the recipient may not make a sub-award to an entity unless the entity has provided its Unique Entity ID from SAM.gov to you.
14. **Suspension and Debarment Screening** – You will be asked to provide information on the principals of your organization. Agency staff must conduct screening for suspension and debarment of the entity, as well as its principals through the Do Not Pay Portal.
- a. Principal –
    - i. An officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or
    - ii. A consultant or other person, whether or not employed by the participant or paid with federal funds, who –
      1. Is in a position to handle federal funds;

2. Is in a position to influence or control the use of those funds; or, Occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction. (2 CFR §180.995)

15. **Electronic Funds Transfer**—All grant funds will be transferred to grantees via Electronic Funds Transfer/Automated Clearinghouse Systems (EFT/ACH). Normal transfers will be ACH, with money being placed in the grantees account two business days after the USDA processing office approves the pay request. The applicant must submit the Electronic Funds Transfer Form containing the banking (ACH) information to the USDA Servicing Office at least 45 days prior to the date of grant closing. Failure to do so could delay grant closing.

## **SECTION II. GRANT CONDITIONS TO BE SATISFIED DURING CONSTRUCTION / PROCUREMENT**

1. **Disbursement of Funds**—USDA Rural Development funds will be advanced as they are needed in the amount(s) necessary to cover the Rural Development proportionate share of obligation due and payable to the Borrower. Interest earned on grant funds in excess of \$250 for Nonprofits and \$100 for Public Bodies per year will be submitted to Rural Development at least quarterly, as required in 2 CFR part 200 as applicable.
2. **Inspections Construction**— A full-time resident inspector/project manager is required during construction unless a written exception is made by the Agency upon your written request. This service is to be provided by the consulting architect or other arrangements as approved by the Agency. Prior to the pre- construction conference, a resume of qualifications of the resident inspector(s) will be submitted to the owner and Agency for review and approval. The owner will provide a letter of acceptance for all proposed observers to the architect and Agency. The inspection reports must be available to USDA, Rural Development for review at any time. These reports must be kept at the project site or borrower's office, if nearby.
3. **Monthly Reporting** The applicant must monitor and provide a monthly report to USDA Rural Development on actual performance during construction for each project financed, or to be financed, in whole or in part with USDA Rural Development funds, to include Forms RD 1924-18, “Partial Payment Estimate”; RD 1924-7, “Contract Change Order”; SF-271, “Outlay Report and Request for Reimbursement for Construction Programs”; and Project Daily Inspection Reports.
4. **Final Inspection**—A final inspection will be made by USDA Rural Development on the component USDA is financing before final payment is made.
5. **Excess Funds**—Any remaining funds must be utilized for approved purposes within 60 days following the final inspection or the funds will be canceled without further notification from USDA Rural Development.

## **SECTION III. GRANT CONDITIONS TO BE SATISFIED AFTER PROJECT COMPLETION**

1. **Financial Statements**—To be submitted on an annual basis in accordance with the following:

- a. Borrowers and grantees that meet the Federal awards expended threshold established in 2 CFR 200, Subpart F, “Audit Requirements” (expends \$1,000,000 or more in federal financial assistance per fiscal year) shall submit an audit performed in accordance with the requirements of 2 CFR 200, Subpart F. Audits shall be submitted to USDA Rural Development in accordance with 2 CFR 200, Subpart F.
  - b. All borrowers exempt from USDA audit requirements and who do not otherwise have annual audits, will within 60 days following the end of the borrower’s fiscal year furnish USDA with annual financial statements, consisting of a verification of the organization’s balance sheet and statement of income and expenses. The recipient may use Form RD 442-2, “Statement of Budget, Income and Equity,” and 442-3, “Balance Sheet,” or similar format to provide the financial information.
  - c. An annual audit may be submitted in lieu of annual financial statements for any borrower or grantee that has an audit prepared at its own discretion and expense.
2. **Audit agreement**—If you are required to obtain the services of a licensed Certified Public Accountant (CPA), you must enter into a written audit agreement with the auditor. The audit agreement may include terms and conditions that you and auditor deem appropriate.
  3. **Compliance Reviews**—Rural Development will be required to periodically conduct a compliance review of this facility and operation. Compliance reviews will be completed one year after loan closing and every three years thereafter. You will need to provide the local office the statistical information as requested.

The Agency will conduct regular compliance reviews of the borrower and its operation in accordance with 7 CFR Part 1901, Subpart E, and 36 CFR 1191, Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities; Architectural Barriers Act (ABA) Accessibility Guidelines. Compliance reviews will typically be conducted in conjunction with the security inspections described in this letter. If beneficiaries (users) are required to complete an application or screening for the use of the facility or service that the recipient provides, the recipient must request and collect data by race (American Indian or Alaska Native, Asian, Black or African American, White); ethnicity (Hispanic or Latino, Not Hispanic or Latino); and by sex. The Agency will utilize this data as part of the required compliance review.