



Alamogordo City Commission NOTICE OF MEETING

Addendum to

Regular Meeting Agenda

Tuesday, October 14, 2014 – 7:00 pm
City Hall, City Commission Chambers
1376 E. Ninth St.

- Susie Galea** Mayor, At-Large
- Robert Rentschler**..... Mayor Pro-Tem, District 3
- Jason Baldwin**..... District 1
- Nadia Sikes** District 2
- Jenny Turnbull**..... District 4
- Al Hernandez**..... District 5
- Dr. George Straface** District 6

- Jim Stahle** City Manager
- Stephen Thies** City Attorney
- Renee Cantin** City Clerk

In accordance with Section 10-15-1.D, NMSA 1978 (2010 Cumulative Supplement), this agenda has been posted on the bulletin board located in the east/west lobby of the City Hall and in the glass case located outside a the north entrance of the City Hall, distributed to the appropriate news media, and posted on the City website: <http://ci.alamogordo.nm.us> within the required time frame. As a courtesy, the entire Agenda Packet has also been posted on the City of Alamogordo website: <http://ci.alamogordo.nm.us>

The Mayor and City Commission request that all cell phones be turned off or set to vibrate. Members of the audience are requested to step outside the Commission Chambers to respond to or to conduct a phone conversation. The Alamogordo Commission Chambers is wheelchair accessible. Other special assistance for disabled attendees must be requested 48 hours in advance by contacting the City Clerk’s Office at 575-439-4205.

Addendum to Regular Meeting Agenda

PRESENTATIONS

- A-1. Presentation of a proclamation naming October 15th, 2014 as White Cane Safety Day. (Robert Rentschler, Mayor Pro-Tem)**

NEW BUSINESS

- A-2. Review, and comment, on draft code of conduct ordinance for elected officials. (Stephen Thies, City Attorney)**



Alamogordo City Commission

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MISSION STATEMENT as Adopted by the City Commission on March 24, 1995.

The City of Alamogordo is a Municipal Corporation that exists solely for the purpose of providing the best possible services to our customers, the citizens of Alamogordo. We are committed to providing these services with honesty, integrity, compassion, fairness, and a commitment to excellence.

We are committed to the long-term financial stability and responsible growth of the City and all decisions will be driven by our commitment to provide the best services possible in a financially sound and responsible manner given the economic realities facing the City.

In accordance with Section 10-15-1.D, NMSA 1978 (2010 Cumulative Supplement), this agenda has been posted on the bulletin board located in the east/west lobby of the City Hall and in the glass case located outside a the north entrance of the City Hall, distributed to the appropriate news media, and posted on the City website: <http://ci.alamogordo.nm.us> within the required time frame. As a courtesy, the entire Agenda Packet has also been posted on the City of Alamogordo website: <http://ci.alamogordo.nm.us>

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CALL TO ORDER & ROLL CALL

Announce the presence of a Quorum.

INVOCATION & PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

PRESENTATIONS

- A-1. Presentation of a proclamation naming October 15th, 2014 as White Cane Safety Day. (Robert Rentschler, Mayor Pro-Tem)**

- 1. Presentation related to the SBA Grant with Emerging Technologies and a report from the SNMEDD Board Meeting. (Cliff Hudson, Presenter)**

2. Presentation related to the 40 Year Water Plan. (Brian Cesar, Public Works Director)PUBLIC COMMENT

Residents must sign up with the City Clerk to address the City Commission. Comments are limited to 3 Minutes, and there will be a maximum of 21 Minutes allowed for Public Comment.

CONSENT AGENDA (Roll Call Vote Required for Item No. 7)

All matters listed under the Consent Agenda are considered to be routine by the City Commission and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- 3. Approve Minutes of the September 23, 2014 Regular Meeting of the Alamogordo City Commission. (Renee Cantin, City Clerk)**
- 4. Approve statement related to the Executive Session of September 23, 2014. (Renee Cantin, City Clerk)**
- 5. Approve a Public Celebration Permit Application and a Temporary Alcoholic Beverage Dispenser's License for Heart of the Desert Winery for the Republican Party of Otero County Fundraiser event on October 25th, 2014 at Creative Designs, 917 New York Ave. (Renee Cantin, City Clerk)**
- 6. Approve the placement of a new Resident Parking Only sign for home located at 223 Texas Ave. (Renee Cantin, City Clerk)**
- 7. Approve the final publication of Ordinance No. 1474 adopting the 2013 amendments to the Uniform Traffic Ordinance with certain amendments thereto. [Roll call vote required] (Renee Cantin, City Clerk)**
- 8. Approve the Acceptance of a Deed of conveyance from Western Bank related to Silverado Park. (Stephen Thies, City Attorney)**
- 9. Approve the Agreement with French Brothers, Inc. for the Silverado Park maintenance. (Stephen Thies, City Attorney)**
- 10. Approve the Settlement Agreement and Release related to Woolen vs. City of Alamogordo, et. al. (Stephen Thies, City Attorney)**
- 11. Approve the award of RFP No. 2014-004 Evaluation of Information Technology Systems and Organization for the City of Alamogordo to Sciens Consulting. (LeeAnn Nichols, Finance Director)**
- 12. Approve Change Order No. 2 for Public Works Bid No. 2014-005 to Pate Construction Company, Inc. for the Pecan Drive Extension project, in the amount of \$39,412.62, including NMGRT. (Nancy Beshaler, Project Manager)**
- 13. Approve the award of IFB 2014-08 Miscellaneous Foods, Dairy Products, and Items for the Alamogordo Senior Center Nutrition Program to multiple vendors in the amount not to exceed \$124,944.83. (Matt McNeile, Assistant City Manager)**

ITEMS REMOVED FROM CONSENT AGENDANEW BUSINESS

- 14. Consider and act upon a request by Velmateen Holly for abatement on her utility bill at 817 Miami Street. (Armando Ortega, Customer Services Manager)**
- 15. Consider, and act upon, the first publication of Ordinance No. 1475 amending the official zoning map of the City of Alamogordo, changing the classification of the lot located between 2521 and**

2705 North Florida Avenue from R-1 Single-Family Dwelling District to C-3, Business District. (Case # Z-2014-0004)(A) *(Marc South, City Planner)*

- 16. **Discussion, and possible action, related to city codes for Unlawful Growth or Accumulation of Lots and Tracts regarding weeds (26-03-030, 040). Provide direction to staff specifically along the White Sands Blvd corridor for seasonal overgrowth related to the monsoonal rain seasons.** *(Susie Galea, Mayor)*

A-2. Review, and comment, on draft code of conduct ordinance for elected officials. *(Stephen Thies, City Attorney)*

- 17. **Appointments to Boards & Committees.** *(Susie Galea, Mayor)*

PUBLIC COMMENT *(Continued if needed)*

CITY MANAGER'S REPORT

REMARKS AND INQUIRIES BY THE CITY COMMISSION

EXECUTIVE SESSION *(Roll Call Vote Required)*

Adjourn into Closed Session in compliance with Section 10-15-1.H, NMSA 1978 (2010 Cumulative Supplement), to discuss:

- **Limited Personnel Matters (Hostile Work Environment Claims)**

ADJOURNMENT

AGENDA REPORT

CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: October 14, 2014 **Report Date:** October 1, 2014 **Report No:** 1

Submitted By: Renee Cantin
City Clerk **Approved For Agenda:** *RC*

Subject: Presentation related to the SBA Grant with Emerging Technologies and a report from the SNMEDD Board Meeting.

Background: Cliff Hudson from Emerging Technologies Venture will be making this presentation.

Reviewed By:

City Attorney _____ City Clerk *RC* Community Development _____ Community Services _____
Finance _____ Housing Authority _____ Planning _____ Personnel _____ Public Safety _____
Public Works _____ Purchasing _____ Assistant City Manager _____

U.S. Small Business Administration Regional Innovation Clusters Program

SOUTHEASTERN NEW MEXICO
AUTONOMOUS AND UNMANNED SYSTEMS CLUSTER

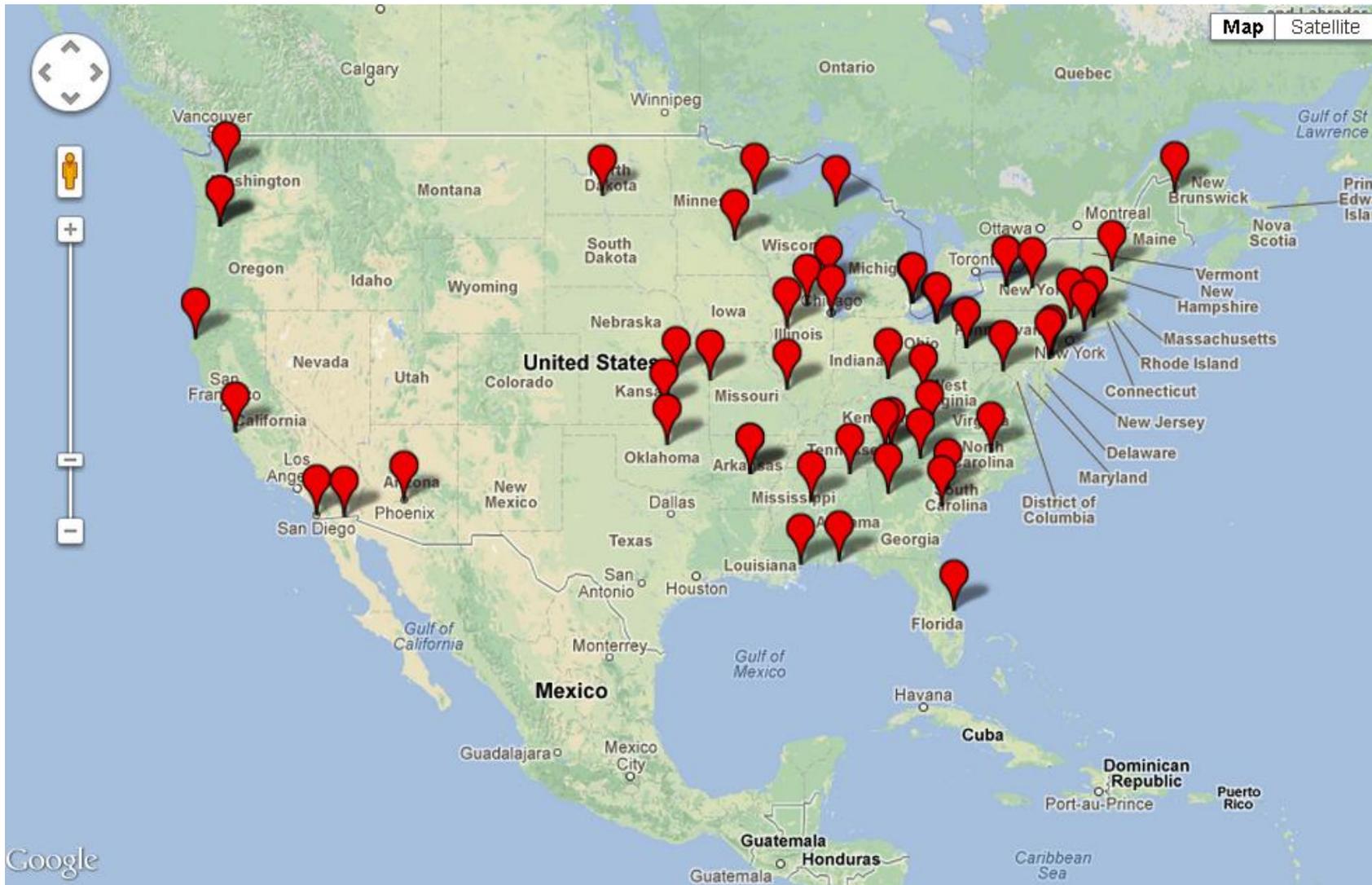


The SBA is investing in regional clusters throughout the United States that span a variety of industries including energy, manufacturing, agriculture and advanced defense technologies.

“Clusters are public-private partnerships that are driving innovation and job creation in our most promising regional hubs for innovation. We’ve built a strategic infrastructure of financing and consulting networks in key cities to help new companies launch and small companies grow. We’re unleashing the full potential of entrepreneurs who are developing cutting-edge products and processes that will help ensure American global competitiveness.”

--SBA Administrator Maria Contreras-Sweet





Bottom Line: New Mexico is under-represented in the Regional Innovation Clusters Program



- ❑ Solicitation SBAHQ-14-R-0007 released July 1, 2014
- ❑ SBA sought proposals from entities that lead regional cluster initiatives
- ❑ Anticipated 3-4 awards to complement the 40+ SBA supported regional cluster initiatives
 - ❑ One small business set-aside award
 - ❑ 2-3 full and open competition awards
 - ❑ Base year plus four option years
 - ❑ Typical award, \$500K-\$600K per year
- ❑ Proposal due July 31, 2014 at 5:00 PM MDT
- ❑ Anticipated award decisions September 2014



Offeror must address how it will deliver at least four of the following services:

- Business training;
- Business counseling/consulting;
- Mentoring;
- Technology transfer counseling/consulting;
- Commercialization of existing research and development (R&D) counseling/consulting;
- Engagement with Department of Defense, Department of Energy or other federal agencies Small Business Innovative Research & Development Programs;
- Support in obtaining Facility Clearance status and holding of security clearances;
- Export readiness counseling/consulting;
- Support for underserved communities; and/or
- Other defined services relevant to small businesses.



- ❑ Utilize the Comprehensive Economic Development Strategy (CEDS) for the Southeastern New Mexico Economic Development District (SNMEDD)
 - ❑ Includes five county region of Otero, Lea, Chaves, Eddy, and Lincoln
 - ❑ Covers 2011-2015 and is Economic Development Administration approved
 - ❑ Update in progress with meeting tomorrow in Alamogordo
- ❑ Leverage Alamogordo's ongoing cluster effort which began in 2012 with an integrated strategy for infrastructure and connectivity through-out the five county region
 - ❑ Establish regional governance utilizing the SNMEDD framework
 - ❑ Utilize the Alamogordo La Velle Road facility as an innovation hub with infrastructure to support emerging small business technology companies
 - ❑ Regional capacity to be established in each county to deliver services and support
- ❑ Utilize the Regional Economic Development Councils as strategic partners and service providers
- ❑ Utilize New Mexico State University System including the Small Business Development Centers and Arrowhead Center as service providers





Defense



Precision Agriculture



Infrastructure Protection



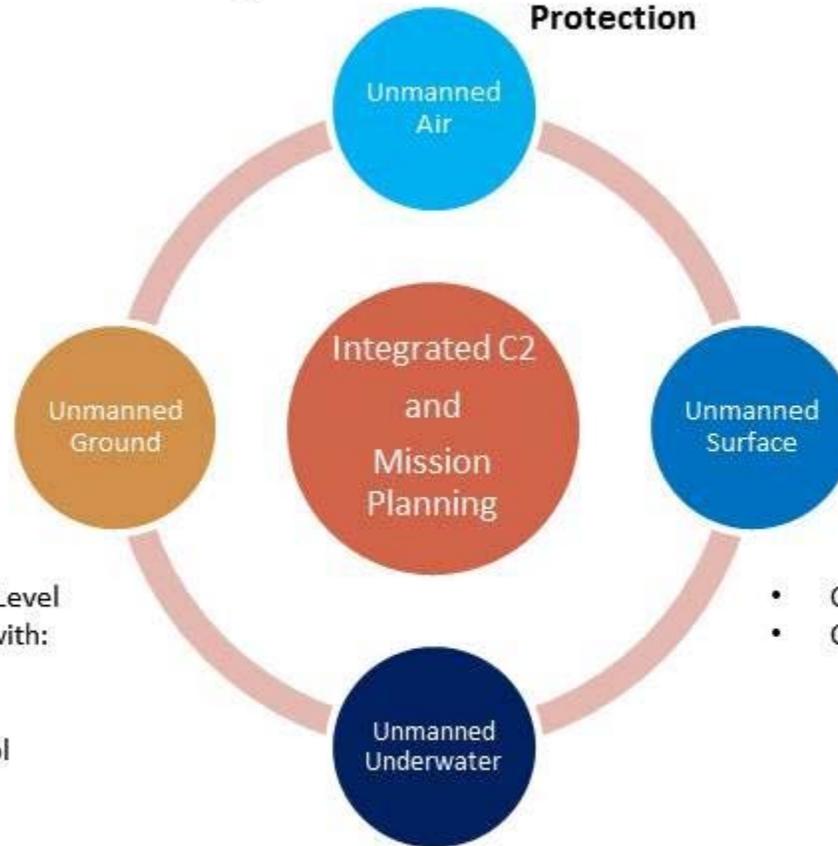
Logistics



Maritime Operations



Environmental Management



Design Features

- Autonomy at the Platform Level
- Human Systems Interface with:
 - Reduced staffing
 - Dynamic planning
 - Multi-vehicle control

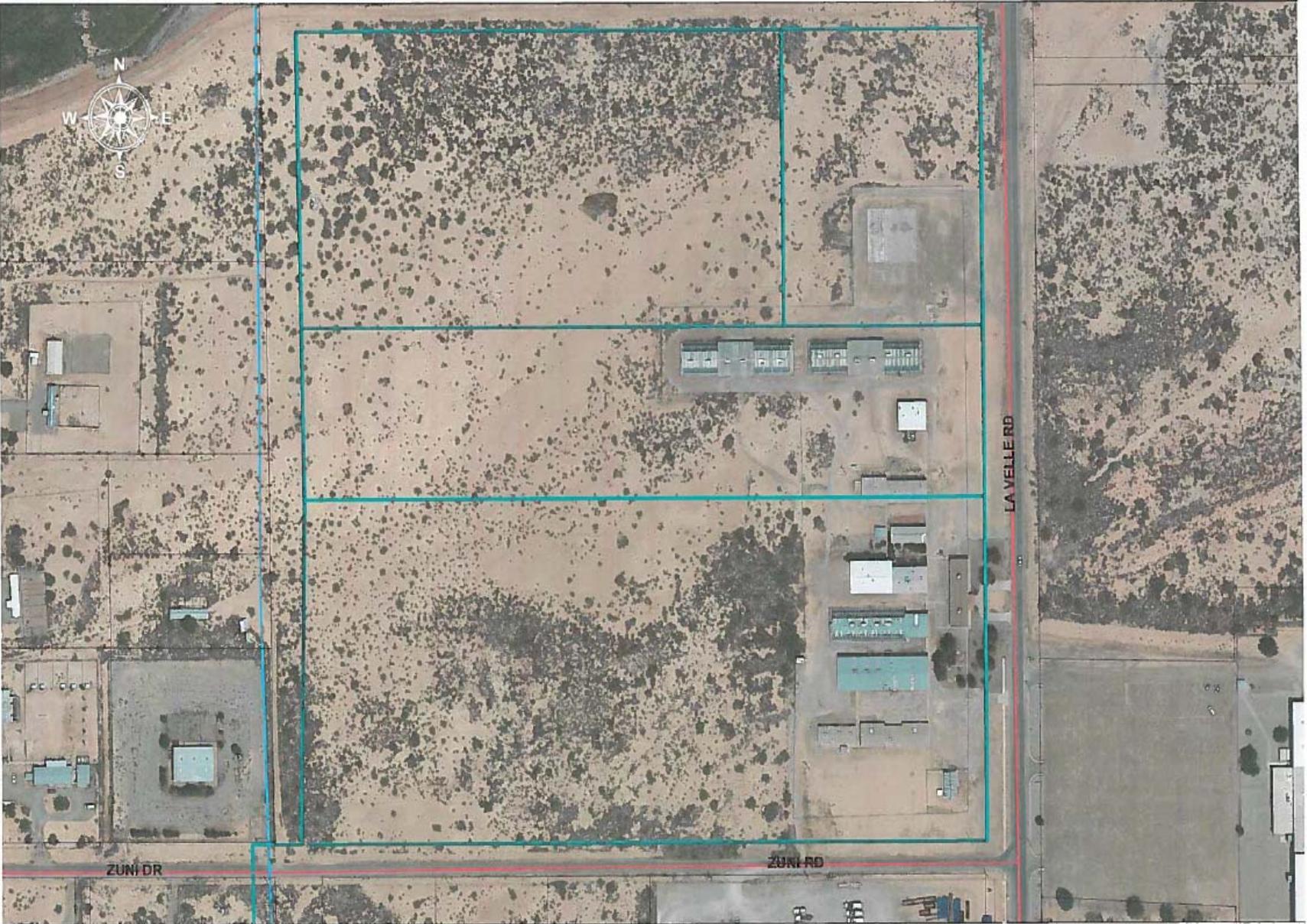
Design Features

- Collaborative, team autonomy
- Open architecture:
 - Robotic Operating System
 - Common C2 and mission planning

Collaborative, Cross-Domain Solutions for Complex Environments

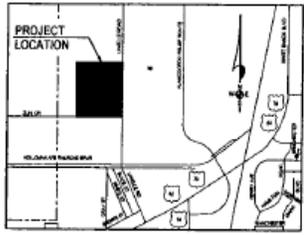


LA VELLE ROAD FACILITY

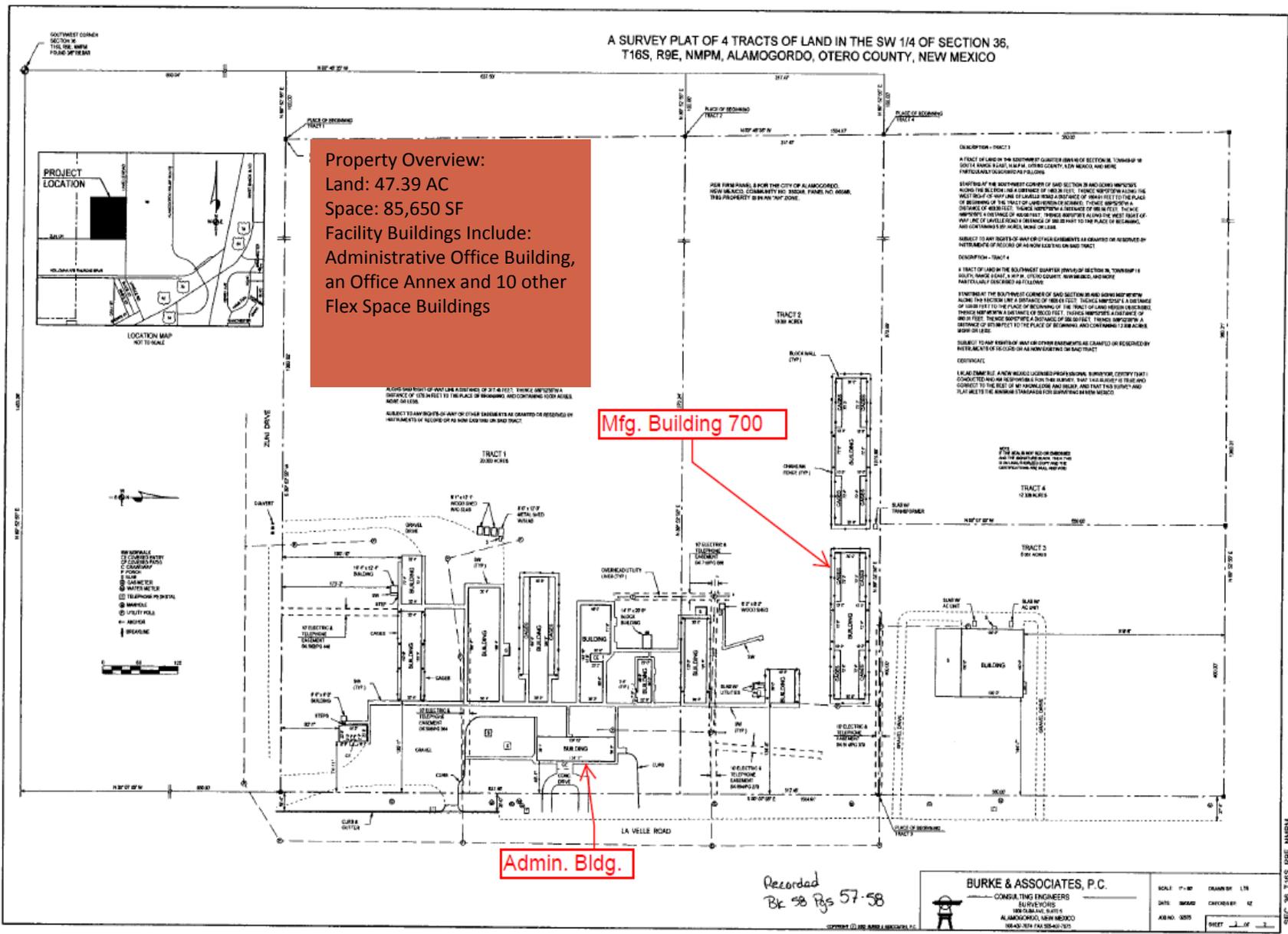


INNOVATION
GROWTH

A SURVEY PLAT OF 4 TRACTS OF LAND IN THE SW 1/4 OF SECTION 36,
T16S, R9E, NMPM, ALAMOGORDO, OTERO COUNTY, NEW MEXICO



Property Overview:
 Land: 47.39 AC
 Space: 85,650 SF
 Facility Buildings Include:
 Administrative Office Building,
 an Office Annex and 10 other
 Flex Space Buildings



Mfg. Building 700

Admin. Bldg.

Recorded
Bk 58 Pg 57-58

BURKE & ASSOCIATES, P.C.
 CONSULTING ENGINEERS, P.C.
 SURVEYORS
 1000 DALLAS SUITE
 ALAMOGORDO, NEW MEXICO
 (505) 431-1514 FAX (505) 431-7215

SCALE: 1" = 40' DRAWN BY: LTR
 DATE: 08/04/05 CHECKED BY: GZ
 AERO: 0005 SHEET: 1 OF 1



**INNOVATION
GROWTH**

- ❑ *Build innovative, high-growth companies* by providing investment capital, specialized expertise, and critical infrastructure.
- ❑ Speed the transition of disruptive technologies to capitalize on market opportunities and *value for our public and private investors*.
- ❑ Forge durable public-private partnerships to *support sustainable economic growth* in communities nationwide like Alamogordo, NM.
- ❑ *Create a culture of innovation* that supports Science, Technology, Engineering and Mathematics (STEM) education and fostering the development of tomorrow's leaders in science and engineering.



INNOVATION
GROWTH 



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NEWS

SBA Announces Four New Regional Innovation Cluster Awards

Release Date: Tuesday, September 30, 2014
Release Number: 14-57
Contact: Miguel Ayala (202) 205-6420
Internet Address: <http://www.sba.gov/news>

WASHINGTON – U.S. Small Business Administration Administrator Maria Contreras-Sweet today announced the SBA's support of four new Regional Innovation Clusters, adding to its portfolio of high-performing regional innovation networks across the country.

"Clusters are public-private partnerships that are driving innovation and job creation in our most promising regional hubs for innovation," Contreras-Sweet said. "SBA has built a strategic infrastructure of financing and consulting networks in key regions to help new companies launch and small companies grow, particularly in underserved communities across the country. We're unleashing the full potential of entrepreneurs who are developing cutting-edge products and processes that will help ensure American global competitiveness, creating support systems for small businesses in regions with the most need."

The four Regional Innovation Cluster awardees, ranging from \$500,000 to \$550,000, were selected from more than 40 applicants and represent a wide range of diverse geographic areas and industries. From urban to rural, and clean technology to autonomous systems, these cluster initiatives focus on the most effective approaches to linking small businesses to regional networks of leading research, commercialization tools and financing.

SBA's funding will be provided to each clusters organizing entity to strengthen opportunities for small businesses within the cluster. The funds will be used to provide mentoring and counseling services, mentor-protégé and teaming programming, and to showcase and pitch events to prospective investors and public-private sector adopters of new technology.

The four new Regional Innovation Clusters include:

Water Technology Cluster, Milwaukee, Wis.:

Already convening the highest concentration of companies focused on water technology in the nation, the cluster will utilize SBA funding to establish a Center of Excellence for Freshwater Innovation and Small Business Development. Co-located in the recently launched Global Water Center, the Center of Excellence will provide a myriad of small business services including technology transfer, counseling, acceleration and mentorship.

Marine Industries Science and Technology Cluster, I-10 Corridor (Louisiana,

Latest Headlines

- ▶ [SBA Announces Four New Regional Innovation Cluster Awards](#)
- ▶ [SBA Announces Support for Eight ScaleUp Communities, Spurring Job Creation for Growth-Oriented Small Businesses](#)
- ▶ [SBA Economic Injury Disaster Loans Available in New York Following Secretary of Agriculture Disaster Declaration](#)

[More SBA News ▶](#)

Additional Resources

- [Blogs](#)
- [Strategic Plan](#)
- [FY 2012 Budget Summary](#)
- [SBA Lending Statistics for Major Programs](#)



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Mississippi, Alabama, and Florida):

The Marine Industries Science and Technology (MIST) Cluster will focus on the Stennis Space Center's ecosystem of world class marine technology research, the highest concentration of oceanographers in the world, and a broad consortium of federal and state partners to provide targeted support for the creation and growth of small businesses involved in "blue technology."

Autonomous and Unmanned Systems Cluster, Southeastern New Mexico:

From precision agriculture and forestry management to clean energy development, Southeastern New Mexico is well-positioned to capitalize on the ever-increasing applications of autonomous and unmanned systems. By leveraging technical capabilities and federal research facilities to help catalyze new small business innovation, the cluster initiative will use SBA funding to provide specialized technology transfer assistance, targeted business counseling and teaming assistance programs. In coordination with other state and local partners, the cluster will inaugurate an 85,000 square-foot innovation hub that will include 3D manufacturing and prototyping tools and co-working space/incubation for autonomous system startups.

Retail, Supply Chain and Food Processing Cluster of the Ozarks Region, Northwest Arkansas, Northeast Oklahoma, and Southeast Missouri:

Anchored by three of the largest companies in retail, logistics and food processing, the Ozarks region is experiencing a startup ecosystem boom producing new ventures that provide strategic, technology-driven innovation in the value chains represented by these sectors. Funding will also be used to provide service delivery to underrepresented businesses in the region and business acceleration to two new cohorts in the ARK accelerator, a world renowned business accelerator.

Since 2010, the SBA has invested in regional clusters throughout the United States. The goal of the SBA's involvement in clusters is to increase small business participation and economic activity. For more information on the SBA's clusters initiative, visit www.sba.gov/clusters.

###

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Aid, counsel, assist and protect, insofar as is

possible, the interests of small business concerns.



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	Data Store				

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AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: October 14, 2014 **Report Date:** October 1, 2014 **Report No:** 2

Submitted By: Renee Cantin
City Clerk **Approved For Agenda:** RC

Subject: Presentation related to the 40 Year Water Plan.

Background: Brian Cesar, Public Works Director will be making this presentation.

Reviewed By:

City Attorney _____ City Clerk RC Community Development _____ Community Services _____
Finance _____ Housing Authority _____ Planning _____ Personnel _____ Public Safety _____
Public Works _____ Purchasing _____ Assistant City Manager _____

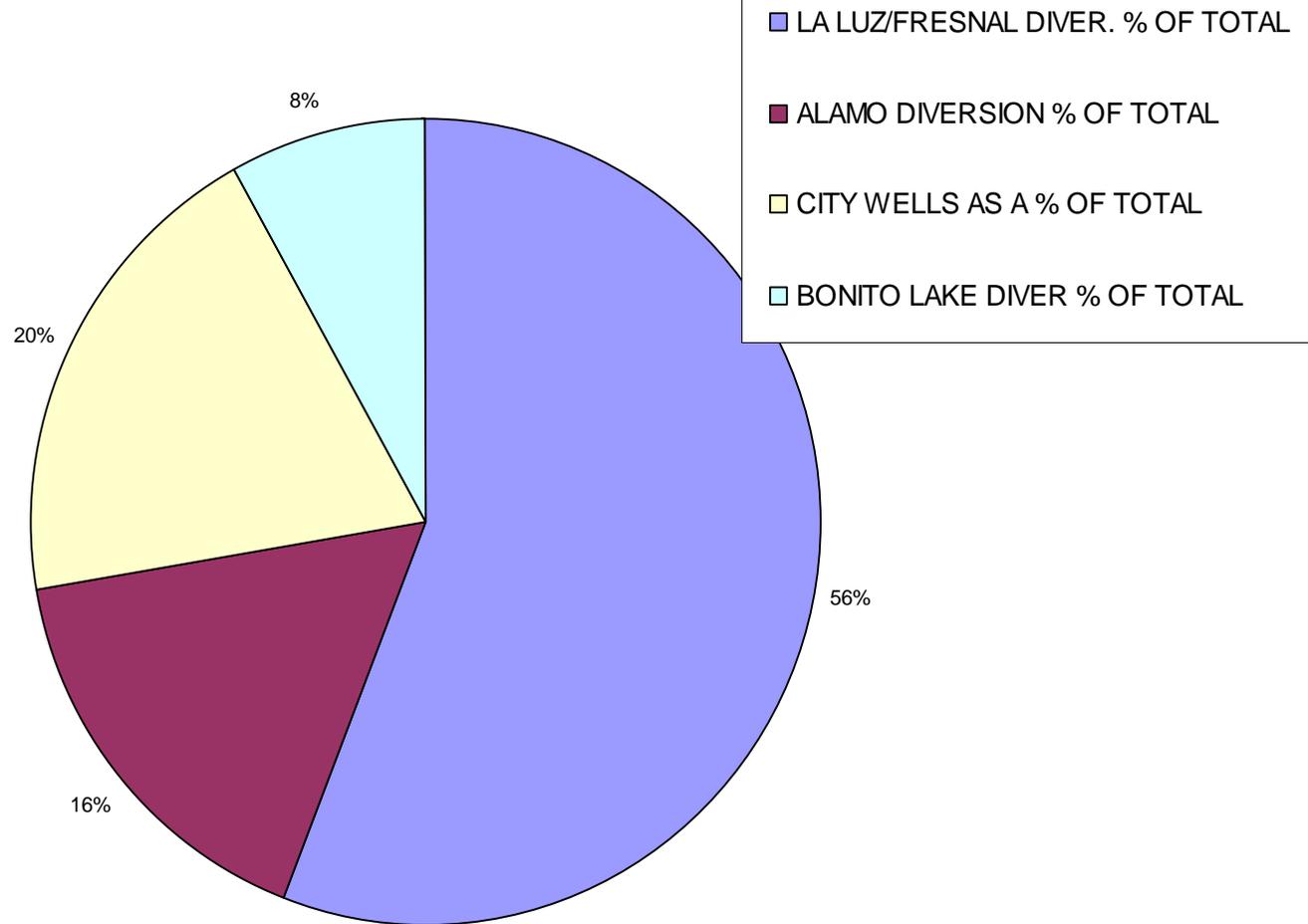
40 Year Water Plan Update

Municipalities have a special obligation to guarantee an adequate water supply at all times for their residents. In the City of Alamogordo's case, more than 40,000 people (including Holloman Air Force Base), rely on the City to provide water for their health, safety, and welfare. Because of this significant responsibility to provide water at all times and under all circumstances, each municipality must analyze its specific circumstances to assess current and future water needs.

Present Water Demand

- The City of Alamogordo's average annual water diversions were about 1.5 billion gallons per year (4,502 AFY) between 2006 and 2010. Average metered water deliveries totaled 3,982 AFY between 2006 and 2010. Of these metered deliveries, residential use is approximately 80%; and commercial use is around 20%.
- Average daily diversions totaled about 4.0 MGD between 2006 and 2010. Average diversions for the month of June, typically the month with highest water use, totaled about 5.1 MGD between 2006 and 2010.
- Water losses, as a percentage of total diversions, averaged about 11 percent between 2006 and 2010 (which is typical for a municipality).

Source Contribution 1990 to Present



City of Alamogordo Surface Water Sources, Water Rights and Firm Yield

Surface Water	Water Right, AFY	Firm Yield,** AFY
Bonito Lake	1449	271 a
La Luz- Fresno	891 AFR + 16CFS*	1653
Alamo Canyon	3078	601
Total Surface Water	5418 AFY + 16 CFS*	2525

* - 16 CFS (cubic feet per second) is time-of-day limited

** a reliable surface water supply of 3,513 AFY was used by the NMOSE for permit T-3825 et al settlement

a- Currently, Bonito Lake supply is zero due to Little Bear fire in 2012

City of Alamogordo Ground Water, Water Rights and Firm Supply

Ground Water	Water Right	Firm Supply *
	AFY	AFY
La Luz Wells (T-32-S-2 through T-32-S-9)	3000	2979 a
Prather Wells (T-33 and T-33-S)	500	500
Golf Course Well (T-814)	269.9	270
Mountain View Well (T-3489-repl)	161	160
Snake Tank Well Field (T-3825 et al.; ARWSP)	4000 c	3360 b
Total Ground Water	7930.9	7269

a based on increase in firm supply associated with replacing Wells 3 (T-32-S-4) and 5 (T-32-S-6), and planned replacement of additional wells under T-32 et al. to maintain optimum well efficiency

b based on 4000 AFY diversion and an approximate overall 84 percent treatment recovery for ARWSP

c permit conditions allow diversion up to 4,000 AFY, but can be increased up to 5,000 AFY, provided that the sum of annual diversions for any consecutive 5-yr period does not exceed 20,000 AFY

* The NMOSE used 7,131 AFY for settlement purposes

Original Plan for the period 2000 - 2040

- The original Plan identified the ARWSP as the recommended alternative to meet the City's long-term water supply needs.
- As recommended, to-date, the following wells have been replaced:
 - 1) La Luz Well Nos. 2, 3 and 5 in the La Luz Well Field,
 - 2) Well Nos. 1 and 2 in the Prather Well Field (T-33 and T-33-S),
 - 3) Golf Course Well (T-814),

This program has successfully provided an additional ground water supply of about 1,500 acre-feet per year (AFY) from these three sources combined.

While the City is in process of implementing the ARWSP, it continues to examine other avenues for conserving water and increasing the water supply. Since the original Plan, the City has:

- 1) Evaluated the potential for using reclaimed water for non-potable applications (car washes, industry, etc.) and trading farmers some of the City's reclaimed water for their potable irrigation water;
- 2) Performed a preliminary evaluation of the potential for utilizing re-purified water for aquifer recharge and/or surface water blending in indirect potable reuse (IPR) applications;
- 3) Completed covering and lining of the 180 million-gallon raw water storage reservoirs to eliminate water loss due to evaporation;
- 4) Covered and lined the reclaimed water storage reservoirs to eliminate evaporation losses and preserve the quality of this valuable non-potable water resource used for irrigation (which helps to conserve the fresh water supply);
- 5) Continued the waterline repair program, water meter replacements and other water system projects under the City's Infrastructure Capital Improvement Plan, to reduce water losses from leakage;
- 6) Continued to review proposals from the private industry for bulk water supply and potential City purchase.

Future Demand for Water

- Future water demands for the City of Alamogordo are computed using the established City-wide total water use goal of 165 gpcd.
- This assumes that the current proportion of single-family and multi-family residential, commercial, industrial and other water uses remain relatively constant for the planning period.
- This assumption also provides for the continued commercial and industrial economic development within the City (at approximately 20 percent of total water use).
- Water conservation measures and increased reclaimed water use (for commercial or industrial non-potable purposes) provide economic development opportunities within the 165 gpcd use goal.

Projected Water Demands for the City of Alamogordo, 2015 to 2055

Year	AFY	MGY	MGD	PEAK MGD a
2015	7,185	2,341	6.4	14.1
2020	7,626	2,485	6.8	15.0
2025	8,095	2,637	7.2	15.9
2030	8,594	2,800	7.7	16.9
2035	9,122	2,972	8.1	17.9
2040	9,685	3,155	8.6	19.0
2045	10,279	3,349	9.2	20.2
2050	10,914	3,556	9.7	21.4
2055	11,584	3,774	10.3	22.7

a - Peak Day use estimated at 2.2 times Average Day use.

Update Recommendations;

- 1) Immediately implement the Alamogordo Regional Water Supply Project (ARWSP) desalination facility and infrastructure. This project consists of developing the Snake Tank Well Field, monitoring wells, brackish water desalination facility and concentrate disposal system, treated water storage and pumping, and piping infrastructure to the City of Alamogordo.
- 2) Develop the capacity of the ARWSP project and the Snake Tank Well Field based on a worst-case, extreme drought (which considers that only ground water supply is available). Develop the additional brackish ground water sources needed.

Optimizing Conjunctive Use Management

- 1) Prepare an integrated water resource management plan (IWRMP) that will optimize the conjunctive operation of the various water supply sources, including the phased augmentation of the ARWSP. This IWRMP would also include the development of a water management tool that the City could use for optimizing conjunctive use while meeting demands.
- 2) Complete development the aquifer storage and recovery (ASR) program. Extend the pilot and demonstration program at Well No. 9; complete the Well No. 9 ASR permitting; implement the ASR program by conjunctive use of ARWSP water and surface water, and consider the potential for injection of re-purified water.
- 3) Prepare an up-dated Master Plan for the reclaimed water system. Expand the reclaimed water system to provide a water supply for additional non-potable uses (development of additional green spaces, etc.); evaluate the opportunity for winter water storage and reuse; evaluate the potential for industrial and/or commercial use; and evaluate innovative uses for this valuable resource.

Evaluation of Other Water Supply Alternatives

- 1) Continue the process of evaluating water supply needs and water development alternatives for the longer-term. As part of the planning process, prepare detailed studies for the water supply alternatives discussed herein.
- 2) Continue to evaluate proposals for outside bulk water purchases, provided they meet the City's water quality criteria, delivery requirements, blending potentials and the delivered water costs are comparable with the ARWSP.
- 3) Prepare feasibility studies and evaluate opportunities for up to 1,000 AFY of indirect potable reuse (IPR) of re-purified reclaimed water to augment the potable water supply through aquifer storage (ASR) at the Prather wells, La Luz wells, Golf Course well and surface water blending at the La Luz Water Treatment Plant raw water storage reservoirs.
- 4) Prepare feasibility studies and evaluate opportunities for trading up to 1,000 AFY of the City's winter reclaimed water, to local farmers for irrigation, in exchange for leasing 1,000 AFY of their irrigation water, which would be treated and used in the City water supply under the Multiple Use WaterConservation™ scenario previously outlined.

Questions?

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
7:00 P.M., COMMISSION CHAMBERS
SEPTEMBER 23, 2014**

**SUSIE GALEA, MAYOR
JASON BALDWIN, COMMISSIONER
NADIA SIKES, COMMISSIONER
JENNY TURNBULL, COMMISSIONER
AL HERNANDEZ, COMMISSIONER**

**ROBERT RENTSCHLER, MAYOR PRO-TEM
DR. GEORGE STRAFACE, COMMISSIONER
JIM STAHLER, CITY MANAGER
STEPHEN THIES, CITY ATTORNEY
RENEE CANTIN, CITY CLERK**

CALL TO ORDER & ROLL CALL / INVOCATION & PLEDGE OF ALLEGIANCE

Mayor Pro Tem Rentschler called the meeting to order. Roll Call was taken by the City Clerk. Mayor Galea and Commissioner Straface were both absent. Clerk Cantin announced there was a quorum present.

APPROVAL OF AGENDA

Commissioner Hernandez moved to approve the addendum. Commissioner Baldwin seconded the motion. Motion carried by a vote of 5-0-0.

Commissioner Hernandez moved to approve the agenda. Commissioner Baldwin seconded the motion. Motion carried by a vote of 5-0-0.

PRESENTATIONS

- 1. Presentation related to the All Natural Hazards Mitigation Plan including the kick-off discussion for development of a new plan. (*Mikel Ward, Fire Chief*)**

Deputy Fire Chief, Jim LeClair addressed the commission and spoke about Hazard Mitigation Plans. He introduced Mitigation Planning Consultant Raymond López with International Consulting & Assoc., LTD., who has been hired by the City to help with our plan. Mr. López explained the process and why the City of Alamogordo needs an All Natural Hazards Mitigation Plan; Hazard Mitigation is a program that was developed by FEMA. He remarked this city is very progressive and has a good plan in place; it simply needs to be updated. Mr. López hoped to have this completed by July of next year.

PUBLIC COMMENT

1) Kevin Dodge, Mitigation Specialist with the NM State Homeland Security Department of Emergency Management introduced himself as the person who would be the City's contact in reference to the All Hazards Mitigation Plan.

CONSENT AGENDA (Roll Call Vote Required for Items No. 5, 6, 7, & 8)

- 2. Approve Minutes of the September 9, 2014 Regular Meeting of the Alamogordo City Commission. (*Renee Cantin, City Clerk*)**
- 3. Approve the Lodger's Tax Expenditures for Tourism & Travel. (*Jan Wafful, CS Admin. Assistant*)**
- 4. Approve a Special Dispenser Permit Application and a Temporary Alcoholic Beverage Dispenser's License for Mister A, Inc. d/b/a Jerry's Lounge/Kwik Stop for the Sunset Run Race on October 4th, 2014 at Granada Center. (*Renee Cantin, City Clerk*)**

5. **Approve Resolution No. 2014-45 requesting written approval from the Local Government Division of the Department of Finance & Administration, State of New Mexico for the revised budget figures computed as of September 23, 2014. [Roll call vote required]** (*LeeAnn Nichols, Finance Director*)
6. **Approve Resolution No. 2014-52 to apply for a grant through the New Mexico Department of Transportation to complete the Master Plan for the Alamogordo White Sands Regional Airport. [Roll call vote required]** (*Matt McNeile, Assistant City Manager*)
8. **Approve the final publication of Ordinance No. 1473 amending the official zoning map of the City of Alamogordo, changing the classification of Ridge View Lot 2 (2118 North Florida Avenue) from its present zoning district of C-3, Business District to MH-2, Manufactured Housing/ Recreational Vehicle Park District. (Case # Z-2014-0003(A)). [Roll call vote required]** (*Renee Cantin, City Clerk*)
9. **Approve the Agreements with Otero County for Senior Center, related to Transportation, Meals on Wheels/La Luz and RSVP Services.** (*Veronica Ortega, Senior Center Manager*)
10. **Approve the Intergovernmental Services Agreement between the Alamogordo Public School District and the City of Alamogordo regarding the reciprocal use of lands, facilities and equipment owned by each entity.** (*Matt McNeile, Assistant City Manager*)
11. **Approve an Application for participation in the Fire Protection Fund Grant FY 2015 for the Alamogordo Fire Department for an amount up to \$100,000.** (*Mikel Ward, Fire Chief*)
12. **Approve the award of RFP No. 2014-006 for Uniformed, Unarmed Security Guard Services to Alamo Security.** (*Matt McNeile, Assistant City Manager*)
13. **Approve the Proposed Changes to Roadway Functional Classifications, per NMDOT Manual.** (*Nancy Beshaler, Project Manager*)
- A-1. **Consider and act upon a Memorandum of Understanding between the City and the American Federation of State, County, and Municipal Employees, Local 3818 ("AFSCME").**

Commissioner Hernandez moved to approve the consent agenda 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13 and A-1. Motion was amended to remove Item No. 7 for discussion. Commissioner Baldwin seconded the motion. Roll call vote was taken for Items No. 5, 6, & 8. Motion carried by a vote of 5-0-0.

ITEMS REMOVED FROM CONSENT AGENDA

7. **Approve Resolution No. 2014-53 approving a Grant Agreement between the City of Alamogordo and the US Department of Agriculture (USDA), Forest Service Collaborative Forest Restoration Planning Grant in the amount of \$445,629.00 to conduct a National Environmental Policy Act (NEPA) Environmental Impact Study for the Westside Sacramento Mountains Planning Project. [Roll call vote required]** (*Ruben Segura, Grants Coordinator*)

Grants Coordinator Segura explained to the commission this was a planning grant agreement.

Mayor Pro Tem Rentschler had concerns about passing the Resolution for this grant because of recent testimony of the NM State Engineer, and he wanted all commissioners to read this before making a decision. Concerns were the grant agreement was received from the USDA so late and going through another long environmental study.

Mr. Travis Mosley, Lincoln National Forest Supervisor and Mr. James Duran spoke in support of this agreement and explained what it would do.

Commissioner Hernandez moved to table this item until the document of testimony discussed was read. Mayor Pro Tem Rentschler seconded the motion.

Commissioner Sikes discussed if we table it we lose the money, and we approved to move forward with this in January.

Motion failed by a vote of 2-3-0. Commissioner Sikes, Commissioner Turnbull, and Commissioner Baldwin voted nay.

Commissioner Baldwin moved to approve Resolution No. 2014-53 approving a Grant Agreement between the City of Alamogordo and the US Department of Agriculture (USDA), Forest Service Collaborative Forest Restoration Planning Grant in the amount of \$445,629.00 to conduct a National Environmental Policy Act (NEPA) Environmental Impact Study for the Westside Sacramento Mountains Planning Project. Commissioner Turnbull seconded the motion. Motion carried by a vote of 3-2-0. Commissioner Hernandez and Mayor Pro Tem Rentschler voted nay.

PUBLIC HEARINGS

14. **Hold Public Hearing, consider, and act upon, Application No. A-911555 to grant a Transfer of Location for Retailer Liquor License #4020 Application No. A-911555 for Albertson's LLC d/b/a Albertson's #1053, located at 1300 Tenth St., Alamogordo, NM. (Renee Cantin, City Clerk)**

Commissioner Hernandez moved to approve Application No. A-911555 to grant a Transfer of Location for Retailer Liquor License #4020 Application No. A-911555 for Albertson's LLC d/b/a Albertson's #1053, located at 1300 Tenth St., Alamogordo, NM. Commissioner Baldwin seconded the motion. Motion carried by a vote of 5-0-0.

UNFINISHED BUSINESS

15. **Consider, and act upon, a one (1) year extension of the Agreement between the City of Alamogordo, New Mexico and Zia Therapy Center, Inc. for Public Transportation Services in accordance with Section 3 of the agreement in an amount not to exceed \$99,989.00 for the Fixed Route Services and \$10,000 for the Las Cruces Route Program. (Ruben Segura, Grants Coordinator)**

Mr. Joe Hardin, Director, Peggy O'Neal, CEO, and Sharon Gilsdorf, CFO of Zia Therapy Center, Inc., explained the Las Cruces Route Program. Power Point presentation is in the Agenda Book.

Some of the commissioners were concerned that they had budgeted \$10,000 in support of this program three years ago and had been told it would only be for one year to see if it would prove itself.

Public Comment included Harv Hamilton, Bill Dennis, Pam Laterno, Loretta Benavides, and Renee Cantin who all testified in support of this item.

Commissioner Baldwin moved to approve a one (1) year extension of the Agreement between the City of Alamogordo, New Mexico and Zia Therapy Center, Inc. for Public Transportation Services in accordance with Section 3 of the agreement in an amount not to exceed \$99,989.00 for the Fixed Route Services and \$10,000 for the Las Cruces Route Program. Commissioner Turnbull seconded the motion. Motion carried by a vote of 3-2-0. Mayor Pro Tem Rentschler and Commissioner Hernandez voted nay.

NEW BUSINESS

16. Discussion, and possible action, related to the culverts located North of 24th Street in the Dry Canyon Arroyo. (Jim Randall, Requestor)

This item was withdrawn by the requestor.

17. Consider, and act upon, a request to release a utility lien filed in 2008 for the property located at 1408 Challenger Avenue. (Stephen Thies, City Attorney)

Commissioner Hernandez moved to approve a request to release a utility lien filed in 2008 for the property located at 1408 Challenger Avenue. Commissioner Turnbull seconded the motion. Motion carried by a vote of 5-0-0.

18. Notification of Boards & Committees Vacancies. (Susie Galea, Mayor)

There were no appointments made.

PUBLIC COMMENT (Continued if needed)

None.

CITY MANAGER'S REPORT

1) City Manager Stahle thanked the Fire, Police, and Public Works Dept. for their hard work in the community during the flooding over the last several days. He also thanked Staff for putting sandbags at convenient locations. He made the comment we have a lot of work to do, especially on the north end of the City, to combat the drainage system problem.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

A) Mayor Pro Tem Rentschler also thanked all the City Staff for their work during the flooding.

B) He had gone around the city looking at various areas and noted the area at the old reservoir was a problem.

EXECUTIVE SESSION (Roll Call Vote Required)

- **Purchase of Real Property (Lot 2B, Industry Center Subdivision, Replat B).**

Commissioner Baldwin moved to Adjourn into Executive Session to discuss the Purchase of Real Property (Lot 2B, Industry Center Subdivision, Replat B) at 9:01 p.m. Commissioner Hernandez seconded the motion. Roll call vote was taken by the Clerk. Motion carried by a vote of 5-0-0.

ADJOURNMENT

Mayor Susie Galea

ATTEST:

City Clerk Reneé L. Cantin

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: October 14, 2014 **Report Date:** October 1, 2014 **Report No:** 5

Submitted By: Reneé Cantin
City Clerk **Approved For Agenda:** 

Subject: Approve a Public Celebration Permit Application and a Temporary Alcoholic Beverage Dispenser's License for Heart of the Desert Winery for the Republican Party of Otero County Fundraiser event on October 25th, 2014 at Creative Designs, 917 New York Ave.

Fiscal Impact:
Amount Budgeted:
Fund:

Recommendation: Approve the Public Celebration Permit and temporary license.

Background: According to Ordinance No. 1303, Section 5-01-035(a) states: The governing body of the city has deemed it advisable to allow and license limited public sale of alcoholic beverages at retail and consumption on the sale premises of alcoholic beverages approved by the city commission in specific areas of the public parks of said city, and, during community-wide celebrations, on certain other public places. Such sale shall be by responsible persons duly licensed under the *Code of Ordinances*, and shall be allowed for limited periods of time, as hereinafter specifically provided.

Heart of the Desert does hold a current liquor license with the City and is asking for approval for this temporary license for the Republican Party of Otero County Fundraiser event on October 25th, 2014 at Creative Designs, 917 New York Ave.

The fee of \$50.00 per temporary location has been paid for this license. The attached application has been sent for investigation to the P & Z Coordinator, Assistant City Manager, Police Chief, and Fire Chief.

Reviewed By:

City Attorney _____ City Clerk RC Assistant City Manager _____ Community Services _____
Finance _____ Housing Authority _____ Planning _____ Police Chief _____ Fire Chief _____
Public Works _____ Purchasing _____ City Engineer _____ Human Resources _____

RECEIVED

SEP 24 2014

CITY CLERK RECEIPT NO. 20431
DATE PAID SEP 24 2014

City of Alamogordo

City Clerk's Office / 1376 E. Ninth Street / Alamogordo, NM 88310 / (575) 439-4205 / (575) 439-4396 FAX

APPLICATION FOR TEMPORARY ALCOHOLIC BEVERAGE DISPENSER'S LICENSE

FEE: \$50.00 PER TEMPORARY LOCATION

LIQUOR LICENSE HOLDER INFORMATION:

NAME OF LICENSEE: Marianne Schweers

BUSINESS NAME: Heart of the Desert

BUSINESS ADDRESS: 7288 Hwy 54/70 TELEPHONE NO.: 575-434-0835

STATE LIQUOR LICENSE NO.: 6087 CITY BUSINESS LICENSE NO.: 6087

*SOCIAL SECURITY NO.: On file *DATE OF BIRTH: on file

EVENT INFORMATION:

NAME OF EVENT UTILIZING TEMPORARY LICENSE: Republican Party of Otero County Fundraiser

SPONSOR(S) OF EVENT: " "

PHYSICAL LOCATION OF EVENT: Creative Designs

917 New York, Alamogordo, NM 88310

AREA WHERE ALCOHOLIC BEVERAGES WILL BE DISPENSED; IF AVAILABLE, ATTACH MAP (SPECIFY AREA TO BE USED FOR THE PURPOSES OF THIS LICENSE. DESIGNATE SPECIFICALLY THE AREA IN A CITY PARK, OR ALTERNATIVELY, OTHER PUBLIC GROUNDS IN THE CITY): _____

DATE(S) OF EVENT: 10/25/14

TIME TEMPORARY LICENSE WILL BE OPERATIONAL: 2 pm A.M. /P.M. THROUGH 6:45 A.M./P.M.

I hereby certify that I have read and understand the following statements and will comply will all applicable laws and Ordinances:

-No alcoholic beverages may be sold at retail or consumed in any City park of the City, or on any other public grounds of said City, whether in the central business district or otherwise, except that a Temporary Alcoholic Beverage Dispenser's Licensee may use the area designated on the License for purposes of retail sale, and consumption by adult consumers of alcoholic beverages on the premises of the designated area.

-Any sale and consumption of alcoholic beverages shall be limited to the designated area.

DATE: 9/23/14 LIQUOR LICENSEE'S SIGNATURE: Marianne Schweers

ALL TEMPORARY LICENSES SHALL NOT EXCEED THREE DAYS. NO PERSON SHALL BE ISSUED MORE THAN THREE TEMPORARY ALCOHOLIC BEVERAGE DISPENSER'S LICENSES DURING ANY CALENDAR MONTH. THESE LICENSES ARE NON-TRANSFERABLE.

FOR CITY CLERK'S USE ONLY

DATE TEMPORARY LICENSE APPROVED BY THE CITY COMMISSION:

ALCOHOLIC BEVERAGES APPROVED BY THE CITY COMMISSION: Beer Wine Distilled Spirits

Other _____ **TABDL**

TEMPORARY LICENSE NO. 2014-06 **DATE FEE PAID:** 9/24/14

CALENDAR MONTH: OCT. FIRST SECOND THIRD

DATE SPECIAL DISPENSER'S PERMIT or PUBLIC CELEBRATION PERMIT APPROVAL VERIFIED WITH ALCOHOL & GAMING: _____

[01/2008]

ALCOHOL & GAMING DIVISION
PUBLIC CELEBRATION PERMIT APPLICATION WINEGROWER, SMALL BREWER & CRAFT DISTILLER LICENSE HOLDERS
(60-6A-11 / 60-6A-26.1 NMSA)

FEES ARE \$10 PER DAY -- Fees are Non-Refundable

LICENSE HOLDER INFORMATION:

Business Name (DBA) Heart of the Desert Owner Name Marianne Schweers Liquor License # 6087
Mailing Address 7288 Hwy 84/70 City, State & Zip Alamogordo, NM 88310
Contact Telephone # 575-434-0035 Fax # 575-434-2132 Email Address Remi@heartofthedesert.com

EVENT INFORMATION: Celebration type: State Fair County Fair Community Fiesta Cultural/Artistic Performance Athletic

Circle those that apply - All Age Event / Wrist Bands and/or Stamps - Beer Garden - (Indoor) / Outdoor Event Begin Time 3p End Time 6p

Description and Name of Event Repub. Party of Otero County Political fundraiser Date(s) of Event 10/25/14 Alcohol Service Begin Time 3p End Time 6p

Physical Address of Event & Name of Building or Business Creative Designs - 917 New York Alamogordo, NM 88310 Number of Persons expected to Drink 75

Description of Security Alamo Security Number of Security 1 Security Contact Name Veronica Stange Contact Telephone # 575-437-8045

Political Fundraiser

SPONSOR INFORMATION

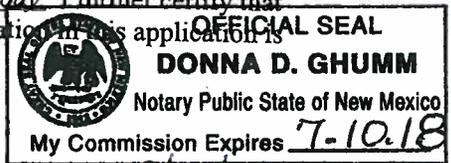
Sponsor of Event Repub. Party of Otero County Contact Name Susan Keedy Contact Telephone # 575-434-8810

BUILDING/PROPERTY OWNER APPROVAL

Name (print) Jess King Signature [Signature] Telephone # 434-4420 Date 9-19-14

LICENSE HOLDER & SERVER CERTIFICATION: I, Marianne Schweers (Licensee) hereby certify that this event is not within 300 Ft. of a church or school unless alcoholic beverages were sold there prior to July 1, 1981 or a waiver is obtained from the local governing body. I further certify that all persons providing the service of alcoholic beverages are server certified and that they are my employees and that ALL the information on this application is true and correct.

NOTE: List of servers including name, server permit # and server expiration date must be attached to permit application. Licensee agrees that if any statements or representations herein are found to be false, the director may refuse to issue additional permits.



Licensee Name (print) Marianne Schweers Signature [Signature] Date 9/23/14
All profits derived from the sale of liquor will go only to the licensee. Only the owner or authorized person under this license may sign the permit.

NOTARY INFORMATION

Subscribed and Sworn before me this 23rd day of September, 20 14 Notary Public [Signature] Exp. 7-10-18

LOCAL GOVERNING BODY APPROVAL

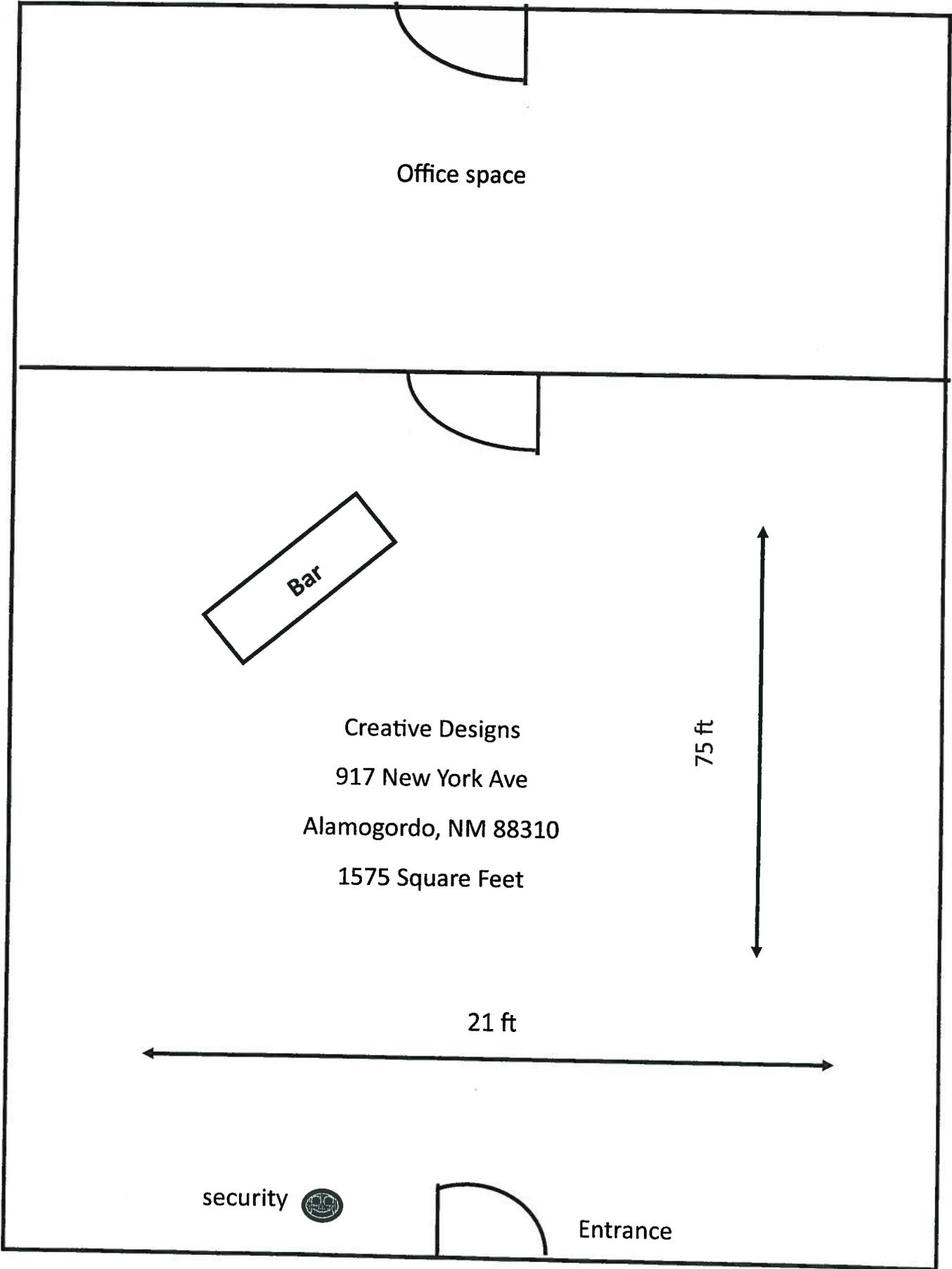
Print Name _____ Title _____ Date _____ Signature _____ Phone _____ Fax _____

ALCOHOL & GAMING DIVISION USE ONLY

Approved by: _____ Date _____ Permit Number _____
Attachments: 1) Floor plan - (Pictures) 2) Fees per day (listed on top of page) 3) Server information list

Republican party of Otero County

10/25/14



Office space

Bar

Creative Designs
917 New York Ave
Alamogordo, NM 88310
1575 Square Feet

75 ft

21 ft

security 

Entrance

New York Avenue

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: October 14, 2014 **Report Date:** October 1, 2014 **Report No:** 6

Submitted By: Nancy Jacobs
Deputy Clerk **Approved For Agenda:** 

Subject: Consider, and act upon, the placement of a new Resident Parking Only sign for home located at 223 Texas Ave.

Fiscal Impact: None.

Recommendation: Approve the placement of a sign at the above-listed property upon the applicants payment of \$100.00 for each sign.

Background: Pursuant to Section 24-01-080 of the *Alamogordo Code of Ordinances*, no residence may be posted which is not within five hundred (500) feet of the property line of a public meeting place.

Mr. Charles Thompson is requesting a Resident Parking Only sign for his home at 223 Texas Ave. This property is within 500' of a building that is in the process of being converted to a day care center operated by C.H.I.N.S. The application and a location map are attached.

Reviewed By:

City Attorney _____ City Clerk  Community Development _____ Community Services _____
Finance _____ Housing Authority _____ Planning _____ Personnel _____ Public Safety _____
Public Works _____ Purchasing _____ Assistant City Manager _____

RECEIVED
SEP 30 2014
CITY CLERK

APPLICATION FOR "RESIDENT PARKING ONLY" SIGN

Name: CHARLES THOMPSON

Phone: 575-434-8147

Address Where Sign is Requested: 223 TEXAS - 3RD St Side
Alamogordo, NM 88310
NORTH SIDE

Pursuant to Section 24-01-080 of the Alamogordo Code of Ordinances, no residence may be posted which is not within five hundred (500) feet of the property line of a public meeting place.

List the reason(s) for your request (please PRINT and be as detailed as possible):

I am less than 500' from the
NEW C.H.I.N.S ^{located} ON 300 OF TEXAS AVE.

I understand that if approved, I will have to pay a \$100 fee (per sign) to cover the cost of the sign and installation.

Charles Thompson
Applicant's Signature

30 Sept '14
Date

For Office Use Only:

City Commission Meeting Date: _____

Action: _____ APPROVED _____ DENIED

Vote: _____

Date Applicant Notified: _____

Payment Date & Receipt No.: _____

Date Work Order Requested: _____

ORDINANCE NO. 1326

CREATING A NEW SECTION IN THE *CODE OF ORDINANCES* DEALING WITH CREATING PARKING SPACES FOR PERSONS WITH MOBILITY DISABILITIES UPON THE REQUEST OF CERTAIN BUSINESSES

WHEREAS, the governing body of the City of Alamogordo is charged with creating ordinances to provide for the health, welfare and safety of the citizens; and,

WHEREAS, access to businesses is an item of significant concern for persons with significant mobility disabilities; and,

WHEREAS, the City Commission of the City of Alamogordo, New Mexico deems it in the best interest of the citizens to make provisions for providing parking for persons with significant mobility disabilities at businesses which may lack an area to provide this type of parking.

BE IT THEREFORE ORDAINED BY THE CITY COMMISSION of the City of Alamogordo, New Mexico that the *Code of Ordinances* is amended to read as follows:

SECTION ONE

24-01-080. Residential parking restricted.

(a) Except when necessary to avoid conflict with other traffic, or in compliance with this section or the directions of a police officer or official traffic-control device, no person shall stop, stand or park a vehicle, whether occupied or not, except temporarily for the purpose of, and while actually engaged in, loading or unloading merchandise or passengers, at any place where an official sign reads "Residential Parking Only," and along the curb within ten (10) feet of either side of such sign, unless given permission by the resident living directly behind the sign. Except upon the conditions listed in this section, it shall be unlawful to place a vehicle, occupied or not, along the curb within ten (10) feet of a "Designated Mobility Disabled Resident Parking Only" sign unless the vehicle has the requisite handicapped placard and the resident living directly behind the sign has given permission for the vehicle to occupy the space. A citation for violation of this section shall be written only upon complaint of such resident.

(b) The determination to post a residence with "Residential Parking Only" signs shall be made by the city commission, after good cause is shown by the applicant. Good cause must include the reasons why the applicant's residence contains inadequate parking to meet the needs of the applicant. No residence may be posted which is not within five hundred (500) feet of the property line of a public meeting place.

(c) A fee of one hundred dollars (\$100.00) shall be paid to the city treasurer upon approval of each application.

(d) The determination to post a residence with "Designated Mobility Disabled Resident Parking Only" signs shall be made administratively by a designee of the city manager, after good cause is shown by the applicant. Good cause must include the reasons why the applicant's residence contains inadequate parking to meet the needs of the applicant.

(e) At the first meeting in January each year, city manager shall prepare a list of the locations of all "Residential Parking Only" signs and all "Designated Mobility Disability Resident Parking Only" signs in the city. The city manager shall recommend continuance or discontinuance of each location; if discontinuance is recommended, the resident(s) shall be notified by first class mail not less than seven (7) days before the meeting. The commission shall direct the discontinuance and removal of signs at any location deemed advisable.

(f) The city manager shall have the authority to direct the removal of "Residential Parking Only" or "Designated Mobility Disabled Resident Parking Only" signs at any location not identified on the list of such signs approved by the city commission.

(g) Existing signs with wording approved under previous versions of this ordinance remain effective and enforceable, but shall not be replaced except with signs containing the currently approved wording.
(Ord. No. 668, § 2, 11-22-83; Ord. No. 823, 7-9-91; Ord. No. 922, 9-12-94; rd. No. 1119, 6-12-01; Ord. No. 1211, 3-22-05)

SECTION TWO

24-01-085. Parking at businesses for persons with mobility disabilities.

(a) The determination to post the curb area adjacent to a business with "Parking Designated for Persons with Mobility Disability" signs shall be made by the city commission, after good cause is shown by the applicant. Good cause must include a statement that the applicant's business does not have off-street parking available or an off-street parking space that could be used for parking for persons with mobility disabilities.

(b) The application will be accompanied by an application fee of fifty dollars (\$50) to defray the costs of investigating the application and giving notice in accordance with this ordinance.

(c) In determining whether or not to authorize a sign in accordance with this section, the commission will consider the likelihood that the parking space will serve more than one person and whether the need of the business for the space is likely to be on-going.

(d) Before an application to post a sign according to this section can be considered by the city commission, the planning division will give notice of the

application to all property owners within a 200 foot radius of the requesting business at least ten days prior to the meeting.

(e) A fee of one hundred dollars (\$100.00) for the sign shall be paid to the city treasurer upon approval of each application.

(f) The city commission will review signs placed in connection with this ordinance at the same time and in the same manner with which it reviews signs placed in accordance with section 24-01-080.

DONE this 22nd day of April, 2008.
CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation



By: Steve Brockett
Steve Brockett, Mayor

ATTEST:
Renee L. Cantin
Renee L. Cantin, City Clerk

APPROVED AS TO FORM:

Stephen P. Thies
Stephen P. Thies, City Attorney

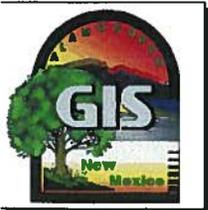
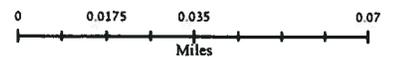
First publication approval: 3/25/08
First publication: 3/30/08
Final publication approval: 4/22/08
Final publication: 4/27/08
Effective date: 5/2/08



223 Texas Avenue
(500' Radius)



1 inch = 200 feet



AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: October 14, 2014 **Report Date:** Sept. 30, 2014 **Report No:** 7

Submitted By: Renee Cantin
City Clerk **Approved For Agenda:** 

Subject: Consider, and act upon, the final publication of Ordinance No. 1474 adopting the 2013 and 2014 amendments to the Uniform Traffic Ordinance with certain amendments thereto.

Fiscal Impact: -0-
Amount Budgeted: -0-
Fund:

Recommendation: Approve Ordinance for final publication. **[Roll call vote required]**

Background: At the Regular Meeting of August 12, 2014, the City Commission approved the Ordinance for first publication. A summary of the Ordinance was published in the *Alamogordo Daily News* on Sunday, September 28, 2014. If approved for final adoption, the summary will be published a second time on Sunday, October 19th, 2014 and will be effective October 24th, 2014.

The following information was provided by Stephen Thies, City Attorney at the time is was brought for first publication: This ordinance adopts amendments to the Uniform Traffic Code to bring it into alignment with changes made by the legislature during this year.

The changes include a word change in Section 12-1-2.1, changing "parking space" to "access aisle."

Section 12-6-12.6 has been amended to add a new paragraph concerning unlawful use of license. New sections have been added regarding electronic uniform traffic citations.

The legislature has recently adopted a new section concerning "Texting while driving." The penalty for texting while driving will be punishable by a fine of \$25 for a first violation and \$50 for a second or subsequent violation.

Amendments to the Uniform Traffic Ordinance occur routinely after each legislative session.

Reviewed By:

City Attorney _____ City Clerk  Community Development _____ Community Services _____
Finance _____ Housing Authority _____ Planning _____ Personnel _____ Public Safety _____
Public Works _____ Purchasing _____ Assistant City Manager _____

ORDINANCE NO. 1474

ADOPTING THE 2010 COMPILATION OF THE UNIFORM TRAFFIC ORDINANCE WITH CERTAIN AMENDMENTS

WHEREAS, the City of Alamogordo experiences a large volume of vehicular traffic; and,

WHEREAS, it is in the best interests of the citizens of the City that health, safety and welfare be protected through a generally recognizable set of traffic laws; and,

WHEREAS, the Uniform Traffic Ordinance, with a few exceptions, provides for traffic regulation needs of the City.

BE IT THEREFORE ORDAINED by the City Commission of the City of Alamogordo, New Mexico that the Code of Ordinances of the City of Alamogordo, New Mexico is hereby amended as follows:

SECTION ONE

24-01-10. Uniform Traffic Ordinance--Adopted.

Except as otherwise provided in this chapter the 2010 New Mexico Uniform Traffic Ordinance, a traffic code, with its amendments through 2014 is adopted by reference pursuant to Section 3-17-6, NMSA 1978 (2009 Cum. Supp.).

SECTION TWO

24-01-030. Same--Amendments.

The following amendments to the 2010 New Mexico Uniform Traffic Ordinance are adopted:

12-1-2.1 ACCESS AISLE. "Access Aisle" means a space designed to allow a person with a significant mobility limitation to safely exit and enter a motor vehicle that is immediately adjacent to a designated parking space for persons with significant mobility limitations and that may be common to two such parking spaces of at least sixty inches in width or, if the parking space is designed for van accessibility, ninety-six inches in width, and clearly marked and maintained with blue striping, and after January 1, 2011 the words "NO PARKING" in capital letters, each of which shall be at least one foot high and at least two inches wide, placed at the rear of the access aisle so as to be close to where an adjacent vehicle's rear tires would be placed (66-1-4.1 NMSA 1978).

12-6-12.6 UNLAWFUL USE OF LICENSE; DRIVING WHEN PRIVILEGE TO DO SO HAS BEEN SUSPENDED OR REVOKED.

No person shall:

A.

(1) display or cause or permit to be displayed or have in his possession any canceled, revoked or suspended driver's license or permit;

(2) lend his driver's license or permit to any other person or knowingly permit the use thereof by another;

(3) display or represent as one's own any driver's license or permit not issued to him;

(4) fail or refuse to surrender to the court upon its lawful demand any driver's license or permit which has been suspended, revoked or canceled;

(5) permit any unlawful use of driver's license or permit issued to him;
(66-5-37 NMSA 1978)

(6) drive a motor vehicle on any public street or highway at a time when his privilege to do so is suspended and who knows or should have known that his license was suspended. Upon conviction, the person shall be punished by imprisonment for not less than four days nor more than ninety days or participation for an equivalent period of time in a certified alternative sentencing program, and there may be imposed in addition a fine of not more than five hundred dollars (\$500.00). When a person pays any or all of the cost of participating in a certified alternative sentencing program, the court may apply that payment as a deduction to any fine imposed by the court.

(7) drive a motor vehicle on a highway of this state at a time when the person's privilege to do so is revoked and who knows or should have known that the person's license was revoked is guilty of a misdemeanor and shall be charged with a violation of this section. Upon conviction, the person shall be punished, notwithstanding the provisions of Sec. 31-18-13 NMSA 1978, by imprisonment for not less than four days or more than ninety days or by participation for an equivalent period of time in a certified alternative sentencing program, and there may be imposed in addition a fine of not more than \$500. When a person pays any or all of the cost of participating in a certified alternative sentencing program, the court may apply that payment as a deduction to any fine imposed by the court; and

(8) notwithstanding any other provision of law for suspension or deferment of execution of a sentence, if the person's privilege to drive was revoked for driving under the influence of intoxicating liquor or drugs or a violation of the Implied Consent Act, upon conviction shall be punished by imprisonment for not less than seven consecutive days and shall be fined not less than three hundred dollars (\$300) and not more than five hundred dollars (\$500) and the fine and imprisonment shall not be

suspended, deferred or taken under advisement. No other disposition by plea of guilty to any other charge in satisfaction of a charge under this section shall be authorized if the person's privilege to drive was revoked for driving under the influence of intoxicating liquor or drugs or a violation of the Implied Consent Act. (66-5-39.1 NMSA 1978)

B. In addition to any other penalties imposed pursuant to the provisions of this section, when a person is convicted pursuant to the provisions of this section, the motor vehicle the person was driving shall be immobilized by an immobilization device for thirty days, unless immobilization of the motor vehicle poses an imminent danger to the health, safety or employment of the convicted person's immediate family or the family of the owner of the motor vehicle. The convicted person shall bear the cost of immobilizing the motor vehicle. (66-5-39 NMSA 1978)

12-12-3 Conduct of Arresting Officer – Notices by Citation.

A. Except as provided in Section 12-12-5, unless a penalty assessment or warning notice is given, whenever a person is arrested for any violation of this ordinance or other law relating to motor vehicles punishable as a misdemeanor, the arresting officer, using the uniform traffic citation in paper or electronic form, shall complete the information section and prepare a notice to appear in court, specifying the time and place to appear, have the arrested person sign the agreement to appear as specified, give a copy of the citation to the arrested person and release him from custody.

B. Whenever a person is arrested for violation of a penalty assessment misdemeanor and elects to pay the penalty assessment, the arresting officer, using the uniform traffic citation in paper or electronic form, shall complete the information section and prepare the penalty assessment notice indicating the amount of the penalty assessment, have the arrested person sign the agreement to pay the amount prescribed, give a copy of the citation along with a business reply envelope addressed to the municipal court with jurisdiction and release him from custody. No officer shall accept custody or payment of any penalty assessment. If the arrested person declines to accept a penalty assessment notice, the office shall issue a notice to appear. (66-8-123 B NMSA 1978)

C. The arresting office may issue a warning notice, but shall fill in the information section of the uniform traffic citation in paper or electronic form and give a copy to the arrested person after requiring his signature on the warning notice as an acknowledgment of receipt. No warning notice issued under this section shall be used as evidence of conviction for purposes of suspension or revocation of license under Section 66-5-30 NMSA 1978.

D. In order to secure his release, the arrested person must give his written promise to appear in court, or to pay the penalty assessment prescribed or acknowledge receipt of a warning notice.

E. Any officer violating this section is guilty of misconduct in office and is subject to removal. (66-8-123 NMSA 1978)

F. An electronic traffic citation, prescribed by Section 12-12-3.1, is an electronic version of the uniform traffic citation. For the purposes of this section, an electronic citation may be completed instead of a uniform traffic citation; provided, however, that where this section requires a copy of a citation to be given to an arrested person, a physical copy of the citation shall be provided whether a uniform traffic citation or an electronic form of the uniform traffic citation was used. An electronic form of the uniform traffic citation may be signed electronically.

12-12-3.1 Electronic Uniform Traffic Citation

A. An electronic version of the uniform traffic citation shall include the same information required to be included in a uniform traffic citation. An electronic version of a uniform traffic citation may be signed electronically and a law enforcement office may submit or file with a court an electronic version of a uniform traffic citation if prior permission of the department has been secured. Where the law requires a law enforcement office to provide a copy of a citation to a person cited or arrested, a physical copy of the citation shall be provided regardless of whether a paper uniform traffic citation or an electronic version of a uniform traffic citation was used. (66-8-128 NMSA 1978)

12-12-11 Abstract of Traffic Cases – Report on Convictions.

A. Every municipal judge shall keep a record of every traffic complaint, uniform traffic citation and other form of traffic charge filed in the judge's court or its traffic violations bureau and every official action and disposition of the charge by that court. The court shall notify the Department if a defendant fails to appear on a charge of violating the Motor Vehicle Code or other law or ordinance relating to motor vehicles.

B. Within ten days of the later of entry of a final disposition of a conviction for violation of this ordinance or other law or ordinance relating to motor vehicles or the final decision of any higher court that reviews the matter and from which no appeal or review is successfully taken, every municipal judge, including children's court judges, or the clerk of the court in which the entry of the final disposition occurred shall prepare and forward to the department an abstract of the record containing the name and address of the defendant; the specific section number and common name of the provision of the local law, ordinance or regulation under which the defendant was tried; the plea, finding of the court and disposition of the charge, including fine or jail sentence or both; total costs assessed to the defendant; the date of the hearing; the court's name and address; whether defendant was a first or subsequent offender; and whether the defendant was represented by counsel or waived his right to counsel and, if represented, the name and address of counsel.

C. The abstract of record prepared and forwarded under Subsection B of this section shall be certified as correct by the person required to prepare it. With the prior approval of the department, the information required in Subsection B of this Section may be transmitted electronically to the department. Report need not be made of any disposition of a charge of illegal parking or standing of a vehicle except when the uniform traffic citation is used.

D. When the uniform traffic citation is used, the court shall provide the information required in Subsection B of this Section in the many prescribed by the director. A copy of each penalty assessment processed shall be forwarded to the division within ten (10) days of completion of local processing for posting to the driver's record. With the prior approval of the director, the required information may be submitted to the division by electronic means in lieu of forwarding copies of the penalty assessments.

E. The willful failure or refusal of any judicial officer to comply with this section is misconduct in office and grounds for removal. (66-8-135 NMSA 1978)

12-6-18 Texting While Driving

A. A person shall not read or view a text message or manually type on a handheld mobile communication device for any purpose while driving a motor vehicle, except to summon medical or other emergency help or unless that device is an amateur radio and the driver holds a valid amateur radio operator license issued by the Federal Communications Commission.

B. The provisions of this section shall not be construed as authorizing the seizure or forfeiture of a handheld mobile communications device. Unless otherwise provided by law, the handheld mobile communications device used in the violation of the provisions of this section is not subject to search by a law enforcement officer during a traffic stop made pursuant to the provisions of this section.

C. As used in this section:

(1) "*driving*" means being in actual physical control of a motor vehicle on a highway or street and includes being temporarily stopped because of traffic, a traffic light or stop sign or otherwise, but "*driving*" excludes operating a motor vehicle when the vehicle has pulled over to the side of or off an active roadway and has stopped at a location in which it can remain safely stationary;

(2) "*handheld mobile communications device*" means a wireless communications device that is designed to receive and transmit text or image messages, but "*handheld mobile communications device*" excludes global positioning or navigation systems, devices that are physically or electronically integrated into a motor vehicle and voice-operated or hands-free devices that

allow the user to compose, send or read a text message without the use of a hand expect to activate, deactivate or initiate a feature or function; and

(3) "text message" means a digital communication transmitted or intended to be transmitted between communication devices and includes electronic mail, an instant message, a text or image communication and a command or request to an internet site; but "text message" excludes communications through the use of a computer-aided dispatch service by law enforcement or rescue personnel.

D. A violation of provisions of this section is punishable by a fine of \$25 for a first violation and \$50 for a second or subsequent violation. Violations of provisions of this section may be included in a local penalty assessment ordinance.

24-01-040. - Schedule of penalty assessments.

As used in the New Mexico Uniform Traffic Ordinance adopted by the city, "penalty assessment misdemeanor" means violation of the following listed sections of the New Mexico Uniform Traffic Ordinance, for which the listed penalty assessment is established:

Speeding 12-6-1.2:

- (1) Up to and including ten miles an hour over speed limit\$25.00
- (2) From eleven up to and including fifteen miles an hour over speed limit40.00
- (3) From sixteen up to and including twenty miles an hour over speed limit70.00
- (4) From twenty-one up to and including twenty-five miles an hour over the speed limit110.00
- (5) From twenty-six up to and including thirty miles an hour over the speed limit210.00
- (6) From thirty-one and up to and including thirty five miles an hour over the speed limit310.00
- (7) More than thirty-five miles an hour over the speed limit410.00

Speeding in construction zones 12-6-1.2 A. (4):

- (1) Up to and including ten miles an hour over speed limit46.00
- (2) From eleven up to and including fifteen miles an hour over speed limit76.00
- (3) From sixteen up to and including twenty miles an hour over speed limit136.00
- (4) From twenty-one up to and including twenty-five miles an hour over the speed limit216.00
- (5) From twenty-six up to and including thirty miles an hour over the speed limit416.00
- (6) More than thirty-one miles over the speed limit500.00

School zones 12-6-2.7:

- (1) Up to and including ten miles an hour over speed limit50.00
- (2) From eleven up to and including nineteen miles an hour over speed limit65.00
- (3) From 20 up to and including 30 miles an hour over the speed limit90.00

Flashing signals 12-5-8	35.00
Passing vehicles proceeding in opposite direction 12-6-2.2	35.00
Limits on overtaking on the left 12-6-2.4	35.00
Further limits on driving left of center 12-6-2.5	35.00
When overtaking on right permitted 12-6-2.6	35.00
No passing zones (incl. school zones) 12-6-2.7	35.00
Driving on divided streets 12-6-2.14	35.00
Vehicle entering stop/yield intersection 12-6-4.3	35.00
Required position, method of turning 12-6-5.1	35.00
Obedience to no U-turn signs 12-6-5.4	35.00
Limitations on turning around 12-6-5.5	35.00
Starting parked vehicle 12-6-5.7	35.00
Stopping/standing parking 12-6-6.1	15.00
Parking regulations 12-6-6.2	15.00
Parking not to obstruct traffic 12-6-6.3	15.00
Standing/parking on one-way streets 12-6-6.9	15.00
Standing/parking on divided streets 12-6-6.10	15.00
Stopping/standing/parking 12-6-6.11	15.00
Angle parking 12-6-6.13	15.00
Stopping for school buses 12-6-7.3	110.00
Stop when traffic obstructed 12-6-7.2	35.00
Eye protection or windshields 12-7-5	25.00
School crossings 12-6-10	35.00
Driving through safety zone 12-6-12.15	35.00
Driving on sidewalk 12-6-12.28	35.00
Unhitched trailer 12-6-13.3	10.00
Child restraints 12-6-13.12	35.00
Seat belts 12-6-13.13	35.00
Pedestrians right-of-way 12-6-14.2	35.00
Crossing at other than crosswalks 12-6-14.4	35.00
Operation of off-highway vehicles 12-7-2	35.00
Carrying articles 12-8-6	35.00
Dimming of lights 12-10-1.6	35.00
Stop lamps 12-10-1.9	20.00
Display current valid registration plate 12-10-4	25.00

Evidence of registration 12-10-05	25.00
Driving on streets laned for traffic 12-6-2.12	35.00
Obedience to traffic control devices 12-5-3	35.00
Open container of alcoholic beverage 12-6-13.14	85.00
Operator to be licensed 12-6-12.5	55.00
Careless driving 12-6-12.4	105.00
Following too closely 12-6-2.13	35.00
Basic rule 12-6-1.1	35.00
Tail lamps required 12-10-1.7	20.00
Permitting unauthorized person to drive 12-6-12.23	35.00
Parking in alleys 12-6-6.4	10.00
Parking for certain purposes 12-6-6.5	10.00
Parking adjacent to schools 12-6-6.7	10.00
Prohibited activities while driving 12-6-12.18	35.00
Residential parking 24-01-080	10.00
Stopping/standing/parking 12-6-6.1 and 12-6-6.11	10.00
Unattended motor vehicle 12-6-12.8	35.00
Unlawful riding 12-6-13.2	35.00
Vehicle approach/entering intersection 12-6-4.1	35.00
Vehicle to be in safe condition 12-10-1.2	35.00
When lighted lamps are required 12-10-1.3	35.00
Windshield to be unobstructed 12-10-1.2	35.00
Drive on right side of street 12-6-2.1	35.00
Emerging from alleyways/driveways 12-6-7.1	35.00
Headlamps on motor vehicle 12-10-1.5	20.00
Obedience to signs designate one-way streets 12-6-2.9	35.00
Mufflers/prevention of noise 12-10-1.10	10.00
Processions 12-6-12.20	35.00
Limits on backing 12-6-12.9	35.00
Vehicle turning left at intersection 12-6-4.2	35.00
Turning and stopping movements and required signals 12-6-5.8	35.00
Texting while driving 12-6-18 - first violation	25.00
Second or subsequent violation	50.00

The penalty assessments shall be deposited in the city treasury.

SECTION THREE

The provisions of this ordinance are intended to be severable and, should any portion herein be declared null void or of no effect, it is the intention of the City Commission that the remainder of the ordinance shall remain in full effect as if the voided portion had not been enacted.

DONE this _____ day of _____, 2014

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By: _____
Susie Galea, Mayor

ATTEST:

Reneé L. Cantin, City Clerk

APPROVED AS TO FORM:

Stephen P. Thies, City Attorney

First Publication Approval: 08/12/2014
First Publication: 09/28/2014
Final Publication Approval: 10/14/2014
Final Publication: 10/19/2014
Effective Date: 10/24/2014

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: October 14, 2014 **Report Date:** September 30, 2014 **Report No:** 8

Submitted By: Stephen P. Thies **Approved For Agenda:** CHZ

Subject: Consider and act upon a deed of conveyance from Western Bank

Fiscal Impact: Unknown
Amount Budgeted: NA
Fund: Fund 32 (Community Services)

Recommendation: Accept the deed of conveyance from Western Bank for Lot 1, Block C, Silverado Subdivision.

Background: Several years ago the French Brothers subdivided a tract of land located adjacent to South Florida into a residential subdivision known as the Silverado Subdivision. As shown on the attached plat, there exists a 3 acre tract located within the subdivision identified as Lot 1, Block 3. As part of the subdivision approval process, this tract was proposed for development as a neighborhood park. Background material is attached.

The necessary infrastructure, such as water, sewer and streets have now been completed, inspected and will be accepted shortly by the City. A substantial number of houses have been constructed within the subdivision. Several months ago, the developers began to develop Lot 1, Block 3 into the agreed upon park. Another item on the agenda addresses future maintenance of the park.

Although it was included in the subdivision, ownership of the park lot was retained by Western Bank, not the developer of the subdivision. Consequently, since the subdivision did not dedicate the specific lot to the city for park purposes, it is necessary for Western Bank to convey the property to the city. Attached is a copy of a limited warranty deed given for that purpose.

Staff requests acceptance of the deed.

Reviewed By:

City Attorney SPT City Clerk RC Community Development _____ Community Services _____
Finance _____ Housing Authority _____ Planning _____ Personnel _____ Public Safety _____
Public Works _____ Purchasing _____ Assistant City Manager _____

Recessed at 9:03 and Reconvened at 9:11

- 19. Consider, and act upon, Silverado Subdivision Final Plat, Subdivider's Contract, Waiver of Protest Agreement, and the 3 acre park in lieu of the 5% Public Land Fee for French Holdings LLC.** *(Matt McNeile, Assistant City Manager and Rocio Dominguez, Planning and Zoning Coordinator)*

Mayor Griggs read the agenda report and turned the floor over to Mr. McNeile.

Mr. McNeile said this is the final plat for the Silverado Subdivision and as you can see it is located at South Florida and Desert Lakes Road. Terracon did a Landfill Closure and Post-Closure Plan that was under review by the Public Works Landfill Consultant and approved by the New Mexico State. The park will be just grass and will have a well to irrigate the park. We will be working with French Brothers on the installation of the irrigation system.

Mayor Pro-Tem Cole said he is always in favor of those parks as everyone is well aware. He then asked Mr. McNeile if he could show on the plat where more or less where that park is going to be. He said he spoke with Mr. French this morning and he wasn't quite sure if we were talking about the same geographical area and he is wondering if he just understood. He knows we only briefly talked about that because we were talking about another subject. Mr. McNeile pointed it out on the map. Mr. South said if you look at the slide, the light blue part that has the address block over it is the subdivision that is Silverado; the purple part is the big pit. Mayor Pro-Tem Cole thinks it looks awful large there. Mayor Griggs asked Mr. French how deep the pit would be. Mr. French said he was not sure. Mayor Griggs said the deepest part of it is further to the east.

City Manager Roath said he notices in the unofficial minutes of the Planning and Zoning that Mr. French had indicated that he was going to grass the park and also provide a gazebo. Mr. French said we are going to develop the park. Right now our plans is that we will have a fully grass park with sidewalks and we are planning to put in a gazebo type structure for people to have picnics. City Manager Roath asked if that include playground equipment also. Mr. French said typically our communities don't include playground equipment because he is philosophically opposed to it. We have provided grassy parks and places for kids to go out and play, throw a football, make up their own games and as a parent he would rather have a big rock out there where they could invent their own game around it. We will not be installing playground equipment. City Manager Roath said he saw that but thought he would ask anyway. Mr. French said they will commit to the park aspect but not the playground equipment. City Manager Roath asked if they are still going to be putting in the gazebo. Mr. French said that is their plan right now unless something changes. Mr. McNeile said when they get ready to install the irrigation our staff will get with them on it. Mr. French stated the way they did Los Alturas Park we used the same equipment that the city likes to use as far as the sprinkler head.

Commissioner Rentschler said you talked about awhile for this but who is picking up the tab on it. Mr. French stated that they will be picking up the tab on it. The city ordinances actually say that we will do the land dedication if the city will develop the park, however each time he meets with staff he is always told that the city does not have any money. He said we are developing the park which includes drilling a well. Both us and the city have looked at using one of the existing that is no longer being used on Desert Lakes Road but staff wasn't in favor of that so we'll bear that expense. We already have a water appropriation that we applied for and got to water that park. He added for all of the Commission's information this is really a textbook example of what is supposed to happen in the construction of green parks. The very first thing that they tell you to do is have a proper closure plan which we have already done, and to put dirt on top of it and plant grass seed.

Commissioner Rardin said instead of doing a well is there any way to use the effluent out there; do we have any lines nearby. Mr. McNeile stated they would have to bring it all the way from the golf course. Commissioner Rardin asked if we had anything on South Florida yet. Mr. French said there was not but added that we were not opposed to getting effluent there but the system is not really set up for us

to borrow water from the golf course.

Mayor Pro-Tem Cole said some of us in here do a lot of walking but in walking there is a lot of ladies or mothers that are pushing baby carriages and he is glad that the French Brothers are making some of those types of things in that area around those homes for young families. He does a lot of walking along the Flood Control Ditch and he sees that quite regularly, mothers pushing their babies and a lot of walkers who are out there daily.

Mayor Griggs Mayor Griggs asked if there were any additional questions or comments; hearing none, he asked for a motion on this item.

Commissioner Rentschler moved to approve Silverado Subdivision Final Plat, Subdivider's Contract, Waiver of Protest Agreement, and the 3 acre park in lieu of the 5% Public Land Fee for French Holdings LLC. Commissioner Rance seconded the motion. Motion carried with a vote of 7-0-0.

20. **Consider, and give direction to staff about a property the City owns and is leasing located near Thunder Rd. (Matt McNeile, Assistant City Manager and Rocio Dominguez, Planning and Zoning Coordinator)**

Mayor Griggs read the agenda item and turned the floor over to Mr. South.

Mr. South began by saying this matter came up in May, running it through P&Z and all of that. We were approached by a representative of Legacy Christian Academy which has taken over and is now operating their school at the school building and gymnasium that was formally used by Christ Community Church, up in the intersection of Thunder Road and Scenic area. The people from the Legacy Christian Academy were saying that they had subleased this parcel from Christ Community Church or had leased it from the City and Christ Community Church had wanted out of the middle of the transaction and would we be interested in leasing or selling the property to Legacy Christian Academy. As he walked this request around there was much surprise because we did not know that it was our piece of property up there, it is about five acres. It had been leased to Christ Community Church on a 25 year lease in 1983, so the lease expired in 2008. There is not a question of displacing the prior lease holder and Christ Community Church had said they wanted out of the middle of the transaction anyway. However, in the course of going through the documentation this land was given to the city at the time the Heights Subdivision was done expressly as park property. In discussing with Mr. McNeile, there is no appetite on the part of the city to have a park up there mainly because it is buried at the back of the subdivision and there is no practical way for DPS to be able to drive by and see what is happening in the park at night or anything like that because it is completely buried. It was given to us for a park but it was never really been used as a park and Christ Community Church had it from 1983 going forward. We took this through P&Z and brought it to the Commission just to try and get a sense of what you might be interested in doing; are you interested in leasing it, are you interested in selling it, are you interested in giving it away. There are some concerns that we are going to have to address in regards to our utility easements that area on this property, there are a couple of big water lines that run under it as well. Whatever advise the Commission gives us we are going to have to walk around through staff and make sure that everyone's concerns are addressed. Once we have done that we will bring back whatever seems consistent with your wishes with what the needs of the property are. At this point we need your direction on what you are willing to consider as far as this property is concerned.

Mayor Griggs said if we should want to sell it we would have to go through the process of declaring it as surplus property, making the appropriate steps to move forward to sell the property and then at that point it may not be bought by the people who actually want it. The other concern is with the utilities. We need to be sure that we take those precautions. He then asked what the desire of the Commission on this matter.

Commissioner Ferguson said if this was given to us to be used as a park, was there any part of that

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: July 26, 2011 **Report Date:** July 20, 2011 **Report No:** 19

Submitted By: Rocío Domínguez **Approved For Agenda:** MBR

Subject: Consider, and act upon, **Silverado Subdivision** final plat for French Holdings LLC (Case # S-2007-0987(A)).

Fiscal Impact: None
Amount Budgeted: \$ 0
Fund: N/A

Recommendation: Approve the final plat and the 3 acre park in lieu of the 5% Public Land Fee, Subdivider's Contract and the Waiver of Protest Agreement.

Background: The Planning and Zoning Commission recommended approving this final subdivision plat by a vote of 3-0-0 at their June 23, 2011 meeting. The proposed subdivision has 20.174 acres and 47 lots. The lot areas will range from 0.19 Acres to 0.83 Acres.

The developer proposes to dedicate 3 acres for Public land of which only 2 acres would be developable as public park due to the steep slope at the east side of the park. The five percent (5%) of the total area of the subdivision required is 1 acre. This parcel of land to be dedicated as a public park was used as a concrete & asphalt dump. It has been covered by some topsoil and will be covered by more when the subdivision is done. The goal is to have a small community park. The only parking provided for this park will be adjacent on-street parking. Level 1 environmental audit has been performed on this property. Terracon did a Landfill Closure and Post-Closure Plan that was under review by the Public Works Landfill Consultant and approve by the New Mexico State. The developer will provide adequate park irrigation system and water supply.

Utility and street improvements are required to be provided in each new subdivision in accordance with the Technical Standards and the subdivider shall be required to enter into a contract with the City for the construction of such improvements. [§22-01-050, Code of Ordinances of the City of Alamogordo, New Mexico]

The Street, Utility and Grading (SUG) Plans and drainage report are approved.

Reviewed By:

City Attorney RI City Clerk CC Community Development _____ Community Services _____
Finance _____ Housing Authority _____ Planning _____ Personnel _____ Public Safety _____
Public Works _____ Purchasing _____ Assistant City Manager _____

City of Alamogordo Community Development

Memo

To: Planning and Zoning commission
 From: Rocío Domínguez, Planning and Zoning Coordinator
 Date: June 15, 2011
 Re: Case S-2007-0987(A) Final Plat – SILVERADO SUBDIVISION

Case #:	S-2007-0987
Owner & Applicant:	French Holdings LLC
Property Address:	2293 South Florida
Property Code & Map Code	01-13307 & 01N-4-056-096-066-462
Property Legal Description	LOT 1, WESTERN BANK SOUTH FLORIDA, ALAMOGORDO, OTERO COUNTY, NEW MEXICO CONTAINING 20.17 ACRES
Proposed Legal Description	LOTS 1, WESTERN BANK SOUTH FLORIDA, ALAMOGORDO, OTERO COUNTY, NEW MEXICO CONTAINING 20.17 ACRES
Current Zone	R-1 Single Family Dwelling
Request:	Property owner French Holdings LLC request approval of final plat of Silverado Subdivision. The subdivision future proposal includes 20-foot front yard setbacks, no alleys, open space dedication (park), construction and installation to City standards of streets (dedication, curb, gutter and paving) and installation of utilities (water and sewer).

Discussion: The subdivision consists of 47 lots plus 3-acre Park and lot areas ranging from 0.19 acres to 0.83 acres. The subdivision will have two streets that will connect to South Florida. None of the proposed lots will have direct access to Florida Avenue.

IN REVIEWING THE APPLICATION STAFF FINDS:

1. Through alleys, having a width of twenty feet (20'), are required in each block. [§22-01-070, Code of Ordinances of the City of Alamogordo, New Mexico]
A variance to the alley requirement is required.
2. It was agreed that deed covenants would be added to prevent homeowners from building or expanding their homes too close to the edge of the down slope into the former gravel pit.
3. Public land, at a maximum of five percent (5%) of the total area of the subdivision, exclusive of streets and alleys, is required to be dedicated to the City of Alamogordo. [§22-01-110, Code of Ordinances of the City of Alamogordo, New Mexico]
3-Acre lot is provided on the plat for Public land of which only 2 acres would be developable as public park due to the steep slope at the east side of the park. The five percent (5%) of the total area of the subdivision required is 1 acre. This parcel of land to be dedicated as a public park was used as a concrete & asphalt dump. It has been covered by some topsoil and will be covered by more when the subdivision is done. The goal is to have a small community park. The only parking provided for this park will be adjacent on-street parking. Level 1 environmental audit has been performed on this property. Terracon did a Landfill Closure and Post-Closure Plan that is under review by the Public Works Landfill Consultant. The developer will provide adequate park irrigation system and water supply.
4. Utility and street improvements are required to be provided in each new subdivision in accordance with the Technical Standards and the subdivider shall be required to enter into a contract with the City for the construction of such improvements. [§22-01-050, Code of Ordinances of the City of Alamogordo, New Mexico]
The Street, Utility and Grading (SUG) Plans and drainage report comments made in April 14, 2008 by the City Engineer, Public Works staff and Public Safety staff are address by the developer's engineer.

STAFF RECOMMENDATION: Approve the Plat of **SILVERADO SUBDIVISION**
 Thank you.



NEW MEXICO
ENVIRONMENT DEPARTMENT

Environmental Protection Division
Solid Waste Bureau



SUSANA MARTINEZ
Governor

JOHN A. SANCHEZ
Lieutenant Governor

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DAVE MARTIN
Secretary
RAJ SOLOMON, P.E.
Deputy Secretary

June 20, 2011

Mr. Dion Kidd
Western bank of Alamogordo
PO Box 5100
Alamogordo, NM 88311-5100

RE: Closure Notification (~3.5 unlined acres) for the Danley C&D Landfill

Dear Mr. Kidd:

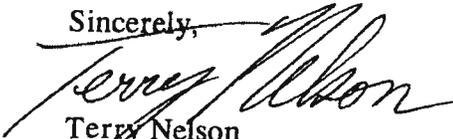
The Solid Waste Bureau is sending you final documentation for the closure of the Danley C&D Landfill.

The Bureau has enclosed:

- A. The approval of the Closure and Post-Closure Care Plan (CPC) for the Danley C&D Landfill with the attached Conditions
- B. The CPC Certificate with 30 year start and expiration dates (start date of June 16, 2011).

Please contact me if you have any questions.

Sincerely,


Terry Nelson
Permit Section Manager

Attachments: Items A & B above

emcc: John Offersen, Permit Section, SWB
Chuck Akeley, Enforcement Manager, SWB
Joey Vega, EA III, SWB
Carina Munoz-Ortega, Terracon



The New Mexico Environment Department
hereby issues this



Closure/Post-Closure Care Approval Notification
Danley C&D Landfill

Type of Facility: Construction and Demolition Landfill (Was a registered unlined landfill)
Facility ID No: CPC-031921

Facility Name & Location:
Danley C&D Landfill

**Off South Florida Ave in Alamogordo
Township 2S, R10E, SW1/4 of SW1/4 of S32
Otero County, New Mexico**

Operator's Name & Address:
**Western Bank of Alamogordo
PO Box 5100
Alamogordo, NM 88311-5100**

Closure/Post-Closure Approval Date: June 16, 2011
Closure/Post-Closure Expiration Date: June 16, 2041

Given this 20th day of JUNE, 2011.

* See attached closure conditions


Auralee Ashley-Mark
Bureau Chief-Solid Waste Bureau



NEW MEXICO
ENVIRONMENT DEPARTMENT



Office of the Secretary

BILL RICHARDSON
Governor
DIANE DENISH
Lieutenant

Harold Runnels Building
1190 Saint Francis Drive (87505)
PO Box 5469, Santa Fe, NM 87502-5469
Phone (505) 827-2855 Fax (505) 827-2836
www.nmenv.state.nm.us

RON CURRY
Secretary
JON GOLDSTEIN
Deputy Secretary

**DANLEY C&D LANDFILL
CLOSURE AND POST-CLOSURE CARE PLAN APPROVAL & CONDITIONS**

Owner: Western Bank- Alamogordo
Operator: Connie H. Danley Construction Company
Facility: Construction and Demolition Debris (C&D) Landfill
Location: SE ¼ of the SW ¼ of Section 32, Township 6 South, Range 10 East, NMPM

Pursuant to Section 20.9.6 of the New Mexico Solid Waste Management Rules (20.9.2-10 NMAC), and after providing Public Notice in accordance with Section 20.9.6.8.G NMAC; the New Mexico Environment Department hereby approves the Closure and Post-Closure Care Plan of the aforementioned facility, received March 26, 2008 and amended September 12, 2008, subject to the following condition:

Within 60 days of approval, Western Bank- Alamogordo shall:

1. Record a notation on the deed to the landfill property, or some other instrument that is normally examined during title search that the land was used as a landfill and its use is restricted under the post-closure care requirements; place a copy in the operating record; and provide a copy to the NMED;
2. Submit to the NMED a final CQA/CQC plan for construction and completion of closure activities;
3. Provide post-closure maintenance activities annually for three years, and every three years thereafter for the 30-year post-closure period;
4. Not be required to monitor for methane or ground water contaminants, as C & D waste is non-putrescible and ground water is estimated to be 150 feet bgs.

Ron Curry
Secretary - NMED

12/8/08
Approval Date

Silverado Park Maintenance Agreement

THIS PARK MAINTENANCE AGREEMENT (“Agreement”) is made and entered into this _____ day of _____, 20____, by and between French Brothers, Inc. (hereinafter referred to as “Developer”), and the City of Alamogordo (hereinafter referred to as “City”) for the maintenance of the park located at Block C, Lot 1 of the Silverado Subdivision (hereinafter referred to as “Park”).

WITNESSETH:

WHEREAS, Developer, has subdivided the Silverado subdivision in accordance with the street, utility and grading plans and specifications approved by the City, and

WHEREAS, The Silverado Subdivision contains a Construction Debris Landfill contained on Block C, Lot 1, that has been closed in compliance with a closure plan approved by the State of New Mexico, and

WHEREAS, Block C, Lot 1 shall be developed and used as a public park, and

WHEREAS, the City and the Developer agreed during the subdivision approval that the City would take possession of the park located at Block C, Lot 1, and

WHEREAS, specifications for the park improvements were not discussed during the approval process, and

WHEREAS, the Developer has constructed improvements on the park lot at its expense, and

WHEREAS, the Developer has an interest in the park being adequately maintained while the subdivision lots and homes are being sold and is willing to perform landscape maintenance during this period, and

WHEREAS, the City would receive the benefit of decreased landscape maintenance costs during this time period, and

NOW THEREFORE, for and in consideration of the premises and recitals, which are hereby deemed a substantive part of this Agreement, and the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

Section I
Developer Responsibilities

- 1.1 Warranty Period. The Warranty Period shall begin on the Effective Date of this Agreement and end on August 1, 2014. During the warranty period the Developer shall

warrant all of the improvements against defects workmanship and materials. The Developer will pass on to the City all manufacturers warranties that may extend beyond the one year.

- 1.2 Maintenance Period. The Maintenance period shall begin on the Effective date of this Agreement and end on the later of December 31, 2015 or when all lots within the subdivision have been sold. During the maintenance period the Developer will maintain the items listed below. All maintenance shall be completed in compliance with all applicable City, State and Federal ordinances, law, rules, and regulations.
 - 1.2.1 Irrigation System. The Developer shall maintain the Park irrigation system including normal routine maintenance of:
 - 1.2.1.1 The water well and its associated equipment
 - 1.2.1.2 The timer for the sprinkler system
 - 1.2.1.3 Leaks within the system piping
 - 1.2.1.4 Sprinkler heads for both routine maintenance and from damage by mowing operations.
 - 1.2.1.5 Water emitters for the shrubs
 - 1.2.2 Lawn, trees, and shrubs. The Developer will routinely mow the grass, remove weeds from the gravel areas, trim the shrubs and trees, and fertilize the plants as needed at the Park.
 - 1.2.3 Signage. The Developer shall maintain the monument located on the Park.
- 1.3 Insurance. The Developer will provide to the City a General Liability insurance certificate naming the City as an additionally insured for the duration of this agreement. This liability will extend only for the maintenance activities being done by the Developer. The Developer agrees to comply with state laws and rules applicable to workers compensation benefits for its employees.
- 1.4 The Developer acquires no interest in the Park by virtue of this Agreement.
- 1.5 The Developer shall provide and pay for all labor, materials, equipment, tools, transportation and services for maintenance under this Agreement.

Section II **City Responsibilities**

- 2.1 Ownership. The City will perform all duties as the owner of the park not assigned by the agreement.
- 2.2 Closure reporting. The City will comply with reporting requirements in the Landfill Closure Plan to the State of New Mexico
- 2.3 Water usage reporting. The City will comply with well water usage reporting requirements of the State Engineer's Office.

- 2.4 Utilities. The city shall pay all utility bills for the park.
- 2.5 Repairs from damage. The City shall be responsible for all damage and repairs that are not considered routine maintenance. This will include repairs from vandalism, public use, extreme weather, or acts of God.
- 2.6 Acceptance of Title. The City will accept title to Block C, Lot 1, without cost, by separate conveyance by its owner, Western Bank, upon ratification of this agreement by the City Commission.

Section III
Duration of Agreement

- 2.7 Term. This agreement shall enter into force upon the date of the last signature by the authorized representatives of the parties (hereinafter referred to as the "Effective Date") and it shall remain in force until December 31, 2015.
- 2.8 Extension. This maintenance agreement may be extended by mutual consent.

Section IV
Paragraph Headings.

- 4.1 Paragraph Headings. The paragraph headings used herein are for reference only and shall not affect the meaning or construction of any provision(s) of this Agreement.

Section V
Waiver.

- 5.1 Waiver. Failure by any Party to enforce or exercise rights under this Agreement, or to require performance by the other Party hereunder, shall not affect the right of any Party to exercise or enforce any such rights or require such performance at any time thereafter, nor shall the waiver by any Party of a breach of any provision of this Agreement constitute a waiver of any succeeding breach of the same or any other provision, nor shall such act constitute a waiver of the provision itself.

Section VI
Severability.

- 6.1 Severability. In the event any provision of this Agreement is determined, upon interpretation or construction by a Court of competent jurisdiction or by an arbitrator, to be invalid, unenforceable or otherwise prohibited, in whole or in part, such provision(s) shall be ineffective to the extent of such invalidity, unenforceability or prohibition. The remaining provisions of this agreement shall be given effect to the maximum extent then permitted by law.

Section VII

7.1 Status of Consultant/Contractor. The Developer and its agents and employees are independent contractors performing maintenance services for the City and are not employees of the City of Alamogordo. The Developer and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this agreement. The Developer agrees not to purport to bind the City unless the Developer has express written authority to do so, and then only within the strict limits of that authority. The Developer will be responsible for compliance with all applicable laws, rules and regulations involving, but not limited to, employment, labor hours of work, working conditions, payment of wages, payment of taxes, such as unemployment, social security and other payroll taxes including other applicable contributions from such persons when required by law.

7.2 Indemnification. The Developer shall defend, indemnify and hold harmless the City from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this agreement, caused by the negligent act or failure to act of the Developer, its officers, employees, servants, subcontractors or agents, resulting in injury or damage to persons or property during the time when the Developer or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this agreement.

7.3 Immunity. The parties acknowledge and agree that nothing in this agreement shall be construed as a modification, compromise or waiver by the City of any rights or defenses of any immunities provided by Federal law or the laws of the State of New Mexico to the City or any of its officers and employees, which they may have had, now have or will have with respect to all matters arising out of this agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitation of the New Mexico Tort Claims Act.

7.4 Equal Opportunity Compliance. In accordance with all such laws of the State of New Mexico, the Developer assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this agreement. If the Consultant/Contractor is found not to be in compliance with these requirements during the life of this agreement, Consultant/Contractor agrees to take appropriate steps to correct these deficiencies.

7.5. Miscellaneous Provisions.

a. This agreement shall be governed by the laws of the State of New Mexico as to interpretation and performance.

b. This agreement may be amended only in writing signed by both parties.

c. This agreement may not be assigned in whole or in part without written consent of the City.

Section VIII

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

DEVELOPER:

CITY of ALAMOGORDO:

FRENCH BROTHERS, INC.

CITY MANAGER

By: _____
[NAME]

[NAME]

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: October 14, 2014 **Report Date:** October 2, 2014 **Report No:** 10

Submitted By: Stephen P. Thies **Approved For Agenda:** 

Subject: Consider and act upon Settlement Agreement and Release related to Woolen v. City of Alamogordo, et al.

Fiscal Impact: \$25,000
Amount Budgeted: \$100,000
Fund: 107-2400-419.58-14

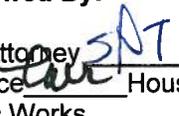
Recommendation: Approve Settlement Agreement and Release

Background: Ms. Stesha Woolen is a former employee of the City who was terminated in June of 2012. Prior to her termination, she had submitted a very extensive records request. After her termination, Ms. Woolen brought suit against the City alleging wrongful termination and a violation of the Inspection of Public Records Act. The latter claim was due to the failure of the City to provide her with the requested records.

A settlement conference was conducted in late-August which resulted in an agreement to resolve all of Ms. Woolen's claims against the City. A copy of the settlement agreement along with two dismissals are attached to this agenda report. As described in the settlement agreement, the City and the New Mexico Self Insurer's Fund agreed to pay Ms. Woolen \$137,500. Prior to the conference, possible financial terms were discussed with the City Commission in executive session. Based upon those discussions, the City agreed to contribute \$25,000 towards the settlement.

The City Commission is now being asked to formally ratify its contribution to the settlement by approving the attached settlement agreement. The NMSIF has already billed the City for its share of the settlement.

Reviewed By:

City Attorney  City Clerk  Community Development _____ Community Services _____
Finance _____ Housing Authority _____ Planning _____ Personnel _____ Public Safety _____
Public Works _____ Purchasing _____ Assistant City Manager _____

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release is entered into on this 19th day of August, 2014, between the City of Alamogordo ("City") and New Mexico Self Insurer's Fund ("NMSIF"), (collectively, "Releasees"), and Stesha N. Woolen ("Releasor").

The parties agree to the following terms and conditions of settlement:

1. City and NMSIF agree to pay the sum of One Hundred Thirty-Seven Thousand Five Hundred Dollars (\$137,500.00) to Releasor in full and final settlement of any and all disputed claims made against Releasees in her suit in the United States District Court, District of New Mexico, titled *Woolen v. City of Alamogordo, et. al.*, Cause No. 14-cv-557 CG/GBW.

2. The sum specified in Paragraph 1 shall be paid by City and NMSIF within ten (10) days of the execution of the Settlement Agreement and Release. City, NMSIF and their counsel make no representations concerning the tax status of the lump sum settlement. Any and all taxes that may be assessed on receiving the lump sum settlement are Releasor's sole responsibility. To the extent that any federal, state or local taxing authority determines that City or NMSIF should have withheld money for taxes on the lump sum payment, Releasor agrees to indemnify City and NMSIF for any such federal, state or local taxes, penalties, fines, assessments and other tax liabilities (plus costs and expenses, including attorney's and/or accountant's fees) claimed by any taxing authorities.

3. Releasor will dismiss her claims against all individually named Defendants in this matter prior to the dismissal of City.

4. Releasor does hereby, for her heirs, successors and assigns, release, acquit and forever discharge City, its employees, agents, principals, officers, directors, predecessors, successors, assigns and attorneys, from any and all claims, actions, demands, causes of actions,

rights, debts, damages or accountings of any nature whatsoever, which she ever had or may now have, whether known or unknown, and on account of or in any way arising out of her employment by City including, but not limited to, any claims arising under any federal, state or local laws prohibiting employment discrimination of any kind or nature, including, but not limited to, any and all claims arising under the New Mexico Human Rights Act, the New Mexico Whistleblower Protection Act, Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Employee Retirement Income Security Act, the Americans with Disabilities Act, the Family Medical Leave Act, the Fair Labor Standards Act, the Inspection of Public Records Act, any claims for breach of an expressed or implied employment contract, wrongful or retaliatory termination, bad faith, bad faith breach of contract, retaliatory discharge or termination, retaliation under any statute including the New Mexico Workers' Compensation Act, wrongful or abusive termination, wrongful termination in violation of public policy, personal injury, mental pain, suffering and anguish, emotional upset, impairment of economic opportunities, unlawful interference with employment rights, intentional or negligent infliction of emotional distress, fraud, defamation and other tortious conduct, and including any claims for back wages or future wages, back benefits or future benefits, profit sharing or retirement contributions or fringe benefits, impairment of economic opportunities, money damages of any kind, punitive damages, liquidated damages, costs, attorneys' fees and the Sarbanes-Oxley Act or similar theories of recovery for constructive discharge. Releasor waives and abandons any claims she may have to reinstatement into the same or similar position which she held at City.

5. Releasor agrees to immediately withdraw all requests to inspect public records submitted on or about June 4, 2012 and Releasor agrees not to refile any requests for inspection of public records seeking the same or similar documents.

6. Releasor agrees that she will not file any additional charges, claims or lawsuits based on the events, occurrences, acts or omissions occurring on or before the date of the signing of this Settlement Agreement and Release.

7. In entering into this Settlement Agreement and Release, Releasor acknowledges that she is making a knowing and voluntary waiver of rights she has or may have had under applicable state and federal law. Releasor has received this Settlement Agreement and Release and finds it to be written in a manner she can understand and understands that the Settlement Agreement and Release specifically waives her right for claims as described above. Releasor has not been asked to release a right or claim that may arise after the date the Settlement Agreement and Release is executed. This Settlement Agreement and Release is supported by consideration above and beyond the pay and benefits that Releasor earned at City prior to entering this Agreement. Releasor was advised in writing to consult an attorney prior to executing this Settlement Agreement and Release and she has consulted with her attorneys before deciding to enter into this Settlement Agreement and Release. Releasor agrees that she was given a reasonable period of time in which to consider this Settlement Agreement and Release and that she is satisfied with the time she has had to consider it.

8. Releasor agrees and acknowledges that her acceptance of payments and promises reflected in this Settlement Agreement and Release is a full, final and binding compromise of matters involving disputed issues and that payment of the sum specified in Paragraph 1 to Releasor shall not be considered an admission by the Releasees of any liability or wrongdoing on the part of Releasees, which is expressly denied, and that no part or percentage of wrongdoing on the part of any party shall be implied by this payment.

9. This Settlement Agreement and Release contains the entire agreement between Releasor and Releasees with regard to the matters set forth. There are no other understandings or agreements, oral or otherwise, between the parties, except as expressly set forth in this Agreement.

10. All parties agree to cooperate fully in giving effect to the terms of this Settlement Agreement and Release, to execute any and all supporting documents and take all additional action, necessary or appropriate, to give full force and effect of the terms and intent of this Settlement Agreement and Release. Specifically, all parties agree to cooperate in the filing of any paperwork needed to secure dismissal with prejudice of *Woolen v. City of Alamogordo, et al.*, Cause No. 14-cv-557 CG/GBW, pending in the United States District Court for the District of New Mexico.

11. Releasor warrants, represents and agrees that she is not relying on the advice of City, NMSIF or anyone associated with City and NMSIF as to the legal or other consequences of any kind arising out of this Settlement Agreement and Release. Accordingly, Releasor releases and holds harmless City and NMSIF and any and all counsel or consultant for City and NMSIF from any claim, cause, action or other rights of any kind which Releasor may assert because the legal or other consequences of the Settlement Agreement and Release are other than those anticipated by Releasor.

12. Releasor acknowledges that she is making a knowing and voluntary waiver of any and all rights she has had or may have had under the New Mexico Human Rights Act, the New Mexico Whistleblower Protection Act, Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Civil Rights Act of 1866 (42 USC §§ 1981, 1983 and 1985), the Employee Retirement Income Security Act, the Americans with Disabilities Act, the Family Medical Leave

Act, the Fair Labor Standards Act, the Inspection of Public Records Act, a claim for breach of an expressed or implied employment contract, bad faith, bad faith breach of contract, retaliatory discharge or termination, retaliation under any statute including the New Mexico Workers' Compensation Act, wrongful or abusive termination, wrongful termination violation of public policy, personal injury, mental pain, suffering and anguish, emotional upset, impairment of economic opportunities, unlawful interference with employment rights, intentional or negligent infliction of emotional distress, fraud, defamation and other tortious conduct, and including any claims for back wages or future wages, profit sharing or retirement contributions or fringe benefits, money damages of any kind, punitive damages, costs, liquidated damages or attorneys' fees. Releasor waives and abandons any claims she may have to reinstatement into the same or similar position which she held at City or to any promotions or future employment with City.

13. In entering into this Settlement Agreement and Release, Releasor certifies that she is fully competent to enter into this Settlement Agreement and Release. Releasor further represents that she has completely read all of the terms of this Settlement Agreement and Release and that these terms are fully understood and voluntarily accepted.

14. By signing this Settlement Agreement and Release, Releasor certifies that she has had the opportunity to seek counsel, she has been represented by counsel, and she is aware of her rights.

15. This Settlement Agreement and Release shall be construed and interpreted in accordance with the laws of the State of New Mexico.



Stesha N. Woolen, Releasor

SUBSCRIBED AND SWORN to before me this 20th day of August, 2014, by Stesha N. Woolen.

Audrea L. Carrillo
Notary Public

My Commission Expires:

01/25/2016



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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

STESHA N. WOOLEN,

Plaintiff,

v.

No. 2:14-cv-00557-CG-GBW

**CITY OF ALAMOGORDO, a municipal corporation,
MARK GRAHAM, MATT MCNEILE, and
STEPHEN THIES, in their official and individual capacities,**

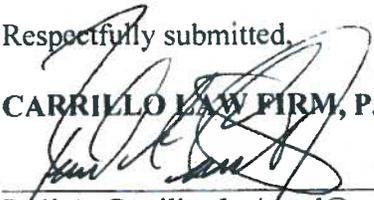
Defendants.

STIPULATION OF DISMISSAL

COME NOW the parties, by and through their counsel of record, and pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii), stipulate to the dismissal of any and all claims by Plaintiff against Defendants Mark Graham, Matt McNeile, and Stephen Thies, in their official and individual capacities.

Respectfully submitted,

CARRILLO LAW FIRM, P.C.



Raúl A. Carrillo, Jr. / raul@carrillolaw.org
Yosef W. Abraham / yosef@carrillolaw.org
1001 E. Lohman Ave.
Las Cruces, NM 88001
(575) 647-3200
(575) 647-1463 Facsimile
Attorneys for Plaintiffs

AND

MILLER STRATVERY, P.A.



Cody R. Rogers / CRogers@mstlaw.com

3800 Lohman Ave., Suite H

Las Cruces, NM 88011

575-523-2481

Attorney for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STESHA N. WOOLEN,

Plaintiff,

v.

No. 2:14-CV-00557-CG-GBW

CITY OF ALAMOGORDO, a municipal
corporation, MARK GRAHAM, MATT
MCNEILE, and STEPHEN THIES, in their
official individual capacities,

Defendants.

STIPULATION OF DISMISSAL OF PLAINTIFF'S CLAIMS

COMES NOW Plaintiff Stesha N. Woolen, and Defendant City of Alamogordo, by and through their counsel of record, and pursuant to Fed. R. Civ. P. 41(a)(1)(ii), stipulate to the dismissal of Plaintiff's claims against Defendant City of Alamogordo, with prejudice.

Respectfully submitted,

MILLER STRATVERT P.A.



By _____

Lawrence R. White

Cody R. Rogers

Attorneys for City of Alamogordo

3800 Lohman Ave., Suite H

Las Cruces, New Mexico 88011

Telephone: (575) 523-2481

Facsimile: (575) 526-2215

Email: crogers@mstlaw.com

AND

CARRILLO LAW FIRM, P.C.

Approved via e-mail 9/17/2014

Raul A. Carrillo, Jr.

Yosef W. Abraham

PO Box 457

Las Cruces, NM 88004

raul@carrillolaw.org

yosef@carrillolaw.org

Attorneys for Plaintiff

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AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: October 14th, 2014 **Report Date:** September 25, 2014 **Report No:** 11

Submitted By: LeeAnn Nichols
Finance Director **Approved For Agenda:** 

Subject: Consider and act upon, the award of RFP No. 2014-004 Evaluation of Information Technology Systems and Organization for the City of Alamogordo to Sciens Consulting.

Fiscal Impact: \$24,500.00
Amount Budgeted: \$95,000.00
Fund: 012-3402-419-5734

Recommendation: Approve award of RFP No. 2014-004 Evaluation of Information Technology Systems and Organization for the City of Alamogordo to Sciens Consulting.

Background: The City of Alamogordo requested proposals from experienced, qualified consultants to conduct an analysis of the City's Information Technology organization and structure to provide recommendations for improvements to the delivery system and organization.

RFP was advertised on August 3rd 2014 in the Alamogordo Daily News, Las Cruces Sun and El Paso Times. Four (4) responsive proposals were received on September 9th, 2014: Sciens Consulting, Zco Consulting, Martin Yarborough & Associates and Dell Marketing. Proposals were reviewed by a five member committee.

Composite Score Sheet is attached

Proposals for RFP 2014-004 are available in the City Clerk's office.

Reviewed By:

City Attorney  City Clerk  Community Development _____ Community Services _____
Finance  Housing Authority _____ Planning _____ Personnel _____ Public Safety _____
Public Works _____ Purchasing _____ Assistant City Manager _____

CITY OF ALAMOGORDO
COMPOSITE SCORE SHEET

September 17, 2014

RFP NO. 2014-004

Evaluation of Information Technology Systems and Organization

Factor	Available Points per Vendor	4 Committee Members	Sciens Consulting	Zco Consulting	Martin Yarborough & Associates	Dell Marketing
1	100	Technical Competence	87	92	81	76
2	100	Capacity & Capability	90	93	83	79
3	100	Past Record of Performance	86	93	83	15
4	50	Approach to Providing Service	45	45	42	46
5	150	Cost	150	112.5	120	15
Total Available	500	Accumulated Score	458	435.5	409	231
Total Rank			1	2	3	4

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: October 14, 2014 **Report Date:** September 25, 2014 **Report No:** 12

Submitted By: Nancy Beshaler
Project Manager **Approved For Agenda:** 

Subject: Approve Change Order No. 2 for Public Works Bid No. 2014-005 to Pate Construction Company, Inc. for the Pecan Drive Extension project, in the amount of \$39,412.62, including NMGRT

Fiscal Impact: \$39,412.62
Amount Budgeted: \$40,000 (Budget Revision Pending)
Fund: 109-7903-430.65-29 (EN1111)

Recommendation: Approve Change Order No. 2 for Public Works Bid No. 2014-005 to Pate Construction Company, Inc. for the Pecan Drive Extension project, in the amount of \$39,412.62, including NMGRT

Background: The Pecan Extension project (PW Bid No. 2014-005) constructed a new roadway (Pecan Drive) from its terminus north of White Oaks over the Teyes-Holcomb Chanel to Fairgrounds Road, constructed a new triple-barrel 10' x 11' concrete box culvert, extended water and sewer lines, and made channel improvements.

Pate Construction Company was Awarded the project and given Notice to Proceed with the work on March 24, 2014. Work was completed August 19, 2014. This change order is the final close-out change order which adjusts plan quantities for bid item overruns and underruns. The change order is attached.

Reviewed By:

City Attorney  City Clerk  Assistant City Manager _____ Community Services _____
Finance  Housing Authority _____ Planning _____ Police Chief _____ Fire Chief _____
Public Works _____ Purchasing _____ City Engineer _____ Human Resources _____

CONTRACT CHANGE ORDER

**CHANGE ORDER NO. 2
Pecan Drive Extension
EN1111
PW Bid Number 2014-005**

DATE: October 14, 2014

CONTRACTOR: Pate Construction Co., Inc.
1900 S. Florida Ave.
Alamogordo, NM 88310

OWNER: City of Alamogordo
1376 E. Ninth St.
Alamogordo, NM 88310

THE FOLLOWING CHANGES ARE HEREBY MADE TO THE CONTRACT DOCUMENTS:

Increase / Decrease plan quantities to reflect actual quantities used on project, per **Exhibit A** attached.

Overrun Quantities = \$49,978.75

Underrun Quantities = -\$13,443.00

Net Change = **\$36,535.75**

Tax @ 7.875% = \$ 2,877.19

TOTAL Change Order **\$39,412.94**

REASON FOR CHANGE ORDER:

This is the final close-out change order for the contract. This change order adjusts the contract for final quantity overruns and underruns.

Pecan Drive Extension
EN1111; PW Bid Number 2014-005
Change Order No. 2

REVISED CONTRACT AMOUNT

- 1. Original Contract Amount \$896,993.50*
- 2. Total Contract Amount Including Previously
Approved Change Orders \$924,232.95*
- 3. Amount of this Change Order \$ 36,535.75*
- 4. Total Revised Contract Amount to Date* **\$960,768.70***
- 5. Original Contract Completion Date August 31, 2014
- 6. Revised Completion Date August 19, 2014

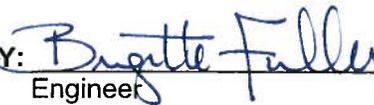
**excludes New Mexico Gross Receipts Tax*

The work covered by this order shall be performed under the same terms and conditions as that included in the original Contract.

CHANGE ORDER ACCEPTED AND APPROVED:

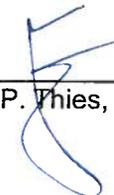
BY:  09/17/14
Pate Construction Company, Inc., Contractor Date

CHANGE ORDER RECOMMENDED:

BY:  9/23/14
Engineer Date

CHANGE ORDER APPROVED BY MAYOR:

BY: _____
Susie Galea, Mayor Date

BY:  9/27/2014
Stephen P. Thies, City Attorney Date

cc: Finance/ Purchasing
Files: Project, PM

Pecan Drive Extension (EN1111)
Final Close Out
Change Order #2
Exhibit A

	BID ITEMS	COST or (savings)	NOTES
4	SWPPP	\$ (1,200.00)	not required due to size of project
7	Utility Allowance	\$ (5,000.00)	item not needed
9	HMA SPIV 4" Thick	\$ 2,924.00	quantity overrun - plan quantity did not meet field requirements
12	Concrete Sidewalk 4" Thick	\$ (1,040.00)	quantity underrun
13	Concrete Drive Pad 6" Thick	\$ 2,400.00	quantity overrun - plan quantity did not meet field requirements
14	Metal Railing Pedestrian	\$ 12,561.00	additional handrail placed for safety
co#1	W-Beam Guardrail	\$ 3,315.50	additional guardrail placed for safety
23	Fire Hydrant Assembly (extension)	\$ 250.00	extension required for proper hydrant placement
28	Retaining Wall 4' High	\$ (5,719.00)	quantity underrun
31	Channel Paving 7" Thick	\$ 22,489.50	quantity overrun - plan quantity did not meet field requirements
32	Soil Retention Blanket	\$ 618.00	Plan quantity didn't account for overlapping
34	Gabion Basket 3'x3'	\$ 2,310.00	additional basket needed in corners for erosion protection
37	Panel Signs	\$ 8.25	quantity overrun - plan quantity did not meet field requirements
38	Steel Post and Base Post	\$ 280.50	quantity overrun - plan quantity did not meet field requirements
39	Object Marker Type 2	\$ (154.00)	quantity underrun
40	Striping - 4" White Thermo	\$ (330.00)	quantity underrun
41	Striping - 4" Yellow Thermo	\$ 192.00	quantity overrun - plan quantity did not meet field requirements
42	24" White Thermo Striping for Crosswalk	\$ 2,327.50	Crosswalk at Fairgrounds replaced due to poor condition
45	Word "ONLY" White	\$ 302.50	1 additional necessary
Total		\$ 36,535.75	
		\$ 2,877.19	tax at 7.875%
TOTAL WITH TAX		\$ 39,412.94	

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: October 14, 2014 **Report Date:** October 01, 2014 **Report No:** 13

Submitted By: Matt McNeile **Approved For Agenda:** 
Assistant City Manager

Subject: Consider, and act upon, award of IFB No. 2014-08 to multiple vendors, in amount not to exceed \$124,944.83, related to Miscellaneous Foods, Dairy Products & Items for the Alamogordo Senior Center Nutrition Program

Fiscal Impact: \$124,944.83

Amount Available: Listed Below

Fund:	071-8023-445.32-60	\$38,593.36
	071-8024-445-32-60	\$39,213.96

Recommendation: Award to Prices Creameries, Seven (7) items for an estimated total of \$13,696.64. Award to Shamrock, Eighty One (81) items for an estimate total of \$36,792.63. Award to Labatt Foods, Seventy Eight (78) items for an estimate total of \$30,011.85. Award Sysco, Sixty Six (66) items for an estimate total of \$42,135.65. Award Brady Industries Twelve (12) items for an estimate total of \$13,696.64.

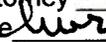
(*Bid amount estimated total of \$124,944.83 is based on bid quantities).

Background: IFB No. 2014-08 was advertised on August 17, 2014 and opened on September 16, 2014. The IFB was sent out to nine (9) prospective bidders with seven (7) responsive bids received. This IFB is awarded on an "item by item" basis to the low bidder meeting specifications and requirements. Award will be fixed-price, estimated quantity for a six (6) month period commencing October 25, 2014 through April 24, 2015.

Note: Items annotated with one asterisk (*) indicate the packaging/weight is of a lesser volume than the recommended item.

* Fiscal impact will be no more than budget. Total estimated bid of \$124,944.83 is based on maximum bid quantities. Orders are placed as items are needed, and will not exceed amount budgeted.

Reviewed By:

City Attorney <u></u>	City Clerk <u></u>	Community Development _____	Community Services _____
Finance <u></u>	Housing Authority _____	Planning _____	Personnel _____
Public Works _____	Purchasing _____	Assistant City Manager <u></u>	Public Safety _____

					Labatt		Sysco		Shamrock		Prices		All American Poly		Bernard Food		Brady Industries			
					Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
223	10	cs	2 M/case	Plastic - Sandwich-Bags-flip-top	7.46	74.60														
224	4	cs	250/case	KFS - 3 piece cutlery	10.53	42.12														
225	65	cs	250/case	Foil - Tray - 3/comp with lid	42.37	2754.05														
226	2	cs	18 X 50/case0	Foil - Heavy-Duty - 18"	19.66	39.32														
227	6	cs	20 pk/case	Napkin-Dispenser-full fold-6½Lx4¼Wx5¼H	32.90	197.40														
228	8	cs	500/case	Paper Sacks - # 6													8.65	69.2		
229	3	cs	1 M/case	Paper Liners (sheet pans)	29.73	89.19														
230	2	cs	30 - 250/case	Straws - unwrapped	39.13	78.26														
231	5	cs	144/case	Hair Nets - light brown	12.03	60.15														
232	1	cs	10 - 100/case	Latex Free-Vinyl-gloves-extra-large														24	24	
233	20	cs	10 - 100/case	Latex Free-Vinyl-Gloves-large														24	480	
234	20	cs	10 - 100/case	Latex Free-Vinyl-Gloves-medium														24	480	
235	2	cs	10 - 100/case	Latex Free-Vinyl-Gloves-small														24	480	
236	5	cs	20 - 25/case	Clear (HD 1.5 mil) 33 gal. Liner	12.50	62.50														
237	8	cs	6 - 1 ga/casel	Bleach														8.82	70.56	
238	5	cs	6 - 1 ga/casel	Pine Cleaner														17.65	88.25	
239	5	cs	15 pk/case	Nylon Soap Pads - SOS or equal														4.5	22.5	
240	5	cs	12 ct/case	Steel Scrubbers														3.75	18.75	
241	6	pails	5 gallon pails	Dishwashing Machine - Detergent - Low Temp														38.5	231	
242	6	pails	5 gallon pails	Dishwashing Machine - Rinse-Aid - Low Temp														33.75	202.5	
243	6	pails	5 gallon pails	Dishwashing Machine - Sanitizer - Low Temp														23.55	141.3	

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: October 14, 2014 **Report Date:** October 2, 2014 **Report No:** 14

Submitted By: Armando Ortega **Approved For Agenda:** 
Customer Service Manager

Subject: Consider and act upon a request by Velmateen Holly for abatement on her utility bill at 817 Miami Street.

Fiscal Impact: \$999.89
Amount Budgeted: -0-
Fund: Water & Sewer (81)

Recommendation: Deny Customer request per Leak Abatement Policy

Background: On July 02, 2014 a City Meter Reader on his routine reading route noticed a very high meter reading at 817 Miami St. As a courtesy to the customer the Meter Reader left a door tag notifying the customer of the high meter reading. The Meter Reader also noticed the water was running at the time he read the meter.

Mrs. Holly requested a leak test on August 25, 2014. No leak was found. Mrs. Holly was very adamant that she didn't have a leak at the time of the reading. The Customer Service Manager spoke with Mrs. Holly to discuss her options. She was informed thoroughly of the Leak Abatement Policy. Mrs. Holly was not satisfied with the options and requested to address Commission about her account.

The leak abatement policy only allows relief on water bills that have a documented repair. Staff does not have the authority to approve the request. Therefore, this adjustment request must be approved by the City Commission.

Reviewed By:

City Attorney  City Clerk  Community Development _____ Community Services _____
Finance  Housing Authority _____ Planning _____ Personnel _____ Public Safety _____
Public Works _____ Purchasing _____ Assistant City Manager _____

CITY OF ALAMOGORDO, NEW MEXICO
Customer/Location Consumption History Inquiry

Customer ID: 14753 Name: HOLLY, VELMA
Location ID: 10812 Addr: 817 MIAMI ST
Cycle/Route: 06 50
Initiation date : 2/15/66
Termination date: 0/00/00
Type options, press Enter.

Amount due: \$93.62
Pending : \$.00
Customer status: A Customer/Location status: A

1=Select 5=View detail 6=Display comment codes

Service	Reading	Actual	Actual	Meter	Est	Cmnt		
Opt Code	Type	Date	Consumption	Demand	Days	Number	CD	CD
-	WA	REG	9/03/14	2300.00	.00	30	65016180	
-	WA	REG	8/04/14	9600.00	.00	33	65016180	NL
-	WA	REG	7/02/14	7600.00	.00	29	65016180	LD
-	WA	REG	6/03/14	2200.00	.00	32	65016180	
-	WA	REG	5/02/14	300.00	.00	30	65016180	
-	WA	REG	4/02/14	200.00	.00	29	65016180	
-	WA	REG	3/04/14	.00	.00	28	65016180	
-	WA	REG	2/04/14	91.00	.00	32	65016180	+

F3=Exit F5=Print history F6=Meter inventory F7=Meter svc info
F8=Pending/history trans F9=Budget trans F24=More keys



City of Alamogordo City Commission Meeting

AGENDA REQUEST FORM

Date: 9.30.14

Date of Meeting: Oct. 14, 2014

Name: Velmateen Holly

Address: 817 Miami

Alamogordo, NM ZIP 88310

Phone Number: (575) 437-5887

E-Mail Address: none

Item requested will be for: (Please check one)

- Information only Action Item Discussion/Action
- Public Hearing Report Other: _____

Brief description of topic to be discussed:

Please attach one original of any documents pertaining to the topic -

We do not allow handouts at the meeting

Water abatement- see attached letter

Signature: W. Jacobs for Velmateen Holly
as per phone call

Please return to: Renee Cantin, CMC, City Clerk
City of Alamogordo
1376 E. 9th Street
Alamogordo, NM 88310

Phone: (575) 439-4205

Fax: (575) 439-4396

E-mail: rcantin@ci.alamogordo.nm.us

Acct# 14753-10812

RECEIVED
SEP 29 2014
CITY CLERK

September 26, 2014

City of Alamogordo

Re: Water Bills (June-July \$416.27 and July-August 583.62)

Dear Commissioners,

After speaking to a representative of the water department, September 24th, about the concerns of my water billing, he advised me of two options.

- (1) Replace my water meter at my expense
- (2) Write a letter detailing my concerns and supervisor would advise me of the meeting time when he would present concerns to you

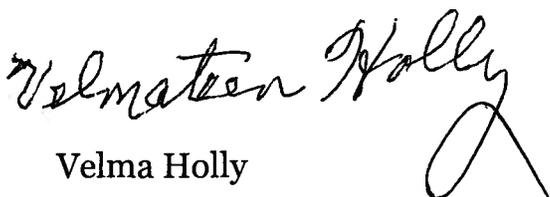
I have chosen option 2. I am Velma Holly living at 817Miami. I understood that my June-July bill would be somewhat higher than usual, but not \$416.27! My son, Kelvin Holly reset my sprinkler system. I paid this bill, partly on line and the rest when I returned to Alamogordo in August.

While out of town July-August 22nd, my son, Kelvin Holly, sent my nephew Jeff Washington to check the water meter and reset the sprinkler system. My cousin, Charlie Smith, would check the house every day to retrieve my mail and check the house.

After returning to Alamogordo, I talked to one of the supervisors and she stated that she would send someone to check my meter. Someone from the office did come to check my water meter. I received another call that stated there was no water leak.

The water bill for July-August was \$583.62. I have paid \$300.00 and still have a balance of \$283.62. This is an exorbitant amount of money. According to your records I used 71,813 gallons of water. I feel this amount of money and amount of gallons used is in error.

Sincerely,


Velma Holly

Ph# 4137-5887

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: October 14, 2014 **Report Date:** September 19, 2014 **Report No:** 15

Submitted By: Marc A South *[Signature]* **Approved For Agenda:** *[Signature]*

Subject: Consider, and act upon, the first publication of Ordinance No. 1475 amending the official zoning map of the City of Alamogordo, changing the classification of the lot located between 2521 and 2705 North Florida Avenue from R-1 Single-Family Dwelling District to C-3, Business District. (Case # Z-2014-0004)(A))

Fiscal Impact: \$0
Amount Budgeted: \$ 0
Fund: NONE

Recommendation: Approve the ordinance for publication. The Planning & Zoning Commission voted 4-0 to recommend approval.

Background: Discussion: Property owner requests to rezone the property listed above from R-1 Single-Family Dwelling District to C-3 Business District.

The Alamogordo Daily News published notice of the hearing before the Planning and Zoning Commission. Staff mailed notices to surrounding property owners. As of this writing, staff has received one (1) letter returned as undeliverable, no mailed responses, and no emailed responses to this notice. We received two (2) phone calls relating to this rezoning; the callers questions indicated some general concerns with this application, but letters or public testimony resulted.

STAFF RECOMMENDATION: Staff recommends approval of this application.

The purpose of the rezoning is to allow for the development of commercial buildings ancillary to a recreational vehicle park.

The applicants have been working with staff for over six months to develop the property located at 2705 N. Florida Ave. into a Recreational Vehicle park, with the expectation of providing temporary RV spots for tourists in the area. As that parcel is already zoned MH-2, no rezoning is required for that parcel, although a new park plan will be presented to staff upon its completion, and prior to final approval for the RV park.

Reviewed By:

City Attorney *SPT* City Clerk *RC* Community Development _____ Community Services _____
Finance _____ Housing Authority _____ Planning *[Signature]* Personnel _____ Public Safety _____
Public Works _____ Purchasing _____ Assistant City Manager _____

In the course of the process, the parcel that is located just to the south of 2705 N Florida was offered for sale. This parcel, which is the subject of this application, has never been developed since its annexation into the city; the parcel has not even had a street number assigned to it. City ordinances require that property annexed into the city be annexed in as R-1 property, and that had never been changed.

The applicants decided that this would be an ideal location for relatively small scale commercial/retail development as an ancillary service to the RV park. No specific retail establishments have been determined as of this point in time; the nature of future development itself is still somewhat open to question, however, a strip center type of development located along the southern part of the property and arranged perpendicular to North Florida Avenue is currently envisioned.

The current comprehensive plan for the city anticipates the development of North Florida Avenue as commercial/retail property. Away from White Sands Avenue, retail development on the north end of the city is somewhat limited. A retail development at this location could have benefits beyond the adjacent RV park to other persons who either work or live in this general area.

ORDINANCE No. 1475

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF ALAMOGORDO, CHANGING THE CLASSIFICATION OF A CERTAIN VACANT PARCEL OF PROPERTY BEING LOCATED BETWEEN 2521 AND 2705 NORTH FLORIDA AVENUE FROM ITS PRESENT DESIGNATION AND ZONING DISTRICT OF R-1 SINGLE FAMILY DWELLING DISTRICT TO C-3 BUSINESS DISTRICT, WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF ALAMOGORDO, OTERO COUNTY, NEW MEXICO.

WHEREAS, George Gonzalez, Christopher Neal, and David Hiles (hereinafter referred to as "the Owners") are the owners of a certain vacant parcel of real property located between 2521 and 2705 North Florida Avenue and legally described below (herein after referred to as "the Property") located within the corporate boundaries of the City of Alamogordo, New Mexico, (hereinafter referred to as "the City"); and

WHEREAS, an application has been filed in the Owner's names under Case No. **Z-2014-0004(A)** to change the zoning of the Property, and

WHEREAS, the Planning and Zoning Commission, after notice and hearing did recommend to the City Commission adoption of an ordinance amending the zoning map by removing the Property from the present designation and zoning district of R-1 Single-Family Dwelling District to C-3 Business District; and

WHEREAS, the City Commission, after notice and hearing, finds and determines that the application for re-zoning of the Property is in the public interest and is consistent with proper development of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION, THAT the zoning of the Property, which is more fully described below:

A TRACT OF LAND IN THE SE 1/4 NE1/4 SE1/4 OF SECTION 7, T16S, R10E, NMPM, ALAMOGORDO, OTERO COUNTY, NEW MEXICO, DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

STARTING AT THE SOUTHEAST CORNER OF SAID SECTION 7 AND GOING N89°51'05"W A DISTANCE OF 30 FEET TO THE WEST RIGHT-OF-WAY LINE OF NORTH FLORIDA AVENUE; THENCE N00°03'00"W ALONG SAID RIGHT-OF-WAY LINE

A DISTANCE OF 1321.00 FEET TO THE PLACE OF BEGINNING OF THE TRACT OF LAND HEREIN DESCRIBED; THENCE N89°17'36"W A DISTANCE OF 630.98 FEET; THENCE N00°01'43"E Q DISTANCE OF 146.01 FEET; THENCE S89°17'36"E A DISTANCE OF 630.78 FEET TO THE WEST RIGHT-OF-WAY LINE OF NORTH FLORIDA AVENUE; THENCE S00°03'00"E ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 146.01 FEET TO THE SAID PLACE OF BEGINNING, AND CONTAINING 2.115 ACRES, MORE OR LESS.

is hereby changed from R-1 Single-Family Dwelling District to C-3 Business District, and the official zoning map and comprehensive plan of the City are hereby amended to reflect this change.

PASSED, APPROVED, AND ADOPTED this _____ day of _____,
2014

CITY OF ALAMOGORDO, NEW MEXICO a
New Mexico municipal corporation

By: _____
Susie Galea, Mayor

ATTEST:

Reneé L. Cantin, City Clerk

APPROVED AS TO FORM:

Stephen P. Thies, City Attorney

Record of Decision
City of Alamogordo
A New Mexico Municipal Corporation

Case#: Z-2014-0004(A)

For the Subject Property as follows:

Commonly Known As: THE VACANT TRACT OF LAND SITUATED BETWEEN 2521 AND 2705 NORTH FLORIDA AVENUE

Legal Description: A TRACT OF LAND IN THE SE 1/4 NE1/4 SE1/4 OF SECTION 7, T16S, R10E, NMPM, ALAMOGORDO, OTERO COUNTY, NEW MEXICO, DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

STARTING AT THE SOUTHEAST CORNER OF SAID SECTION 7 AND GOING N89°51'05"W A DISTANCE OF 30 FEET TO THE WEST RIGHT-OF-WAY LINE OF NORTH FLORIDA AVENUE; THENCE N00°03'00"W ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 1321.00 FEET TO THE PLACE OF BEGINNING OF THE TRACT OF LAND HEREIN DESCRIBED; THENCE N89°17'36"W A DISTANCE OF 630.98 FEET; THENCE N00°01'43"E Q DISTANCE OF 146.01 FEET; THENCE S89°17'36"E A DISTANCE OF 630.78 FEET TO THE WEST RIGHT-OF-WAY LINE OF NORTH FLORIDA AVENUE; THENCE S00°03'00"E ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 146.01 FEET TO THE SAID PLACE OF BEGINNING, AND CONTAINING 2.115 ACRES, MORE OR LESS.

The Alamogordo Planning & Zoning Commission considered this item on September 4, 2014, and recommended the following action to the Alamogordo City Commission by a vote of 4-0-0.

Approve the rezoning of the property detailed above for Case #Z-2014-0004(A).

.....
The Alamogordo City Commission issued the following decision on October 14, 2014, by a vote of _____

Approve as recommended for first publication Ordinance # 1475.

.....
The Alamogordo City Commission issued the following decision on _____, by a vote of _____

Approve as recommended for final publication Ordinance # 1475.

Attest:

CITY OF ALAMOGORDO, New Mexico,
A New Mexico Municipal Corporation

Reneé L. Cantin, City Clerk

Susie Galea, Mayor

APPLICATION FOR A MAP AMENDMENT

CITY OF ALAMOGORDO
COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION FOR MAP AMENDMENT

1376 E. NINTH STREET ALAMOGORDO, NEW MEXICO 88310
575/439-4220 FAX: 575/439-4343
SRAEL@CI.ALAMOGORDO.NM.US
MSOUTH@CI.ALAMOGORDO.NM.US



PF-011-3705-312.11-06

Case #: Z - 2014-0007(A)

Date Received: 11 Aug 2014

Fee: \$ 430.00

Receipt #: 13435 AUG 11 2014

A. Property address (or location if no address): Vacant tract of land situate between 2705 and 2521 N. Florida Avenue

B. Applicant's name: George Gonzalez, Christopher Neal and David Hiles

C. Area of property to be rezoned: 2.115 acres

D. Complete the following table indicating the property location, the current zoning district in which the property is located, and the proposed zoning district.

Location (if different from "A"). Please, provide legal description of property for which you request rezoning. Use addition sheets if needed.	Current district	Proposed district:
See Attached legal	R-1	C-3

D. New Mexico State Statute and the Alamogordo Municipal Code require the City Commission to consider an amendment request relative to certain objectives and standards. Please, discuss the bearing your request may have on the following. Be as brief as you feel sufficient, or supply a statement on an additional sheet.

1. What effect does your proposal have on lessening congestion? Since this property will not have a street that can be used as a through route or short cut, we believe that our proposal will have no effect on lessening congestion

2. What effect does your proposal have on securing the community's safety from fire, flood waters, panic and other dangers? No effects that we can think of.

3. What effect does your proposal have on promoting health and the general welfare? No effects based on our proposal, other than providing business servizes to this part of the city.

4. What effect does your proposal have on providing adequate light and air? No effects based on our proposal.

5. What effect does your proposal have on avoiding undue concentration of population? None at the current time, small business development will address any concerns during project development proposal submittal

6. What effect does your proposal have on providing for adequate transportation, water, sewerage, schools, parks and other public requirements? The current proposal does not

APPLICATION FOR A MAP AMENDMENT

have a negative effect for providing the above listed items because this property is located on the frontage of a MAJOR ROAD

7. What effect does your proposal have on controlling and abating the unsightly use of buildings or land? MAJOR improvement for future business development.

8. What effect does your proposal have on the character of the zoning district considering adjacent and adjoining properties within the subject property's current zoning district and the proposed zoning district? It would match the current land use of the surrounding properties.

9. What effect does your proposal have on the character of the properties throughout the City that are in the property's current zoning district and the proposed zoning district? The location of this property is located to the far North side of the city and could benefit this area in a positive way.

10. What effect does your proposal have on the value of buildings and land on adjacent and adjoining properties to the subject property and within the community as a whole? The value would be based on improvement effort to improve the overall community with private investment for business usage.

11. What effect does your proposal have on encouraging the most appropriate use of land on adjacent and adjoining properties to the subject property and within the community as a whole? When consideration was taken into count for land usage and the community as whole, both would have beneficial effect that could grow over the year.

12. What effect does the subject property's suitability for particular uses have on the appropriateness of granting your request? Without granting the subject property request, no development would occur to support the development and growth of business within this property.

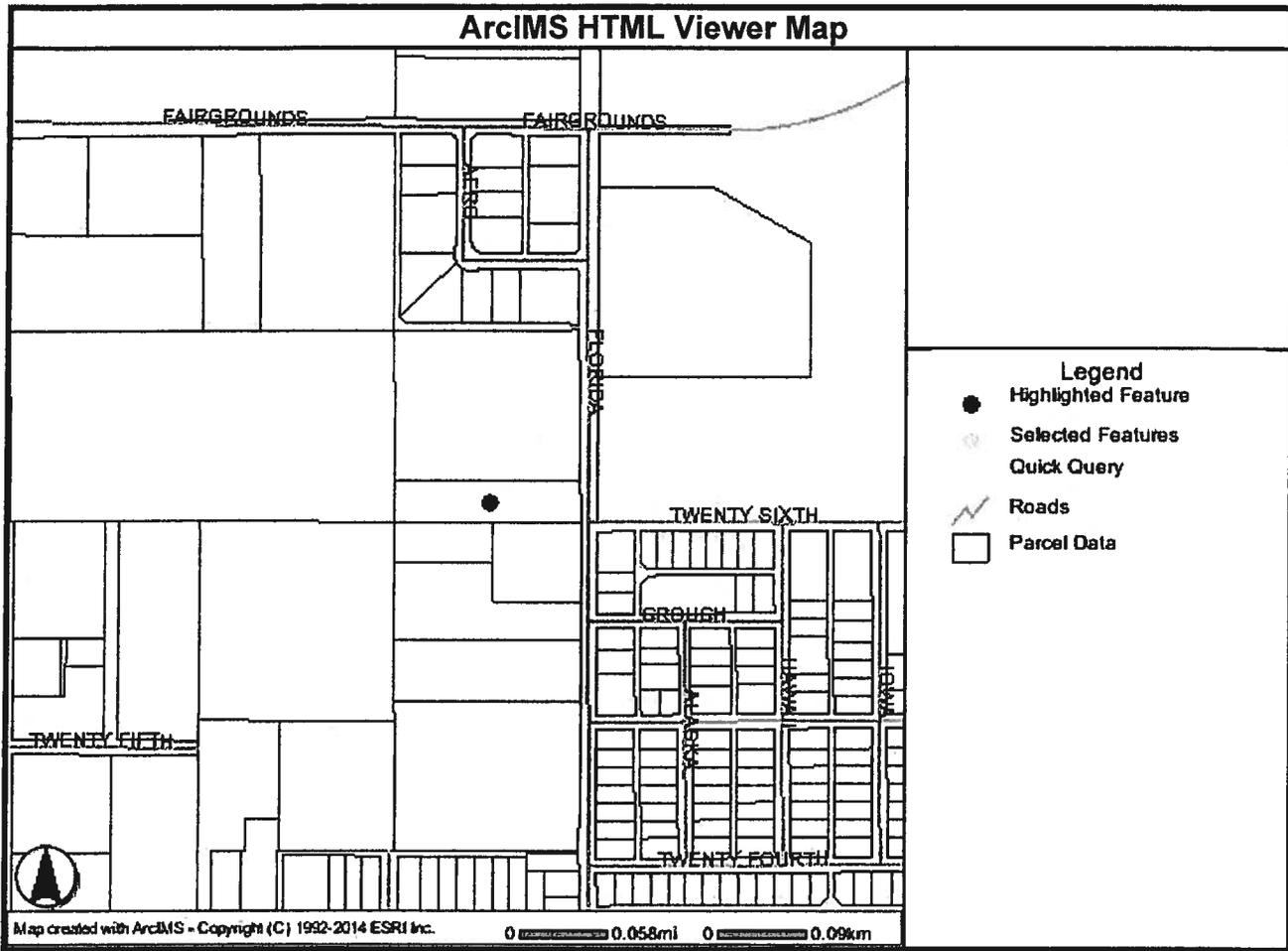
13. What effect does conserving the value of buildings and land on the subject property have on the appropriateness of granting your request? Little to no value, the development of this property will prove to reflect only after development has occurred.

14. What effect does encouraging the most appropriate use of the subject property have on the appropriateness of granting your request? We feel that the city will find that since 1957 until July of 2014, the prior owner has made no plans to develop this property and does not fit the current zoning.

I certify that all of the above statements and all statements, information, and exhibits that I am submitting in conjunction with this application for a zoning map amendment are true to the best of my knowledge.

[Signature]
Applicant's signature

8 AUG 14
Date



Attachement

DESCRIPTION

A TRACT OF LAND IN THE SE1/4 NE1/4 SE1/4 OF SECTION 7, T16S, R10E, NMPM, ALAMOGORDO, OTERO COUNTY, NEW MEXICO, DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

STARTING AT THE SOUTHEAST CORNER OF SAID SECTION 7 AND GOING N89°51'05"W A DISTANCE OF 30.00 FEET TO THE WEST RIGHT-OF-WAY LINE OF NORTH FLORIDA AVENUE; THENCE N00°03'00"W ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 1321.00 FEET TO THE PLACE OF BEGINNING OF THE TRACT OF LAND HEREIN DESCRIBED; THENCE N89°17'36"W A DISTANCE OF 630.98 FEET; THENCE N00°01'43"E A DISTANCE OF 146.01 FEET; THENCE S89°17'36"E A DISTANCE OF 630.78 FEET TO THE WEST RIGHT-OF-WAY LINE OF NORTH FLORIDA AVENUE; THENCE S00°03'00"E ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 146.01 FEET TO THE SAID PLACE OF BEGINNING, AND CONTAINING 2.115 ACRES, MORE OR LESS.

SUBJECT TO ANY RIGHTS-OF-WAY OR OTHER EASEMENTS AS GRANTED OR RESERVED BY INSTRUMENTS OF RECORD OR AS NOW EXISTING ON SAID TRACT.

GENERAL INFORMATION FORM

CITY OF ALAMOGORDO
COMMUNITY DEVELOPMENT DEPARTMENT
GENERAL INFORMATION FOR LAND USE REVIEW
1376 E. NINTH STREET ALAMOGORDO, NEW MEXICO 88310
575/439-4220 FAX: 575/439-4343
MSOUTH@CI.ALAMOGORDO.NM.US
SRAEL@CI.ALAMOGORDO.NM.US



Case #: Z-2014-0004(A)

Date Received: 8-11-14

Property address (or location if no address): Vacant tract of land situate between 2705 and 2521 N. Florida Avenue

Legal description of property: Attached

Property ID or Property Code from real estate tax bill: 01-00504

Map Code or Universal Property Code from real estate tax bill: 01N4055092295388

APPLICANT/PROFESSIONAL REPRESENTATIVE INFORMATION:

Applicant's Name /Organization: George Gonzalez, Christopher Neal and David Hiles

Applicant's Address: 725 Ridge Court

Applicant's City, State, Zip: Alamogordo, NM 88310

Applicant's phone: Work; Home/Cell: 707-816-9535; Fax:

Applicant's E-mail:

What is the relationship of the applicant for zoning relief to the property owner?

Table with 4 columns and 3 rows of checkboxes for relationship types: same, beneficiary of trust, lessee, architect, engineer or surveyor of property owner, co-owner, officer of corporation, potential lessee, real estate agent of property owner, trust officer, contract purchaser, attorney of property owner, other.

PROPERTY OWNER INFORMATION:

Owner's Name/Organization: SAME AS APPLICANT

Owner's Address:

Owner's City, State, Zip:

Owner's phone: Work; Home/Cell; Fax:

Owner's E-mail:

You will need to provide proof of ownership and standing, such as a title insurance policy or deed or lease, linking the applicant to the owner and the owner to the property.
If the applicant is not the property owner, we require a consent statement from the property owner.

GENERAL INFORMATION FORM

I am requesting the following type of review:

<input type="checkbox"/> Map Amendment Unconditional (§29-01-020)	<input checked="" type="checkbox"/> Map Amendment Unconditional (§29-01-020)	<input type="checkbox"/> Text Amendment (§29-01-020)	<input type="checkbox"/> Appeal of Administrative Decision (§29-08)
<input type="checkbox"/> Variance P & Z hearing (§29-01-070)	<input type="checkbox"/> Variance P & Z hearing (§29-01-070)	<input type="checkbox"/> Special Event Permit (§29-01-090)	<input type="checkbox"/> Special Land Use Permit (§29-05-040)
<input type="checkbox"/> Temporary Structure Special Permit (§8-01-170)	<input type="checkbox"/> Summary Plat (§22-01-170)	<input type="checkbox"/> Preliminary Plat (§22-01-030)	<input type="checkbox"/> Final Plat (§22-01-050)
<input type="checkbox"/> Exempted Subdivision (§22-01-180)	<input type="checkbox"/> Annexation (§2-07)	<input type="checkbox"/> Mobile Home Park Development Plan (§25-02)	<input type="checkbox"/> other: _____

Describe below, or on an attachment, the development, use, or project that is the subject of your request.

(USE) will be to establish the ability for the purposes of small business operations within the allowed business uses of the proposed zone change from R-1 to C-3. Efforts will be made accordingly during the development and/or investment and after careful review of the community needs and city planning considerations. It is in our opinion that this property would be best developed in the proposed request.

I certify that all of the above statements and all statements, information, and exhibits that I am submitting in conjunction with this application for relief from the requirements of the Zoning Ordinance are true to the best of my knowledge.

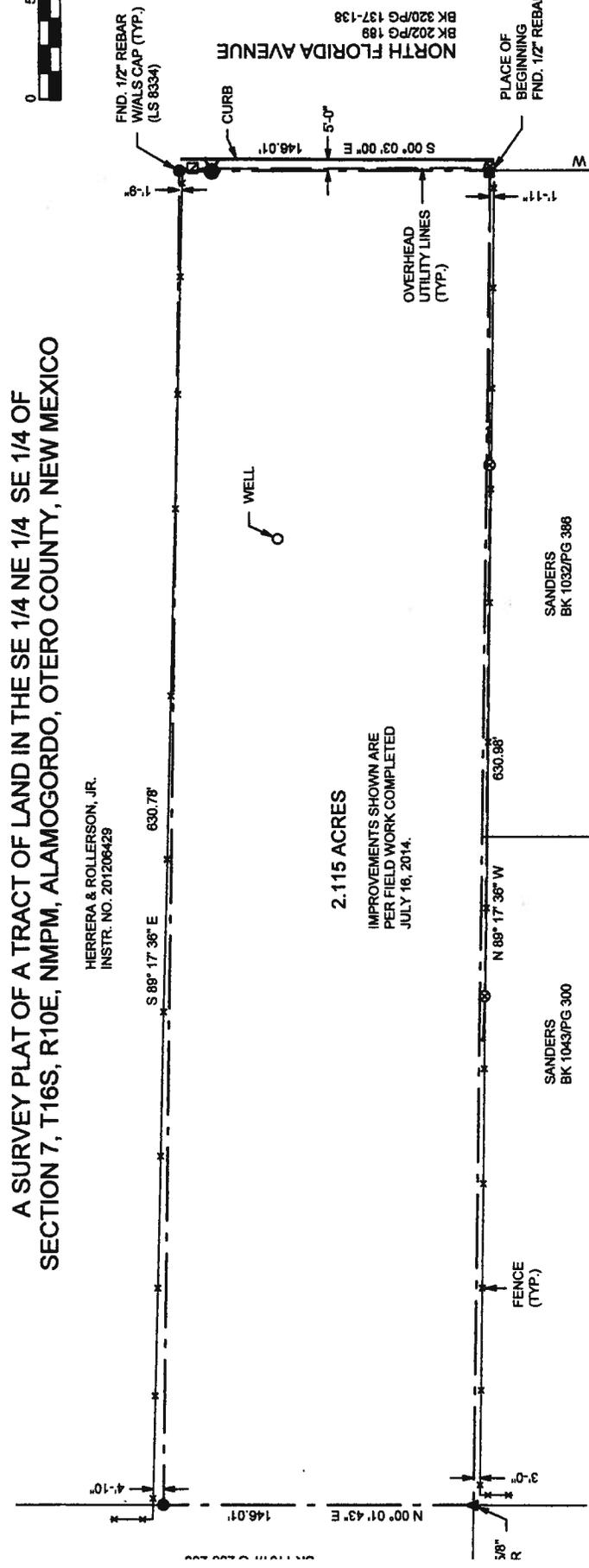
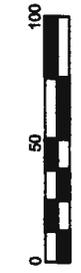
Applicant's signature [Signature] Date 8 AUG 14

Applicant's signature [Signature] Date Aug 8th 2014

Applicant's signature [Signature] Date 8/8/14

A SURVEY PLAT OF A TRACT OF LAND IN THE SE 1/4 NE 1/4 SE 1/4 OF SECTION 7, T16S, R10E, NMPM, ALAMOGORDO, OTERO COUNTY, NEW MEXICO

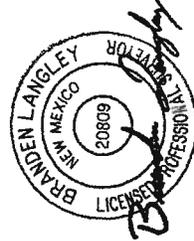
HERRERA & ROLLERSON, JR.
INSTR. NO. 201206429



2.115 ACRES
IMPROVEMENTS SHOWN ARE
PER FIELD WORK COMPLETED
JULY 16, 2014.

NOTE:
THIS SURVEY IS BASED ON FOUND
CORNERS SET BY OTHERS.

NOTE:
BOOK AND PAGE NUMBERS REFERRED TO
ARE OF THE RECORDS OF OTERO COUNTY,
NEW MEXICO, OBTAINED FROM THE FILES
OF THE OTERO COUNTY ASSESSOR'S OFFICE.



NOTE:
IF THE SEAL IS NOT RED OR EMBOSSED
AND THE SIGNATURE BLACK, THEN THIS
IS AN UNAUTHORIZED COPY AND THE
CERTIFICATIONS ARE NULL AND VOID.

DESCRIPTION

TRACT OF LAND IN THE SE 1/4 NE 1/4 SE 1/4 OF SECTION 7, T16S, R10E, NMPM, ALAMOGORDO, OTERO COUNTY, NEW MEXICO, DESCRIBED BY BEARINGS AND DISTANCES AS FOLLOWS:

STARTING AT THE SOUTHEAST CORNER OF SAID SECTION 7 AND GOING N 89° 17' 36" W A DISTANCE OF 30.00 FEET TO THE WEST RIGHT-OF-WAY LINE OF NORTH FLORIDA AVENUE; THENCE N00°03'00"W ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 1321.00 FEET TO THE PLACE OF BEGINNING OF THE TRACT OF LAND HEREIN DESCRIBED; THENCE S 89° 17' 36" W A DISTANCE OF 630.98 FEET; THENCE N00°01'43"E A DISTANCE OF 146.01 FEET; THENCE S89°17'36"E A DISTANCE OF 630.78 FEET TO THE WEST RIGHT-OF-WAY LINE OF NORTH FLORIDA AVENUE; THENCE S00°03'00"E ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 146.01 FEET TO THE SAID PLACE OF BEGINNING, AND CONTAINING 2.115 ACRES, MORE OR LESS.

SUBJECT TO ANY RIGHTS-OF-WAY OR OTHER EASEMENTS AS GRANTED OR RESERVED BY INSTRUMENTS OF RECORD OR AS NOW EXISTING ON SAID TRACT.

BRANDEN LANGLEY, A NEW MEXICO LICENSED PROFESSIONAL SURVEYOR, CERTIFY THAT I CONDUCTED AND AM RESPONSIBLE FOR THIS SURVEY, THAT THIS SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT THIS SURVEY AND PLAT MEETS THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO.

- FIRE HYDRANT
- UTILITY POLE
- ⊗ UTILITY PEDESTAL
- ⊥ BREAKLINE
- ANCHOR

SOUTHEAST CORNER
SECTION 7
T16S, R10E, NMPM

ALAMOTERO LAND SURVEYS, P.C.
 PROFESSIONAL LAND SURVEYORS
 1101 NORTH FLORIDA AVENUE
 ALAMOGORDO, NEW MEXICO
 PHONE 575-437-7074 FAX 575-437-7075
 COPYRIGHT © 2014 ALAMOTERO LAND SURVEYS, P.C.

DATE: 08/08/14 SCALE: 1" = 50'
 DRAWN BY: LTR JOB NO.: 14-0302
 CHECKED BY: BL SHEET 1 OF 1

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: October 14, 2014 **Report Date:** Sept. 30, 2014 **Report No:** 16

Submitted By: Susie Galea
Mayor **Approved For Agenda:** 

Subject: Discussion, and possible action, related to city codes for Unlawful Growth or Accumulation of Lots and Tracts regarding weeds ([26-03-030, 040](#)). Provide direction to staff specifically along the White Sands Blvd corridor for seasonal overgrowth related to the monsoonal rain seasons.

Fiscal Impact: -0-
Amount Budgeted: -0-
Fund:

Recommendation: No action is required, but direction may be given to staff if discussion of possible solutions is found to be beneficial to all concerned.

Background: The mayor had a discussion with the owner of the White Sands Motel, Chuck, and he discussed the challenges with weed control that included the city and New Mexico DOT, which he voiced it may reflect poorly on the private business owners along white Sands Boulevard. It appeared to him that until a few months ago, it was the city that sprayed weed control along White Sands Boulevard and the Public right-of-way's. Chuck contacted the city to discuss the blight of the overgrowth of weeds, and a representative from the city told him that it was the state DOT's responsibility. Chuck also contacted the state DOT, and a representative from that organization stated that it is the city's responsibility and role to maintain the weeds along White Sands Boulevard.

It is actually within our City Code (Ord. [26-03-030, 040](#)) that the City requires the property owner to maintain street frontage of the curbs and sidewalks. This has been in place since 2006. Several business owners may have been led to believe that the City recently assumed liability since there have been former Commissions and managers that have asked staff to perform the extra job duty as assigned.

It appears to be a reoccurring discussion after every monsoonal rain season. A standard, in addition to the ordinance, can be set to address this challenge.

Reviewed By:

City Attorney _____ City Clerk _____ Community Development _____ Community Services _____
Finance _____ Housing Authority _____ Planning _____ Personnel _____ Public Safety _____
Public Works _____ Purchasing _____ Assistant City Manager _____

Since New Mexico DOT claims no liability to maintain the weeds along White Sands Boulevard, and overgrowth reflects poorly upon the City and the private business owners, I am requesting that the Commission discuss solutions to this challenge of seasonal blight for maintenance of the public right-a-way's along White Sands Blvd.

Staff are requested to bring possible solutions to the Commission for consideration.

Reviewed By:

City Attorney _____ City Clerk _____ Community Development _____ Community Services _____
Finance _____ Housing Authority _____ Planning _____ Personnel _____ Public Safety _____
Public Works _____ Purchasing _____ Assistant City Manager _____

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: October 14, 2014 **Report Date:** October 8, 2014 **Report No:** A-2

Submitted By: Stephen P. Thies **Approved For Agenda:** 

Subject: Review and comment on draft code of conduct ordinance for elected officials.

Fiscal Impact: NA
Amount Budgeted: NA
Fund: NA

Recommendation: Provide comment on ordinance.

Background: At the last City Commission meeting legal was requested to prepare a draft ordinance creating a code of conduct for the City Commission. A draft ordinance is attached for your review and comment.

Briefly, the draft ordinance contains a total of eleven different standards of conduct. It creates a mechanism to address claimed violations of any of the standards. And finally, the ordinance creates seven different types of consequences for a violation ranging from a warning to censure.

Reviewed By:

City Attorney  City Clerk  Community Development _____ Community Services _____
Finance _____ Housing Authority _____ Planning _____ Personnel _____ Public Safety _____
Public Works _____ Purchasing _____ Assistant City Manager _____

ORDINANCE NO. ____

**AN ORDINANCE ADDING A NEW SECTION TO CHAPTER 2
CREATING A CODE OF CONDUCT FOR ELECTED OFFICIALS**

WHEREAS, the residents and businesses of the City of Alamogordo expect and are entitled to a local government that reflects uncompromising integrity and serves the public interest.

WHEREAS, to this end, the City Commission desires to adopt a Code of Conduct for its members to assure public confidence in the integrity of local government and its effective and fair operation.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Alamogordo that a new section be added to Chapter 2 of the Code of Ordinances as follows:

2-03-051. Code of Conduct

(a) **Application.** This Code of Conduct applies to all members of City Commission (including the Mayor).

(b) **Definitions.** . When used in section 2-03-051, the following words, terms and phrases shall have the following meanings, unless expressly stated otherwise or unless the context indicates otherwise:

City Commission means the legislative and governing body of the City, consisting of the Mayor and City Commission members.

City shall mean the City of Alamogordo, Otero County, New Mexico.

Confidential information means any information to which an Official has access in such person's official capacity which may not be disclosed to the public except pursuant to state and/ or federal law and which is not otherwise a matter of public record or public knowledge.

Elected Official means the Mayor and all other City Commissioners.

Employee means any person employed by the City, including those individuals on a full-time, part-time or internship basis, but does not include independent contractors.

Intentionally means a person acts intentionally, or with intent, with respect to the nature of his conduct or to a result of his conduct when it is the person's conscious objective or desire to engage in the conduct or cause the result.

Knowingly means a person acts knowingly, or with knowledge, with respect to the nature of the person's conduct or to circumstances surrounding the conduct when the person is aware of the nature of the conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of the person's conduct whether the person is aware that the conduct is reasonably certain to cause the result. Employee

means any person employed by the City, including those individuals on a full-time, part-time or internship basis, but does not include independent contractors.

Official Action means any vote, decision, recommendation, approval, disapproval or other action, including inaction, which includes use of discretionary authority of any City Official.

Public Employee or **City Staff** means any non-appointed person holding any paid position of employment with the City.

(c) **Code of Conduct.** Each member of the City Commission has a duty to:

1. **Act in the Public Interest.** Recognizing that stewardship of the public interest must be their primary concern, the Commissioners will work for the common good of the people of Alamogordo and not for any private or personal interest, and they will endeavor to treat all persons, claims and transactions in a fair and equitable manner.

2. **Comply with the Law.** Commissioners shall comply with the laws of the federal government, the State of New Mexico and the City of Alamogordo in the performance of their public duties. These laws include, but are not limited to: the United States and New Mexico constitutions; the New Mexico Governmental Conduct, Inspection of Public Records, and Open Meetings Acts; and the City of Alamogordo Charter, municipal code, resolutions and policies.

3. **Conduct of Members.** The professional and personal conduct of Commissioners must be above reproach and avoid even the appearance of impropriety. Commissioners shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of the Commission, City Staff or the public.

4. **Respect for Process.** Commissioners shall perform their duties in accordance with the processes and rules of order established by the City Commission governing the deliberation of public policy issues, the involvement of the public, and the implementation of policy decisions of the City Commission by City Staff.

5. **Conduct at Public Meetings.** Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of the meetings. Members shall commit to practice civility and decorum in discussions and debates. Members shall commit to honoring the role of the chair person in maintaining order, keeping discussion on track, and focusing discussion on agenda items at hand. Commissioners shall avoid debate and argument with the public. Commissioners shall not engage in personal attacks of any kind under any circumstance.

6. **Communication.** Commissioners shall publicly share substantive information that is relevant to a matter under consideration by the Commission which they have received from sources outside of the public decision-making process.

7. Confidential Information. Commissioners shall respect the confidentiality of information concerning the property, personnel or affairs of the City. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.

8. Representing an Official City Position. Commissioners may use their title only when conducting official City business, for information purposes, or as an indication of background and expertise, carefully considering whether they are exceeding or appearing to exceed their authority. Once the Commission has taken a position on an issue, all official City correspondence regarding that issue will reflect the Commission's adopted position. If a member of the Commission appears before another governmental agency organization to give a statement on an issue affecting the City, the Commissioner should indicate the majority position and opinion of the Commission. Personal opinions and comments may be expressed only if the Commissioner clarifies that these statements do not reflect the official position of the City Commission. Personal opinions and comments may be expressed only if the Commissioner clarifies that these statements do not reflect the official position of the City Commission.

9. Improper Influence. Commissioner shall not attempt to pressure or influence the decisions, recommendations or priorities of advisory boards absent the approval of the majority of the Commission.

10. Policy Role of Members. Commissioners shall respect and adhere to the Commission-Manager structure of city government as provided by state law, City Charter and City Code. In this structure, the Commission determines the policies of the City with the advice, information and analysis provided by the public, advisory boards, and City Staff. Commissioners therefore shall not interfere with the administrative functions of the City or the professional duties of City Staff; nor shall they impair the ability of staff to implement Commission policy decisions. Commissioners should never express concerns about the performance of a City Employee in public, to the Employee directly, or to the Employee's Director. Comments about staff performance should be made only to the City Manager through private correspondence or conversation.

11. Other Public Agencies. If a Commission member appears before another governmental agency or organization to give a statement on an issue, the Commissioner must clearly state if his or her statement reflects personal opinion or is the official stance of the City. Even if the Commissioner is representing his or her own personal opinions, remember that this still may reflect upon the City as an organization. If the Commissioner is representing the City, the Commissioner must support and advocate the official City position on an issue, not a personal viewpoint. If the Commissioner is representing another organization whose position is different from the City, the Commissioner should withdraw from voting on the issue if it significantly impacts or is detrimental to the City's interest. Commissioners should be clear about which organizations they represent and inform the Mayor and Commission of their involvement. City letterhead may be used only when the Commissioner is representing the City and the

City's official position. A copy of official correspondence should be given to the City Clerk to be filed as part of the permanent public record.

(d) Violations

(1) For the purpose of this section, the following words shall be interpreted as follows:

(i) **Admonition.** This is the least severe form of action. An admonition may typically be directed to all members of the City Commission, reminding them that a particular type of behavior is in violation of law or City policy, and that, if it occurs or is found to have occurred, could make a member subject to sanction or censure. An admonition may be issued in response to a particular alleged action or actions, although it would not necessarily have to be triggered by such allegations. An admonition may be issued by the City Commission prior to any findings of fact regarding allegations, and because it is a warning or reminder, would not necessarily require an investigation or separate hearings to determine whether the allegation is true

(ii) **Censure.** Censure is the most severe form of action contemplated in this policy. Censure is a formal statement of the City Commission officially reprimanding one of its members. It is a punitive action, which serves as a penalty imposed for wrongdoing, but it carries no fine or suspension of the rights of the member as an elected official. Censure should be used for cases in which the Commission determines that the violation of law or policy is a serious offense. In order to protect the overriding principle of freedom of speech, the City Commission shall not impose censure on any of its members for the exercise of his or her First Amendment rights, no matter how distasteful the expression was to the Commission and the City. However, nothing herein shall be construed to prohibit the City Commission from collectively condemning and expressing their strong disapprobation of such remarks.

(iii) **Sanction.** This is the next most severe form of action. Sanction should be directed to a particular member of the City Commission based on a particular action (or set of actions) that is determined to be in violation of law or City policy, but is considered by the Commission to be not sufficiently serious to require censure. A sanction is distinguished from censure in that it is not a punishment. A sanction may be issued based upon Commission's review and consideration of a written allegation of a policy violation. The member accused of such violation will have an opportunity to provide a written response to the allegation. A sanction may be issued by the City Commission and because it is not punishment or discipline, would not necessarily require an investigation or separate hearings.

(2) **Complaints against Commissioner.** Any person who believes a Commissioner in her or his official capacity has violated the Code of Conduct against may file a sworn complaint with the city attorney identifying:

(i) The complainant's name, address, and telephone number;

- (ii) The name of the Commissioner who is the subject of the complaint;
- (iii) The nature of the alleged violation, including the specific provision of the Code of Conduct allegedly violated;
- (iv) A statement of facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred;
- (v) All documents or other material in the complainant's possession that are relevant to the allegation, a list of all documents or other material relevant to the allegation that are available to the complainant but not in the complainant's possession, and a list of all other documents or other material relevant to the allegations but unavailable to the complainant, including the location of the documents, if known;
- (vi) A list of witnesses, what they may know, and their contact information, if known; and
- (vii) If the alleged violation occurred more than ninety days before the sworn complaint is filed with the city attorney, then the complaint must identify the date the complainant learned of the alleged violation and provide a statement of the facts surrounding the discovery of the violation, a list of the persons with knowledge about the date the violation was discovered, and a summary of the information they possess about the discovery.

The complaint shall include an affidavit stating that the information contained in the complaint is true and correct, or that the complainant has good reason to believe and does believe that the facts alleged constitute a violation of the Code of Conduct. If the complaint is based on information and belief, the complaint shall identify the basis of the information and belief, including all sources, contact information for those sources, and how and when the information and/or belief was conveyed to the complainant by those sources. The complainant shall swear to the facts by oath before a notary public or other person authorized by law to administer oaths under penalty of perjury.

(3) **Time for filing.** A complaint must be filed on or before the 365th day after the violation is alleged to have occurred or the 90th day after the violation was discovered, whichever date is earlier.

(4) **Initial screening of complaints.** The city attorney shall review each complaint filed alleging a violation of the Code of Conduct by a member of a City Commission within twenty-one (21) days and either:

- (1) Return it for being incomplete;
- (2) Dismiss it for being untimely;
- (3) Dismiss it if the complaint on its face fails to state allegations that, if true, would violate a mandatory requirement or prohibition of code of conduct;
- (4) Dismiss it as being without merit;
- (5) Refer alleged violations of New Mexico or federal laws to an appropriate law enforcement agency if the complaint states on its face allegations that, if true, would constitute a violation of New Mexico or federal law; or

(6) If the complaint states on its face allegations that, if true, would constitute a violation of the Code of Conduct, the City Attorney shall submit a written report to the City Commission.

In all circumstances, the City Attorney shall simultaneously notify in writing the complainant, the Elected Official subject to the complaint, and the city clerk regarding the action taken. Such report shall be comprehensive and explain in detail all facts, findings and conclusions in support of the City Attorney's opinion as to whether or not a violation of this Code of Conduct occurred.

When the City Attorney receives a vague complaint or one lacking in detail, the City Attorney shall contact the complainant to request written clarification. If the complainant fails to provide the City Attorney with written clarification, or if after written clarification is provided, it is the opinion of the City Attorney that the complaint is insufficient in detail and/or fails to allege a prima facie violation of the Code of Conduct, a written report to that effect shall be submitted to the City Commission.

(5) **Commission Consideration.** The City Commission shall consider the complaint and the City Attorney's report at a special meeting of the City Commission. At such meeting, the City Attorney shall present a written report to the City Commission describing in detail the nature of the complaint and the City Attorney's findings and conclusions as to a possible violation of this Code of Conduct. The affected Officer shall have the right to a full and complete hearing before the City Commission with the opportunity to call and cross-examine witnesses and present evidence in such person's behalf. The non-implicated Commission Members in attendance shall conduct a hearing and review the complaint. The City Commission may reject the complaint or take action authorized by Section _____. If deemed necessary the City Commission may direct the City Manager with the concurrence of the City Attorney to appoint a special legal counsel to conduct a further investigation and to provide a written report to the City Commission.

(6) **Commission Action.**

(a) It is the intent of the City Commission to educate, and where necessary, discipline Elected Officials who violate the Code of Conduct. Discipline shall be progressive, from the least punitive to the most punitive measures, unless the Commission believes progressive discipline does not provide the appropriate sanction because of the gravity of the offense, or because the Commission does not believe the sanction would deter future misconduct. In all instances, the totality of the circumstances shall be taken into consideration in resolving a matter, including the intent of the one accused of wrongdoing.

(b) Any Commission Member found in violation of the Code of Conduct may face the following:

- (i) Warning;
- (ii) Admonition;
- (iii) Sanction
- (iv) Censure by the Commission, which may include:

- (1) Loss of City-related travel privileges; and
- (2) Loss of Commission expense reimbursement funds;
- (v) A demand for non-monetary restitution (e.g., a public apology, the return of gifts); and/or
- (vi) A demand for reimbursement of administrative, legal, and/or investigation costs and expenses incurred in investigating and prosecuting the violation of the Code of Conduct.

In making a determination, the Commission should determine if taking all the facts and evidence into consideration, there are reasonable grounds to believe or not believe that the conduct, violation, or offense occurred.

All action or decisions with regard to the complaint shall be made in a meeting which is open to the public.

This ordinance shall take effect as set forth in section 3-17-5, NMSA 1978.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Commission hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, subdivision, paragraph, sentence, clause or phrase.

DONE this _____ day of _____, 2014.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By: _____
Susie Galea, Mayor

ATTEST:

Reneé L. Cantin, City Clerk

APPROVED AS TO FORM:

Stephen P. Thies, City Attorney

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: October 14, 2014 **Report Date:** September 24, 2014 **Report No:** 17

Submitted By: Rachel Hughs **Approved For Agenda:** 
Admin. Asst/City Clerk's Office

Subject: Appointments to Boards and Committees.

Background:

Airport Zoning Board. Two (2) vacancies. Staff Liaison - Jan Wafful
(Opening due to the resignation of Fran Nelson, Paul Vigneault and Randel Wilson)
No nominations received.

Alamogordo Disability Council. Three (3) vacancies. Staff Liaison - Edward Balderrama
(Openings due to the resignation of Bradley Mauger and the passing of Ed Grabman.)
No nominations received.

Cemetery Board. One (1) vacancy. Staff Liaison - Jan Wafful
(Opening due to the expiring term of Larry T. Rachel)
No nominations received.

Community Development Advisory Committee. Three (3) vacancies. Staff Liaison - Ruben Segura
(Opening due to the expiring term of Tony Alger and Melanie Hall and the resignation of Arthur Alterson.)
No nominations received.
The following existing board member is interested in being reappointed:
Gloria Vaughn - if appointed this will be her second term.

Housing Authority Advisory Board. ~~Two (2)~~ vacancy. Staff Liaison - Maggie Paluch
(Opening due to ~~Kandice Daugherty no longer living at Public Housing~~)
One of the members appointed on December 3rd has not returned his acceptance letter, therefore another person needs to be appointed.
No nominations received.

Mayor's Committee on Aging. One (1) vacancy. Staff Liaison - Britney Coutier
(Opening due to the expiring terms of Norma Andreoli)
The following existing board member is interested in being reappointed:
Norma Andreoli - if appointed this will be her third term.

Senior Volunteer Programs Advisory Council. Three (3) vacancies. Staff Liaison - Maria Roque
(Opening due to the expiring term of Blaza Madrid, Stephen Butler, and the resignation of Thomas Rich V.)
No nominations received.

Reviewed By:

City Attorney _____ City Clerk  _____ Community Development _____ Community Services _____
Finance _____ Housing Authority _____ Planning _____ Personnel _____ Public Safety _____
Public Works _____ Purchasing _____ Assistant City Manager _____

**COMMUNITY DEVELOPMENT
ADVISORY COMMITTEE**

RECEIVED

SEP 11 2014

CITY CLERK

City of Alamogordo
APPLICATION TO SERVE ON A
CITY BOARD/COMMITTEE

Name: Gloria Vaughn

Home Phone: 434-2819 Work Phone: 0

Cell Phone: 0 Fax No: 0

e-mail address: 0

Physical Address: 503 - 16th St.

Is the above address within City limits? Yes No

Mailing Address: 503 - 16th Street

Present Employer: Retired Job Title: _____

Board/Committee you wish to serve on:

First choice: Community Development

Second choice: Housing Advisory Authority Advisory Board

Are you related to anyone who is presently employed by the City of Alamogordo:

Yes _____ No If so, what is their relation to you? _____

Are you related to any Elected Official of the City of Alamogordo?

Yes _____ No If so, what is their relation to you? _____

Experience and education relating to the Board/Committee: House of Rep, Judicial Comm., Social Worker,

Please indicate your interest in serving on a City Board/ Committee: I would like to be a part of helping our folks living in our community to be able to have a better way of life.

Please return completed application to:

City Clerk's Office
1376 E. Ninth Street
Alamogordo, NM 88310
PHONE: (575)439-4205
FAX: (575)439-4396

**MAYOR'S COMMITTEE ON
AGING**

RECEIVED

SEP 17 2014

CITY CLERK

City of Alamogordo
APPLICATION TO SERVE ON A
CITY BOARD/COMMITTEE

Name: NORMA Andreoli

Home Phone: 437 4728 Work Phone: —

Cell Phone: _____ Fax No: _____

e-mail address: andreolr@bajabb.com

Physical Address: 2309 ARROYO Lane 88310

Is the above address within City limits? Yes X No _____

Mailing Address: same

Present Employer: _____ Job Title: _____

Board/Committee you wish to serve on:

First choice: MCoA - R

Second choice: —

Are you related to anyone who is presently employed by the City of Alamogordo:

Yes _____ No X If so, what is their relation to you? _____

Are you related to any Elected Official of the City of Alamogordo?

Yes _____ No X If so, what is their relation to you? _____

Experience and education relating to the Board/Committee: _____

this is my 4th year on the Committee; Otero County Rep for
Non Metro Area Agency and Aging; 42 years in healthcare industry

Please indicate your interest in serving on a City Board/ Committee: _____

I AM interested in Advocating for Seniors and am familiar
with MANY senior issues and viewpoints

Please return completed application to:

City Clerk's Office
1376 E. Ninth Street
Alamogordo, NM 88310
PHONE: (575)439-4205
FAX: (575)439-4396

Ng Andreoli 9/10/14