



Alamogordo City Commission

NOTICE OF MEETING

Regular Meeting Agenda

February 23, 2016 - 7:00 PM
Sgt. Willie Estrada Memorial Civic Center
800 E. First St.

Susie Galea Mayor
Robert Rentschler Mayor Pro-Tem, District 3
Jason Baldwin District 1
Nadia Sikes District 2
Jenny Turnbull District 4
Al Hernandez District 5
Cliff Hudson District 6

George Straface Interim City Manager
Stephen Thies City Attorney
Nancy Jacobs City Clerk

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 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.

CALL TO ORDER & ROLL CALL

Announce the presence of a Quorum.

INVOCATION & PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

PRESENTATIONS

1. Presentation of plaque to honor Mayor Susie Galea for her years of dedicated service to the City of Alamogordo. (George Straface, Interim City Manager)

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.

CITY MANAGER'S REPORT**REMARKS AND INQUIRIES BY THE CITY COMMISSION****CONSENT AGENDA** (Roll Call Vote Required - **NONE**)

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.

2. Approve the Minutes for February 9, 2016 Regular City Commission Meeting. *(Nancy Jacobs, City Clerk)*
3. Approve the statement related to the Executive Session held on February 9, 2016. *(Nancy Jacobs, City Clerk)*
4. Consider, and act upon, the award of IFB 2016-01 Bulk Fuels for the City of Alamogordo to Brewer Oil Company using the OPIS Rack Average mark up of .20 per gallon of Unleaded and Diesel. *(Barbara Pyeatt, Chief Procurement Officer)*
5. Consider, and act upon, the award of IFB 2016-02 John Deere 1570 Terrain Cut Commercial Front Mower with 72" Mowing Deck or "Equivalent" to Austin Turf & Tractor in the amount of \$22,255.04. *(Barbara Pyeatt, Chief Procurement Officer)*
6. Consider, and act upon, approval of a Pipeline Crossing Agreement with Union Pacific Railroad (UPRR) related to the Reclaimed Water Line Looping project. *(Chris Darnell, City Engineer)*
7. Consider, and act upon, the award of Public Works Bid No. 2016-003 to General Hydronics, Inc. related to Buena Vista Corte Sewer Line Replacement (EN1605) in an amount not to exceed \$70,454.88, including NMGR. *(Edward Balderrama, Project Manager)*

ITEMS REMOVED FROM CONSENT AGENDA**NEW BUSINESS**

8. Presentation of the Fiscal Year Audit and Approval 2014-2015. *(Alan Bowers, CPA for RCP+Consultants, LLC)*
9. Discuss, and consider, improving the City of Alamogordo hiring policy related to Veterans, Guardsmen, and Reservists by adopting a results-proven policy from Albuquerque. *(Susie Galea, Mayor)*
10. Appointments to Boards and Committees. *(Susie Galea, Mayor)*

WORK SESSION

11. Topic for discussion: Architects report regarding the Family Fun Center. *(George Straface)*

ADJOURNMENT

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 02/23/2016

Report Date: 2/18/2016

Report No: 1.

Submitted By: Dr. George Straface,
Interim City Manager

Subject: Presentation of plaque to honor Mayor Susie Galea for her years of dedicated service to the City of Alamogordo. (*George Straface, Interim City Manager*)

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation:

Background: Mayor Susie Galea has resigned her position as Mayor of the City of Alamogordo. She will serve through the Municipal Election to be held on March 1, 2016, at which time a new Mayor will be elected to complete the term until 2018.

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 02/23/2016

Report Date: 2/13/2016

Report No: 2.

Submitted By: Nancy Jacobs, City Clerk

Subject: Approve the Minutes for February 9, 2016 Regular City Commission Meeting. *(Nancy Jacobs, City Clerk)*

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Approve the minutes.

Background: This is required per the Open Meetings Act.

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 02/23/2016

Report Date: 2/18/2016

Report No: 3.

Submitted By: Nancy Jacobs, City Clerk

Subject: Approve the statement related to the Executive Session held on February 9, 2016. *(Nancy Jacobs, City Clerk)*

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Approve the following statements authorize them to be included in the minutes of February 23, 2016: "The Governing Body of the City of Alamogordo, New Mexico, hereby states that on February 9, 2016 a Closed Executive Session was held during the Regular Meeting and matters discussed in the closed meeting were limited only to: Limited Personnel Matters as posted on the meeting notice."

Background: The statement is required per the Open Meetings Act.

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 02/23/2016

Report Date: 2/17/2016

Report No: 4.

Submitted By: Barbara Pyeatt, Chief
Procurement Officer

Subject: Consider, and act upon, the award of IFB 2016-01 Bulk Fuels for the City of Alamogordo to Brewer Oil Company using the OPIS Rack Average mark up of .20 per gallon of Unleaded and Diesel. *(Barbara Pyeatt, Chief Procurement Officer)*

Fiscal Impact: 100,000

Amount Budgeted: \$150,000.00

Fund: 086-1003-434-3055, 090-0101-456-3055 091-0006-459-3055 094-0903-434-3055

Additional Fiscal Impact:

Recommendation: Award IFB 2016-01, to Brewer Oil Company, for the purchase of Bulk Fuels in an estimate of \$100,000.00 total per year

Background: This IFB was advertised on January 17, 2016 and opened on February 4, 2016 at 3:00 p.m. with one (1) responsive bids received. This bid is awarded to the low bidder meeting specifications and requirements.

The departments that order bulk fuel are the Airport, Golf Course, Convenience Center, Landfill and the City yards.

This contract will be set up on a multi-term basis, with an option to extend the one-year contract for an additional three one-year terms, if agreeable to both parties. The first term of this contract will run from March 1st, 2016 through February 28th, 2017.

Please refer to the attached spreadsheet.

BID TABULATION
Bulk Fuels
IFB 2016-01
February 4, 2016 3:00PM

ITEM NO.	DESCRIPTION	Brewer Oil
1	Unleaded Fuel: Vendor's Mark Up Price: to include freight, Delivery cost, overhead etc.	\$0.2000
2	No. 2 Dyed Diesel: Vendor's Mark Up Price: to include freight, Delivery cost, overhead etc.	\$0.2000

Campaign Contr	Yes
Preference	No

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 02/23/2016

Report Date: 2/17/2016

Report No: 5.

Submitted By: Veronica Ortega, Senior
Center Manager & Interim City Manager

Subject: Consider, and act upon, the award of IFB 2016-02 John Deere 1570 Terrain Cut Commercial Front Mower with 72" Mowing Deck or "Equivalent" to Austin Turf & Tractor in the amount of \$22,255.04. *(Barbara Pyeatt, Chief Procurement Officer)*

Fiscal Impact: \$22,255.04
Amount Budgeted: \$23,502.00
Fund: 090-0199-990-65-69

Additional Fiscal Impact:

Recommendation: Award IFB 2016-02 to Austin Turf & Tractor for the purchase of John Deere 1570 Terrain Cut Commercial Front Mower with 72" Mowing Deck in the amount of \$22,255.04

Background: This IFB was advertised on January 17, 2016 and opened on February 3, 2016 at 3:00 PM with two (2) bids received. This bid will be awarded to the bidder meeting specifications and requirements.

One bid, The Power Center, did not meet the required specifications.

Please see attached bid tabulation sheet

BID TABULATION
John Deere 1570 Terrain Cut Commercial Front Mower With 72" Mowing Deck or
"EQUIVALENT"
CITY OF ALAMOGORDO BID NO. 2016-02
February 3, 2016 3:00 PM

ITEM NO.	EST QTY	DESCRIPTION	Austin Turf & Tractor	The Power Center
			Total Price	Total Price
1	1	John Deere 1570 Terrain Cut Commercial Front Mower W/ 72" Deck or Equivalent	\$22,255.04	\$15,597.00 Proposed Unit did not meet " or Equivalent"
TOTAL BASE BID			\$22,255.04	\$15,597.00

Campaign Contribution Form	Yes	No
Preference	No	No

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 02/23/2016

Report Date: 2/17/2016

Report No: 6.

Submitted By: Chris Darnell, City Engineer

Subject: Consider, and act upon, approval of a Pipeline Crossing Agreement with Union Pacific Railroad (UPRR) related to the Reclaimed Water Line Looping project. *(Chris Darnell, City Engineer)*

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact: Check number 00179656 has already been issued for the permit fee

Recommendation: Approve the Pipeline Crossing Agreement with Union Pacific Railroad (UPRR) related to the Reclaimed Water Line Looping project.

Background: The Reclaimed Water Line Looping project will install 10" Reclaimed Water Pipe for the purpose of looping the city's reclaimed water system. The project was advertised for construction with base bid work and alternate 1 work. The Base Bid work was Awarded to File Construction LLC on February 9, 2016 and construction is anticipated to begin March 1, 2016. Alternate 1 work (from 11th Street north to Alameda Park in the vicinity of 14th Street) is dependent upon agreements with the Union Pacific Railroad to install the line on their property and cross under the railroad tracks. This agreement is for crossing under the railroad tracks. A separate agreement is in process with UPRR for the rest of the pipeline that will be installed on railroad property.



February 4, 2016
Folder: 02955-74

JULIAN SILVA
CITY OF ALAMOGORDO
1376 EAST NINTH STREET
ALAMOGORDO NM 88310

Re: Proposed Underground 10 Inch Cased water Pipeline Crossing of Railroad Property at Mile Post 882.9 on the Carrizozo Subdivision/Branch at or near Alamogordo, Otero County, New Mexico

Julian Silva:

Attached is the original of an agreement covering your use of the Railroad Company's right of way. Please print two copies, execute the IN DUPLICATE and return the 1400 Douglas Street Omaha, NE 68179-1690.

An original copy of the fully-executed document will be returned to you, when approved and processed by the Railroad Company. Also, please provide a resolution or other authorization for the party executing the documents, *if signature authorization is required by your Entity*.

Railroad Protective Liability Insurance (RPLI) may be obtained from any insurance company which offers such coverage. Union Pacific has also worked with a national broker, Marsh USA, to make available RPLI to you or your contractor. You can find additional information, premium quotes, and application forms at (uprr.marsh.com).

- Payment in the amount of **Three Thousand Five Dollars (\$3,005.00)** is due and payable to Union Pacific Railroad Company upon your execution of the agreement. Please include your payment, **with Folder No. 02955-74 noted on that document**. If you require formal billing, you may consider this letter as a formal bill and that 94-6001323 is this Corporation's correct Federal Taxpayer Identification Number.
- Railroad Protective Liability Insurance (RPLI) may be obtained from any insurance company which offers such coverage. Union Pacific has also worked with a national broker, Marsh USA, to make available RPLI to you or your contractor. You can find additional information, premium quotes, and application forms at (uprr.marsh.com).

If we have not received the executed documents within six months from the date of this letter, this proposed offer of an agreement is withdrawn and becomes null and void.

If you have any questions, please contact me at (402) 544-8536.

Sincerely,

Kylan Crawford
Senior Manager

PIPELINE CROSSING AGREEMENT

Mile Post: 882.9, Carrizozo Subdivision/Branch
Location: Alamogordo, Otero County, New Mexico

THIS AGREEMENT (“Agreement”) is made and entered into as of February 4, 2016, (“Effective Date”) by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, (“Licensor”) and **CITY OF ALAMOGORDO**, to be addressed at 1376 East Ninth Street, Alamogordo, New Mexico 88310 (“Licensee”).

IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

Article 1. LICENSOR GRANTS RIGHT.

In consideration of the license fee to be paid by the Licensee and in further consideration of the covenants and agreements herein contained to be by the Licensee kept, observed and performed, the Licensor hereby grants to the Licensee the right to construct and thereafter, during the term hereof, to maintain and operate

One underground 10 inch cased pipeline for transporting and conveying water only

across Licensor's track(s) and property (the “Pipeline”) in the location shown and in conformity with the dimensions and specifications indicated on the print dated September 30, 2015 and marked **Exhibit A**, attached hereto and hereby made a part hereof. Under no circumstances shall Licensee modify the use of the Pipeline for a purpose other than transporting and conveying water, and the Pipeline shall not be used to convey any other substance, any fiber optic cable, or for any other use, whether such use is currently technologically possible, or whether such use may come into existence during the life of this Agreement.

For the purposes of Exhibit A, Licensee acknowledges that if it or its contractor provides to Railroad digital imagery depicting the Pipeline crossing, Licensee authorizes Railroad to use the Digital Imagery in preparing the print attached as an exhibit hereto. Licensee represents and warrants that through a license or otherwise, it has the right to use the Digital Imagery and to permit Railroad to use the Digital Imagery in said manner.

Article 2. LICENSE FEE.

Upon execution of this Agreement, the Licensee shall pay to the Licensor a one-time License Fee of **Two Thousand Five Hundred Dollars (\$2,500.00)**.

Article 3. ADMINISTRATIVE HANDLING CHARGE.

Upon execution and delivery of this Agreement, the Licensee shall pay to the Licensor an License Fee of **Five Hundred Five DOLLARS (\$505.00)** for clerical, administrative and handling expense in connection with processing this Agreement.

Article 4. CONSTRUCTION, MAINTENANCE AND OPERATION.

The grant of right herein made to the Licensee is subject to each and all of the terms, provisions, conditions, limitations and covenants set forth herein and in **Exhibit B**, attached hereto and hereby made a part hereof.

Article 5. DEFINITION OF LICENSEE.

For purposes of this Agreement, all references in this Agreement to the Licensee shall include the Licensee's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority. If a contractor is hired by the Licensee for any work performed on the Pipeline (including initial construction and subsequent relocation or maintenance and repair work), then the Licensee shall provide a copy of this Agreement to its contractor and require its contractor to comply with all the terms and provisions hereof relating to the work to be performed. Any contractor or subcontractor shall be deemed an agent of Licensee for the purpose of this Agreement, and Licensee shall require such contractor or subcontractor to release, defend and indemnify Licensor to the same extent and under the same terms and conditions as Licensee is required to release, defend and indemnify Licensor herein.

Article 6. INSURANCE.

A. During the life of the License, Licensee shall fully comply with the insurance requirements described in **Exhibit C**.

B. Failure to maintain insurance as required shall entitle, but not require, Licensor to terminate this License immediately.

C. If the Licensee is subject to statute(s) limiting its insurance liability and/or limiting its ability to obtain insurance in compliance with **Exhibit C** of this license, those statutes shall apply.

D. Licensee hereby acknowledges that is has reviewed the requirements of **Exhibit C**, including without limitation the requirement for Railroad Protective Liability Insurance during construction, maintenance, installation, repair or removal of the pipeline which is the subject of this Agreement.

Article 7. TERM.

This Agreement shall take effect as of the Effective Date first herein written and shall continue in full force and effect until terminated as herein provided.

Article 8. INDEMNIFICATION OBLIGATIONS

To the maximum extent not prohibited by law, the Licensee shall pay all loss or damages for which the License could be liable under the provisions of this Agreement, provided, however, no provision of this Agreement shall be construed as creating any obligation that is a charge upon Licensee's general credit or against its taxing powers.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY

CITY OF ALAMOGORDO

By: _____
Kylan Crawford
Senior Manager

By: _____

Name Printed: _____

Title: _____

☒ CROSSING
☐ ENCROACHMENT
☐ BOTH



A) METHOD OF INSTALLATION Bored and Jacked

B) DIST. FROM CENTERLINE OF TRACK TO PIPE ENCROACHMENT _____.

C) SIGNS PROVIDED? At minimum signs will be provided as stated above

D) CARRIER MATERIAL Plastic _____, IF RCP, CLASS V? NA.
COMMODITY TO BE CONVEYED Effluent Reuse Water _____.
OPERATIONAL PRESSURE 100.0 PSI. MAOP 100.0 PSI.
WALL THICKNESS (INCH)/ SCHEDULE 18.0 _____, DIAMETER 10.0 IN.
CATHODIC/COATING PROTECTION Yes _____

E) CASING MATERIAL Steel Pipe _____, IF RCP, CLASS V? NA.
TOTAL LENGTH CASING PIPE: 90.0 FT.
WALL THICKNESS 0.31 IN. DIAMETER 18.0 IN.
CATHODIC/COATING PROTECTION Yes _____
CASING PIPE IS Sealed AT THE ENDS.

F) DISTANCE FROM CENTERLINE OF TRACK TO NEAR FACE OF
BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES
30.0 AND 30.0 _____.



EXHIBIT "A"

SUBDIVISION: Carrizozo Sub.

TRACK TYPE: *Mainline*

M.P.: : 882.90

LAT.: 32.904617721311

E.S.M.: 4518 + 01

LONG.: -105.9616407752

NEAREST CITY: COUNTY: STATE:

ALAMOGORDO	Otero
APPLICANT: CITY OF ALAMOGORDO	

FILE NO.: 0295574

DATE: 09/30/2015

EXHIBIT B

Section 1. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED.

- A. The foregoing grant of right is subject and subordinate to the prior and continuing right and obligation of the Licensor to use and maintain its entire property including the right and power of the Licensor to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by the Licensor without liability to the Licensee or to any other party for compensation or damages.
- B. The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of the Licensor's property, and others) and the right of the Licensor to renew and extend the same, and is made without covenant of title or for quiet enjoyment.

Section 2. CONSTRUCTION, MAINTENANCE AND OPERATION.

- A. The Pipeline shall be designed, constructed, operated, maintained, repaired, renewed, modified and/or reconstructed by the Licensee in strict conformity with (i) Licensor's current standards and specifications ("UP Specifications"), except for variances approved in advance in writing by the Licensor's Assistant Vice President Engineering – Design, or his authorized representative; (ii) such other additional safety standards as the Licensor, in its sole discretion, elects to require, including, without limitation, American Railway Engineering and Maintenance-of-Way Association ("AREMA") standards and guidelines (collectively, "UP Additional Requirements"), and (iii) all applicable laws, rules and regulations ("Laws"). If there is any conflict between the requirements of any Law and the UP Specifications or the UP Additional Requirements, the most restrictive will apply.
- B. All work performed on property of the Licensor in connection with the design, construction, maintenance, repair, renewal, modification or reconstruction of the Pipeline shall be done to the satisfaction of the Licensor.
- C. Prior to the commencement of any work in connection with the design, construction, maintenance, repair, renewal, modification, relocation, reconstruction or removal of the Pipeline from Licensor's property, the Licensee shall submit to the Licensor plans setting out the method and manner of handling the work, including the shoring and cribbing, if any, required to protect the Licensor's operations, and shall not proceed with the work until such plans have been approved by the Licensor's Assistant Vice President Engineering Design, or his authorized representative, and then the work shall be done to the satisfaction of the Licensor's Assistant Vice President Engineering Design or his authorized representative. The Licensor shall have the right, if it so elects, to provide such support as it may deem necessary for the safety of its track or tracks during the time of construction, maintenance, repair, renewal, modification, relocation, reconstruction or removal of the Pipeline, and, in the event the Licensor provides such support,

the Licensee shall pay to the Licensor, within fifteen (15) days after bills shall have been rendered therefore, all expenses incurred by the Licensor in connection therewith, which expenses shall include all assignable costs.

- D. The Licensee shall keep and maintain the soil over the Pipeline thoroughly compacted and the grade even with the adjacent surface of the ground.
- E. In the prosecution of any work covered by this Agreement, Licensee shall secure any and all necessary permits and shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work including, without limitation, all applicable Federal Railroad Administration regulations.

Section 3. NOTICE OF COMMENCEMENT OF WORK / LICENSOR REPRESENTATIVE / SUPERVISION / FLAGGING / SAFETY.

- A. If an emergency should arise requiring immediate attention, the Licensee shall provide as much notice as practicable to Licensor before commencing any work. In all other situations, the Licensee shall notify the Licensor at least ten (10) days (or such other time as the Licensor may allow) in advance of the commencement of any work upon property of the Licensor in connection with the construction, maintenance, repair, renewal, modification, reconstruction, relocation or removal of the Pipeline. All such work shall be prosecuted diligently to completion. The Licensee will coordinate its initial, and any subsequent work with the following employee of Licensor or his or her duly authorized representative (hereinafter "Licensor Representative" or "Railroad Representative"):

DENNY L. ADAMS MGR SIGNAL MNTCE 8300 Airport Rd Bldg A Santa Teresa, NM 88008 Cell Phone: 915 319-9062 dladams@up.com	CURTIS L. HILL MGR SIGNAL CONSTRUCT 195 West K Street Colton, CA 92324 Fax: 402 501-1864 Cell Phone: 801 920-3299 clhill2@up.com
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- B. Licensee, at its own expense, shall adequately police and supervise all work to be performed. The responsibility of Licensee for safe conduct and adequate policing and supervision of work shall not be lessened or otherwise affected by Licensor's approval of plans and specifications involving the work, or by Licensor's collaboration in performance of any work, or by the presence at the work site of a Licensor Representative, or by compliance by Licensee with any requests or recommendations made by the Licensor Representative.
- C. At the request of Licensor, Licensee shall remove from Licensor's property any employee who fails to conform to the instructions of the Licensor Representative in connection with the work on Licensor's property. Licensee shall indemnify Licensor against any claims arising from the removal of any such employee from Licensor's property.
- D. Licensee shall notify the Licensor Representative at least ten (10) working days in advance of proposed performance of any work in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s),

vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of Licensor's track(s) at any time, for any reason, unless and until a railroad flagman is provided to watch for trains. Upon receipt of such ten (10) day notice, the Licensor Representative will determine and inform Licensee whether a flagman need be present and whether any special protective or safety measures need to be implemented. If flagging or other special protective or safety measures are performed by Licensor, Licensor will bill Licensee for such expenses incurred by Licensor, unless Licensor and a federal, state or local governmental entity have agreed that Licensor is to bill such expenses to the federal, state or local governmental entity. If Licensor will be sending the bills to Licensee, Licensee shall pay such bills within thirty (30) days of receipt of billing. If Licensor performs any flagging, or other special protective or safety measures are performed by Licensor, Licensee agrees that Licensee is not relieved of any of responsibilities or liabilities set forth in this Agreement.

- E. The rate of pay per hour for each flagman will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Licensor and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Licensee (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges.
- F. Reimbursement to Licensor will be required covering the full eight-hour day during which any flagman is furnished, unless the flagman can be assigned to other railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other railroad work. Reimbursement will also be required for any day not actually worked by the flagman following the flagman's assignment to work on the project for which Licensor is required to pay the flagman and which could not reasonably be avoided by Licensor by assignment of such flagman to other work, even though Licensee may not be working during such time. When it becomes necessary for Licensor to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Licensee must provide Licensor a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5) days notice of cessation is not given, Licensee will still be required to pay flagging charges for the five (5) day notice period required by union agreement to be given to the employee, even though flagging is not required for that period. An additional ten (10) days notice must then be given to Licensor if flagging services are needed again after such five day cessation notice has been given to Licensor.
- G. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of the work performed by Licensee or its contractor. Licensee shall be responsible for initiating, maintaining and supervising all safety, operations and programs in connection with the work. Licensee and its contractor shall at a minimum comply with Licensor's safety standards listed in **Exhibit D**, hereto attached, to ensure uniformity with the safety standards followed by Licensor's own forces. As a part of Licensee's safety responsibilities, Licensee shall notify Licensor if it determines that any of Licensor's safety standards are contrary to good safety

practices. Licensee and its contractor shall furnish copies of **Exhibit D** to each of its employees before they enter the job site.

- H. Without limitation of the provisions of paragraph G above, Licensee shall keep the job site free from safety and health hazards and ensure that their employees are competent and adequately trained in all safety and health aspects of the job.
- I. Licensee shall have proper first aid supplies available on the job site so that prompt first aid services may be provided to any person injured on the job site. Prompt notification shall be given to Licensor of any U.S. Occupational Safety and Health Administration reportable injuries. Licensee shall have a non-delegable duty to control its employees while they are on the job site or any other property of Licensor, and to be certain they do not use, be under the influence of, or have in their possession any alcoholic beverage, drug or other substance that may inhibit the safe performance of any work.
- J. If and when requested by Licensor, Licensee shall deliver to Licensor a copy of its safety plan for conducting the work (the "Safety Plan"). Licensor shall have the right, but not the obligation, to require Licensee to correct any deficiencies in the Safety Plan. The terms of this Agreement shall control if there are any inconsistencies between this Agreement and the Safety Plan.

Section 4. LICENSEE TO BEAR ENTIRE EXPENSE.

The Licensee shall bear the entire cost and expense incurred in connection with the design, construction, maintenance, repair and renewal and any and all modification, revision, relocation, removal or reconstruction of the Pipeline, including any and all expense which may be incurred by the Licensor in connection therewith for supervision, inspection, flagging, or otherwise.

Section 5. REINFORCEMENT, RELOCATION OR REMOVAL OF PIPELINE.

- A. The license herein granted is subject to the needs and requirements of the Licensor in the safe and efficient operation of its railroad and in the improvement and use of its property. The Licensee shall, at the sole expense of the Licensee, reinforce or otherwise modify the Pipeline, or move all or any portion of the Pipeline to such new location, or remove the Pipeline from the Licensor's property, as the Licensor may designate, whenever, in the furtherance of its needs and requirements, the Licensor, at its sole election, finds such action necessary or desirable.
- B. All the terms, conditions and stipulations herein expressed with reference to the Pipeline on property of the Licensor in the location hereinbefore described shall, so far as the Pipeline remains on the property, apply to the Pipeline as modified, changed or relocated within the contemplation of this section.

Section 6. NO INTERFERENCE WITH LICENSOR'S OPERATION.

- A. The Pipeline and all parts thereof within and outside of the limits of the property of the Licensor shall be designed, constructed and, at all times, maintained, repaired, renewed and operated in such manner as to cause no interference whatsoever with the constant, continuous and uninterrupted use of the tracks, property and facilities of the Licensor and nothing shall be done or suffered to be done by the Licensee at any time that would in any manner impair the safety thereof.

- B. Explosives or other highly flammable substances shall not be stored on Licensor's property without the prior written approval of Licensor.
- C. No additional vehicular crossings (including temporary haul roads) or pedestrian crossings over Licensor's trackage shall be installed or used by Licensor or its contractors without the prior written permission of Licensor.
- D. When not in use, any machinery and materials of Licensee or its contractors shall be kept at least fifty (50) feet from the centerline of Licensor's nearest track.
- E. Operations of Licensor and work performed by Licensor's personnel may cause delays in the work to be performed by Licensee. Licensee accepts this risk and agrees that Licensor shall have no liability to Licensee or any other person or entity for any such delays. Licensee shall coordinate its activities with those of Licensor and third parties so as to avoid interference with railroad operations. The safe operation of Licensor's train movements and other activities by Licensor take precedence over any work to be performed by Licensee.

Section 7. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

- A. Fiber optic cable systems may be buried on the Licensor's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Licensee shall telephone the Licensor during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except for holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried anywhere on the Licensor's premises to be used by the Licensee. If it is, Licensee will telephone the telecommunications company(ies) involved, arrange for a cable locator, make arrangements for relocation or other protection of the fiber optic cable, all at Licensee's expense, and will commence no work on the Licensor's property until all such protection or relocation has been accomplished. Licensee shall indemnify and hold the Licensor harmless from and against all costs, liability and expense whatsoever (including, without limitation, attorneys' fees, court costs and expenses) arising out of or caused in any way by Licensee's failure to comply with the provisions of this paragraph.
- B. IN ADDITION TO OTHER INDEMNITY PROVISIONS IN THIS AGREEMENT, THE LICENSEE SHALL, AND SHALL CAUSE ITS CONTRACTOR TO, RELEASE, INDEMNIFY, DEFEND AND HOLD THE LICENSOR HARMLESS FROM AND AGAINST ALL COSTS, LIABILITY AND EXPENSE WHATSOEVER (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS AND EXPENSES) CAUSED BY THE NEGLIGENCE OF THE LICENSEE, ITS CONTRACTORS, AGENTS AND/OR EMPLOYEES, RESULTING IN (1) ANY DAMAGE TO OR DESTRUCTION OF ANY TELECOMMUNICATIONS SYSTEM ON LICENSOR'S PROPERTY, AND/OR (2) ANY INJURY TO OR DEATH OF ANY PERSON EMPLOYED BY OR ON BEHALF OF ANY TELECOMMUNICATIONS COMPANY, AND/OR ITS CONTRACTOR, AGENTS AND/OR EMPLOYEES, ON LICENSOR'S PROPERTY, EXCEPT IF SUCH COSTS, LIABILITY OR EXPENSES ARE CAUSED SOLELY BY THE DIRECT ACTIVE NEGLIGENCE OF THE LICENSOR. LICENSEE FURTHER AGREES THAT IT SHALL NOT HAVE OR SEEK RECOURSE AGAINST LICENSOR FOR ANY CLAIM OR CAUSE OF ACTION FOR ALLEGED LOSS OF PROFITS OR REVENUE OR LOSS OF SERVICE OR OTHER CONSEQUENTIAL DAMAGE TO A TELECOMMUNICATION COMPANY USING LICENSOR'S PROPERTY OR A CUSTOMER OR USER OF SERVICES OF THE FIBER OPTIC CABLE ON**

LICENSOR'S PROPERTY.

Section 8. CLAIMS AND LIENS FOR LABOR AND MATERIAL; TAXES.

- A. The Licensee shall fully pay for all materials joined or affixed to and labor performed upon property of the Licensor in connection with the construction, maintenance, repair, renewal, modification or reconstruction of the Pipeline, and shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the property for any work done or materials furnished thereon at the instance or request or on behalf of the Licensee. The Licensee shall indemnify and hold harmless the Licensor against and from any and all liens, claims, demands, costs and expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials furnished.
- B. The Licensee shall promptly pay or discharge all taxes, charges and assessments levied upon, in respect to, or on account of the Pipeline, to prevent the same from becoming a charge or lien upon property of the Licensor, and so that the taxes, charges and assessments levied upon or in respect to such property shall not be increased because of the location, construction or maintenance of the Pipeline or any improvement, appliance or fixture connected therewith placed upon such property, or on account of the Licensee's interest therein. Where such tax, charge or assessment may not be separately made or assessed to the Licensee but shall be included in the assessment of the property of the Licensor, then the Licensee shall pay to the Licensor an equitable proportion of such taxes determined by the value of the Licensee's property upon property of the Licensor as compared with the entire value of such property.

Section 9. RESTORATION OF LICENSOR'S PROPERTY.

In the event the Licensee in any manner moves or disturbs any of the property of the Licensor in connection with the construction, maintenance, repair, renewal, modification, reconstruction, relocation or removal of the Pipeline, then in that event the Licensee shall, as soon as possible and at Licensee's sole expense, restore such property to the same condition as the same were before such property was moved or disturbed, and the Licensee shall indemnify and hold harmless the Licensor, its officers, agents and employees, against and from any and all liability, loss, damages, claims, demands, costs and expenses of whatsoever nature, including court costs and attorneys' fees, which may result from injury to or death of persons whomsoever, or damage to or loss or destruction of property whatsoever, when such injury, death, damage, loss or destruction grows out of or arises from the moving or disturbance of any other property of the Licensor.

Section 10. INDEMNITY.

- A. As used in this Section, "Licensor" includes other railroad companies using the Licensor's property at or near the location of the Licensee's installation and their officers, agents, and employees; "Loss" includes loss, damage, claims, demands, actions, causes of action, penalties, costs, and expenses of whatsoever nature, including court costs and attorneys' fees, which may result from: (a) injury to or death of persons whomsoever (including the Licensor's officers, agents, and employees, the Licensee's officers, agents, and employees, as well as any other person); and/or (b) damage to or loss or destruction of property whatsoever (including Licensee's property, damage to the roadbed, tracks, equipment, or other property of the Licensor, or property in its care or custody).
- B. AS A MAJOR INDUCEMENT AND IN CONSIDERATION OF THE LICENSE AND

PERMISSION HEREIN GRANTED, TO THE FULLEST EXTENT PERMITTED BY LAW, THE LICENSEE SHALL, AND SHALL CAUSE ITS CONTRACTOR TO, RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS THE LICENSOR FROM ANY LOSS OF ANY KIND, NATURE OR DESCRIPTION ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART):

1. THE PROSECUTION OF ANY WORK CONTEMPLATED BY THIS AGREEMENT INCLUDING THE INSTALLATION, CONSTRUCTION, MAINTENANCE, REPAIR, RENEWAL, MODIFICATION, RECONSTRUCTION, RELOCATION, OR REMOVAL OF THE PIPELINE OR ANY PART THEREOF;

2. ANY RIGHTS OR INTERESTS GRANTED PURSUANT TO THIS LICENSE;

3. THE PRESENCE, OPERATION, OR USE OF THE PIPELINE OR CONTENTS ESCAPING THEREFROM;

4. THE ENVIRONMENTAL STATUS OF THE PROPERTY CAUSED BY OR CONTRIBUTED TO BY LICENSEE;

5. ANY ACT OR OMISSION OF LICENSEE OR LICENSEE'S OFFICERS, AGENTS, INVITEES, EMPLOYEES, OR CONTRACTORS OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER; OR

6. LICENSEE'S BREACH OF THIS AGREEMENT,

EXCEPT WHERE THE LOSS IS CAUSED BY THE SOLE DIRECT AND ACTIVE NEGLIGENCE OF THE LICENSOR, AS DETERMINED IN A FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION, IT BEING THE INTENTION OF THE PARTIES THAT THE ABOVE INDEMNITY WILL OTHERWISE APPLY TO LOSSES CAUSED BY OR ARISING FROM, IN WHOLE OR IN PART, LICENSOR'S NEGLIGENCE.

C. Upon written notice from Licensor, Licensee agrees to assume the defense of any lawsuit or proceeding brought against any indemnitee by any entity, relating to any matter covered by this License for which Licensee has an obligation to assume liability for and/or save and hold harmless any indemnitee. Licensee shall pay all costs incident to such defense, including, but not limited to, reasonable attorney's fees, investigators' fees, litigation and appeal expenses, settlement payments and amounts paid in satisfaction of judgments.

Section 11. REMOVAL OF PIPELINE UPON TERMINATION OF AGREEMENT.

Prior to the termination of this Agreement howsoever, the Licensee shall, at Licensee's sole expense, remove the Pipeline from those portions of the property not occupied by the roadbed and track or tracks of the Licensor and shall restore, to the satisfaction of the Licensor, such portions of such property to as good a condition as they were in at the time of the construction of the Pipeline. If the Licensee fails to do the foregoing, the Licensor may, but is not obligated, to perform such work of removal and restoration at the cost and expense of the Licensee. In the event of the removal by the Licensor of the property of the Licensee and of the restoration of the roadbed and property as herein provided, the Licensor shall in no manner be liable to the Licensee for any damage sustained by the

Licensee for or on account thereof, and such removal and restoration shall in no manner prejudice or impair any right of action for damages, or otherwise, that the Licensor may have against the Licensee.

Section 12. WAIVER OF BREACH.

The waiver by the Licensor of the breach of any condition, covenant or agreement herein contained to be kept, observed and performed by the Licensee shall in no way impair the right of the Licensor to avail itself of any remedy for any subsequent breach thereof.

Section 13. TERMINATION.

- A. If the Licensee does not use the right herein granted or the Pipeline for one (1) year, or if the Licensee continues in default in the performance of any covenant or agreement herein contained for a period of thirty (30) days after written notice from the Licensor to the Licensee specifying such default, the Licensor may, at its option, forthwith immediately terminate this Agreement by written notice.
- B. In addition to the provisions of subparagraph (a) above, this Agreement may be terminated by written notice given by either party hereto to the other on any date in such notice stated, not less, however, than thirty (30) days subsequent to the date upon which such notice shall be given.
- C. Notice of default and notice of termination may be served personally upon the Licensee or by mailing to the last known address of the Licensee. Termination of this Agreement for any reason shall not affect any of the rights or obligations of the parties hereto which may have accrued, or liabilities, accrued or otherwise, which may have arisen prior thereto.

Section 14. AGREEMENT NOT TO BE ASSIGNED.

The Licensee shall not assign this Agreement, in whole or in part, or any rights herein granted, without the written consent of the Licensor, and it is agreed that any transfer or assignment or attempted transfer or assignment of this Agreement or any of the rights herein granted, whether voluntary, by operation of law, or otherwise, without such consent in writing, shall be absolutely void and, at the option of the Licensor, shall terminate this Agreement.

Section 15. SUCCESSORS AND ASSIGNS.

Subject to the provisions of Section 14 hereof, this Agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors and assigns.

Section 16. SEVERABILITY.

Any provision of this Agreement which is determined by a court of competent jurisdiction to be invalid or unenforceable shall be invalid or unenforceable only to the extent of such determination, which shall not invalidate or otherwise render ineffective any other provision of this Agreement.

EXHIBIT C
Union Pacific Railroad Company
Contract Insurance Requirements

Licensee shall, at its sole cost and expense, procure and maintain during the life of this Agreement (except as otherwise provided in this Agreement) the following insurance coverage:

A. Commercial General Liability insurance. Commercial general liability (CGL) with a limit of not less than \$2,000,000 each occurrence and an aggregate limit of not less than \$4,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE: "Contractual Liability Railroads" ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

B. Business Automobile Coverage insurance. Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a limit of not less \$2,000,000 for each accident, and coverage must include liability arising out of any auto (including owned, hired, and non-owned autos).

The policy must contain the following endorsements, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE: "Coverage For Certain Operations In Connection With Railroads" ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Property" as the Designated Job Site.

C. Workers Compensation and Employers Liability insurance. Coverage must include but not be limited to:

Licensee's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement.

Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Licensee is self-insured, evidence of state approval and excess workers compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

D. Railroad Protective Liability insurance. Licensee must maintain "Railroad Protective Liability" insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Railroad only as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000.

The definition of “JOB LOCATION” and “WORK” on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this agreement

E. Umbrella or Excess insurance. If Licensee utilizes umbrella or excess policies, and these policies must “follow form” and afford no less coverage than the primary policy.

Other Requirements

F. All policy(ies) required above (except worker’s compensation and employers liability) must include Railroad as “Additional Insured” using ISO Additional Insured Endorsements CG 20 26, and CA 20 48 (or substitute forms providing equivalent coverage). The coverage provided to Railroad as additional insured shall, to the extent provided under ISO Additional Insured Endorsement CG 20 26, and CA 20 48 provide coverage for Railroad’s negligence whether sole or partial, active or passive, and shall not be limited by Licensee’s liability under the indemnity provisions of this Agreement.

G. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise under this agreement, or (b) all punitive damages are prohibited by all states in which this agreement will be performed.

H. Licensee waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Railroad and its agents, officers, directors and employees for damages covered by the workers compensation and employers liability or commercial umbrella or excess liability obtained by Licensee required in this agreement, where permitted by law This waiver must be stated on the certificate of insurance.

I. All insurance policies must be written by a reputable insurance company acceptable to Railroad or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the work is to be performed.

J. The fact that insurance is obtained by Licensee or by Railroad on behalf of Licensee will not be deemed to release or diminish the liability of Licensee, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Railroad from Licensee or any third party will not be limited by the amount of the required insurance coverage.

EXHIBIT D
SAFETY STANDARDS

MINIMUM SAFETY REQUIREMENTS

The term "employees" as used herein refer to all employees of Licensee or its contractors, subcontractors, or agents, as well as any subcontractor or agent of any Licensee.

I. Clothing

- A. All employees of Licensee will be suitably dressed to perform their duties safely and in a manner that will not interfere with their vision, hearing, or free use of their hands or feet.

Specifically, Licensee's employees must wear:

- (i) Waist-length shirts with sleeves.
- (ii) Trousers that cover the entire leg. If flare-legged trousers are worn, the trouser bottoms must be tied to prevent catching.
- (iii) Footwear that covers their ankles and has a defined heel. Employees working on bridges are required to wear safety-toed footwear that conforms to the American National Standards Institute (ANSI) and FRA footwear requirements.

- B. Employees shall not wear boots (other than work boots), sandals, canvas-type shoes, or other shoes that have thin soles or heels that are higher than normal.

- C. Employees must not wear loose or ragged clothing, neckties, finger rings, or other loose jewelry while operating or working on machinery.

II. Personal Protective Equipment

Licensee shall require its employee to wear personal protective equipment as specified by Railroad rules, regulations, or recommended or requested by the Railroad Representative.

- (i) Hard hat that meets the American National Standard (ANSI) Z89.1 – latest revision. Hard hats should be affixed with Licensee's company logo or name.
- (ii) Eye protection that meets American National Standard (ANSI) for occupational and educational eye and face protection, Z87.1 – latest revision. Additional eye protection must be provided to meet specific job situations such as welding, grinding, etc.
- (iii) Hearing protection, which affords enough attenuation to give protection from noise levels that will be occurring on the job site. Hearing protection, in the form of plugs or muffs, must be worn when employees are within:
 - 100 feet of a locomotive or roadway/work equipment
 - 15 feet of power operated tools
 - 150 feet of jet blowers or pile drivers

- 150 feet of retarders in use (when within 10 feet, employees must wear dual ear protection – plugs and muffs)
- (iv) Other types of personal protective equipment, such as respirators, fall protection equipment, and face shields, must be worn as recommended or requested by the Railroad Representative.

III. On Track Safety

Licensee and its contractor are responsible for compliance with the Federal Railroad Administration's Roadway Worker Protection regulations – 49CFR214, Subpart C and Railroad's On-Track Safety rules. Under 49CFR214, Subpart C, railroad contractors are responsible for the training of their employees on such regulations. In addition to the instructions contained in Roadway Worker Protection regulations, all employees must:

- (i) Maintain a minimum distance of at least twenty-five (25) feet to any track unless the Railroad Representative is present to authorize movements.
- (ii) Wear an orange, reflectorized work wear approved by the Railroad Representative.
- (iii) Participate in a job briefing that will specify the type of On-Track Safety for the type of work being performed. Licensee must take special note of limits of track authority, which tracks may or may not be fouled, and clearing the track. Licensee will also receive special instructions relating to the work zone around machines and minimum distances between machines while working or traveling.

IV. Equipment

- A. It is the responsibility of Licensee to ensure that all equipment is in a safe condition to operate. If, in the opinion of the Railroad Representative, any of Licensee's equipment is unsafe for use, Licensee shall remove such equipment from Railroad's property. In addition, Licensee must ensure that the operators of all equipment are properly trained and competent in the safe operation of the equipment. In addition, operators must be:
 - Familiar and comply with Railroad's rules on lockout/tagout of equipment.
 - Trained in and comply with the applicable operating rules if operating any hy-rail equipment on-track.
 - Trained in and comply with the applicable air brake rules if operating any equipment that moves rail cars or any other rail bound equipment.
- B. All self-propelled equipment must be equipped with a first-aid kit, fire extinguisher, and audible back-up warning device.
- C. Unless otherwise authorized by the Railroad Representative, all equipment must be parked a minimum of twenty-five (25) feet from any track. Before leaving any equipment unattended, the operator must stop the engine and properly secure the equipment against movement.
- D. Cranes must be equipped with three orange cones that will be used to mark the working area of the crane and the minimum clearances to overhead powerlines.

V. General Safety Requirements

- A. Licensee shall ensure that all waste is properly disposed of in accordance with applicable federal and state regulations.
- B. Licensee shall ensure that all employees participate in and comply with a job briefing conducted by the Railroad Representative, if applicable. During this briefing, the Railroad Representative will specify safe work procedures, (including On-Track Safety) and the potential hazards of the job. If any employee has any questions or concerns about the work, the employee must voice them during the job briefing. Additional job briefings will be conducted during the work as conditions, work procedures, or personnel change.
- C. All track work performed by Licensee meets the minimum safety requirements established by the Federal Railroad Administration's Track Safety Standards 49CFR213.
- D. All employees comply with the following safety procedures when working around any railroad track:
 - (i) Always be on the alert for moving equipment. Employees must always expect movement on any track, at any time, in either direction.
 - (ii) Do not step or walk on the top of the rail, frog, switches, guard rails, or other track components.
 - (iii) In passing around the ends of standing cars, engines, roadway machines or work equipment, leave at least 20 feet between yourself and the end of the equipment. Do not go between pieces of equipment if the opening is less than one car length (50 feet).
 - (iv) Avoid walking or standing on a track unless so authorized by the employee in charge.
 - (v) Before stepping over or crossing tracks, look in both directions first.
 - (vi) Do not sit on, lie under, or cross between cars except as required in the performance of your duties and only when track and equipment have been protected against movement.
- E. All employees must comply with all federal and state regulations concerning workplace safety.

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 02/23/2016

Report Date: 2/17/2016

Report No: 7.

Submitted By: Edward Balderrama,
Project Manager

Subject: Consider, and act upon, the award of Public Works Bid No. 2016-003 to General Hydronics, Inc. related to Buena Vista Corte Sewer Line Replacement (EN1605) in an amount not to exceed \$70,454.88, including NMGR. (*Edward Balderrama, Project Manager*)

Fiscal Impact: \$70,454.88, including NMGR Fund Impact
Amount Budgeted: \$150,000.00
Fund: 81-9303-465.67-70 EN1605

Additional Fiscal Impact:

Recommendation: Award, Public Works Bid No. 2016-003 General Hydronics, Inc. related to Buena Vista Corte Sewer Line Replacement (EN1605) in an amount not to exceed \$70,454.88, including NMGR.

Background: The work will consist of removal and disposal of existing sewer line and manholes, and installing approximately 1,010 linear feet of 8-inch PVC sewer line, connecting 19 existing sewer service lines, pre-cast manholes, curb/gutter, concrete flatwork and appurtenances, as specified and/or shown on the construction documents, complete, in place, all within the city limits of Alamogordo, New Mexico.

During the installation of the water main line, as part of the 2014 SMP, it was discovered that the sewer service lines and the sewer main line were starting to show signs of failure. Once this project is complete, the street paving will be completed as part of the 2014 SMP.

The city received six (6) bids on February 16, 2016. Please see attach Bid Tab.

Buena Vista Corte Sewer Line Replacement Public Works Bid No. 2016-003 EN1605 February 16, 2016 - 2:00PM (MST)							License No. 26970 GA01, GA02, GA03, GF04, GF09, MM98, LP05, LP065, GB98, JPG,MH,MM,M98		License No. 367697 GF09, GS04		License No. 55559 GB98, MM1, MM1, GF09		License No. 1762 GA98., GB98, GF98		License No. 378767 GA98, GB98, GF98		License No. 379720 GB98, GF05, GF07, GF09, MM01	
	BASE BID ITEM NO.	QTY	UNIT	DESCRIPTION	Engineer's Opinion of Probable Construction Cost		General Hydronics, Inc.		Adame Construction Inc.		Cherokee Enterprises, inc.		Burn Construction Co., Inc.		DuCross Construction, LLC		File Construction, LLC	
					UNIT PRICE	BID AMOUNT	UNIT PRICE	BID AMOUNT	UNIT PRICE	BID AMOUNT	UNIT PRICE	BID AMOUNT	UNIT PRICE	BID AMOUNT	UNIT PRICE	BID AMOUNT	UNIT PRICE	BID AMOUNT
NA	203000	45	CY	Unclassification excavation	\$25.00	\$ 1,125.00	\$ 10.00	\$ 450.00	\$ 30.00	\$ 1,350.00	\$ 12.45	\$ 560.25	\$ 35.00	\$ 1,575.00	\$ 51.80	\$ 2,331.00	\$ 66.00	\$ 2,970.00
NA	303010	45	CY	Base course	\$65.00	\$ 2,925.00	\$ 20.00	\$ 900.00	\$ 70.00	\$ 3,150.00	\$ 40.00	\$ 1,800.00	\$ 50.00	\$ 2,250.00	\$ 89.60	\$ 4,032.00	\$ 59.00	\$ 2,655.00
GF-9 or GF98	68006	5	SY	6-inch thick reinforced concrete	\$75.00	\$ 375.00	\$ 60.00	\$ 300.00	\$ 100.00	\$ 500.00	\$ 280.00	\$ 1,400.00	\$ 106.00	\$ 530.00	\$ 184.40	\$ 922.00	\$ 508.00	\$ 2,540.00
GF-9 or GF98	609424	5	LF	Type II Stand-up curb/gutter	\$55.00	\$ 275.00	\$ 25.00	\$ 125.00	\$ 50.00	\$ 250.00	\$ 110.00	\$ 550.00	\$ 16.00	\$ 80.00	\$ 288.00	\$ 1,440.00	\$ 180.00	\$ 900.00
NA	618000	1	LS	Furnish and provide MUTCD compliant project wide traffic control	\$2,500.00	\$ 2,500.00	\$ 1,000.00	\$ 1,000.00	\$ 4,000.00	\$ 4,000.00	\$ 1,600.00	\$ 1,600.00	\$ 3,045.00	\$ 3,045.00	\$ 5,819.00	\$ 5,819.00	\$ 3,975.00	\$ 3,975.00
NA	621000	1	LS	Mobilization	\$10,080.00	\$ 10,080.00	\$ 1.00	\$ 1.00	\$ 10,000.00	\$ 10,000.00	\$ 1,000.00	\$ 1,000.00	\$ 5,433.00	\$ 5,433.00	\$ 13,358.64	\$ 13,358.64	\$ 24,743.00	\$ 24,743.00
GF-9 or GF98	662000	4	EA	Manhole 0-feet to 6-feet	\$4,250.00	\$ 17,000.00	\$ 4,000.00	\$ 16,000.00	\$ 4,000.00	\$ 16,000.00	\$ 4,955.00	\$ 19,820.00	\$ 3,517.00	\$ 14,068.00	\$ 4,878.00	\$ 19,512.00	\$ 4,500.00	\$ 18,000.00
GF-9 or GF98	662100	1	EA	Connection into existing manhole	\$2,500.00	\$ 2,500.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 2,000.00	\$ 2,000.00	\$ 1,357.00	\$ 1,357.00	\$ 434.80	\$ 434.80	\$ 2,840.00	\$ 2,840.00
GF-9 or GF98	663908	1010	LF	8-inch PVC Sanitary Sewerline	\$55.00	\$ 55,550.00	\$ 36.00	\$ 36,360.00	\$ 19.00	\$ 19,190.00	\$ 44.00	\$ 44,440.00	\$ 71.30	\$ 72,013.00	\$ 61.97	\$ 62,589.70	\$ 28.60	\$ 28,886.00
GF-9 or GF98	663944	19	EA	4-inch sanitary sewer service line	\$650.00	\$ 12,350.00	\$ 400.00	\$ 7,600.00	\$ 1,000.00	\$ 19,000.00	\$ 485.00	\$ 9,215.00	\$ 450.00	\$ 8,550.00	\$ 306.10	\$ 5,815.90	\$ 1,600.00	\$ 30,400.00
NA	801000	1	LS	Construction staking and surveying	\$1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 8,000.00	\$ 8,000.00	\$ 2,700.00	\$ 2,700.00	\$ 5,200.00	\$ 5,200.00	\$ 1,791.60	\$ 1,791.60	\$ 5,330.00	\$ 5,330.00
				SUB-TOTAL		\$ 106,180.00		\$ 65,236.00		\$ 82,440.00		\$ 85,085.25		\$ 114,101.00		\$ 118,046.64		\$ 123,239.00
				NMGRT (8.00%)		\$ 8,494.40		\$ 5,218.88		\$ 6,595.20		\$ 6,806.82		\$ 9,128.08		\$ 9,443.73		\$ 9,859.12
				BASE BID TOTAL		\$ 114,674.40		\$ 70,454.88		\$ 89,035.20		\$ 91,892.07		\$ 123,229.08		\$ 127,490.37		\$ 133,098.12

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 02/23/2016

Report Date: 2/17/2016

Report No: 8.

Submitted By: Julianne Hall, Accounting Manager

Subject: Presentation of the Fiscal Year Audit and Approval 2014-2015. (*Alan Bowers, CPA for RCP+Consultants, LLC*)

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Approve the audited Annual Financial Statement for the period ending June 30, 2015.

Background: Mr. Alan Bowers, CPA for the firm RCP + Consultants, LLC, will give a brief overview of the audited Annual Financial Report for the period ended on June 30, 2015.

In addition, Mr. Bowers will also be available to the Commission from 6:30 p.m. to 7:00 p.m. (before the commission meeting) for questions, comments or inquiries regarding this annual audit.

The office of the State Auditor release reads:

"Per Section 12-6-5 NMSA 1978, the audit report does not become public record until five days after the date of this release letter, unless your agency has already submitted a written waiver to the Office. Once the five-day period has expired or upon the Office's receipt of a waiver, the audit shall be:

- released by the Office to the Legislative Finance Committee, and the Department of Finance and Administration; and

- presented by your agency to a quorum of the agency's governing authority at a public meeting, for approval, per section 2.2.2.10(J)(3)(d) NMAC, . " *Requirements for Contraction and Conducting Audits of Agencies.*

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 02/23/2016

Report Date: 2/18/2016

Report No: 9.

Submitted By: Susie Galea, Mayor

Subject: Discuss, and consider, improving the City of Alamogordo hiring policy related to Veterans, Guardsmen, and Reservists by adopting a results-proven policy from Albuquerque. (*Susie Galea, Mayor*)

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation:

Background:

City of Albuquerque Veterans Hiring Initiative Program

Program is designed to give the Qualified Veteran a “Leg-up” not a “Hand-out”

Overview of Program:

Eligibility: Completed Basic and Skill Training and Assigned to Unit (Guard & Reserve) or Honorable Discharge, (General Discharge on a “Case-by-Case Basis”)
1. Opens opportunities to All Current Guard & Reserve personnel
2. No Rank or Length of Service Restrictions

Jobs Available: All City Departments – Full & Part-time – Jobs listed on City Website ***cabq.gov***

Qualifications: Must Meet the **Specific Skills and Education** requirements for the position listed

If Qualified: Will be granted an **Interview** for position – **No Limit on the # of Interviewees**

If Hired: Expected to pass **Background Check, Proof of Service, Licensing** (proof if required) and **Job Probation Period**

Applicant Responsibilities:

1. Find Job you are qualified to perform on city website under Employment Opportunities
2. Complete application requirements using On-Line Application process
 - a. Be sure to indicate you are a “Veteran”
 - b. Your Resume should speak to the Skills and Education you have that match the “**Qualifications Required for the Position**”. Your Historical information comes after your qualification.

City and Department HR Responsibilities:

1. Review All Veteran Applications and verify that the Basic Skill and Education Requirement for the Specific Job are met.
2. Forward All Veteran's Applications meeting the Basic Skill and Education requirements to the Department HR Staff for verification of match between applicant and job opening.
3. Contact All Veterans who meet the Basic Requirement for the Position and offer the opportunity for an Interview. You can give more information about the position like work hours, pay, expectations and “do they still wish to be interview for the position. If they say “Yes” set them up for the Interview, if they say “No”, thank them for their interest in working for the City of Albuquerque. There is No Limit to the number of interviews to be given, only that All Qualified Veterans the Opportunity for an Interview.
4. The Interview is only the opportunity for the Veteran to present their ability to do the job better than the other applicants being interviewed, not a guarantee or promise for the position.
5. The position should be offered to the best qualified applicant from the Interview process.

Sample Recording Record:

<u>NEO Date</u>	<u># of Attendees</u>	<u># of All Veterans</u>	<u>*# of Guard & Reserve</u>
10/19/2015	40	5	0

❖ This is the number of currently serving members of Guard & Reserve Units.

City of Albuquerque Veterans Hiring Initiative Program	
Program designed to give the qualified Veteran a "Leg-up" not a "Hand-out"	
Eligibility: Completed Basic Training and Assigned to Unit or Honorable Discharge 1 Opens Program to All Current Guard & Reserve 2 No Rank or length of service restrictions Jobs Available: All City Departments - Full & Part-time - Jobs listed on city website cabq.gov Qualifications: Must meet the Skills & Educational requirements for position listed If Qualified: We be granted an Interview for position - no limit on # of Interviews If Hired: Expected to pass Background Check, Proof of Service, Licensing if required and Job Probation Period	

NeoGov Veterans Data from 8/14/2013 to 01/01/2014				
# of Jobs Advertised	# of Vet Applications	# of Vet Hired	# of Vet Interviewed	% of
206	1255	26	129	20.16%
# of Jobs Advertised	# of Non-Vet Application	# of Non-Vet Hired	# of Non-Vet Interviewed	
206	12399	180	393	45.80%
Total Number of:		% of Non-Vet	% of Vets	
Total Interviewed	522	75.29%	24.71%	
Total Hired	206	87.38%	12.62%	

Row Labels	Count of status
No	12399
Referred	3330
Referred - Hired	180
Referred - Interview Sc	393
Referred - Offered	7
Referred - Rejected	3768
#N/A - No Action	4721
Yes	1255
Referred	371
Referred - Hired	26
Referred - Interview Sc	129
Referred - Rejected	398
#N/A - No Action	331
(blank)	
(blank)	
Grand Total	13654

Veteran Hiring Numbers

Year by Year:

	Start Date	End Date	Vet App	Total Apps	Vet Hires	Total Hires	% Apps	% Hire
	Jan-14	Dec-14	4336	33471	76	526	13.0%	14.4%
	Jan-15	Dec-15	3051	30136	87	694	10.1%	12.5%
*YTD	Jan-16	Dec-16	243	2697	10	45	9.0%	22.2%

Monthly NEO Numbers

**This is the number of currently serving members of Guard & Reserve Units.

2015				
Totals:	176	13	2	7.39%
Date	Total Att	Vet #'s	**G/R #'s	% Vets
10/19/2015	40	5	0	12.5%
11/2/2015	29	1	0	3.4%
11/16/2015	36	0	2	5.6%
11/30/2015	21	2	0	9.5%
12/14/2015	27	2	0	7.4%
12/28/2015	23	3	0	13.0%

2016				
Totals:	72	2	0	2.78%
Date	Total Att	Vet #'s	**G/R #'s	% Vets
1/11/2016	16	1	0	6.3%
1/25/2016	56	1	0	1.8%
2/8/2016				#DIV/0!
2/22/2016				#DIV/0!
3/7/2016				#DIV/0!
3/21/2016				#DIV/0!
4/4/2016				#DIV/0!
4/18/2016				#DIV/0!
5/2/2016				#DIV/0!
5/16/2016				#DIV/0!
5/30/2016				#DIV/0!
6/13/2016				#DIV/0!
6/27/2016				#DIV/0!
7/11/2016				#DIV/0!
7/25/2016				#DIV/0!
8/8/2016				#DIV/0!
8/22/2016				#DIV/0!
9/5/2016				#DIV/0!
9/19/2016				#DIV/0!
10/3/2016				#DIV/0!
10/17/2016				#DIV/0!
10/31/2016				#DIV/0!
11/14/2016				#DIV/0!
11/28/2016				#DIV/0!
12/12/2016				#DIV/0!
12/26/2016				#DIV/0!

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 02/23/2016

Report Date: 2/17/2016

Report No: 10.

Submitted By: Rachel Hughs, Deputy
City Clerk

Subject: Appointments to Boards and Committees. (*Susie Galea, Mayor*)

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Appoint to the Promotion Board.

Background:

Airport Zoning Board. Three (3) vacancies. Staff Liaison - Jan Wafful
(*Opening due to the expiring term of Darron Williams and the resignation of Frank Nelson and Paul Vigneault.*) No nominations received.

Alamogordo Disability Council. Two (2) vacancies. Staff Liaison - Edward Balderrama (*Openings due to the expiring terms of Rita Martinez and Suzanne Bertrand*) No nominations received

Community Development Advisory Committee. Four (4) vacancy. Staff Liaison - Ruben Segura (*Opening due to the expiring term of Bruce Knee, Tony Alger and Melanie Hall and the resignation of Arthur Alterson*) No nominations received.

Housing Authority Advisory Board. One (1) vacancy. Staff Liaison - Maggie Paluch (*Opening due to the resignation of Steve Landers*) No nominations received.

Mayors Committee on Aging . Two (2) vacancies. Staff Liaison – Britney Courtier
(*Opening due to the resignation of Josephine Chavez and the expiring term of Jesse Carr*) No nominations received.

Planning and Zoning Board. One (1) vacancy Staff Liaison - Jan Wafful
(*Opening due to the expiring term of William Arnold Jr*)
The following existing board member is interested in being reappointed;
No nominations received.

Promotion Board. Two (2) vacancies. Staff Liaison - Jan Wafful

(Opening due to the expiring term of Beverly Coble and the resignation of Kathleen Beall)

The following existing board member is interested in being reappointed:

Beverly Coble - if appointed this will be her sixth term.

Public Library Board. One (1) vacancy. Staff Liaison – Melissa Garcia

(Opening due to the expiring term of Joann Reynolds) No nominations received.

Senior Volunteer Programs Advisory Council. Three (3) vacancies. Staff Liaison - Margaret

Lucero *(Openings due to the expiring term of, Angela Axtolis and the resignations of William Whitley and Thomas Rich V.)* No nominations received.

ALAMOGORDO PROMOTION BOARD

RECEIVED
FEB 10 2016
CITY CLERK

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

Name: Beverly Coble
Home Phone: _____ Work Phone: 575-437-0077
Cell Phone: 575-430-1771 Fax No: 575-437-6581
e-mail address: Plumkrazy @Quintoffice.net
Physical Address: 1323 New York Ave
Is the above address within City limits? Yes ☒ No _____
Mailing Address: Same
Present Employer: Self - Memories Rep. Job Title: owner

Board/Committee you wish to serve on:

First choice: Promotion Board
Second choice: _____

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

Yes ☒ No _____ If so, what is their relation to you? Son-in-law - APD

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:

I have been on this board for many years.

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

Please return completed application to:

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

Beverly Coble

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 02/23/2016

Report Date: 2/17/2016

Report No: 11.

Submitted By: Dr. George Straface,
Interim City Manager

Subject: Topic for discussion: Architects report regarding the Family Fun Center.

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation:

Background: