Alamogordo City Commission

NOTICE OF MEETING

Regular Meeting Agenda

February 13, 2024 - 6:30 PM
Donald E. Carroll City Commission Chambers
City Hall, 1376 E. Ninth Street

Susan L. Payne ..... Mayor
Sharon McDonald ..... Mayor Pro-Tem, District 5
Nick Paul .....District 1
Stephen Burnett ..... District 2
Warren Robinson .....District 3
Josh Rardin .....District 4
Mark Tapley ..... District 6

Rick Holden ..... City Manager
Ashley Smith .....City Attorney
Rachel Hughs .....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 east bulletin board located in the south 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 575-439-4100.

CALL TO ORDER & ROLL CALL

Announce the presence of a Quorum.

INVOCATION & PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

PRESENTATIONS

1. Presentation by Yearout Energy on Energy Performance Contract and Energy Cost Savings. *(Tara Trafton)*

PUBLIC COMMENT

Residents must sign up with the City Clerk to address the City Commission. The standard allotted time is 3 minutes, but the Mayor reserves the right to change depending on the number of public comments.

CITY MANAGER'S REPORT

REMARKS AND INQUIRIES BY THE CITY COMMISSION

CONSENT AGENDA (Roll Call Vote Required for an Ordinance or Resolution)

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 the Regular Commission meeting on January 23, 2024. *(Rachel Hughs, City Clerk)*

3. Approve the statements related to the Executive Closed Sessions held on January 23, 2024. *(Rachel Hughs, City Clerk)*

4. Consider, and act upon, Ordinance 1692 for adoption and final publication to amend sections of Chapter 2 of the Code of Ordinances concerning the City Commission Districts and Mayor Selection; term to be aligned with the City Charter amendment made in 2012. *(Rachel Hughs, City Clerk)* **(Roll Call Vote Required)**

5. Consider, and act upon, Ordinance 1693 for adoption and final publication to add Chapter 11, Article 11- 06, Section 330 concerning Obstructing, Impeding Movement, or Camping in Public Rights-of-way. *(Ashley Smith, City Attorney)* **(Roll Call Vote Required)**

6. Consider, and act upon, Ordinance 1694 for adoption and final publication to amend Chapter 19, Article 19-04, Section 010 concerning Parks Closure Hours. *(Ashley Smith, City Attorney)* **(Roll Call Vote Required)**

7. Consider, and act upon, Ordinance 1695, Z-2023-0008(A) for adoption and final publication, a map amendment to change the current zoning of the property located at 2405 Holly Ave from MH-1 Manufactured Housing Subdivision District to R-4 Multi-Family Dwelling District. *(Stella Rael, City Planner)* **(Roll Call Vote Required)**

8. Consider, and act upon, Resolution 2024-07 requesting written approval from the Local Government Division of the Department of Finance and Administration, State of NM for the revised budget numbers computed as of January 9, 2024. *(Evelyn Huff, Finance Director)* **(Roll Call Vote Required)**

9. Consider, and act upon, Resolution 2024-14, declaring 1500 Ohio Ave. to be so ruined, damaged, and dilapidated that it is a menace to public comfort, health, peace, or safety, and ordering its abatement. *(Josh Sides, Code Enforcement Manager)* **(Roll Call Vote Required)**

10. Consider, and act upon, Resolution 2024-15, declaring 1409 Crescent Dr. to be so ruined, damaged, and dilapidated that it is a menace to public comfort, health, peace, or safety, and ordering its abatement. *(Josh Sides, Code Enforcement Manager)* **(Roll Call Vote Required)**

11. Consider, and act upon, Resolution 2024-16, declaring 512 Maryland Ave. to be so ruined, damaged, and dilapidated that it is a menace to public comfort, health, peace, or safety, and ordering its abatement. *(Josh Sides, Code Enforcement Manager)* **(Roll Call Vote Required)**

12. Consider, and act upon, Resolution 2024-17, declaring 607/609 Maryland Ave. to be so ruined, damaged, and dilapidated that it is a menace to public comfort, health, peace, or safety, and ordering its abatement. *(Josh Sides, Code Enforcement Manager)* **(Roll Call Vote Required)**

13. Consider, and act upon, an emergency funds appropriation of $12,297.75 through the Capital Outlay Bureau with the Aging & Long-Term Services Department. This is for the purchase and relocation of a

new evaporator/condenser for the Senior Center Kitchen's outdoor freezer. *(Magdalena Morales, ASC Manager and Veronica Ortega, Community Services Director)*

14. Consider, and act upon, Resolution 2024-18 authorizing the City Manager to execute an Energy Performance Agreement with a Contractor awarded on the Statewide Price Agreement with the State of New Mexico pending State approval, financing, and legal review of the contract. *(Evelyn Huff, Finance Director)* **(Roll Call Vote Required)**

ITEMS REMOVED FROM CONSENT AGENDA

NEW BUSINESS

15. Presentation and discussion on Setback requirements/Subdivision Ordinance. *(Rick Holden, City Manager, and Kevin Jewell, French Brothers Homes President)*

16. Consider, and act upon, appointing a member representative and an alternate to the Southeast Regional Transportation Planning Organization (SERTPO) committee. *(Rachel Hughs, City Clerk)*

17. Consider, and act upon, appointing a board member to the Southeastern New Mexico Economic Development District/Council of Governments (SNMEDD/COG) Board. *(Rachel Hughs, City Clerk)*

18. Consider, and act upon, Ordinance 1686 for first publication to add Article 11-08, Section 08-010 - 08-040 to Chapter 11 Criminal Code, concerning Peddler and Solicitor Regulations. *(Ashley Smith, City Attorney)* **(Roll Call Vote Required)**

19. Consider, and act upon, Ordinance 1687 for first publication to add Article 11-07, Section 07-010 - 07-060 to Chapter 11 Criminal Code, concerning Alcoholic Beverage Regulations. *(Ashley Smith, CIty Attorney)* **(Roll Call Vote Required)**

20. Consider, and act upon, terminating the lease with Downtown Ventures for default on the lease. *(Ashley Smith, City Attorney)*

21. Appointments to Boards and Committees. *(Susan L. Payne, Mayor)*

UNFINISHED BUSINESS

22. Consider, and act upon, Case SP-2023-0007(A), property owner Bobbie Jo Stone is requesting to be granted a special permit to allow her niece to reside in an RV on her property at 1000 Post Ave. *(Stella Rael, City Planner)*

EXECUTIVE SESSION (Roll Call Vote Required)

23. Adjourn into Executive Closed Session in compliance with 10-15-1(H)(8) NMSA (as amended) to discuss: Real Property land accusation of Mountain Park Farm, located in Highrolls, NM. **(Roll Call Vote Required)**

ADJOURNMENT

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/13/2024 **Report Date:** 02/06/2024 **Report No:** 1.

Submitted By: Evelyn Huff

Subject: Presentation by Yearout Energy on Energy Performance Contract and Energy Cost Savings. *(Tara Trafton)*

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Presentation

Background: Please see attached presentation with background on this project

CITY OF ALAMOGORDO

ENERGY SAVINGS PROJECT

FEBRUARY 13, 2024



PROJECT BACKGROUND

November 2022: City of Alamogordo engaged **Yearout Energy** to perform an **Investment Grade Audit (IGA)** of City Facilities.

OBJECTIVES



Improve comfort levels in City buildings and reduce the amount of time spent by City staff addressing cold/hot calls.



Mitigate escalating utility costs.

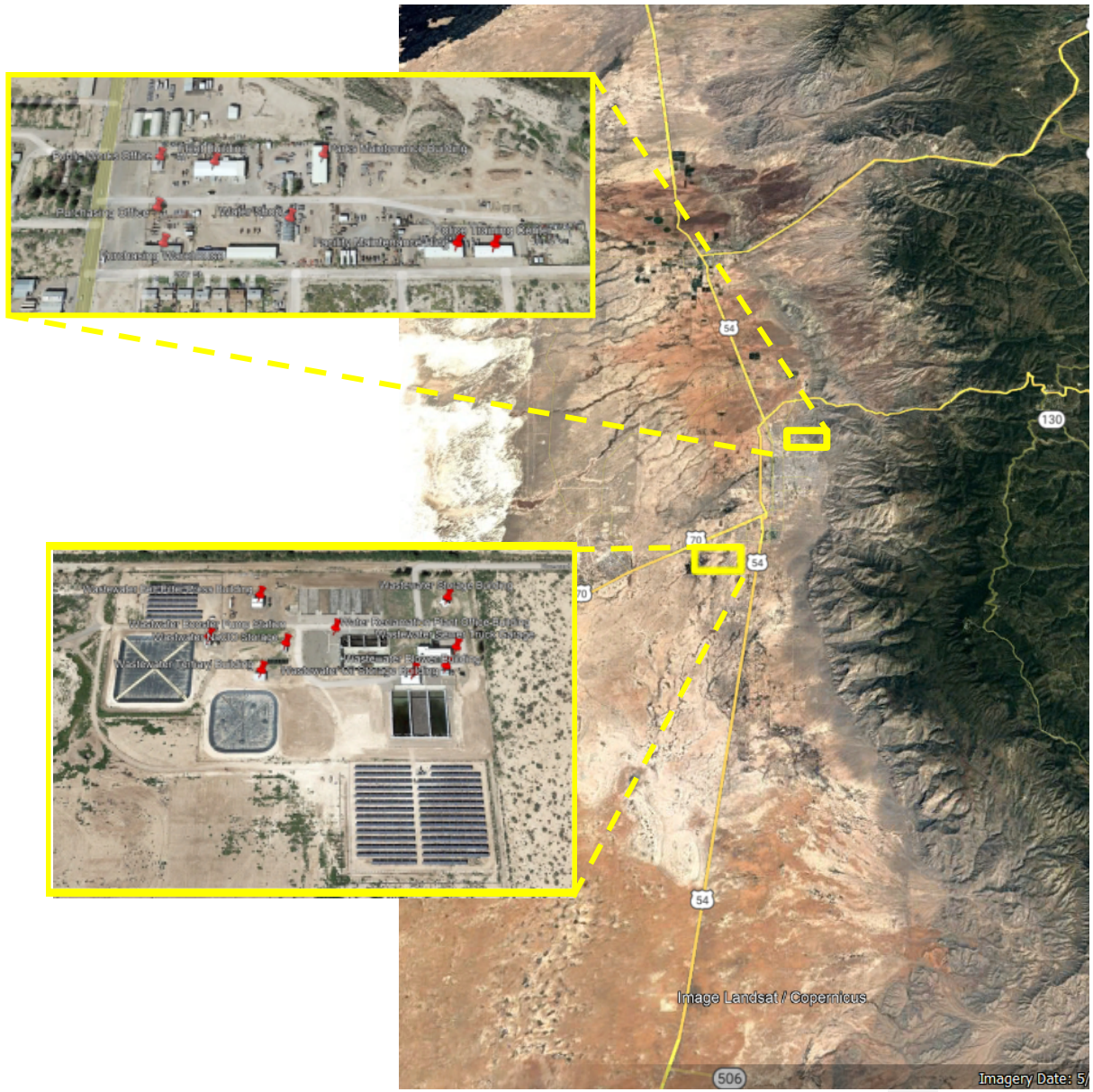


Improve amenities for staff and constituents.

YEAROUT ENERGY

CITY OF ALAMOGORDO

112	sites included in audit
373,565	ft² of building area audited
167	utility meters evaluated
213	cost/benefit analyses performed



INTRODUCTION TO YEAROUT ENERGY & PERFORMANCE CONTRACTING

ABOUT YEAROUT ENERGY

WHO WE ARE

- Mission driven design-build contractor serving both private and public sector clients throughout the Southwest.
- Lead the state in implementation of **EPC projects**.

OUR MISSION

Our mission is to empower the communities we serve to improve the built-environment and leverage untapped resources by applying practical solutions that deliver meaningful projects with confident outcomes.

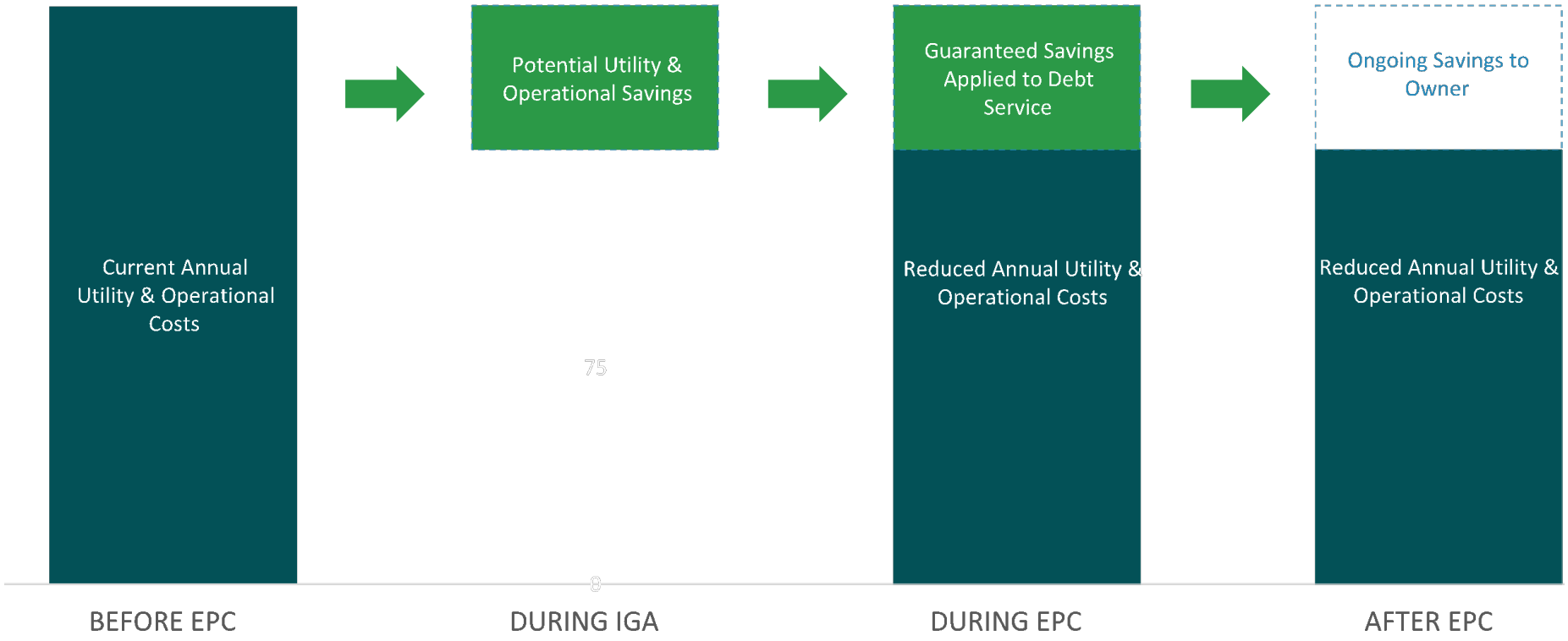
EPC: BUDGET-NEUTRAL APPROACH

40+ Year old Proven Project Funding Mechanism

Enabling Legislation in All 50 States & The Federal Government

Budget-Neutral Approach

Fund Critical Infrastructure Needs Today By Leveraging Tomorrow's Dollars



OUR EXPERIENCE

A Few of our Clients Across the Region









































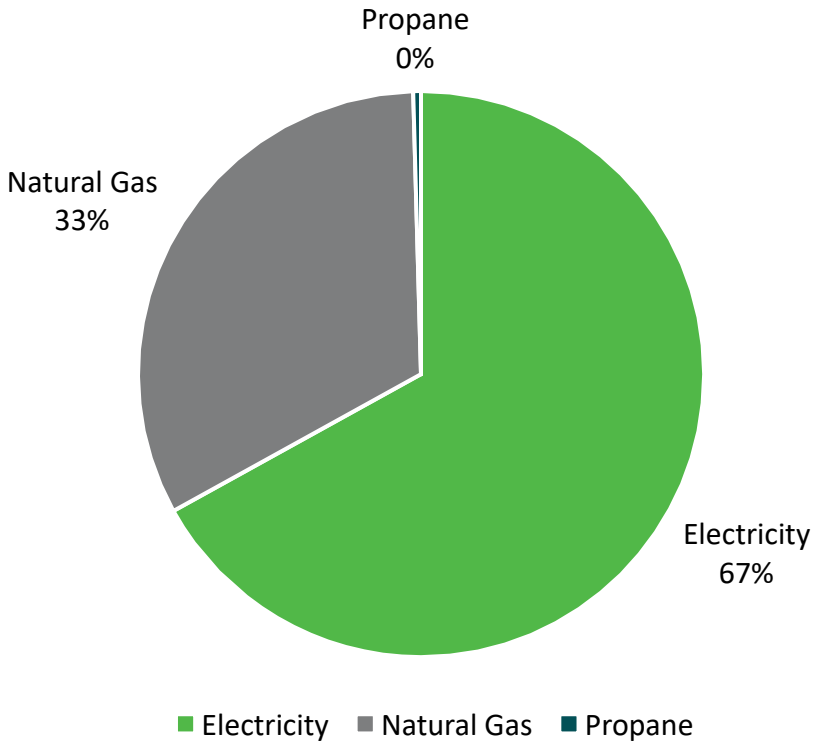




CITY OF ALAMOGORDO PROJECT

BASELINE ANNUAL ENERGY CONSUMPTION

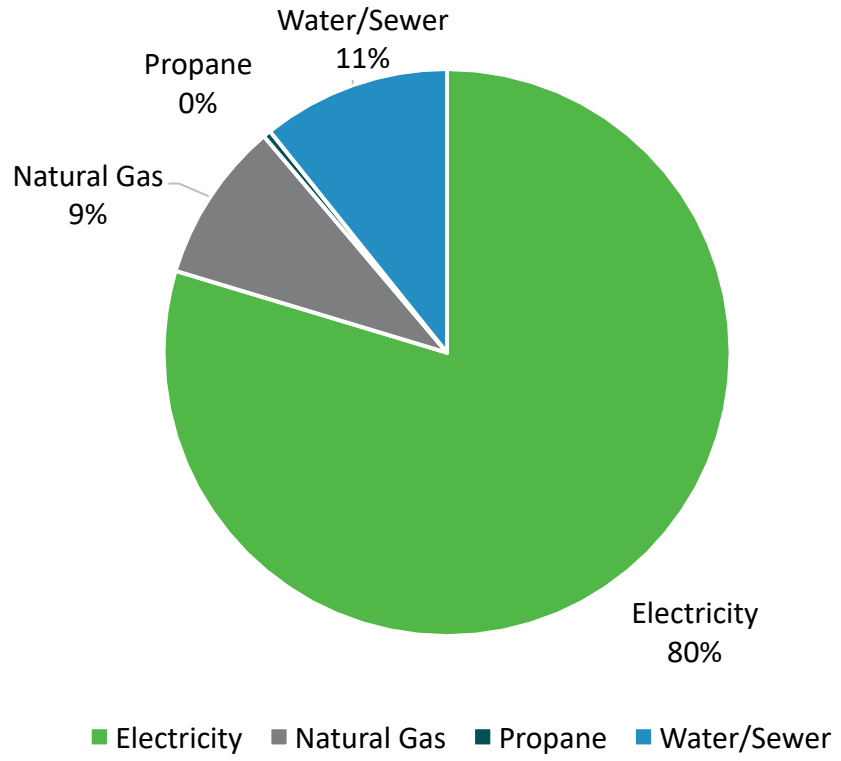
Baseline utility information depicted is based on utility information made available to YE | 167 meters | 27 months



Utility	Baseline Usage (Units/y)	Baseline Usage (kBTU/y)
Electricity	6,996,296 (kWh)	23,871,363
Natural Gas	116,177 (Therms)	11,617,680
Propane	1,734 (Gal)	159,523
Total		35,648,566

BASELINE ANNUAL UTILITY COST

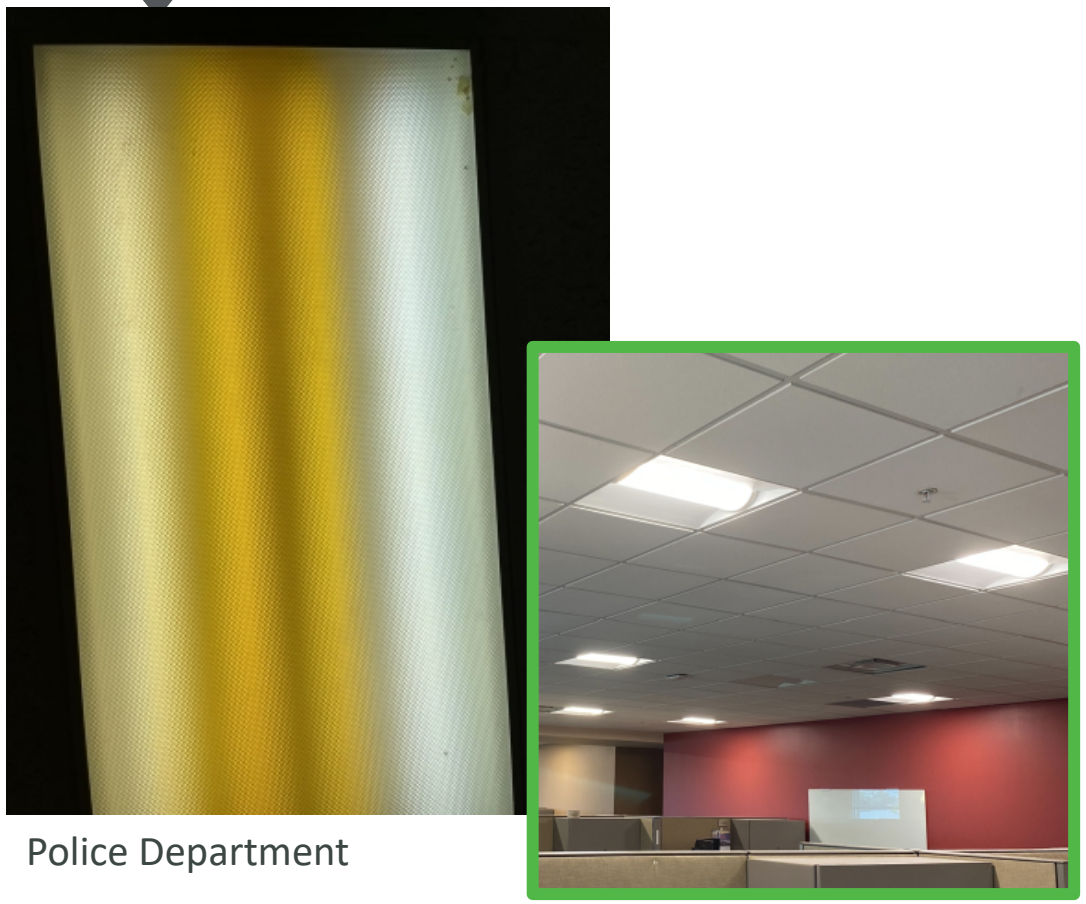
Baseline utility information depicted is based on utility information made available to YE | 167 meters | 27 months



Utility	Baseline Cost ($/y)
Electricity	$951,454
Natural Gas	$109,385
Propane	$5,277
Water/Sewer	$128,317
Total	$1,194,433

SCOPE

LED LIGHTING



Police Department

- Replacing, relamping, and retrofitting **1,400+ fixtures** at 21 sites
- High-End Trim (Occupied), Dimming, and Daylight Harvesting

HVAC CONTROLS



Fleet Building





Senior Center

- Replacing **123 thermostats** at 25 sites
- This system allows for
  - Scheduling
  - Remote monitoring
  - Programmable dead-band

HIGH EFFICIENCY LOW VOLTAGE TRANSFORMERS

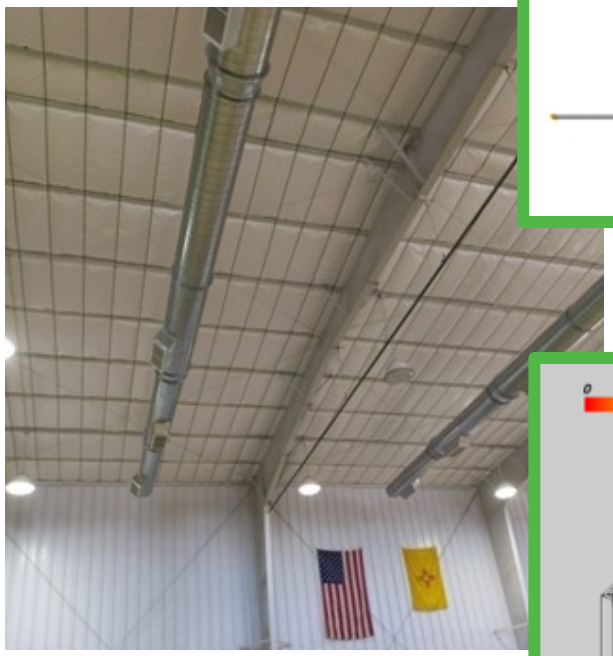


Fire Station 5

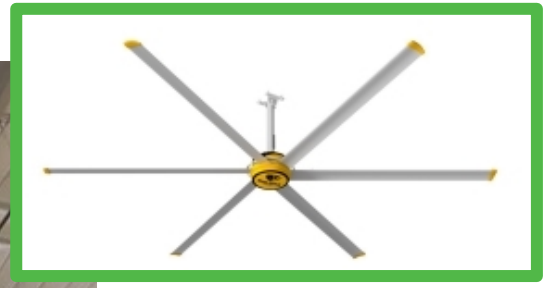


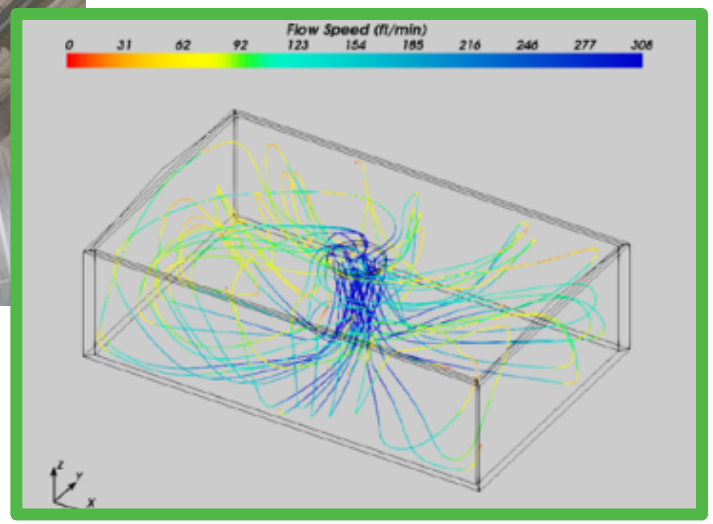
- Replacing **17 transformers** totaling 810 kVA.
- Modern high-efficiency transformers that meeting current DOE regulations and improve energy system resiliency.

AIR DESTRATIFICATION



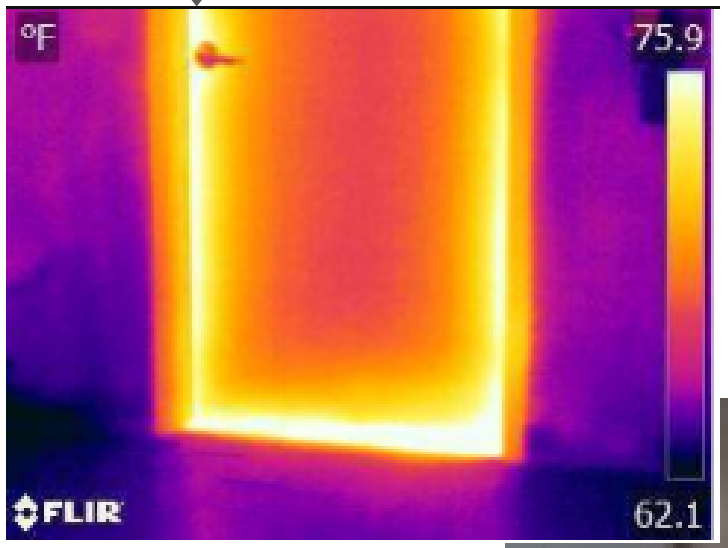
Family Rec Center





- Install **1 Destratification Fan** at the Family Recreation Center
  - Improve air flow for more efficient heating/cooling
    - 100% fan speed can cause a person to feel up to 12 degrees colder
    - Air temperature can raise by up to 10 degrees on a 20-ft ceiling
    - Reduce setpoint in winter, raise it in summer

BUILDING WEATHERIZATION

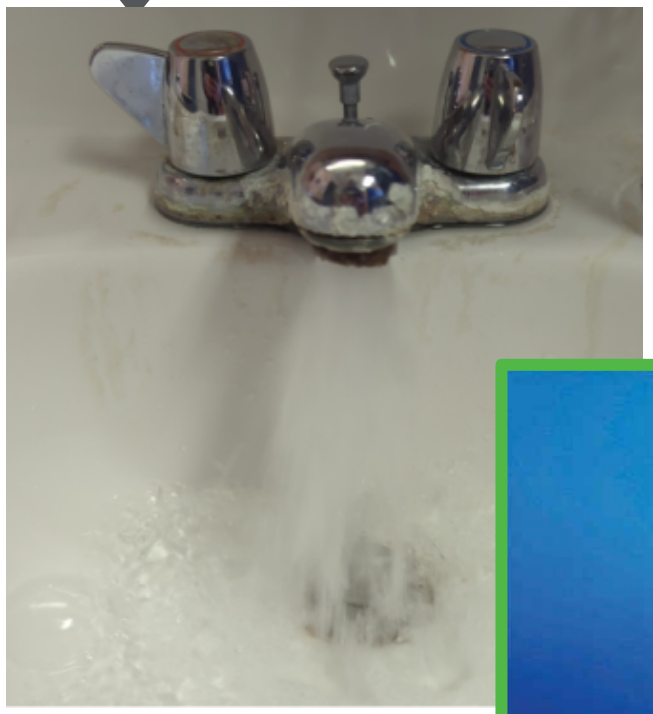


Senior Center – Exercise Room



- **Remediate ~48.9 ft²** of wall cracks and gaps around window and door frames and vents at 20 facilities.
  - Install/replace window seals, door sweeps, and astragals
  - Seal gaps around outlets, lights, water connections, etc.

WATER CONSERVATION



Fire Station 7



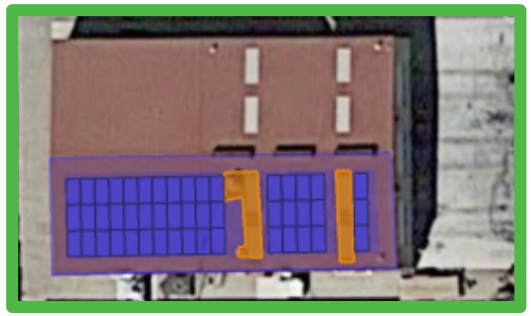
- Reduce water consumption for **8 sites** in anticipation of rate increase.
  - Component replacements, system tuning, toilet and sink retrofits.
- **45,000 gallons** of water saved annually.

RENEWABLE ENERGY



Prather Well

Fire Station 1





Public Library

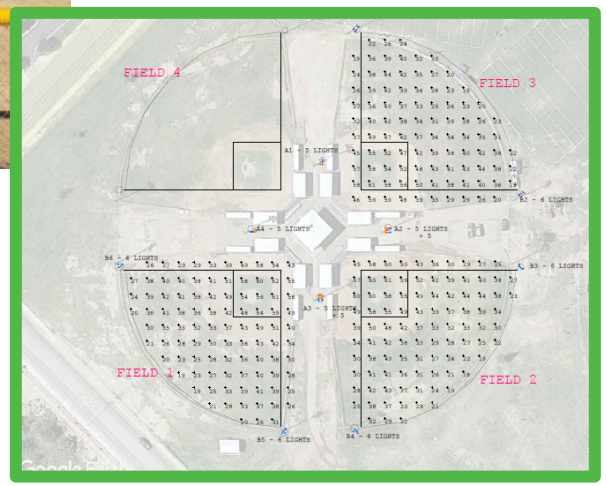
Location	Size of Array (kW)
Fire Station 1	24
Fire Station 5	27
Fleet Building	19
Public Library	64.5
Purchasing Warehouse	22
Griggs Booster Pump	19
Hooser Booster Pump	12
Lower Heights Booster	27
Prather Well 1	77
TOTAL	**291.5**

SPORTSLIGHTING



Griggs Fields





- Replacing Sports Lights at **4 of Griggs Fields** with LED Technology
  - Fields 1, 2, 3 and 7
  - Includes Airmesh Wireless and Remote Controls

PROJECT FINANCIALS

PROJECT FINANCIAL FIGURES

	20-Year Term
Turn-Key Project Cost	**$4,521,286**
Year 1 Total Annual Savings	$138,222
Estimated Inflation Reduction Act Direct Payment	$693,845
Grant Funding	$76,060
Estimated Rebates	$20,987
Annual Interest Rate	4.500%
Upfront Capital Contribution	**$1,450,000**
Useful Life of Project	23 Years
Savings Over Useful Life	**$5,946,372**


YEAROUT
ENERGY

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/13/2024 **Report Date:** 01/31/2024 **Report No:** 2.

Submitted By: Rachel Hughs

Subject: Approve the minutes for the Regular Commission meeting on January 23, 2024. *(Rachel Hughs, City Clerk)*

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Approve the minutes.

Background: This is required by the Open Meetings Act.

CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., DONALD E. CARROLL COMMISSION CHAMBERS
January 23, 2024

SUSAN PAYNE, MAYOR
SHARON McDONALD, MAYOR PRO-TEM
JOSH RARDIN, COMMISSIONER
STEPHEN BURNETT, COMMISSIONER
NICHOLAS PAUL, COMMISSIONER
MARK TAPLEY, COMMISSIONER
WARREN ROBINSON, COMMISSIONER
RICK HOLDEN, CITY MANAGER
ASHLEY SMITH, CITY ATTORNEY
RACHEL HUGHS, CITY CLERK

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

Mayor Payne called the meeting to order at 6:30 p.m. Roll Call was taken by the Deputy City Clerk. Deputy City Clerk Aleshire announced there was a quorum present. The Invocation was given by Pastor Charles Hanks of First Baptist Church, and the Pledge of Allegiance was led by Commissioner Burnett.

APPROVAL OF AGENDA

Mayor Pro-Tem McDonald moved to approve the agenda.
Commissioner Robinson seconded the motion.
Motion carried with a vote of 7-0-0.

PRESENTATIONS

1. Annual State of the City address. (Susan L. Payne, Mayor)

Mayor Payne said it was her duty to present the State of the City address every year. The City of Alamogordo is comprised of ten departments with ten directors and, as of today, three hundred and fifty-five employees. We began 2023 with one hundred and thirty-five vacant positions; today, our current vacancy count is forty-five. For perspective, we began 2022 with over eighty vacancies. This indicates our positions are more competitive with the implementation of the salary increases in 2022.

The Commission took bold steps to increase the number of Alamogordo police officers. Following the State's legalization of cannabis, we voted to designate the revenue from the Cannabis Tax to our police department. The decision was made to designate those funds for recruiting in the form of sign-on bonuses that include a signed multi-year commitment. In addition, the Commission took the approach of significantly increasing police department salaries to be more competitive with surrounding departments. This appeared to be a winning combination, and we have had fourteen additional officers sign on since then. This summer, we were down to thirty-seven certified officers. Today, we are at a count of forty-eight sworn officers and on track to exceed the budgeted amount of fifty-six. This gives us greater law enforcement presence at any given time. Current policy within the police department dictates you must be at least twenty-one years of age to become a police officer. They are evaluating the possibility of creating an early pathway for police service aides to become certified police officers.

A child died in a City park last year, and juvenile crime and truancy have been an ongoing problem. Along with our law enforcement administration, I have spent much time combatting this ongoing issue. Through this process, several new ordinances were presented and aimed at curtailing juvenile crime and truancy within the city while holding parents accountable. The City has collaborated with the

County and other local agencies to change State legislation to help ensure safety for law enforcement and the community. This included pretrial detention and more effective communication with law enforcement. We are working diligently to ensure our legislators never forget the constitutional amendment that resulted in the disastrous bail reform laws, or what is more commonly referred to as catch-and-release. These two issues were my focus for the latter half of 2023. We must do more to protect our citizens and law enforcement, and we must demonstrate that our officers have the support of our community.

The Fire Department has twenty-seven budgeted personnel. Ideally, they would like to see twelve per shift or a total of thirty-six firefighters. Community involvement is one of the most notable components of the department. They have implemented a program in partnership with Alamogordo Public Schools to allow junior and senior high school students to experience real-world components of firefighting and training. We have four youths who spend their last class of the day with the department going through simulated training on firefighting procedures and a series of activities similar to what may be experienced in an actual firefighter's academy. The hope for this program is to engage youth and inspire them to consider a career as a firefighter.

There were key staffing changes in 2023. Community Services was split into two, resulting in the creation of the Parks and Recreation Department. We welcome Parks and Recreation Director Belinda Bass. Police Chief Richard Denton retired, and Deputy Chief David Kunihiro is the new Chief of Police as of July 2023. Police Chief Kunihiro named Lt. Ryan Glidden as the new Deputy Chief. Fire Chief Richard Adler retired, and Deputy Chief Jerry Ramirez was named the new Fire Chief and officially took the helm at the end of November 2023. After many years, City Manager Brian Cesar announced his retirement. The Commission unanimously voted for Rick Holden to be the new City Manager, who started on November 27, 2023. 2023 was an election year in which two new City Commissioners, Mark Tapley and Warren Robinson, were seated.

Many projects were either started or completed. Several renovations for the Alamogordo Public Library were approved, including HVAC, a Teen Room, and ADA-compliant website accessibility. The Public Safety Access Point, or PSAP, combined several dispatch centers into one central location now known as the Tularosa Basin Regional Dispatch Authority. This partnership allows for streamlining of public safety calls throughout Otero County. One of the most exciting complete projects was Bonito Lake. For the first time in ten years, the lake was filled. The City secured a $12,000,000 loan for the first phase of the Well Transmission Line, a project that has been in planning for twenty-five years and is intended to move water from the Snake Canyon Well Field to the Desalination Plant. This is the most pressing issue towards making the Desalination Plant a reliable, independent water source, which will secure an uninterrupted water supply to Alamogordo. When completed, the total cost of the Well Transmission Line project is projected to be around $30,000,000. Construction was completed on the Scenic Extension project, and it included the expansion of water and sewer services in that area. Alameda Park had irrigation renovations, which will allow us better water coverage, and it is planned to plant more trees for beautification and replace the old dying trees that were removed. That project's costs were around $879,000. The work on ADA-compliant continues; it is a $1,700,000 project to install sidewalks, curbs, and gutters, as well as ADA-complaint ramps, driveways, and asphalt patching between 2nd and 8th Street, from New York Ave to Texas Ave. The project was funded in part through the award of $500,000 from the Community Development Block Grant.

Regarding Code Enforcement, the Commission approved several properties for abatement based on their condition, and the department has ensured that property owners are held accountable for their properties. Dilapidated structures are problematic and devalue surrounding properties, so it is important that the City make every effort to clean up these unsightly dwellings.

Plans have been underway for a Public Pool, and City staff are working with an outside company on a preliminary design. The indoor Natatorium design is complete, and if our bond counsel is here, we will receive a presentation at the Commission meeting on February 27, 2024.

The Commission eliminated the Lodger's Tax. While controversial, we believe it gave us more flexibility in terms of how we use our tourism dollars. Steps were taken to revamp the tourism program and increase events tailored to the citizens of Alamogordo, including the Balloon Festival, Gus Macker, and the upcoming Battle of the Bands. In addition, the City is increasing efforts to collaborate with partners and businesses to avoid competing events.

The City Clerk's Office streamlined its process for business registration and licensing. Several fees were removed, and temporary alcohol license requirements were eliminated so more businesses would have the opportunity to participate in events throughout the city.

The apartment complex is still moving forward. The City is working closely with the developer and has made significant progress towards breaking ground.

To get youth more engaged in and understanding of the importance of voting, the City teamed up with Alamogordo High School to hold an election. Voting booths were set up, and kids could vote for the event they would like to have. Of the three choices, the winner was a Winter Wonderland that the City will sponsor, and it will be held at Alameda Zoo on January 27, 2024.

We awarded a LEDA contract to Learn New Mexico to create the Inkwell Innovation Center. This facility is intended to assist with workforce development, employee training, and other needs the local business community is facing.

I want to address the tragedies that occurred in our community. No one wants to believe these things can happen in our rural communities, but unfortunately, evil knows no boundaries. The death of Joe Romo, a long-time City employee, affected many. It is important we always remember him and his service and dedication to our City. On July 15, 2023, Officer Tony Ferguson was shot in the line of duty while chasing a criminal who should never have been on our streets. We felt it was important to honor Officer Ferguson's legacy with something meaningful and lasting. He loved children and went above and beyond for them in our community. I am thrilled to announce that the City of Alamogordo, in collaboration with Alamogordo Public Schools, is creating the Ferguson Academy. This multi-week summer program is designed to engage our youth and allow them to explore the possibility of a future career within Police, Fire, and other government agencies. Through funding provided as part of the Alamogordo Public School's Innovation Zone Grant, students can earn $15 an hour, up to $300 a week. Students aged fifteen and older will complete an internship that will engage them in classroom activity and practical application. They will learn the importance of public service, garner an interest in law enforcement, and form positive relationships with our local Police Department. The tentative date for this program is July 8th through July 26th.

We have been working to ensure our community is the best it can be. We have things we can do better and things we do very well. I have had the opportunity to visit other communities, and I always use that as a learning opportunity, and I am grateful to get back home. As Mayor, I am most grateful for our City staff, who work daily to ensure everything runs smoothly.

2. Point In Time count presentation. (Peg Crim, President of 100 % Otero)

Ms. Crim said you may recall the Point in Time count, or PIT count. It is a nationwide count of individuals who are experiencing homelessness and housing insecurity. Last year, 100% Otero took that on for Otero County. We will make it happen again this year in partnership with community connections from the hospital. We will come back with the results and any trends. This is the fourth

year in a row it has been done in Otero County. The PIT count is based on where people sleep on Monday, January 29th. For the rest of that week, we will be out in the community, talking to people and asking them where they slept that night. If they slept in a location not meant for human habitation, then we ask them additional questions, like how long they have been homeless or if they are from here or traveling through. Hopefully, we can better understand that population and what we can do to help them.

I want to invite you to 100% Otero's 2nd Annual Summit on Thursday, February 8, 2024, at the Willie Estrada Memorial Civic Center. We nearly have one hundred people registered for it. We will be bringing people together and talking about some of these issues.

100% Otero is a nonprofit dedicated to eliminating childhood trauma in Otero County so that every child can grow up in a safe, healthy, and supportive environment. We do that by supporting families and ensuring they have access to ten vital services needed to succeed: food, housing, medical and dental care, behavioral health care, transportation, parent support, early childhood learning, community schools, youth mentoring, and job training.

During January and February, we are doing the 100% Otero Survey, where we ask families if they need those ten vital services, and if so, can you access them, and if not, what keeps you from accessing them. From that survey, we will get information about the barriers that people are finding to the services they need, and then we will try to eliminate those barriers. We have a website link and QR code for that. Please encourage your constituents to respond to that survey if they have kids.

On Thursday, March 21, 2024, we will be sponsoring a Housing Symposium and Community Conversation. We are going to have great speakers from the State, the Mortgage Finance Authority, and the Eastern Regional Housing Authority. There will be time to talk about what we can do here in our community to work on the housing issue.

PUBLIC COMMENT

No public comment.

CITY MANAGER'S REPORT

City Manager Holden made the following remarks:

Reports were sent on Friday and Saturday. I will be sending weekly updates on what we are doing. Let me know if you have any issues or questions on those.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Mayor Payne made the following comments:

We are kicking off the Volunteer Income Tax Assistance Program, or VITA, tomorrow at 11 o'clock at Love Inc. of Otero County. Thrive of Southern New Mexico and Love Inc. have partnered up with the Internal Revenue Service. We have trained people and will be able to provide free income tax preparation and e-filing to low-income families. If you are making under $75,000 or under, you can get your state and federal taxes done for free. Our first day open will be Friday, but we are having a press conference tomorrow at 11 o'clock.

Several of us spent time in Santa Fe, and I felt it was productive. I got to talk to people at the State level I was hoping to, and I attended the Legislative Prayer Breakfast.

Mayor Pro-Tem McDonald and I were honored to judge the Desert Star Spelling Bee.

CONSENT AGENDA

3. Approve the minutes for the Regular Commission meeting on January 9, 2024. (Rachel Hughs, City Clerk)

4. Consider, and act upon, Resolution No. 2024-08 to adopt the required Community Development Block Grant (CDBG) Annual Certifications and Commitments. (Debbie Osborne, Grant Coordinator) (Roll call vote required)

5. Consider, and act upon, the approval of Resolution No. 2024-09 authorizing and approving the submission of a completed Drinking Water State Revolving Fund Loan application for financial assistance and project approval to the New Mexico Finance Authority. (Debbie Osborne, Grant Coordinator) (Roll Call Vote Required)

6. Consider, and act upon, Resolution 2024-10, declaring 1403 Incredible Ct. to be so ruined, damaged, and dilapidated that it is a menace to public comfort, health, peace, or safety, and ordering its abatement. (Josh Sides, Code Enforcement Manager) (Roll Call Vote Required)

7. Consider, and act upon, Resolution 2024-11, declaring 2204 Walker Ave. to be so ruined, damaged, and dilapidated that it is a menace to public comfort, health, peace, or safety, and ordering its abatement. (Josh Sides, Code Enforcement Manager) (Roll Call Vote Required)

8. Consider, and act upon, Resolution 2024-12, declaring 136 Delaware Ave. to be so ruined, damaged, and dilapidated that it is a menace to public comfort, health, peace, or safety, and ordering its abatement. (Josh Sides, Code Enforcement Manager) (Roll Call Vote Required)

9. Consider, and act upon, Resolution 2024-13, declaring 613 Delaware Ave. to be so ruined, damaged, and dilapidated that it is a menace to public comfort, health, peace, or safety, and ordering its abatement. (Josh Sides, Code Enforcement Manager) (Roll Call Vote Required)

Commissioner Rardin removed items 8 and 9 from the Consent Agenda.

Commissioner Robinson moved to approve the Consent Agenda as amended.
Commissioner Burnett seconded the motion.
Roll Call Vote was taken.
Motion carried with a vote of 7-0-0.

ITEMS REMOVED FROM CONSENT AGENDA

8. Consider, and act upon, Resolution 2024-12, declaring 136 Delaware Ave. to be so ruined, damaged, and dilapidated that it is a menace to public comfort, health, peace, or safety, and ordering its abatement. (Josh Sides, Code Enforcement Manager) (Roll Call Vote Required)

Commissioner Rardin said that the property looked like it had two or three different structures. If we declare the entire property dilapidated, do the people residing in the front house need to move out? It looked like there were three or four people residing in the home. Code Enforcement Manager Sides said not in this case because it is specifically intended for the accessory structure to be condemned, not the main structure. It is the one adjacent to the alley line.

Commissioner Rardin asked if we were going to evict these people out of their homes. Code Enforcement Manager Sides said no.

Commissioner Paul moved to approve.
Commissioner McDonald seconded the motion.
Roll Call Vote was taken.
Motion carried with a vote of 7-0-0.

9. Consider, and act upon, Resolution 2024-13, declaring 613 Delaware Ave. to be so ruined, damaged, and dilapidated that it is a menace to public comfort, health, peace, or safety, and ordering its abatement. (Josh Sides, Code Enforcement Manager) (Roll Call Vote Required)

Code Enforcement Manager Sides gave his presentation and recommended approving and ordering the property's condemnation and abatement.

Commissioner Rardin said the owner walked in after the Public Comment form was given to the Mayor, and he had pulled this to give them the opportunity to talk. They are members of the public and should be able to talk about it. Commissioner Paul said as a matter of procedure, we need to get away from allowing these property owners to speak in a setting they are not signed up to speak on. This matter was presented to us by Code Enforcement, and we all had a chance to review this. If the property owner wants to speak with Code Enforcement, they need to set up a time to meet before our Commission meeting. To me, this is nothing more than dragging the situation on. Mayor Payne said she agreed, and we are setting a precedent by doing that. It is very clear you have to sign up to speak. Commissioner Rardin said we are condemning somebody's property.

Commissioner Paul moved to approve.
Commissioner Robinson seconded the motion.
Roll Call Vote was taken.
Motion carried with a vote of 6-1-0. Commissioner Rardin voted nay.

NEW BUSINESS

10. Consider, and act upon, Ordinance 1691, Z-2023-0007(A) for first publication, a map amendment to change the current zoning of the property with the parcel number 01N4054097487344 (the parcel adjacent to 1901 S Hamilton Road) from MH-1 Manufactured Housing Subdivision District to C-1 Neighborhood Business District. (Sean McGranaghan, Assistant City Planner) (Roll Call Vote Required)

Assistant City Planner McGranaghan gave his presentation and recommended approval of rezoning. He said four letters were mailed by certified return receipt mail to all property owners within two hundred feet of the property, and as of today, there have been no letters returned undeliverable and he had not received any phone calls or letters of opposition.

Mayor Payne said she knew the owner, her nonprofit rented a storage unit from him, and she would abstain from voting. Commissioner Rardin said he would also abstain from voting.

Commissioner Robinson moved to approve.
Commissioner Burnett seconded the motion.
Roll Call Vote was taken.
Motion carried with a vote of 5-0-2. Mayor Payne and Commissioner Rardin abstained from voting.

11. Consider, and act upon, repealing or revising Chapter 7, Section 7-05-30 of the Code of Ordinances concerning prohibiting feeding pigeons. (John Davis, Citizen and Josh Rardin, Commissioner)

Mr. Davis said one of the tenets of his religion is that he cares for the Earth and all living things. The ordinance, as written, precludes that. Last time, I asked the ordinance to be either repealed or amended. I would be okay with an amendment allowing for religious provision, but I would like to explain why it would be better to repeal it. Once a religious exemption is in there, the ordinance as written becomes unenforceable. It's a low priority for the police anyway. I have fed pigeons for a while now, and to the police's credit, they have never bothered or disturbed me. I do not think many people have a problem with it. There are people who do not like pigeons and me feeding them, but I think they are in the minority. Even if they were not, I have a religious right under the 1st Amendment. An outright repeal would take one low-priority item off the police, who have their hands full with much bigger things. I could stand here all day and sing the praises of pigeons. We are losing too many birds of all types, including pigeons. There are things we can do to control the number of feral pigeons and where they are.

Commissioner Burnett asked if the police had ever cited anybody for feeding the pigeons. Mr. Davis said not that he knew of. He said a person who said they were an off-duty Code Enforcement Officer wanted to give me grief on it one time. I did not stop feeding them, and he did not do anything about it. I do not think most people care, and there are other people who feed them. Pigeon power.

Commissioner Rardin asked what exactly Mr. Davis wanted to change in the ordinance. Mr. Davis said it is not illegal to feed pigeons, especially if you have a religious exemption. The tenets of my religion are: we are all connected, stronger together, love's hands in the world, called to create justice, and responsible for one another and the Earth. I am a member of the Unitarian Universalist Church, but I was U.U. before I knew they were these people. I have always felt that way and acted upon those feelings. Commissioner Rardin asked if somebody had said something to him about feeding them. You must feed them in your house or home. Mr. Davis said no, he does not and wants to be able to feed them on any public property. I have been feeding them in the Walmart parking lot for a while now, and I do not have a right to do that. Walmart has private property rights, and they tell me to leave, I have to leave. I am okay with that and do not want to cause anybody problems with it. The birdfeed birth control is expensive, and I cannot afford it. I want to say it is like $200 for a fifty-pound bag of feed. It is not an expense I like to put on the city, but if one of you folks would like to make a presentation to the Center of Commerce, maybe there are businesses interested in doing that. I would be willing to work with anybody to help spread that feed. In bigger cities, there are things that stick up in awnings that prevent pigeons from roosting. Those are available to keep pigeons in areas. In Hobbs, an automotive business had pigeons pooping on cars, which is what I believe the ordinance is really about. We can put those up in certain areas, or you can take regular birdfeed to take them away from areas. They will become habituated to where there are no people or businesses around, and they will go there if that is where the meal is.

Mayor Payne asked Chief Kunihiro if we had ever cited anybody for feeding pigeons. He said not to his knowledge. She asked if his officers knew it was illegal to feed pigeons. He said probably not.

Commissioner Burnett asked Assistant City Manager Hernandez if this was revised back in 2019. Commissioner Rardin said we did something to it. Assistant City Manager Hernandez said there was an issue with the Telles House and pigeons. I do not remember when it came about, but there is a correlation between the two. City Attorney Smith did more research on all of this. Commissioner Rardin said it was revised in April 2019, but I do not remember what we did. Mayor Payne said we did some revisions of some of the animal ordinances, but it was mostly about cleaning up some of the language, not necessarily changing anything.

Commissioner Rardin asked if we wanted to table this. Commissioner Burnett said he did not see the reason for tabling this. It is what it is, and nobody has been cited for it. I do not see a group of pigeon-feeding people other than at Walmart, but that is on them. Mayor Payne said so we are taking no action. City Manager Holden said you are not required to take action. If you decide at some point that you want staff to take any action to bring any type of ordinance back, we can certainly do that for a formal action. Mayor Payne said we are taking no action.

12. Appointments to Boards and Committees. (Susan L. Payne, Mayor)

Mayor Payne read the openings and appointed Lance Grace to his ninth term on the Airport Advisory Board, Robert Hicks to his fifth term on the Airport Advisory Board, Lee Scholes to his third term on the Airport Zoning Board, Sue Kent to her third term on the Mayor's Committee on Aging, Sandra Purrington to her first term on the Mayor's Committee on Aging, Richard Warren to his third term on the Alamogordo Public Library Board, and William Butler to his first term on the Senior Volunteer Programs Advisory Council. No one was opposed.

EXECUTIVE SESSION

13. Adjourn into Executive Session in compliance with Section 10-15-1(H)(7), NMSA 1978 (as amended), to discuss Threatened or Pending Litigation: (Adams vs City of Alamogordo), (Blackburn vs City of Alamogordo), (Cuellar vs City of Alamogordo), (Estate of Joe Romo vs City of Alamogordo), (Gilliland vs City of Alamogordo), (Michael vs City of Alamogordo), (Nelseon vs City of Alamogordo), (Noblitt vs City of Alamogordo), (Ochoa vs City of Alamogordo), (Randal vs City of Alamogordo), (Willard vs City of Alamogordo), (Williams vs City of Alamogordo), (Downtown Ventures), (Tort Claims with Self-Insurance). (Roll Call Vote Required)

Mayor Payne said that City Attorney Smith will join us via phone for the Executive Session.

Commission Robinson moved to adjourn into Executive Session at 7:30 p.m.
Commissioner Burnett seconded the motion.
Roll call was taken.
Motion carried with a vote of 7-0-0.

ADJOURNMENT

Mayor Susan L. Payne

ATTEST:

City Clerk Rachel Hughs

(Prepared by Dylan Aleshire, Deputy City Clerk)
Approved at the Regular Meeting held on February 13, 2024.

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/13/2024 **Report Date:** 01/24/2024 **Report No:** 3.

Submitted By: Rachel Hughs

Subject: Approve the statements related to the Executive Closed Sessions held on January 23, 2024. *(Rachel Hughs, City Clerk)*

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

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

Background:

Approve the following statements authorizing them to be included in the minutes of February 13, 2024:“The Governing Body of the City of Alamogordo, New Mexico, hereby states that on January 23, 2024, an Executive Closed Session was held and matters discussed in the closed meeting were limited only to: Threatened or Pending Litigation: (Adams vs City of Alamogordo), (Blackburn vs City of Alamogordo), (Cuellar vs City of Alamogordo), (Estate of Joe Romo vs City of Alamogordo), (Gilliland vs City of Alamogordo), (Michael vs City of Alamogordo), (Nelseon vs City of Alamogordo), (Noblitt vs City of Alamogordo), (Ochoa vs City of Alamogordo), (Randal vs City of Alamogordo), (Willard vs City of Alamogordo), (Williams vs City of Alamogordo), (Downtown Ventures), (Tort Claims with Self-Insurance)."

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/13/2024 **Report Date:** 01/24/2024 **Report No:** 4.

Submitted By: Rachel Hughs

Subject: Consider, and act upon, Ordinance 1692 for adoption and final publication to amend sections of Chapter 2 of the Code of Ordinances concerning the City Commission Districts and Mayor Selection; term to be aligned with the City Charter amendment made in 2012. *(Rachel Hughs, City Clerk)* **(Roll Call Vote Required)**

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Approve the Ordiacne for first publication.

Background:

The City Commission passed the Ordinance for First Publication during the regular commission meeting on January 9, 2024.

Information from the January 9, 2024, commission meeting
During the election of March 6, 2012, a City Charter amendment was placed on the ballot for the qualified electors, concerning the number of commissioners, districts, and the selection of the mayor. The qualified electors voted in favor of the amendment.

Although changes were made to the City Charter in the Code of Ordinances, amendments were not made to Chapter 2 of the Code of Ordinances. Attached is the canvass of the election with the city charter amendment.

Ordinance 1692 is to align the language with the amendment that was passed by the voters.

New Material ~~Deleted Material~~

ORDINANCE NO. 1692

AN ORDINANCE AMENDING CHAPTER 2 ADMINISTRATION OF THE ALAMOGORDO CODE OF ORDINANCES CONCERNING ARTICLE 2-02 CITY COMMISSION SECTION 2-02-010 DISTRICTS, AND ALSO ARTICLE 2-03 OFFICERS AND EMPLOYEES SECTION 2-03-030 MAYOR SELECTION; TERM

WHEREAS, the City Commission of the City of Alamogordo, New Mexico, acknowledges that on March 6, 2012, held a Municipal election; and

WHEREAS, a City Charter amendment question was put on the ballot to the qualified electors concerning the number of the commission, the number of districts, and also the mayor selection and the mayor's term; and

WHEREAS, the ballot question was to propose to amend the City Charter to provide that the governing body of the city shall be comprised of six members to be known as commissioners and one member to be known as mayor. The six commissioners shall be nominated and elected by the qualified voters of each of the six single-member districts. The mayor shall be nominated and elected at large; and

WHEREAS, the amendment on the ballot was passed by the qualified electors; and

WHEREAS, the sections of the Code of Ordinance in Chapter 2, Articles 2-02 and 2-03 were not amended in 2012 to align with the City Charter amendments.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Alamogordo, New Mexico, to amend Chapter 2 Administration, Article 2-02 City Commission section 2-02-010 Districts, and also Article 2-03 Officers and Employees section 2-03-030 Mayor – Selection Term of the Code of Ordinances to read as follows:

CHAPTER 2 – ADMINISTRATION

ARTICLE 2-02. - CITY COMMISSION
2-02-010. - Districts.

The City of Alamogordo is divided into ~~seven (7)~~ six (6) districts, according to a map which is made a part of this article, and which shall be kept in the office of the city clerk. All district boundaries shall be physically ascertainable, such as streets, alleys, arroyos, etc.

ARTICLE 2-03. - OFFICERS AND EMPLOYEES
2-03-030. - Mayor—Selection; term.

~~The city commission, at the first meeting of the new commission after each election, or as soon thereafter as practical, shall select one of their members as mayor, who shall act as mayor for two~~

~~(2) years or until a successor is appointed and qualified, unless sooner removed by death, resignation or removal from office.~~

The mayor shall be nominated and elected at large, who shall act as mayor for four (4) years, or unless sooner removed by death, resignation, or removal from office.

PASSED, APPROVED, AND ADOPTED this_____ day of _____, 2024.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By: _____
Susan L. Payne, Mayor

ATTEST:

_____
Rachel Hughs, City Clerk

APPROVED AS TO FORM:

_____
Ashley Smith, City Attorney

City of Alamogordo Regular Municipal Election held on Tuesday, March 6, 2012
Official Canvass of Election Returns held on Thursday, March 8, 2012 at 3:00 p.m.

CANDIDATES & QUESTIONS	District 1 - Commissioner					District 3 - Commissioner					District 5 - Commissioner								District 7 - Commissioner					Charter Amendment Districts 1-7				G.O. Bond Question Districts 1-7				Total Votes Cast
	Richard Decker	Jason Baldwin	William Pollard	Over	Under	Robert Rentschler	Maria Alica Rios	Andrew Baker	Over	Under	Al Hernandez	Jesse Carr	Roberto Valdez	Joe Ferguson	Chris Lujan	Miquel Rosales	Over	Under	Susie Galea	Thomas Olive	Richard Chapel	Over	Under	For	Against	Over	Under	For	Against	Over	Under	
Non-Resident																												3	5			8
Absentee Voters (By Mail)	0	3	1	0	0	7	4	0	0	1	1	0	0	0	0	0	0	1	1	0	2	0	0	D - M 1 - 4 2 - 2 3 - 7 4 - 0 5 - 0 6 - 1 7 - 1 15	D - M 1 - 0 2 - 5 3 - 5 4 - 0 5 - 1 6 - 1 7 - 2 14	D - M 1 - 0 2 - 0 3 - 0 4 - 0 5 - 0 6 - 0 7 - 0 0	D - M 1 - 0 2 - 0 3 - 0 4 - 0 5 - 1 6 - 0 7 - 0 1	D - M 1 - 1 2 - 0 3 - 2 4 - 0 5 - 0 6 - 0 7 - 0 3	D - M 1 - 3 2 - 6 3 - 10 4 - 0 5 - 1 6 - 2 7 - 3 25	D - M 1 - 0 2 - 0 3 - 0 4 - 0 5 - 0 6 - 0 7 - 0 0	D - M 1 - 0 2 - 1 3 - 0 4 - 0 5 - 1 6 - 0 7 - 0 2	30
Early Voters (in Person)	4	15	6	0	3	42	7	7	0	2	17	0	0	9	1	1	0	0	21	11	3	0	1	D - M 1 - 22 2 - 16 3 - 27 4 - 7 5 - 11 6 - 16 7 - 19 118	D - M 1 - 8 2 - 7 3 - 30 4 - 18 5 - 17 6 - 8 7 - 16 102	D - M 1 - 0 2 - 0 3 - 0 4 - 0 5 - 0 6 - 0 7 - 0 0	D - M 1 - 0 2 - 2 3 - 1 4 - 1 5 - 0 6 - 0 7 - 1 5	D - M 1 - 15 2 - 13 3 - 27 4 - 10 5 - 16 6 - 10 7 - 15 106	D - M 1 - 13 2 - 11 3 - 28 4 - 15 5 - 12 6 - 14 7 - 21 114	D - M 1 - 0 2 - 0 3 - 0 4 - 0 5 - 0 6 - 0 7 - 0 0	D - M 1 - 0 2 - 1 3 - 3 4 - 1 5 - 0 6 - 0 7 - 0 5	225
VCC #1 Civic Center	16	26	7	0	7	74	38	9	0	4	67	7	2	57	45	2	0	4	165	51	29	0	5	D - M 1 - 35 2 - 32 3 - 73 4 - 64 5 -102 6 - 96 7 -171 573	D - M 1 - 19 2 - 11 3 - 51 4 - 45 5 - 72 6 - 47 7 - 76 321	D - M 1 - 0 2 - 0 3 - 0 4 - 0 5 - 0 6 - 0 7 - 0 0	D - M 1 - 2 2 - 2 3 - 1 4 - 3 5 - 10 6 - 3 7 - 3 24	D - M 1 - 30 2 - 24 3 - 51 4 - 53 5 - 86 6 - 68 7-128 438	D - M 1 - 26 2 - 20 3 - 63 4 - 57 5 - 90 6 - 77 7 -120 453	D - M 1 - 0 2 - 0 3 - 0 4 - 0 5 - 0 6 - 0 7 - 0 0	D - M 1 - 0 2 - 1 3 - 11 4 - 2 5 - 8 6 - 1 7 - 4 27	918
VCC #2 Tays Special Events Center	55	74	31	0	22	157	24	13	0	6	7	1	0	5	8	0	0	0	5	2	1	0	0	D - M 1 -113 2 - 17 3 - 94 4 - 35 5 - 15 6 - 17 7 - 7 298	D - M 1 - 62 2 - 10 3 -102 4 - 19 5 - 6 6 - 13 7 - 1 213	D - M 1 - 0 2 - 0 3 - 0 4 - 0 5 - 0 6 - 0 7 - 0 0	D - M 1 - 7 2 - 1 3 - 4 4 - 0 5 - 0 6 - 0 7 - 0 12	D - M 1 - 86 2 - 17 3 - 85 4 - 27 5 - 9 6 - 12 7 - 4 240	D - M 1 - 94 2 - 10 3 -111 4 -27 5 - 12 6 - 17 7 - 4 275	D - M 1 - 0 2 - 0 3 - 0 4 - 0 5 - 0 6 - 0 7 - 0 0	D - M 1 - 2 2 - 1 3 - 4 4 - 0 5 - 0 6 - 1 7 - 0 8	523
VCC #3 Fairgrounds	30	50	9	0	5	25	6	6	0	1	4	2	0	2	4	0	0	1	14	1	1	0	0	D - M 1 - 59 2 - 99 3 - 22 4 - 26 5 - 4 6 - 6 7 - 12 228	D - M 1 - 30 2 - 49 3 - 13 4 - 14 5 - 7 6 - 3 7 - 4 120	D - M 1 - 0 2 - 0 3 - 0 4 - 0 5 - 0 6 - 0 7 - 0 0	D - M 1 - 5 2 - 8 3 - 3 4 - 3 5 - 2 6 - 1 7 - 0 22	D - M 1 - 40 2 - 82 3 - 19 4 - 22 5 - 8 6 - 6 7 - 9 184	D - M 1 - 52 2 - 93 3 - 18 4 - 21 5 - 7 6 - 4 7 - 7 202	D - M 1 - 0 2 - 0 3 - 0 4 - 0 5 - 0 6 - 0 7 - 0 0	D - M 1 - 2 2 - 1 3 - 1 4 - 0 5 - 0 6 - 0 7 - 0 4	370
Totals	105	168	54	0	37	305	79	35	0	14	96	10	2	73	58	3	0	6	206	65	36	0	6	1232	770	0	64	954	1074	0	46	2074
																												Voter Turnout Rate:				12.32%

D=District & M=Machine Total

Candidates total: 1358
Districts 2, 4, 6, & NR Total: 716
Total: 2074

*VCC #1 - Civic Center report showed Computer Count as 919. One voter signed and received ballot and threw it in the trash and fled the polling place. Correct public counter number of 918 was shown on the tabulator.

James Scott Newton, Magistrate Judge, Div II

Stephen P. Thies, City Attorney

Renee L. Cantin, CMC, City Clerk 03/08/2012

Registered Voters Eligibe to Vote in the Election: **16830**

Breakdown Per District: District 1: 364; District 2: 261; District 3: 433; District 4: 235; District 5: 248; District 6: 212; District 7: 313; Non-Resident Voters: 8 = **2074**

Summary of Items included on the Ballot for the March 6, 2012 Regular and Special Municipal Election:
A. Four City Commissioners will be elected (for a four-year term) for the districts listed below along with the candidates who have filed for the positions:
1. District One (1): Richard B. Decker, Sr., Jason R. Baldwin, William D. Pollard.
2. District Three (3): Robert G. Rentschler (Incumbent), Maria Alicia Rios, Andrew L. Baker.
3. District Five (5): Alfonso "AL" C. Hernandez, Jesse Carr, Roberto Luis Valdez, Joe C. Ferguson (Incumbent), Chris Lujan, Miguel P. Rosales.
4. District Seven (7): Susie A. Galea, Thomas M. Olive, Richard Lerry Chapel.

AMENDMENT NO. 1 – SUMMARY FOR BALLOT (RESOLUTION NO. 2011-38)
Proposal to amend the City Charter to provide that governing body of the city shall be comprised of six (6) members to be known as commissioners and one (1) member to be known as mayor. The six (6) commissioners shall be elected by the qualified voters of each of the six (6) single-member districts. The mayor shall be elected at large.
FOR the amendment □
AGAINST the amendment □

GENERAL OBLIGATION BOND QUESTION (RESOLUTION NO. 2011-39)
Shall the City of Alamogordo issue up to $6,000,000 of general obligation bonds, to be repaid from property taxes, for the purpose of acquiring, constructing, equipping, furnishing and otherwise improving land and a building for a family entertainment center?

FOR Family Entertainment Center General Obligation Bonds □
AGAINST Family Entertainment Center General Obligation Bonds □

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/13/2024 **Report Date:** 01/30/2024 **Report No:** 5.

Submitted By: Ashley Smith

Subject: Consider, and act upon, Ordinance 1693 for adoption and final publication to add Chapter 11, Article 11- 06, Section 330 concerning Obstructing, Impeding Movement, or Camping in Public Rights-of-way. *(Ashley Smith, City Attorney)* **(Roll Call Vote Required)**

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Staff recommends approval of this ordinance

Background:

The City Commission passed the Ordinance for First Publication during the regular commission meeting on January 9, 2024.

ORDINANCE NO. 1693

AN ORDINANCE ADDING ARTICLE 11-06-330 TO CHAPTER 11 OF THE ALAMOGORDO CODE OF ORDINANCES CONCERNING OBSTRUCTING, IMPEDING MOVEMENT, OR CAMPING IN PUBLIC RIGHTS-OF-WAY

WHEREAS, the City Commission of the City of Alamogordo, New Mexico deems it necessary to add Article 11-06-330 concerning obstructing, impeding movement, or camping in public rights-of-way.

WHEREAS, the City Commission of the City of Alamogordo, New Mexico recognizes that it is important for the flow of traffic and our citizens to protect the rights-of-way and keep them clean from obstructions.

BE IT THEREFORE ORDAINED by the City Commission of the City of Alamogordo, New Mexico, that Chapter 11, Article 11-06-330 of the Code of Ordinances is added in its entirety.

11-06-330. - OBSTRUCTING, IMPEDING MOVEMENT, OR CAMPING IN PUBLIC RIGHTS-OF-WAY

(a) *Definitions.* As used in this section, the following definitions shall apply:
   (1) *Camping* means the setting up of any tent, shack, or other permanent or temporary structure or shelter, or preparing a sleeping bag or other bedding material for use in a public right-of-way, including a setback area.
   (2) *Impeding movement* means any act which interferes with or slows the progress of pedestrians in a public right-of-way.
   (3) *Obstructing movement* means any act which blocks or prevents the progress of pedestrians in a public right-of-way.
   (4) *Public right-of-way* includes all land owned, deeded, reserved by plat, defined by statute, declared by court order, or otherwise acquired by a public agency primarily for the use of the public for the purposes of vehicular and pedestrian traffic.
   (5) *Setback area* means that part of a public right-of-way which is not occupied by a street, curb, gutter, or sidewalk.

(b) *Obstructing or impeding movement prohibited.* It is unlawful for any person to obstruct or impede the movement of any person passing along any street, sidewalk, median, crosswalk, or any other public way, including a setback area, at any dangerous streets or intersections.

(c) *Camping in right-of-way prohibited*. It is unlawful for any person to camp upon any part of a public right-of-way, including a setback area.

(d) *Penalty*. Violations of subsections (b) through (c) shall be punishable as provided in §1-01-100; provided, however, that a law enforcement officer shall first verify that a warning has been given, otherwise, the officer shall issue a criminal trespass notification to a person for violating this section in lieu of a citation or conducting an arrest.

(e) *Exemptions*. The provisions of this section shall not apply to:

(1) Law enforcement officers or to the employees of a public agency that owns, maintains, or operates a public right-of-way, or the persons authorized by such agency;
(2) Any person using a public right-of-way, including for expressive speech or conduct, whose use does not obstruct or impede movement or constitute camping.

PASSED, APPROVED AND ADOPTED this _____ day of_____, 2024.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By: _____
Susan L. Payne, Mayor

ATTEST:

_____
Rachel Hughs, City Clerk

APPROVED AS TO FORM:

_____
Ashley Smith, City Attorney

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/13/2024 **Report Date:** 01/30/2024 **Report No:** 6.

Submitted By: Ashley Smith

Subject: Consider, and act upon, Ordinance 1694 for adoption and final publication to amend Chapter 19, Article 19-04, Section 010 concerning Parks Closure Hours. *(Ashley Smith, City Attorney)* **(Roll Call Vote Required)**

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Staff recommends approval of this ordinance

Background:

The City Commission passed the Ordinance for First Publication during the regular commission meeting on January 9, 2024.

The Artice number has been corrected from the January 9, 2024 meeting.

New Material ~~Deleted Material~~

ORDINANCE NO. 1694

AN ORDINANCE AMENDING CHAPTER 19, ARTICLE 19-04-010 OF THE ALAMOGORDO CODE OF ORDINANCES CONCERNING PARK CLOSURE HOURS

WHEREAS, on October 13, 2023, during school hours, a shooting involving four school-aged citizens occurred at a City of Alamogordo public park known as South Oregon Park.

WHEREAS, as a result of the shooting, an 8th-grade student succumbed to his injuries, and an outpouring of Alamogordo citizens called on the city's leadership to review current policies and ordinances regarding city properties.

WHEREAS the City Commission of the City of Alamogordo, New Mexico, recognizing the importance of children attending school, receiving an education, and wishing to assist in keeping children in school, deems it necessary to amend Article 19-04-010 concerning park closure hours.

BE IT THEREFORE ORDAINED by the City Commission of the City of Alamogordo, New Mexico, that Chapter 19, Article 19-04-010 of the Code of Ordinances is amended in its entirety.

19-04-010. - Park closure hours.

(a) No person shall be in or remain in any park between the hours of 10:00 p.m. and 6:00 a.m., unless taking part in an activity conducted by, or pursuant to a permit issued by, the city. Parking a motor vehicle or trailer in any designated parking area located in or adjacent to a park during park closure hours is prohibited unless in an area where specifically allowed by posted signs. This section shall not apply to those who, without delay, are traveling upon those established walks, paths, and parkways which are illuminated with artificial lighting.

(b) No person under the age of 18 years of age, unaccompanied by an adult, shall congregate or be in any park between the hours of 8:00 a.m. and 4:00 p.m. while school is in session as outlined by the Alamogordo Public Schools calendar. For a 1st offense, the Juveniles, a minor under the age of 18, shall be issued a warning. Upon a subsequent offense, the Juvenile shall be issued a Criminal Trespass under NMSA §30-14-1 and referred to the Juvenile Probation Office (JPO). This section shall not apply to minors with emancipation documentation. This section shall not apply to those who, without delay are traveling upon established walks, paths and parkways.

PASSED, APPROVED, AND ADOPTED this_____ day of _____, 2024.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By: _____
Susan L. Payne, Mayor

ATTEST:

_____
Rachel Hughs, City Clerk

APPROVED AS TO FORM:

_____
Ashley Smith, City Attorney

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/13/2024 **Report Date:** 01/24/2024 **Report No:** 7.

Submitted By: Sean McGranaghan

Subject: Consider, and act upon, Ordinance 1695, Z-2023-0008(A) for adoption and final publication, a map amendment to change the current zoning of the property located at 2405 Holly Ave from MH-1 Manufactured Housing Subdivision District to R-4 Multi-Family Dwelling District. *(Stella Rael, City Planner)* **(Roll Call Vote Required)**

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Adopt the Ordinance.

Background:

The City Commission passed the Ordinance for First Publication during the regular commission meeting on January 9, 2024.

Information from the January 9, 2024, commission meeting

Consider, and act upon, Ordinance 1695, Z-2023-0008(A) for first publication, a map amendment to change the current zoning of the property located at 2405 Holly Ave from MH-1 Manufactured Housing Subdivision District to R-4 Multi-Family Dwelling District.

ORDINANCE No. 1695

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF ALAMOGORDO, CHANGING THE CLASSIFICATION OF A CERTAIN PROPERTY COMMONLY KNOWN AS 2405 HOLLY AVE FROM ITS PRESENT DESIGNATION AND ZONING DISTRICT: MH-1 MANUFACTURED HOUSING SUBDIVISION TO: R-4 MULTIPLE-FAMILY DWELLING DISTRICT WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF ALAMOGORDO, OTERO COUNTY, NEW MEXICO.

WHEREAS, John C. Pacheco (hereinafter referred to as "the Owner") is the owner of certain real properties 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

2405 HOLLY AVE

WHEREAS, an application has been filed in the Owner's name under Case No. **Z-2023 0008(A)** to change the zoning of the Property, and

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

2405 HOLLY AVE

Is hereby changed from MH-1 Manufactured Housing Subdivision District to R-4 Multiple-Family Dwelling 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 _____, 2024.

CITY OF ALAMOGORDO, NEW MEXICO a New Mexico municipal corporation

By: _____
Susan L. Payne Mayor

ATTEST:

_____
Rachel Hughs, City Clerk

APPROVED AS TO FORM:

_____
Ashley Smith, City Attorney

City of Alamogordo

City Commission

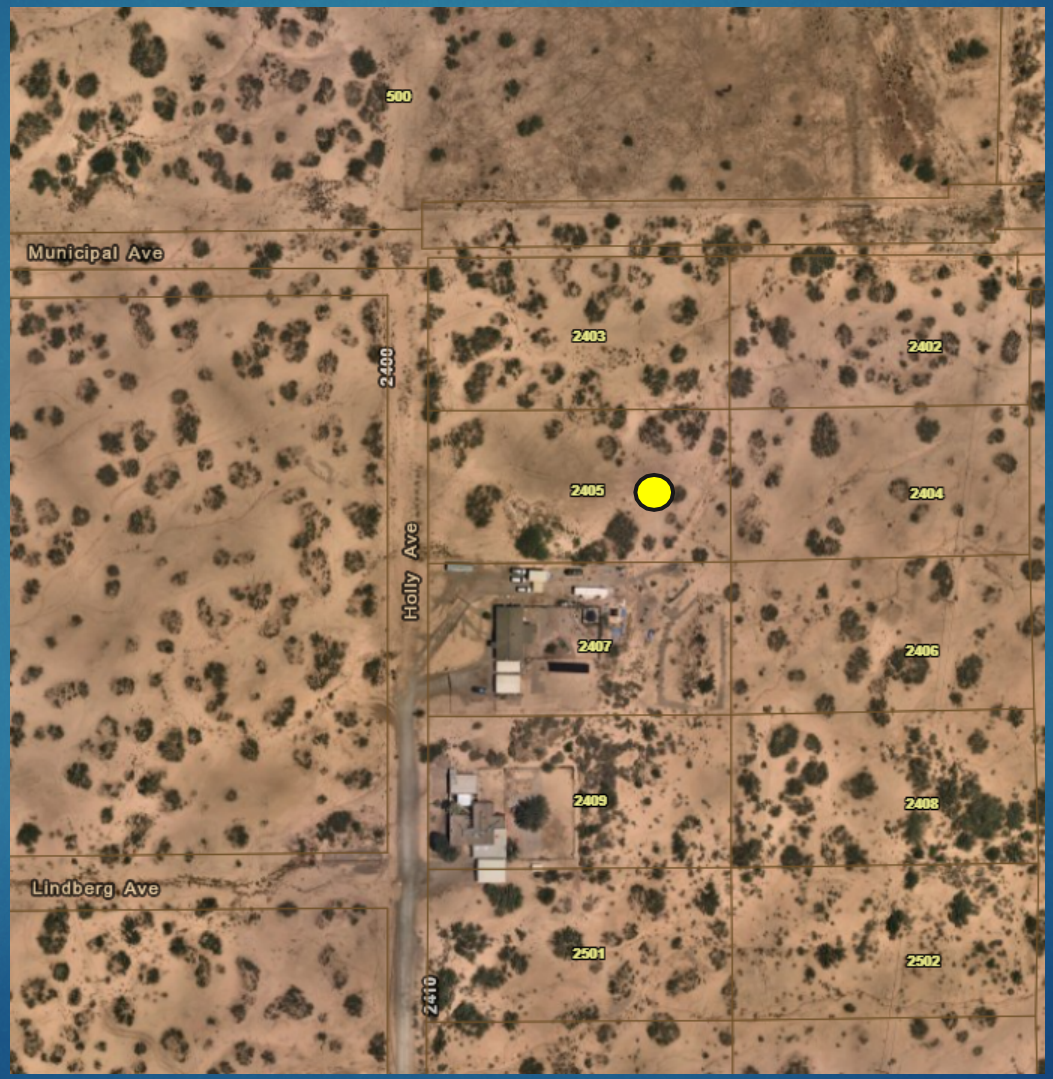
Z-2023-0008(A)

Stella Rael, City Planner
January 09, 2024

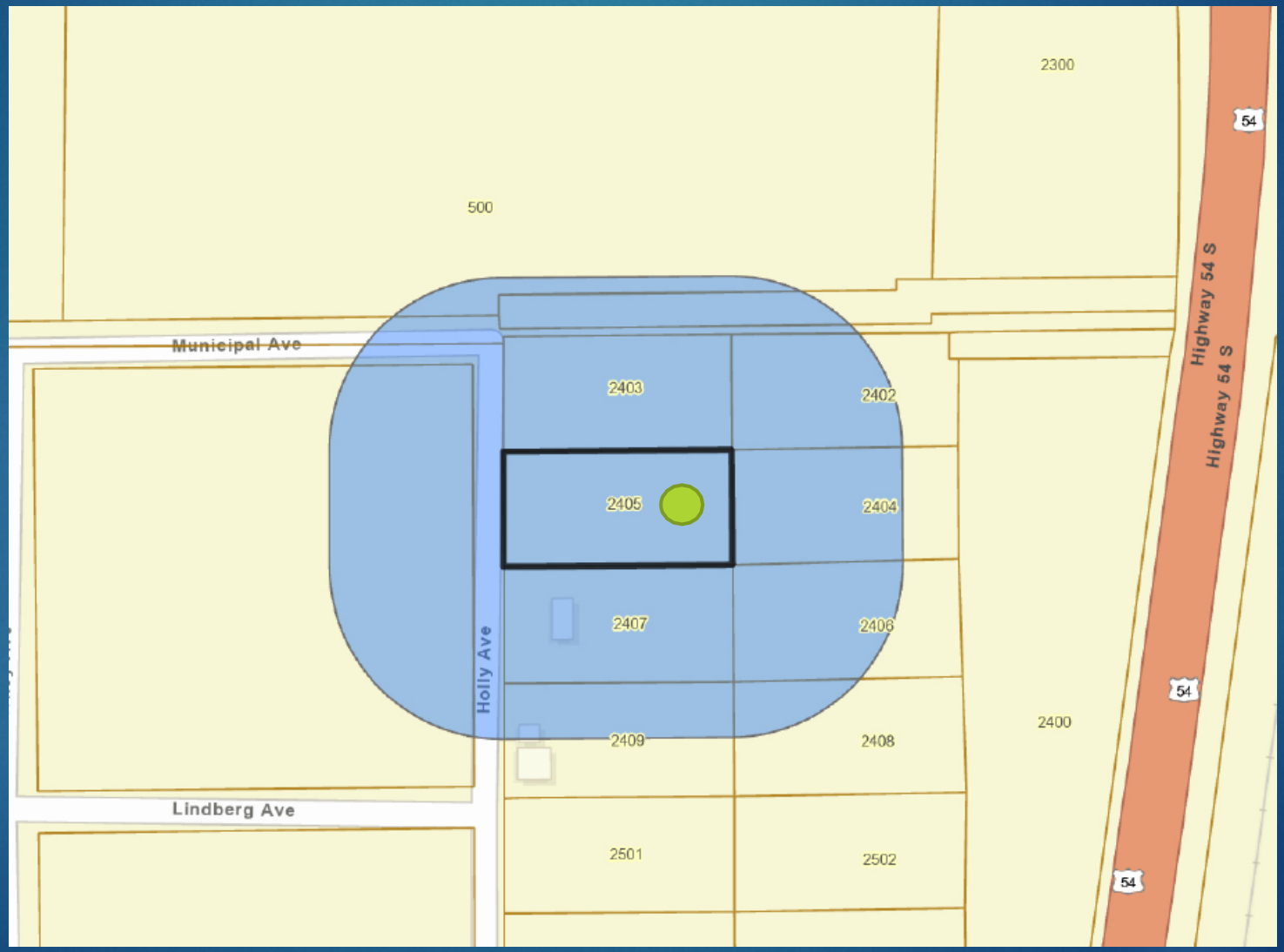
Zoning Map


481
600
2300
500
Municipal Ave
2403
2402
2405
2404
2407
2406
2400
2409
2408
Lindberg Ave
Holly Ave
2501
2502
US-54
HIGHWAY 54 S

AERIAL


500
Municipal Ave
2403
2402
2400
2405
2404
Holly Ave
2407
2406
2409
2408
Lindberg Ave
2501
2502
2410

Protest Area



Zoning Request Case: Z-2023-0008(A)

Request:

The property owner is requesting for a map amendment to change the zoning of the property located 2405 Holly Ave from MH-1 Manufactured Housing Subdivision District to R-4 Multi-Family Dwelling District.

Owner:

John C. Pacheco

4280 County Road 145

Alvin, TX 77511

Z-2023-0008(A)

Findings of Fact

- 1. The application was filed, and all fees were paid.
- 2. Legal ad was placed in the Alamogordo Daily News
- 3. Eight(8) letters were mailed by certified/returned receipt mail to all property owners of record within two hundred (200) feet from the property excluding public right-of-way.
- 4. As of December 29, 2023, there have been 0 letters returned undeliverable, and I have not received any letters or phone calls of opposition.

Z-2023-0008(A)

- 7. Staff recommends approval.

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/13/2024 **Report Date:** 02/05/2024 **Report No:** 8.

Submitted By: Evelyn Huff

Subject: Consider, and act upon, Resolution 2024-07 requesting written approval from the Local Government Division of the Department of Finance and Administration, State of NM for the revised budget numbers computed as of January 9, 2024. *(Evelyn Huff, Finance Director)* **(Roll Call Vote Required)**

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact: Beginning Cash Balances - $92,951,619
Revenues - $490,077 Increase
Expenditures - $42,949,Increase
Transfers In - $42,949,Increase
Transfers Out - $1,048,927 Increase

Recommendation: Approve the Resolution Request

Background: The City Commission adopted the FY 2023-2024 budget on July 28, 2023. The Department of Finance & Administration granted approval of the City of Alamogordo's Fiscal Year 2023-2024 Annual Budget on August 15, 2023. Resolution 2024-03 amends the budget to reflect a more true and accurate projection of the actual revenues and expenditures. A summary and explanation of the revisions are attached for your review.

RESOLUTION NO. 2024-07

A RESOLUTION REQUESTING THE DEPARTMENT OF FINANCE AND ADMINISTRATION, STATE OF NEW MEXICO, APPROVE REVISED BUDGET FIGURES FOR CERTAIN LINE ITEMS IN THE CITY'S BUDGET FOR FISCAL YEAR 2023-2024.

WHEREAS, the City of Alamogordo, New Mexico wishes approval to change some of the budget line-item figures of various funds; and

WHEREAS, the Department of Finance and Administration, State of New Mexico, gave its written final approval to the City of Alamogordo, New Mexico's annual budget on August 15, 2023, for fiscal year 2023-2024; and

WHEREAS, the City of Alamogordo, New Mexico, has tabulated on the following pages the additional resources and expenditures for fiscal year 2023-2024.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF ALAMOGORDO, NEW MEXICO, that the City's annual budget for fiscal year 2023-2024 be and hereby is revised as of February 13, 2024, to reflect a more true and accurate projection of the actual revenues and expenditures for fiscal year 2023-2024 as shown on the following pages.

NOW, BE IT FURTHER RESOLVED BY THE GOVERNING BODY OF THE CITY OF ALAMOGORDO, NEW MEXICO, that the Department of Finance and Administration, State of New Mexico, be requested to give its written approval to the revised budget figures computed on February 13, 2024, as a more true and accurate projection of the actual revenues and expenditures for fiscal year 2023-2024.

PASSED, APPROVED AND ADOPTED by the Governing Body of the City of Alamogordo, New Mexico, at a Regular Meeting held this 13th. day of February 2024.

CITY OF ALAMOGORDO, NEW MEXICO,
A NEW MEXICO MUNICIPAL CORPORATION

By: _____
Susan L. Payne, Mayor

ATTEST:

_____
Rachel Hughs, City Clerk

APPROVED AS TO FORM:

_____
Ashley N. Smith, City Attorney

ALL FUNDS SUMMARY
BUDGET 2023-2024

1/12TH REQ RSRV
1,772,024
1/12TH REQ RSRV
0
Fund Reserve Policy
468,745
Bal. Remaining
2,398,894

FY24 BUDGET - RESOLUTION 2024-07 (#8) FEBRUARY 13, 2024

FUND NO.	FY 2023-2024 FUND DESCRIPTION	UNAUDITED BEGINNING CASH BALANCE	ESTIMATED REVENUES	TRANSFERS IN	TRANSFERS OUT	NET CASH TRANSFERS	BUDGETED EXPENDITURES	ESTIMATED ENDING CASH BALANCE	LOCAL RESERVE REQUIREMENTS UNAVAILABLE FOR BUDGETING	ADJUSTED ENDING CASH BALANCE
11	GENERAL OPERATING FUND	15,423,967	22,109,972	311,577	11,941,567	(11,629,990)	21,264,286	4,639,663	2,240,769	2,398,894
12	INTERNAL SERVICE FUND	10,000	241,739	5,160,056	0	5,160,056	5,411,692	103		$103
15	CORRECTIONS-JAIL	90,675	54,734	0	0	0	113,240	32,169		$32,169
16	LODGER'S TAX-PROMOTIONAL FUND	353,179	2,067	0	0	0	213,750	141,496		$141,496
17	POLICE COURT BOND	8,638	0	0	0	0	0	8,638		$8,638
19	COURT AUTOMATION FUND	6,033	35,000	37,089	0	37,089	71,709	6,413		$6,413
20	LODGER'S TAX-CITY	536,427	80,898	183,295	87,553	95,742	598,393	114,674		$114,674
21	D.A.R.E. DONATIONS FUND	21,005	2,195	0	0	0	13,092	10,108		$10,108
24	GRANT CAPITAL IMPROVEMENT	0	8,595,249	1,579,500	0	1,579,500	9,662,114	512,635		$512,635
27	MUNICIPAL COURT OPERATIONS	5,000	13,000	506,784	0	506,784	524,732	52		$52
28	POLICE CONTINGENCY	75,078	650	0	0	0	10,000	65,728		$65,728
31	CEMETERY-PERPETUAL CARE	860,280	21,642	0	40,000	(40,000)	0	841,922		$841,922
32	COMMUNITY SERVICES	13,775	515,192	6,642,983	0	6,642,983	7,168,432	3,518		$3,518
33	FIRE PROTECTION	1,113,851	1,203,473	0	0	0	2,236,012	81,312		$81,312
35	HIDTA GRANT FUND	780	12,400	0	0	0	12,400	780		$780
36	LAW ENFORCEMENT FUND	68,724	159,500	0	0	0	228,224	(0)		($0)
37	STATE HIGHWAY FUND	115,832	51,280	0	0	0	57,316	109,796		$109,796
38	TRAFFIC SAFETY FUND	77,507	14,581	0	0	0	10,000	82,088		$82,088
39	STATE JUDICIAL	2,393	34,000	0	0	0	34,000	2,393		$2,393
42	1984 GROSS RECEIPTS TAX	3,872,525	2,121,677	0	4,056,487	(4,056,487)	37,016	1,900,699	252,119	$1,648,580
44	TRANSPORTATION FUND	22,581	1,200,328	5,113,144	361,436	4,751,708	5,974,285	332		$332
48	NEW MEXICO C.D.B.G.	0	382,515	1,161,308	0	1,161,308	1,407,044	136,779		$136,779
49	1986 GROSS RECEIPTS TAX	4,547,832	2,129,102	0	896,490	(896,490)	736,312	5,044,132	268,391	$4,775,741
50	PROPERTY ACQUISITION	85,010	0	0	0	0	0	85,010		$85,010
53	GENERAL OBLIGATION	989,996	1,201,162	0	0	0	1,183,245	1,007,913	557,029	$450,884
54	REVERSE OSMOSIS PROJECT RSV	21,967	0	0	0	0	10,447	11,520		$11,520
56	99 GRT FLOOD CONTROL BOND PROJ	8	0	269,404	0	269,404	269,404	8		$8
59	REVENUE BOND P & I FUND	172,412	8,300	2,357,973	0	2,357,973	2,357,973	180,712		$180,712
61	MUNICIPAL INFRASTRUCTURE .0625%	1,872,040	530,855	0	260,000	(260,000)	9,254	2,133,641		$2,133,641
63	COMMUNITY DEVELOPMENT	2,500	0	462,723	30,105	432,618	432,712	2,406		$2,406
69	1994 GROSS RECEIPTS	4,040,006	2,114,548	0	2,426,640	(2,426,640)	37,016	3,690,898	553,051	$3,137,847
71	ALAMO SENIOR CENTER	14,430	897,856	785,907	0	785,907	1,691,650	6,543		$6,543
74	ALAMO SENIOR CENTER GIFT	136,021	11,078	0	0	0	26,286	120,813		$120,813
75	SENIOR VOLUNTEER PROGRAM	10,107	139,307	2,802	0	2,802	151,932	284		$284
81	WATER/SEWER OPERATING	16,271,347	11,262,553	658,461	3,795,718	(3,137,257)	14,349,964	10,046,679	1,463,850	$8,582,829
82	98 JT WATER/SEWER BOND P&I	1,149,309	15,226	1,863,751	0	1,863,751	1,863,751	1,164,535		$1,164,535
86	SOLID WASTE COLLECTION SYS.	996,061	2,495,198	240,000	158,629	81,371	2,771,383	801,247	178,583	$622,664
88	BONITO CAMPGROUND	395,878	4,138	150,000	0	150,000	174,456	375,560		$375,560
89	ESGRT .0625%	1,800,843	542,623	0	278,683	(278,683)	1,153,142	911,641		$911,641
90	GOLF COURSE	0	1,715,450	246,082	0	246,082	1,960,026	1,506		$1,506

ALL FUNDS SUMMARY
BUDGET 2023-2024

1/12TH REQ RSRV
1,772,024
1/12TH REQ RSRV
0
Fund Reserve Policy
468,745
Bal. Remaining
2,398,894

FY24 BUDGET - RESOLUTION 2024-07 (#8) FEBRUARY 13, 2024

FUND NO.	FY 2023-2024 FUND DESCRIPTION	UNAUDITED BEGINNING CASH BALANCE	ESTIMATED REVENUES	TRANSFERS IN	TRANSFERS OUT	NET CASH TRANSFERS	BUDGETED EXPENDITURES	ESTIMATED ENDING CASH BALANCE	LOCAL RESERVE REQUIREMENTS UNAVAILABLE FOR BUDGETING	ADJUSTED ENDING CASH BALANCE
91	AIRPORT	20,000	735,112	216,500	45,736	170,764	921,064	4,812		$4,812
94	OTERO GREENTREE REG LANDFILL	3,444,133	1,418,772	0	5,000	(5,000)	2,642,103	2,215,802		$2,215,802
96	SELF-INSURED FUND	581,219	140,317	0	276,600	(276,600)	181,121	263,815		$263,815
98	PAYROLL CLEARING	242,872	0	0	0	0	0	242,872		$242,872
104	UTILITY DEPOSITS	628,617	0	0	0	0	0	628,617		$628,617
105	ECONOMIC DEVELOPMENT	6,821,364	1,133,468	0	0	0	1,235,429	6,719,403		$6,719,403
107	SELF INSURED/LIABILITY	1,081,582	8,050	0	0	0	535,000	554,632		$554,632
109	2004 GRT CAPITAL OUTLAY	15,640,173	4,335,972	0	3,288,695	(3,288,695)	4,822,897	11,864,553	534,452	$11,330,101
114	SIDEWALKS REVOLVING LOANS	146,446	1,722	0	0	0	0	148,168		$148,168
115	CORP ESCROW ACCOUNT RESERVE	1,000	0	0	0	0	0	1,000		$1,000
119	2012 GRT REF/IMP REVBD	199,317	3,085	0	0	0	192,557	9,845		$9,845
121	2015 GO BONDS-FUN CENTER	92,226	1,081	0	0	0	0	93,307		$93,307
122	2015 GO BONDS-STREETS	178,708	2,095	0	0	0	0	180,803		$180,803
124	AMERICAN RESCUE PLAN ACT	7,226,672	75,043	0	0	0	7,119,553	182,162		$182,162
125	CANNABIS GRT	0	204,000	0	0	0	202,238	1,762		$1,762
901	HOUSING LOW RENT OPERATING	899,290	0	0	0	0	0	899,290	86,881	$812,409
903	HOUSING HOMEOWNERSHIP OPER	18	0	0	0	0	0	18		$18
904	HOUSING CAPITAL FUND PROJECTS	563,966	0	0	0	0	0	563,966		$563,966
	TOTALS FY2024	**92,951,619**	**67,978,205**	**27,949,339**	**27,949,339**	**0**	**102,078,652**	**58,851,172**	**6,135,125**	**52,716,047**

ALL FUNDS SUMMARY

BUDGET 2023-2024

1/12TH REQ RSRV
1,772,024
1/12TH REQ RSRV
0
Fund Reserve Policy
468,745
Bal. Remaining
2,398,894

FY24 BUDGET - RESOLUTION 2024-07 (#8) FEBRUARY 13, 2024

FUND NO.	FY 2023-2024 FUND DESCRIPTION	UNAUDITED BEGINNING CASH BALANCE	ESTIMATED REVENUES	TRANSFERS IN	TRANSFERS OUT	NET CASH TRANSFERS	BUDGETED EXPENDITURES	ESTIMATED ENDING CASH BALANCE	LOCAL RESERVE REQUIREMENTS UNAVAILABLE FOR BUDGETING	ADJUSTED ENDING CASH BALANCE
11	GENERAL OPERATING FUND	15,423,967	22,128,273	311,577	11,923,618	(11,612,041)	21,232,953	4,707,246	2,240,769	2,466,477
	Revision #2-Salary & Benefits Mid-Year Review				17,949	(17,949)	4,533	(22,482)		(22,482)
	Revision #4-Fire Dept. All Hazard Mitigation Plan					0	16,800	(16,800)		(16,800)
	Revision #7-APS School Resource Contract Amendment		(28,301)			0		(28,301)		(28,301)
	Revision #8-Dudley School Project Donation		10,000			0	10,000	0		0
	Total Revised Fund 11	**15,423,967**	**22,109,972**	**311,577**	**11,941,567**	**(11,629,990)**	**21,264,286**	**4,639,663**	**2,240,769**	**2,398,894**
12	INTERNAL SERVICE FUND	10,000	241,739	5,160,056	0	5,160,056	5,411,692	103		103
	Total Revised Fund 12	**10,000**	**241,739**	**5,160,056**	**0**	**5,160,056**	**5,411,692**	**103**		**103**
15	CORRECTIONS-JAIL	90,675	54,734	0	0	0	113,240	32,169		32,169
	Total Revised Fund 15	**90,675**	**54,734**	**0**	**0**	**0**	**113,240**	**32,169**		**32,169**
16	LODGER'S TAX-PROMOTIONAL FUND	353,179	2,067	0	0	0	213,750	141,496		141,496
	Total Revised Fund 16	**353,179**	**2,067**	**0**	**0**	**0**	**213,750**	**141,496**		**141,496**
17	POLICE COURT BOND	8,638	0	0	0	0	0	8,638		8,638
	Total Revised Fund 17	**8,638**	**0**	**0**	**0**	**0**	**0**	**8,638**		**8,638**
19	COURT AUTOMATION FUND	6,033	35,000	37,089	0	37,089	71,709	6,413		6,413
	Total Revised Fund 19	**6,033**	**35,000**	**37,089**	**0**	**37,089**	**71,709**	**6,413**		**6,413**
20	LODGER'S TAX-CITY	536,427	80,898	183,295	87,553	95,742	598,393	114,674		114,674
	Total Revised Fund 20	**536,427**	**80,898**	**183,295**	**87,553**	**95,742**	**598,393**	**114,674**		**114,674**
21	D.A.R.E. DONATIONS FUND	21,005	2,195	0	0	0	13,092	10,108		10,108
	Total Revised Fund 21	**21,005**	**2,195**	**0**	**0**	**0**	**13,092**	**10,108**		**10,108**
24	GRANT CAPITAL IMPROVEMENT	0	8,584,624	1,579,500	0	1,579,500	9,651,489	512,635		512,635
	Revision #1-Police Dept. Grant Award for Bulletproof Vests		10,625			0	10,625	0		0
	Total Revised Fund 24	**0**	**8,595,249**	**1,579,500**	**0**	**1,579,500**	**9,662,114**	**512,635**		**512,635**
27	MUNICIPAL COURT OPERATIONS	5,000	13,000	506,784	0	506,784	524,732	52		52
	Total Revised Fund 27	**5,000**	**13,000**	**506,784**	**0**	**506,784**	**524,732**	**52**		**52**
28	POLICE CONTINGENCY	75,078	650	0	0	0	10,000	65,728		65,728
	Total Revised Fund 28	**75,078**	**650**	**0**	**0**	**0**	**10,000**	**65,728**		**65,728**
31	CEMETERY-PERPETUAL CARE	860,280	21,642	0	40,000	(40,000)	0	841,922		841,922
	Total Revised Fund 31	**860,280**	**21,642**	**0**	**40,000**	**(40,000)**	**0**	**841,922**		**841,922**
32	COMMUNITY SERVICES	13,775	504,839	6,626,436	0	6,626,436	7,141,532	3,518		3,518
	Revision #2-Salary & Benefits Mid-Year Review			16,547		16,547	16,547	0		0
	Revision #3-Library State Grants in Aid Funding for FY24		10,353			0	10,353	0		0
	Total Revised Fund 32	**13,775**	**515,192**	**6,642,983**	**0**	**6,642,983**	**7,168,432**	**3,518**		**3,518**
33	FIRE PROTECTION	1,113,851	1,203,473	0	0	0	2,236,012	81,312		81,312
	Total Revised Fund 33	**1,113,851**	**1,203,473**	**0**	**0**	**0**	**2,236,012**	**81,312**	**0**	**81,312**
35	HIDTA GRANT FUND	780	0	0	0	0	0	780		780
	Revision #6-HIDTA Grant Funding Carryover to FY24		12,400			0	12,400	0		0
	Total Revised Fund 35	**780**	**12,400**	**0**	**0**	**0**	**12,400**	**780**		**780**
36	LAW ENFORCEMENT FUND	68,724	159,500	0	0	0	228,224	(0)		(0)
	Total Revised Fund 36	**68,724**	**159,500**	**0**	**0**	**0**	**228,224**	**(0)**		**(0)**
37	STATE HIGHWAY FUND	115,832	51,280	0	0	0	57,316	109,796		109,796
	Total Revised Fund 37	**115,832**	**51,280**	**0**	**0**	**0**	**57,316**	**109,796**		**109,796**

38	TRAFFIC SAFETY FUND	77,507	14,581	0	0	0	10,000	82,088		82,088
	Total Revised Fund 38	**77,507**	**14,581**	**0**	**0**	**0**	**10,000**	**82,088**		**82,088**
39	STATE JUDICIAL	2,393	34,000	0	0	0	34,000	2,393		2,393
	Total Revised Fund 39	**2,393**	**34,000**	**0**	**0**	**0**	**34,000**	**2,393**		**2,393**
42	1984 GROSS RECEIPTS TAX	3,872,525	2,121,677	0	4,056,487	(4,056,487)	37,016	1,900,699	252,119	1,648,580
	Total Revised Fund 42	**3,872,525**	**2,121,677**	**0**	**4,056,487**	**(4,056,487)**	**37,016**	**1,900,699**	**252,119**	**1,648,580**
44	TRANSPORTATION FUND	22,581	1,200,328	5,113,144	361,436	4,751,708	5,974,285	332		332
	Total Revised Fund 44	**22,581**	**1,200,328**	**5,113,144**	**361,436**	**4,751,708**	**5,974,285**	**332**		**332**
48	NEW MEXICO C.D.B.G.	0	382,515	1,161,308	0	1,161,308	1,407,044	136,779		136,779
	Total Revised Fund 48	**0**	**382,515**	**1,161,308**	**0**	**1,161,308**	**1,407,044**	**136,779**		**136,779**
49	1986 GROSS RECEIPTS TAX	4,547,832	2,129,102	0	896,490	(896,490)	279,812	5,500,632	268,391	5,232,241
	Revision #5-Snake Tank Well Transmission Line Design Phase 1						456,500	(456,500)		(456,500)
	Total Revised Fund 49	**4,547,832**	**2,129,102**	**0**	**896,490**	**(896,490)**	**736,312**	**5,044,132**	**268,391**	**4,775,741**
50	PROPERTY ACQUISITION	85,010	0			0	0	85,010		85,010
	Total Revised Fund 50	**85,010**	**0**	**0**	**0**	**0**	**0**	**85,010**		**85,010**
53	GENERAL OBLIGATION	989,996	1,201,162	0	0	0	1,183,245	1,007,913	557,029	450,884
	Total Revised Fund 53	**989,996**	**1,201,162**	**0**	**0**	**0**	**1,183,245**	**1,007,913**	**557,029**	**450,884**
54	REVERSE OSMOSIS PROJECT RSV	21,967	0	0	0	0	10,447	11,520		11,520
	Total Revised Fund 54	**21,967**	**0**	**0**	**0**	**0**	**10,447**	**11,520**		**11,520**
56	99 GRT FLOOD CONTROL BOND PROJ	8	0	269,404	0	269,404	269,404	8		8
	Total Revised Fund 56	**8**	**0**	**269,404**	**0**	**269,404**	**269,404**	**8**		**8**
59	REVENUE BOND P & I FUND	172,412	8,300	2,357,973	0	2,357,973	2,357,973	180,712		180,712
	Total Revised Fund 59	**172,412**	**8,300**	**2,357,973**	**0**	**2,357,973**	**2,357,973**	**180,712**		**180,712**
61	MUNICIPAL INFRASTRUCTURE .0625%	1,872,040	530,855	0	260,000	(260,000)	9,254	2,133,641		2,133,641
	Total Revised Fund 61	**1,872,040**	**530,855**	**0**	**260,000**	**(260,000)**	**9,254**	**2,133,641**		**2,133,641**
63	COMMUNITY DEVELOPMENT	2,500	0	462,723	30,105	432,618	432,712	2,406		2,406
	Total Revised Fund 63	**2,500**	**0**	**462,723**	**30,105**	**432,618**	**432,712**	**2,406**		**2,406**
69	1994 GROSS RECEIPTS	4,040,006	2,114,548	0	2,401,640	(2,401,640)	37,016	3,715,898	553,051	3,162,847
	Revision #9-Airport Master Plan Grant				25,000	(25,000)		(25,000)		(25,000)
	Total Revised Fund 69	**4,040,006**	**2,114,548**	**0**	**2,426,640**	**(2,426,640)**	**37,016**	**3,690,898**	**553,051**	**3,137,847**
71	ALAMO SENIOR CENTER	14,430	897,856	785,907	0	785,907	1,689,631	8,562		8,562
	Revision #2-Salary & Benefits Mid-Year Review					0	2,019	(2,019)		(2,019)
	Total Revised Fund 71	**14,430**	**897,856**	**785,907**	**0**	**785,907**	**1,691,650**	**6,543**		**6,543**
74	ALAMO SENIOR CENTER GIFT	136,021	11,078	0	0	0	26,286	120,813		120,813
	Total Revised Fund 74	**136,021**	**11,078**	**0**	**0**	**0**	**26,286**	**120,813**		**120,813**
75	SENIOR VOLUNTEER PROGRAM	10,107	139,307	1,400	0	1,400	150,530	284		284
	Revision #2-Salary & Benefits Mid-Year Review			1,402		1,402	1,402	0		0
	Total Revised Fund 75	**10,107**	**139,307**	**2,802**	**0**	**2,802**	**151,932**	**284**		**284**
81	WATER/SEWER OPERATING	16,271,347	11,262,553	658,461	3,795,718	(3,137,257)	14,349,911	10,046,732	1,463,850	8,582,882
	Revision #2-Salary & Benefits Mid-Year Review					0	53	(53)		(53)
	Total Revised Fund 81	**16,271,347**	**11,262,553**	**658,461**	**3,795,718**	**(3,137,257)**	**14,349,964**	**10,046,679**	**1,463,850**	**8,582,829**
82	98 JT WATER/SEWER BOND P&I	1,149,309	15,226	1,863,751	0	1,863,751	1,863,751	1,164,535	0	1,164,535
	Total Revised Fund 82	**1,149,309**	**15,226**	**1,863,751**	**0**	**1,863,751**	**1,863,751**	**1,164,535**	**0**	**1,164,535**
86	SOLID WASTE COLLECTION SYS.	996,061	2,495,198	240,000	158,629	81,371	2,771,383	801,247	178,583	622,664
	Total Revised Fund 86	**996,061**	**2,495,198**	**240,000**	**158,629**	**81,371**	**2,771,383**	**801,247**	**178,583**	**622,664**
88	BONITO CAMPGROUND	395,878	4,138	150,000	0	150,000	174,456	375,560		375,560
	Total Revised Fund 88	**395,878**	**4,138**	**150,000**	**0**	**150,000**	**174,456**	**375,560**	**0**	**375,560**
89	ESGRT .0625%	1,800,843	542,623	0	278,683	(278,683)	1,153,142	911,641		911,641
	Total Revised Fund 89	**1,800,843**	**542,623**	**0**	**278,683**	**(278,683)**	**1,153,142**	**911,641**	**0**	**911,641**
90	GOLF COURSE	0	1,715,450	246,082	0	246,082	1,960,026	1,506		1,506
	Total Revised Fund 90	**0**	**1,715,450**	**246,082**	**0**	**246,082**	**1,960,026**	**1,506**	**0**	**1,506**
91	AIRPORT	20,000	260,112	191,500	45,736	145,764	421,064	4,812	0	4,812
	Revision #9-Airport Master Plan Grant		475,000	25,000		25,000	500,000	0		0
	Total Revised Fund 91	**20,000**	**735,112**	**216,500**	**45,736**	**170,764**	**921,064**	**4,812**	**0**	**4,812**

94	OTERO GREENTREE REG LANDFILL	3,444,133	1,418,772	0	5,000	(5,000)	2,637,694	2,220,211		2,220,211
	Revision #2-Salary & Benefits Mid-Year Review					0	4,409	(4,409)		(4,409)
	Total Revised Fund 94	**3,444,133**	**1,418,772**	**0**	**5,000**	**(5,000)**	**2,642,103**	**2,215,802**	**0**	**2,215,802**
96	SELF-INSURED FUND	581,219	140,317	0	276,600	(276,600)	181,121	263,815		263,815
	Total Revised Fund 96	**581,219**	**140,317**	**0**	**276,600**	**(276,600)**	**181,121**	**263,815**	**0**	**263,815**
98	PAYROLL CLEARING	242,872	0	0	0	0	0	242,872		242,872
	Total Revised Fund 98	**242,872**	**0**	**0**	**0**	**0**	**0**	**242,872**	**0**	**242,872**
104	UTILITY DEPOSITS	628,617	0	0	0	0	0	628,617		628,617
	Total Revised Fund 104	**628,617**	**0**	**0**	**0**	**0**	**0**	**628,617**	**0**	**628,617**
105	ECONOMIC DEVELOPMENT	6,821,364	1,133,468	0	0	0	1,232,143	6,722,689		6,722,689
	Revision #2-Salary & Benefits Mid-Year Review					0	3,286	(3,286)		(3,286)
	Total Revised Fund 105	**6,821,364**	**1,133,468**	**0**	**0**	**0**	**1,235,429**	**6,719,403**		**6,719,403**
107	SELF INSURED/LIABILITY	1,081,582	8,050	0	0	0	535,000	554,632		554,632
	Total Revised Fund 107	**1,081,582**	**8,050**	**0**	**0**	**0**	**535,000**	**554,632**	**0**	**554,632**
109	2004 GRT CAPITAL OUTLAY	15,640,173	4,335,972	0	3,288,695	(3,288,695)	4,822,897	11,864,553	534,452	11,330,101
	Total Revised Fund 109	**15,640,173**	**4,335,972**	**0**	**3,288,695**	**(3,288,695)**	**4,822,897**	**11,864,553**	**534,452**	**11,330,101**
114	SIDEWALKS REVOLVING LOANS	146,446	1,722	0	0	0	0	148,168		148,168
	Total Revised Fund 114	**146,446**	**1,722**	**0**	**0**	**0**	**0**	**148,168**	**0**	**148,168**
115	CORP ESCROW ACCOUNT RESERVE	1,000	0	0	0	0	0	1,000		1,000
	Total Revised Fund 115	**1,000**	**0**	**0**	**0**	**0**	**0**	**1,000**	**0**	**1,000**
119	2012 GRT REF/IMP REV BOND	199,317	3,085	0	0	0	192,557	9,845		9,845
	Total Revised Fund 119	**199,317**	**3,085**	**0**	**0**	**0**	**192,557**	**9,845**		**9,845**
121	2015 GO BONDS-FUN CENTER	92,226	1,081	0	0	0	0	93,307		93,307
	Total Revised Fund 121	**92,226**	**1,081**	**0**	**0**	**0**	**0**	**93,307**		**93,307**
122	2015 GO BONDS-STREETS	178,708	2,095	0	0	0	0	180,803		180,803
	Total Revised Fund 122	**178,708**	**2,095**	**0**	**0**	**0**	**0**	**180,803**		**180,803**
124	AMERICAN RESCUE PLAN ACT	7,226,672	75,043	0	0	0	7,119,553	182,162		182,162
	Total Revised Fund 124	**7,226,672**	**75,043**	**0**	**0**	**0**	**7,119,553**	**182,162**		**182,162**
125	CANNABIS GRT	0	204,000	0	0	0	202,238	1,762		1,762
	Total Revised Fund 125	**0**	**204,000**	**0**	**0**	**0**	**202,238**	**1,762**		**1,762**
901	HOUSING LOW RENT OPERATING	899,290	0	0	0	0	0	899,290	86,881	812,409
	Total Revised Fund 901	**899,290**	**0**	**0**	**0**	**0**	**0**	**899,290**	**86,881**	**812,409**
903	HOUSING HOMEOWNERSHIP OPER	18	0	0	0	0	0	18		18
	Total Revised Fund 903	**18**	**0**	**0**	**0**	**0**	**0**	**18**	**0**	**18**
904	HOUSING CAPITAL FUND PROJECTS	563,966	0	0	0	0	0	563,966		563,966
	Total Revised Fund 904	**563,966**	**0**	**0**	**0**	**0**	**0**	**563,966**		**563,966**
	TOTALS FY2024	**92,951,619**	**67,978,205**	**27,949,339**	**27,949,339**	**0**	**102,078,652**	**58,851,172**	**6,135,125**	**52,716,047**

FY24 Budget Resolution # 2024-07 (#8) - February 13, 2024

FUND NO. JOURNAL NO.	PROJECT NO.	LINE ITEM NO.	LINE ITEM DESCRIPTION	ORIGINAL BUDGET AMOUNT	INCREASE (DECREASE)	REVISED BUDGET AMOUNT
REVISION #1						
This budget revision is to account for a Federal Grant Award for bulletproof vests for the Police Department in FY24.						
24	**GRANT CAPITAL IMPROVEMENT FUND**					
		Revenues				
173	**PD2404.GRNT.FEDR.**	024.000.0000.0000.40701.	Grants-Federal	15,895	**10,625**	26,520
			Total Revenues	**15,895**	**10,625**	**26,520**
		Expenditures				
173	**PD2404.SUPP.UNIF.**	024.000.0000.0000.56012	Other-Uniforms	11,569	**10,625**	22,194
			Total Expenditures	11,569	**10,625**	22,194
REVISION #2						
This budget revision is to adjust Salary & Benefit amounts for PTO Conversion, Deferred Compensation, and Group Health Insurance at mid-year for all departments.						
11	**GENERAL FUND**					
		Transfers Out				
1770		011.000.0000.0000.59032.	Trans to (32) Community Services	6,008,448	**16,547**	6,024,995
1770		011.000.0000.0000.59075	Trans to (75) RSVP	1,400	**1,402**	2,802
			Total Transfers Out	**6,009,848**	**17,949**	**6,027,797**
		Expenditures				
1770		011.400.4204.0000.52020.	Benefits-PTO Conversion (4204 Fire)	10,000	**4,533**	14,533
			Total Expenditures	10,000	**4,533**	14,533
32	**COMMUNITY SERVICES FUND**					
		Transfers In				
1770		032.000.0000.0000.49011.	Trans fr (11) General	6,008,448	**16,547**	6,024,995
			Total Transfers In	**6,008,448**	**16,547**	**6,024,995**
		Expenditures				
1770		032.300.2406.0000.52011	Benefits-Deferred Compensation (6006 Cemetery)	0	**12,223**	12,223
1770		032.300.6206.0000.52020.	Benefits-PTO Conversion (6206 Parks)	0	**4,324**	4,324
			Total Expenditures	0	**16,547**	16,547
71	**SENIOR CENTER FUND**					
		Expenditures				
1770	**SCCM24.BENE.POTC.LOCL**	071.300.8020.0000.52020.	Benefits-PTO Conversion (SC Congregate Meals)	5,860	**646**	6,506
1770	**SCTR24.BENE.PTOC.LOCL**	071.300.8020.0000.52020.	Benefits-PTO Conversion (SC Transportation)	6,506	**384**	6,890
1770	**SCHD24.BENE.PTOC.LOCL**	071.300.8020.0000.52020.	Benefits-PTO Conversion (SC Home Delivered Meals)	6,890	**464**	7,354
1770	**SCFT24.BENE.PTOC.STTE**	071.300.8020.0000.52020.	Benefits-PTO Conversion (SC Fitness)	7,354	**40**	7,394
1770	**SCLO24.BENE.PTOC.LOCL**	071.300.8020.0000.52020.	Benefits-PTO Conversion (SC Local)	7,394	**485**	7,879
			Total Expenditures	34,004	**2,019**	36,023
75	**SENIOR CENTER RSVP FUND**					
		Transfers In				
1770		075.000.0000.0000.49011	Trans fr (11) General	1,400	**1,402**	2,802
			Total Transfers In	1,400	**1,402**	2,802
		Expenditures				
1770	**SCCP24.BENE.HBEN.STTE**	075.300.8020.0000.52025	Benefits-Group Health (8020 SC RSVP Senior Companion)	56	**1,052**	1,108
1770	**SCFG24.BENE.HBEN.STTE**	075.300.8020.0000.52025	Benefits-Group Health (8020 SC RSVP Foster Grandparent)	1,108	**350**	1,458
			Total Expenditures	1,164	**1,402**	2,566
81	**WATER/SEWER FUND**					
		Expenditures				
1770		081.600.5603.0000.52020	Benefits-PTO Conversion (5603 Water Reclamation Plant)	5,200	**53**	5,253
			Total Expenditures	5,200	**53**	5,253
94	**LANDFILL FUND**					
		Expenditures				
1770		094.600.0903.0000.52020	Benefits-PTO Conversion (0903 Landfill)	900	**4,409**	5,309
			Total Expenditures	900	**4,409**	5,309
105	**ECONOMIC DEVELOPMENT FUND**					
		Expenditures				
1770		105.800.0407.0000.52020	Benefits-PTO Conversion (0407 Economic Development)	0	**3,286**	3,286
			Total Expenditures	0	**3,286**	3,286

REVISION #3

This budget revision is to account for State Grants in Aid Award to the Library for FY24. The Grant Agreement was approved by the City Commission at the December 5, 2023 meeting.

32	**COMMUNITY SERVICES FUND**					
		Revenues				
1820	**LI2402.GRNT.STTE**	032.300.7101.0000.40702	Grants-State (7101 Library)	0	**10,353**	10,353
			Total Revenues	**0**	**10,353**	**10,353**
		Expenditures				
1820	**LI2402.SUPP.LIBR**	032.300.7101.0000.53026	Supplies-Book/Periodical/Audio (7101 Library)	192,051	**10,353**	202,404
			Total Expenditures	192,051	**10,353**	202,404

REVISION #4

This budget revision is to provide funding for the City of Alamogordo All Hazard Mitigation Plan for the Fire Department. The plan renewal is required every 5 years and it expires December 2024.

11	**GENERAL FUND**					
		Expenditures				
1927		011.400.4204.0000.54520	Services-Contract (4204 Fire)	0	**16,800**	16,800
			Total Expenditures	0	**16,800**	16,800

REVISION #5

This budget revision is to provide funding for the Snake Tank Well Transmission Pipeline engineering design.

49	**1986 GROSS RECEIPTS FUND**					
		Expenditures				
2010	**EN2007.CAPT.ENGN**	049.000.0000.0000.57031	Capital-ICIP (Parallel Pipeline-Phase 1)	47,983	**456,500**	504,483
			Total Expenditures	47,983	**456,500**	504,483

REVISION #6

This budget revision is to account for carryover funding for High Intensity Drug Trafficking Act Grant funding for FY24.

35	**H.I.D.T.A. GRANT FUND**					
		Revenues				
2298		035.400.4104.0000.40706	Grants-HIDTA (4104 Police)	0	**12,400**	12,400
			Total Revenues	**0**	**12,400**	**12,400**
		Expenditures				
2298		035.400.4104.000.52004	Salaries-Overtime (4104 Police)	192,051	**12,400**	204,451
			Total Expenditures	192,051	**12,400**	204,451

REVISION #7

This budget revision is to correct the beginning balance for the APS reimbursement. There are only have two school resource officers, and the signed contract reflects this change in the FY24 budget.

11	**GENERAL FUND**					
		Revenues				
2419		011.400.4104.0000.40416	User Fees-APS Reimbursement (4104 Police)	113,000	**(28,301)**	84,699
			Total Revenues	**113,000**	**(28,301)**	**84,699**

REVISION #8

This budget revision is to account for a anonymous donation for the Dudley School project and includes the corresponding increase in the expenditure line-item.

11	**GENERAL FUND**					
		Revenues				
222	**CM2303.DONA.**	011.000.0000.0000.40601	Misc. Revenue-Donations	0	**10,000**	10,000
			Total Revenues	**0**	**10,000**	**10,000**
		Expenditures				
222	**CM2303.SERV.CNTR.**	011.000.2400.0000.54520	Services-Contract	423,970	**10,000**	433,970
			Total Expenditures	423,970	**10,000**	433,970

REVISION #9

This budget revision is to account for a State Grant for the Airport Master Plan which will be conducted by the City's Airport consultant Delta Consultants. The City will contribute 5% of the Plan's total cost which will be funded by the 1994 GRT fund.

91	**AIRPORT**					
		Revenues				
223		091.000.0000.0000.40702	Grants-State	29,795	**475,000**	504,795
			Total Revenues	**29,795**	**475,000**	**504,795**
		Transfers In				
223		091.000.0000.0000.49069	Trans fr (69) 1994 GRT	0	**25,000**	25,000
			Total Transfers In	**0**	**25,000**	**25,000**
		Expenditures				
223		091.300.2400.0000.54532.	Services-Consultants	105,602	**500,000**	605,602
			Total Expenditures	105,602	**500,000**	605,602
69	**1994 GROSS RECEIPTS TAX FUND**					
		Transfers In				
		069.000.0000.0000.59091	Trans to (91) Airport	0	**25,000**	25,000
			Total Transfers In	**0**	**25,000**	**25,000**

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/13/2024 **Report Date:** 02/09/2024 **Report No:** 9.

Submitted By: Josh Sides

Subject: Consider, and act upon, Resolution 2024-14, declaring 1500 Ohio Ave. to be so ruined, damaged, and dilapidated that it is a menace to public comfort, health, peace, or safety, and ordering its abatement. *(Josh Sides, Code Enforcement Manager)* **(Roll Call Vote Required)**

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

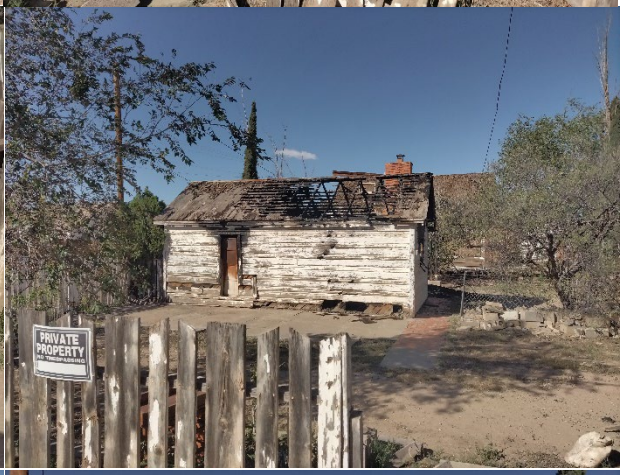
Recommendation: Approve and order the property's abatement.

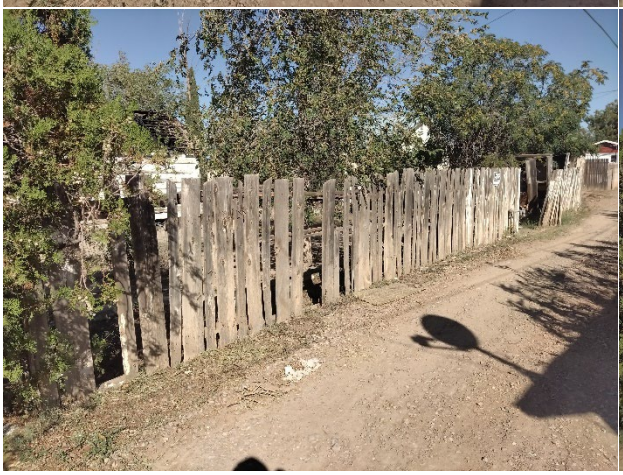
Background: 1500 Ohio Ave. is so ruined and dilapidated that it is currently a risk to public health and safety.


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PROPERTY






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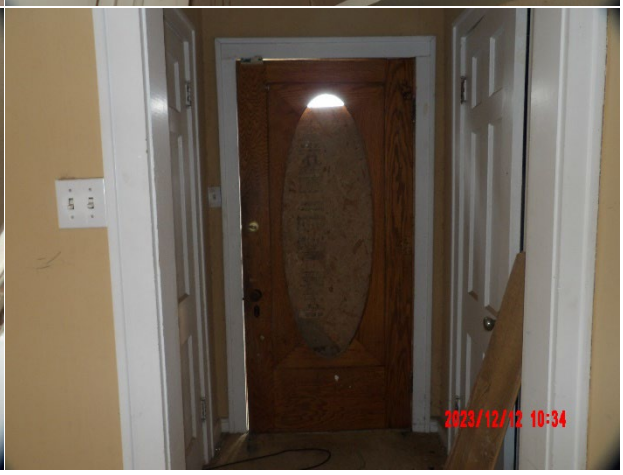

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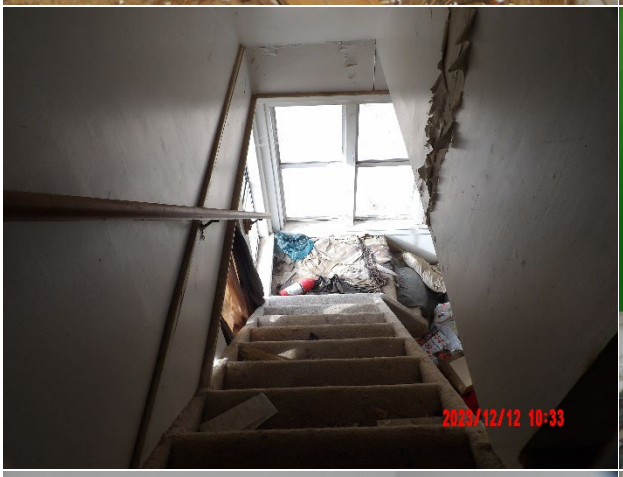

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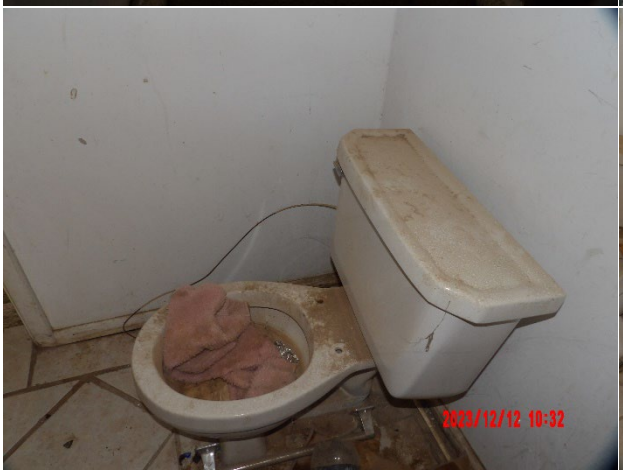

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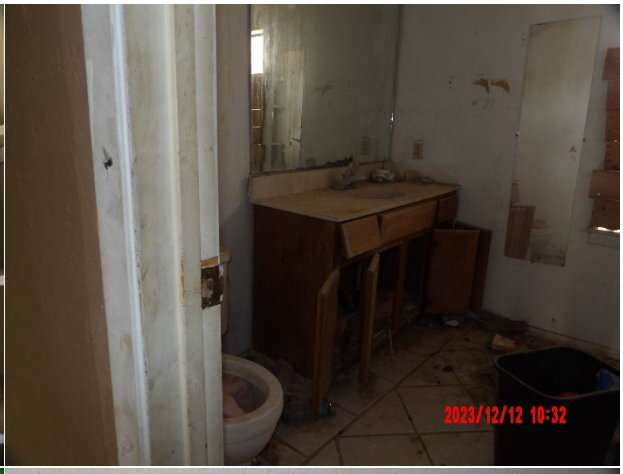

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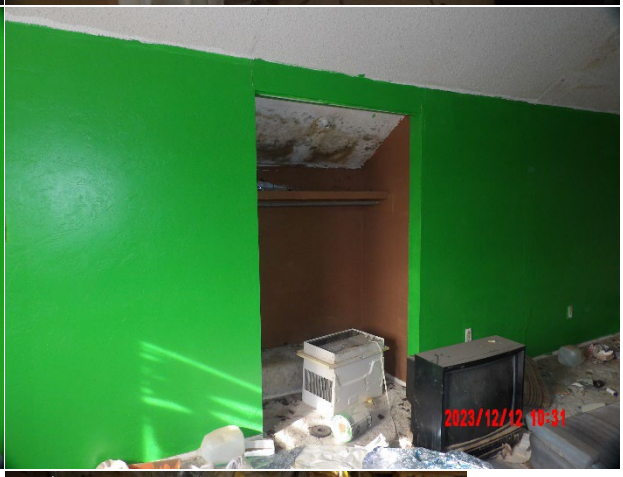

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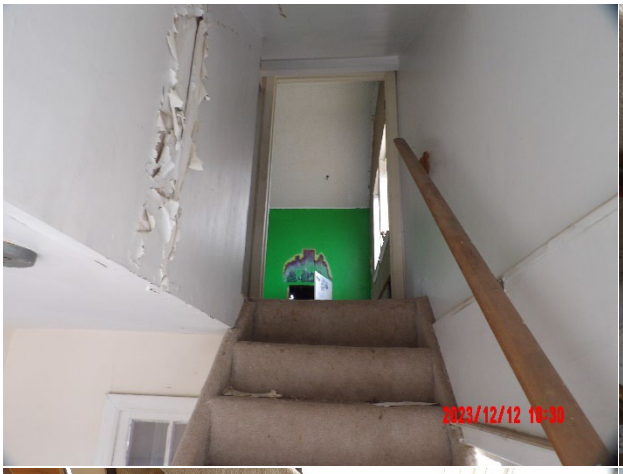

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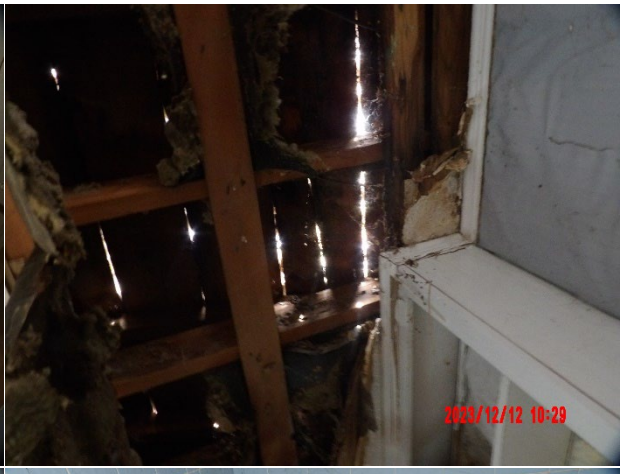

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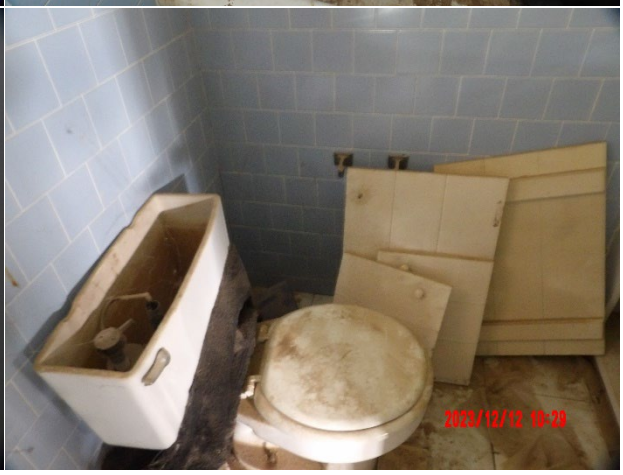

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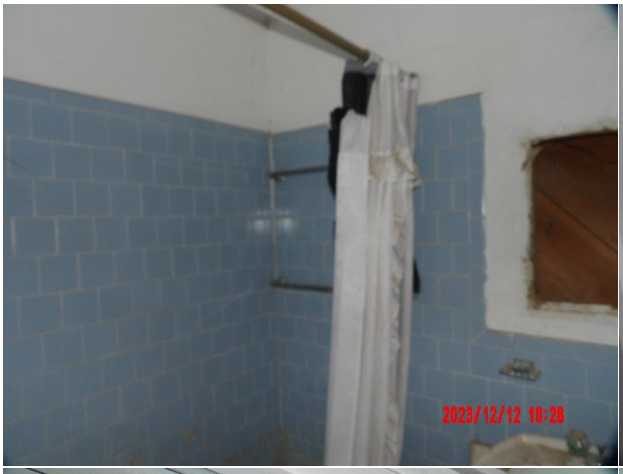

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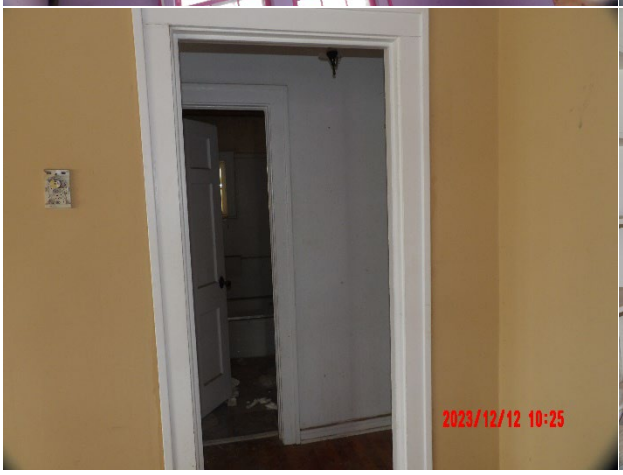

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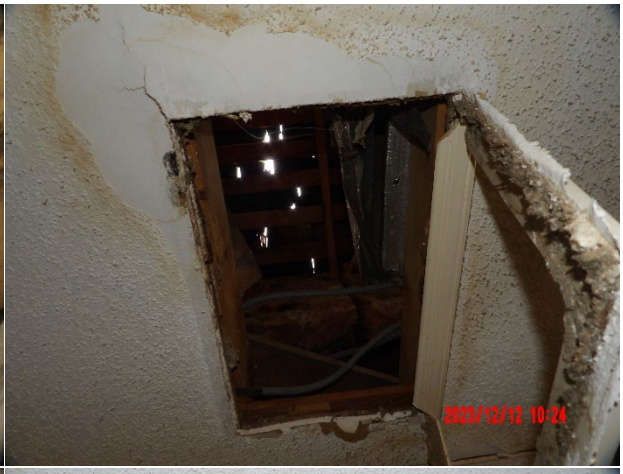

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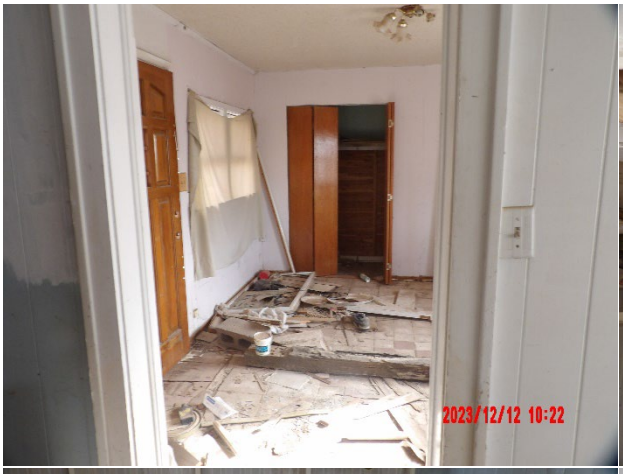

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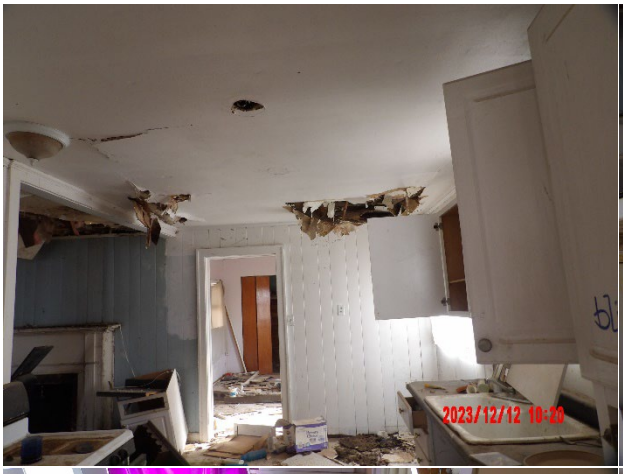

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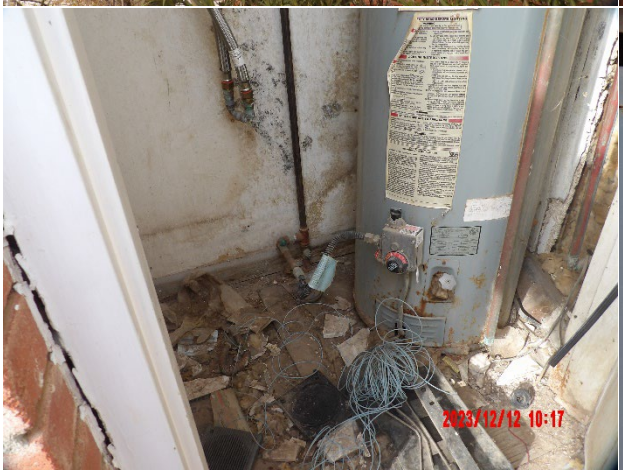

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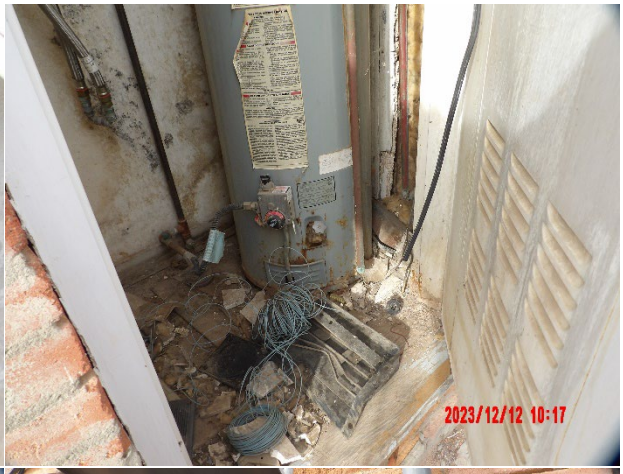

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City of Alamogordo

Public Works Division/Code Enforcement Department

2600 North Florida Ave. Alamogordo, New Mexico 88310

Public Works: 575-439-4240 / Code Enforcement 575-439-4375

December 12, 2023

RE: 1500 Ohio Ave. Alamogordo, New Mexico

To whom it may concern:

On December 12, 2023, the City of the City of Alamogordo Code Enforcement Department and the City of Alamogordo Police Department conducted a fire safety and structural walk-thru of the above-mentioned property. During the walk-thru, the following deficiencies and hazards, in violation of the International Property Maintenance Code and International Residential Code, were discovered and are listed below:

International Property Maintenance Code:

111.1 Unsafe conditions.
When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

111.1.1 Unsafe structures.
An unsafe *structure* is one that is found to be dangerous to the life, health, property or safety of the public or the *occupants* of the *structure* by not providing minimum safeguards to protect or warn *occupants* in the event of fire, or because such *structure* contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

111.1.2 Unsafe equipment.
Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure that is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

111.1.3 Structure unfit for human occupancy.
A *structure* is unfit for human *occupancy* whenever the *code official* finds that such *structure* is unsafe, unlawful or, because of the degree to which the *structure* is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks *ventilation*, illumination,

sanitary or heating facilities or other essential equipment required by this code, or because the location of the *structure* constitutes a hazard to the *occupants* of the *structure* or to the public.

111.1.5 Dangerous structure or premises.

For the purpose of this code, any *structure* or *premises* that has any or all of the conditions or defects described as follows shall be considered to be dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the *approved* building or fire code of the jurisdiction as related to the requirements for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any portion of a building, *structure* or appurtenance that has been damaged by fire, earthquake, wind, flood, *deterioration, neglect,* abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become *detached* or dislodged.
4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so *anchored*, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
5. The building or *structure,* or part of the building or *structure*, because of dilapidation, *deterioration,* decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or *structure* is likely to fail or give way.
6. The building or *structure,* or any portion thereof, is clearly unsafe for its use and *occupancy*.
7. The building or *structure* is *neglected*, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or *structure* to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or *structure* for committing a nuisance or an unlawful act.
8. Any building or *structure* has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or *structure* provided by the *approved* building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
9. A building or *structure,* used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, *ventilation,* mechanical or plumbing system, or otherwise, is determined by the *code official* to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
10. Any building or *structure,* because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the *code official* to be a threat to life or health.
11. Any portion of a building remains on a site after the demolition or destruction of the building or *structure* or whenever any building or *structure* is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

301.2 Responsibility.
The *owner* of the *premises* shall maintain the structures and *exterior property* in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as *owner-occupant* or permit another person to occupy *premises* that are not in a sanitary and safe condition and that do not comply with the requirements of this chapter. *Occupants* of a *dwelling unit, rooming unit* or *housekeeping unit* are responsible for keeping in a clean, sanitary and safe condition that part of the *dwelling unit, rooming unit, housekeeping unit* or *premises* they occupy and control.

301.3 Vacant structures and land.
Vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

302.7 Accessory structures.
Accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

304.1 General.
The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

304.1.1 Unsafe conditions.
The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:
1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength.
2. The *anchorage* of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects.
3. Structures or components thereof that have reached their limit state.
4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight.
5. Structural members that have evidence of *deterioration* or that are not capable of safely supporting all nominal loads and load effects.
6. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.
7. Exterior walls that are not *anchored* to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.
8. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of *deterioration*, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects.
9. Flooring and flooring components with defects that affect serviceability or flooring components that show signs of *deterioration* or fatigue, are not properly *anchored* or are incapable of supporting all nominal loads and resisting all load effects.

10. Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
11. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
12. Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including *guard*s and handrails, are not structurally sound, not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
13. Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly *anchored*, or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. Where substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted where *approved* by the *code official*.

304.2 Protective treatment.

Exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. Siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

304.4 Structural members.

All structural members shall be maintained free from deterioration and shall be capable of safely supporting the imposed dead and live loads.

304.6 Exterior walls.

Exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

304.7 Roofs and drainage.

The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

304.18 Building security.

Doors, windows or hatchways for dwelling units, room units or housekeeping units shall be provided with devices designed to provide security for the occupants and property within.

304.18.1 Doors.
Doors providing access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a minimum lock throw of 1 inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

304.13 Window, skylight, and door frames.
Every window, skylight, door, and frame shall be kept in sound condition, good repair, and weather tight.

304.13.1 Glazing.
Glazing materials shall be maintained free from cracks and holes.

304.15 Doors.
Exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

305.1 General.
The interior of a *structure* and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. *Occupants* shall keep that part of the *structure* that they occupy or control in a clean and sanitary condition. Every *owner* of a *structure* containing a *rooming house, housekeeping units*, a hotel, a dormitory, two or more *dwelling unit*s or two or more nonresidential *occupancies*, shall maintain, in a clean and sanitary condition, the shared or public areas of the *structure* and *exterior property*.

305.1.1 Unsafe conditions.
The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength.
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects.
3. Structures or components thereof that have reached their limit state.
4. Structural members are incapable of supporting nominal loads and load effects.
5. Stairs, landings, balconies and all similar walking surfaces, including *guards* and handrails, are not structurally sound, not properly *anchored* or are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
6. Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.

Exceptions:
1. Where substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted where *approved* by the *code official*.

305.3 Interior surfaces.
Interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

305.4 Stairs and walking surfaces.
Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

305.6 Interior doors.
Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

306.1 General.
The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

306.1.1 Unsafe conditions.
Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code or the International Existing Building Code as required for existing buildings:

1. Soils that have been subjected to any of the following conditions:
    1.1. Collapse of footing or foundation system.
    1.2. Damage to footing, foundation, concrete or other structural element due to soil expansion.
    1.3. Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil.
    1.4. Inadequate soil as determined by a geotechnical investigation.
    1.5. Where the allowable bearing capacity of the soil is in doubt.
    1.6. Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.
2. Concrete that has been subjected to any of the following conditions:
    2.1. Deterioration.
    2.2. Ultimate deformation.
    2.3. Fractures.
    2.4. Fissures.
    2.5. Spalling.
    2.6. Exposed reinforcement.
    2.7. Detached, dislodged or failing connections.
3. Aluminum that has been subjected to any of the following conditions:
    3.1. Deterioration.
    3.2. Corrosion.
    3.3. Elastic deformation.
    3.4. Ultimate deformation.
    3.5. Stress or strain cracks.

3.6. Joint fatigue.
3.7. Detached, dislodged or failing connections.

4. Masonry that has been subjected to any of the following conditions:
    4.1. Deterioration.
    4.2. Ultimate deformation.
    4.3. Fractures in masonry or mortar joints.
    4.4. Fissures in masonry or mortar joints.
    4.5. Spalling.
    4.6. Exposed reinforcement.
    4.7. Detached, dislodged or failing connections.
5. Steel that has been subjected to any of the following conditions:
    5.1. Deterioration.
    5.2. Elastic deformation.
    5.3. Ultimate deformation.
    5.4. Metal fatigue.
    5.5. Detached, dislodged or failing connections.
6. Wood that has been subjected to any of thefollowing conditions:
    6.1. Ultimate deformation.
    6.2. Deterioration.
    6.3. Damage from insects, rodents and other vermin.
    6.4. Fire damage beyond charring.
    6.5. Significant splits and checks.
    6.6. Horizontal shear cracks.
    6.7. Vertical shear cracks.
    6.8. Inadequate support.
    6.9. Detached, dislodged or failing connections.
    6.10. Excessive cutting and notching.

Exceptions:

1. Where substantiated otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted where approved by the code official.

504.1 General.

Plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. Plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

505.1 General.

Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. Kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the International Plumbing Code.

505.3 Supply.

The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

505.4 Water heating facilities.
Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature not less than 110°F (43°C). A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

602.1 Facilities required.
Heating facilities shall be provided in structures as required by this section.

602.2 Residential occupancies.
Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature for the locality indicated in Appendix D of the International Plumbing Code. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating. The installation of one or more portable space heaters shall not be used to achieve compliance with this section.
Exception: In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.

602.3 Heat supply.
Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from [DATE] to [DATE] to maintain a minimum temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms.
Exceptions:
1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.
2. In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.

604.3 Electrical system hazards.
Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

605.1 Installation.
Electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.

605.2 Receptacles.
Every habitable space in a dwelling shall contain not less than two separate and remote receptacle outlets. Every laundry area shall contain not less than one grounding-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain not less than one receptacle. Any

new bathroom receptacle outlet shall have ground fault circuit interrupter protection. All receptacle outlets shall have the appropriate faceplate cover for the location.

701.2 Responsibility.
The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that do not comply with the requirements of this chapter.

704.6 Single- and multiple-station smoke alarms.
Single- and multiple-station smoke alarms shall be installed in existing Group I-1 and R occupancies in accordance with Sections 704.6.1 through 704.6.3.

704.6.1 Where required.
Existing Group I-1 and R occupancies shall be provided with single-station smoke alarms in accordance with Sections 704.6.1.1 through 704.6.1.4. Interconnection and power sources shall be in accordance with Sections 704.6.2 and 704.6.3.
Exceptions:
1. Where the code that was in effect at the time of construction required smoke alarms and smoke alarms complying with those requirements are already provided.
2. Where smoke alarms have been installed in occupancies and dwellings that were not required to have them at the time of construction, additional smoke alarms shall not be required provided that the existing smoke alarms comply with requirements that were in effect at the time of installation.
3. Where smoke detectors connected to a fire alarm system have been installed as a substitute for smoke alarms.

704.6.1.2 Groups R-2, R-3, R-4 and I-1.
Single or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and I-1 regardless of occupant load at all of the following locations:
1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
2. In each room used for sleeping purposes.
3. In each story within a dwelling unit, including basements but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

704.6.1.4 Installation near bathrooms.
Smoke alarms shall be installed not less than 3 feet (914 mm) horizontally from the door or opening of a bathroom that contains a bathtub or shower unless this would prevent placement of a smoke alarm required by Section 704.6.1.1 or 704.6.1.2.

704.6.2 Interconnection.
Where more than one smoke alarm is required to be installed within an individual dwelling or sleeping unit, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit.
Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.
Exceptions:

1. Interconnection is not required in buildings that are not undergoing alterations, repairs or construction of any kind.
2. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for interconnection without the removal of interior finishes.

704.6.3 Power source.
Single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms with integral strobes that are not equipped with battery backup shall be connected to an emergency electrical system. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.
Exceptions:
1. Smoke alarms are permitted to be solely battery operated in existing buildings where construction is not taking place.
2. Smoke alarms are permitted to be solely battery operated in buildings that are not served from a commercial power source.
3. Smoke alarms are permitted to be solely battery operated in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior walls or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for building wiring without the removal of interior finishes.

704.7 Single- and multiple-station smoke alarms.
Single- and multiple-station smoke alarms shall be tested and maintained in accordance with the manufacturer's instructions. Smoke alarms that do not function shall be replaced. Smoke alarms installed in one- and two-family dwellings shall be replaced not more than 10 years from the date of manufacture marked on the unit, or shall be replaced if the date of manufacture cannot be determined.

705.1 General.
Carbon monoxide alarms shall be installed in dwellings in accordance with Section 1103.9 of the International Fire Code, except that alarms in dwellings covered by the International Residential Code shall be installed in accordance with Section R315 of that code.

705.2 Carbon monoxide alarms and detectors.
Carbon monoxide alarms and carbon monoxide detection systems shall be maintained in accordance with NFPA 720. Carbon monoxide alarms and carbon monoxide detectors that become inoperable or begin producing end-of-life signals shall be replaced.

International Residential Code:

R311.1 Means of egress.
Dwellings shall be provided with a means of egress in accordance with this section. The means of egress shall provide a continuous and unobstructed path of vertical and horizontal egress travel from all

portions of the dwelling to the required egress door without requiring travel through a garage. The required egress door shall open directly into a public way or to a yard or court that opens to a public way.

R314.3 Location.
Smoke alarms shall be installed in the following locations:
1. In each sleeping room.
2. Outside each separate sleeping area in the immediate vicinity of the bedrooms.
3. On each additional story of the dwelling, including basements and habitable attics and not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.
4. Not less than 3 feet (914 mm) horizontally from the door or opening of a bathroom that contains a bathtub or shower unless this would prevent placement of a smoke alarm required by this section.
5. In the hallway and in the room open to the hallway in dwelling units where the ceiling height of a room open to a hallway serving bedrooms exceeds that of the hallway by 24 inches (610 mm) or more.

R314.4 Interconnection.
Where more than one smoke alarm is required to be installed within an individual dwelling unit in accordance with Section R314.3, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual dwelling unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.

R314.5 Combination alarms.
Combination smoke and carbon monoxide alarms shall be permitted to be used in lieu of smoke alarms.

R314.6 Power source.
Smoke alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and, where primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection.
Exceptions:
1. Smoke alarms shall be permitted to be battery operated where installed in buildings without commercial power.
2. Smoke alarms installed in accordance with Section R314.2.2 shall be permitted to be battery powered.

R315.3 Location.
Carbon monoxide alarms in dwelling units shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms. Where a fuelburning appliance is located within a bedroom or its attached bathroom, a carbon monoxide alarm shall be installed within the bedroom.

R315.4 Combination alarms.
Combination carbon monoxide and smoke alarms shall be permitted to be used in lieu of carbon monoxide alarms.

R315.5 Interconnectivity.
Where more than one carbon monoxide alarm is required to be installed within an individual dwelling unit in accordance with Section R315.3, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual dwelling unit. Physical interconnection of carbon monoxide alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.
Exception: Interconnection of carbon monoxide alarms in existing areas shall not be required where alterations or repairs do not result in removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for interconnection without the removal of interior finishes.

R315.6 Power source.
Carbon monoxide alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and, where primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection.
Exceptions:
1. Carbon monoxide alarms shall be permitted to be battery operated where installed in buildings without commercial power.
2. Carbon monoxide alarms installed in accordance with Section R315.2.2 shall be permitted to be battery powered.

M1401.1 Installation.
Heating and cooling equipment and appliances shall be installed in accordance with the manufacturer's instructions and the requirements of this code.

Exterior:

1) There are deterioration and decay to the exterior walls.
2) The paint of the structure is peeling, flaking, or chipping throughout it.
3) All of the windows of the structure have been broken, admitting rainwater to the interior of the structure.
4) The exterior doors do not fit correctly in the jamb and/or are missing hardware.
5) The roof has collapsed in on the structure.
6) The detached accessory structure is a total loss due to a fire within.
7) The masonry fencing has fallen over.

Interior:

1) The flooring throughout the structure is covered in collapsed roofing.
2) The plumbing fixtures are not clean and sanitary, or hooked up to an approved sewer system.
3) There is no heating or cooling to the structure.
4) Interior walls have cracks, holes, and missing pieces.
5) There are no smoke or carbon monoxide alarms within the structure.
6) The ceiling throughout the structure has collapsed due to the poor condition of the roof, allowing water and elements inside the structure.

In Closing:

This structure is a hazard to anyone who occupies it. It is unsafe and dangerous in its current state as the roof and floor between the first and second floors are at risk of collapse. This property is an attractive nuisance that has led to criminal activity within the structure and on the property. Until this property is brought into code, the property should be boarded up so that it is not an attractive nuisance.

Respectfully:

Josh Sides/Code Enforcement Manager
Property Maintenance and Housing Inspector (Certification #10314331)
Zoning Inspector (Certification # 10314331)
AACE/ICC Code Enforcement Officer

Dilapidated Structure

1500 Ohio Avenue




N
1505
1503
523
1501
599
th St
Ohio Ave
1506
1502
1423
1422
1499
1420

Timeline
1500 Ohio Avenue

- On 10/12/2023, Code Enforcement Department was made aware of a potentially dilapidated structure and conducted an investigation.
- On 10/12/2023, a certified International Property Maintenance Code (IPMC) letter was sent to the owner listing seven violations of IPMC and how to correct them, as well as my contact information.
- On 10/29/2023, the certified IPMC letter was returned unclaimed and was posted on the front door of the property.
- On 12/07/2023, 12th Judicial District Court Judge Jessen granted an Administrative Search Warrant.
- On 12/12/2023, the Administrative Search Warrant was executed on the property.

International Property Maintenance Code Violations
1500 Ohio Avenue

- Total of 55 violations of the International Property Maintenance Code and the International Residential Code
  - 45 Violations of IPMC
  - 10 Violations of IRC

Condition of the Property at 1500 Ohio Avenue





Condition of the Property at 1500 Ohio Avenue





Condition of the Property at 1500 Ohio Avenue





Condition of the Property at 1500 Ohio Avenue





Questions

Josh Sides

Code Enforcement Manager







RESOLUTION NO. 2024-14

A RESOLUTION DECLARING THE BUILDING OR STRUCTURE, OR THE PREMISES LOCATED AT 1500 OHIO AVENUE ALAMOGORDO, OTERO COUNTY, NEW MEXICO, TO BE RUINED, DAMAGED, AND DILAPIDATED TO BE A MENACE TO THE PUBLIC COMFORT, HEALTH, PEACE, OR SAFETY, AND ORDERING ITS ABATEMENT

WHEREAS, the governing body of the City of Alamogordo, New Mexico, finds that there is located within the City a certain building, structure, or premises at 1500 Ohio Avenue, as more particularly described on the attached Exhibit 1 (the "Property"); and,

WHEREAS, the governing body does further find that the Code Enforcement Manager has investigated the condition of the Property and has found the same to be so ruined, damaged, and dilapidated, or covered with ruins, rubbish, wreckage, or debris, that it constitutes a menace to the public comfort, health, peace or safety so as to warrant abatement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION:

Section 1. That the findings of said Code Enforcement Manager, in regard to the Property, attached hereto as Exhibit 2, are hereby approved and adopted, and that the Property is found to be ruined, damaged, and dilapidated, so as to constitute a menace to the public comfort, health, peace or safety pursuant to Section 3-18-5, NMSA, 1978.

Section 2. That Mr. Edward L. Hawkins, the record owner of the Property, is hereby ordered to commence removal of the building or structure from the Property within ten (10) days after service of a copy of this Resolution, or within said ten (10) day period, file written objection to findings herein with the City Clerk of the City of Alamogordo, asking for a hearing before the City Commission.

Section 3. That if there is a failure of compliance with the provision of Section 2 herein, the City of Alamogordo shall proceed to remove said building or structure from the Property and abate said unsafe condition, at the cost and expense of said record, with said cost and expense constituting a lien against the building or structure so removed, and against the Property, as allowed by law.

Section 4. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word, or phrase of this resolution is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this resolution. The Commission hereby declares that it would have passed this resolution and each section, paragraph, sentence, clause, word, or phrase thereof, irrespective of any provisions being declared unconstitutional or otherwise invalid.

PASSED, APPROVED AND ADOPTED, this ____ day of _____ 2024.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By:_____
Susan L. Payne, Mayor

ATTEST:

_____
Rachel Hughs, City Clerk

APPROVED AS TO FORM:

_____
Ashley Smith, City Attorney

- Account Search
- My Reports
- Help
- Logout Public

Exhibit "1"

Account: R010423

Location

Account Number R010423

Situs Address 1500 OHIO AVE

Previous Parcel ID 01-00680

Parcel Sequence

Neighborhood A2 - Central Alamogordo

Tax Area 01_R

Parcel Number 01N4055093253450

Legal Summary Subd: ALAMO BLOCKS Lot: 1 Block: 79

Appraiser Other

Owner Information

Owner Name HAWKINS, EDWARD LAMAR

Owner Address 1500 OHIO
ALAMOGORDO, NM 88310

Assessment History

Actual (2023 - Residential Cap applied) $69,295

Primary Taxable $23,098

Tax Area: 01_NR **Mill Levy**: 33.156000

Type	Actual	Assessed	SQFT
Non-Residential Improvement	$2,443	$814	528.000

Tax Area: 01_R **Mill Levy**: 25.844000

Type	Actual	Assessed	Acres	SQFT
Residential Land	$7,500	$2,500	0.172	
Residential Improvement	$59,352	$19,784		2118.000

Transfers

Sale Date	Sale Price	Doc Description
		Deed
		Deed
		Deed
		Deed
		Deed
		Deed
		Deed

Tax History

Tax Year	Taxes
*2024	$602.92
2023	$602.92

* Estimated

Images

- Map
- Photo
- Sketch
- GIS



Exhibit "2"

City of Alamogordo

Public Works Division/Code Enforcement Department

2600 North Florida Ave. Alamogordo, New Mexico 88310

Public Works: 575-439-4240 / Code Enforcement 575-439-4375

December 12, 2023

RE: 1500 Ohio Ave. Alamogordo, New Mexico

To whom it may concern:

On December 12, 2023, the City of the City of Alamogordo Code Enforcement Department and the City of Alamogordo Police Department conducted a fire safety and structural walk-thru of the above-mentioned property. During the walk-thru, the following deficiencies and hazards, in violation of the International Property Maintenance Code and International Residential Code, were discovered and are listed below:

International Property Maintenance Code:

111.1 Unsafe conditions.
When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

111.1.1 Unsafe structures.
An unsafe *structure* is one that is found to be dangerous to the life, health, property or safety of the public or the *occupants* of the *structure* by not providing minimum safeguards to protect or warn *occupants* in the event of fire, or because such *structure* contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

111.1.2 Unsafe equipment.
Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure that is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

111.1.3 Structure unfit for human occupancy.
A *structure* is unfit for human *occupancy* whenever the *code official* finds that such *structure* is unsafe, unlawful or, because of the degree to which the *structure* is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks *ventilation*, illumination,

sanitary or heating facilities or other essential equipment required by this code, or because the location of the *structure* constitutes a hazard to the *occupants* of the *structure* or to the public.

111.1.5 Dangerous structure or premises.

For the purpose of this code, any *structure* or *premises* that has any or all of the conditions or defects described as follows shall be considered to be dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the *approved* building or fire code of the jurisdiction as related to the requirements for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any portion of a building, *structure* or appurtenance that has been damaged by fire, earthquake, wind, flood, *deterioration, neglect,* abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become *detached* or dislodged.
4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so *anchored*, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
5. The building or *structure,* or part of the building or *structure*, because of dilapidation, *deterioration,* decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or *structure* is likely to fail or give way.
6. The building or *structure,* or any portion thereof, is clearly unsafe for its use and *occupancy*.
7. The building or *structure* is *neglected*, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or *structure* to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or *structure* for committing a nuisance or an unlawful act.
8. Any building or *structure* has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or *structure* provided by the *approved* building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
9. A building or *structure,* used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, *ventilation,* mechanical or plumbing system, or otherwise, is determined by the *code official* to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
10. Any building or *structure,* because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the *code official* to be a threat to life or health.
11. Any portion of a building remains on a site after the demolition or destruction of the building or *structure* or whenever any building or *structure* is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

301.2 Responsibility.
The *owner* of the *premises* shall maintain the structures and *exterior property* in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as *owner-occupant* or permit another person to occupy *premises* that are not in a sanitary and safe condition and that do not comply with the requirements of this chapter. *Occupants* of a *dwelling unit, rooming unit* or *housekeeping unit* are responsible for keeping in a clean, sanitary and safe condition that part of the *dwelling unit, rooming unit, housekeeping unit* or *premises* they occupy and control.

301.3 Vacant structures and land.
Vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

302.7 Accessory structures.
Accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

304.1 General.
The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

304.1.1 Unsafe conditions.
The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:
1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength.
2. The *anchorage* of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects.
3. Structures or components thereof that have reached their limit state.
4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight.
5. Structural members that have evidence of *deterioration* or that are not capable of safely supporting all nominal loads and load effects.
6. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.
7. Exterior walls that are not *anchored* to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.
8. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of *deterioration*, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects.
9. Flooring and flooring components with defects that affect serviceability or flooring components that show signs of *deterioration* or fatigue, are not properly *anchored* or are incapable of supporting all nominal loads and resisting all load effects.

10. Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
11. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
12. Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including *guard*s and handrails, are not structurally sound, not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
13. Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly *anchored*, or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. Where substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted where *approved* by the *code official*.

304.2 Protective treatment.

Exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. Siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

304.4 Structural members.

All structural members shall be maintained free from deterioration and shall be capable of safely supporting the imposed dead and live loads.

304.6 Exterior walls.

Exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

304.7 Roofs and drainage.

The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

304.18 Building security.

Doors, windows or hatchways for dwelling units, room units or housekeeping units shall be provided with devices designed to provide security for the occupants and property within.

304.18.1 Doors.
Doors providing access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a minimum lock throw of 1 inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

304.13 Window, skylight, and door frames.
Every window, skylight, door, and frame shall be kept in sound condition, good repair, and weather tight.

304.13.1 Glazing.
Glazing materials shall be maintained free from cracks and holes.

304.15 Doors.
Exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

305.1 General.
The interior of a *structure* and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. *Occupants* shall keep that part of the *structure* that they occupy or control in a clean and sanitary condition. Every *owner* of a *structure* containing a *rooming house, housekeeping units*, a hotel, a dormitory, two or more *dwelling unit*s or two or more nonresidential *occupancies*, shall maintain, in a clean and sanitary condition, the shared or public areas of the *structure* and *exterior property*.

305.1.1 Unsafe conditions.
The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength.
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects.
3. Structures or components thereof that have reached their limit state.
4. Structural members are incapable of supporting nominal loads and load effects.
5. Stairs, landings, balconies and all similar walking surfaces, including *guards* and handrails, are not structurally sound, not properly *anchored* or are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
6. Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.

Exceptions:
1. Where substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted where *approved* by the *code official*.

305.3 Interior surfaces.
Interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

305.4 Stairs and walking surfaces.
Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

305.6 Interior doors.
Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

306.1 General.
The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

306.1.1 Unsafe conditions.
Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code or the International Existing Building Code as required for existing buildings:

1. Soils that have been subjected to any of the following conditions:
    1.1. Collapse of footing or foundation system.
    1.2. Damage to footing, foundation, concrete or other structural element due to soil expansion.
    1.3. Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil.
    1.4. Inadequate soil as determined by a geotechnical investigation.
    1.5. Where the allowable bearing capacity of the soil is in doubt.
    1.6. Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.
2. Concrete that has been subjected to any of the following conditions:
    2.1. Deterioration.
    2.2. Ultimate deformation.
    2.3. Fractures.
    2.4. Fissures.
    2.5. Spalling.
    2.6. Exposed reinforcement.
    2.7. Detached, dislodged or failing connections.
3. Aluminum that has been subjected to any of the following conditions:
    3.1. Deterioration.
    3.2. Corrosion.
    3.3. Elastic deformation.
    3.4. Ultimate deformation.
    3.5. Stress or strain cracks.

3.6. Joint fatigue.
3.7. Detached, dislodged or failing connections.

4. Masonry that has been subjected to any of the following conditions:
    4.1. Deterioration.
    4.2. Ultimate deformation.
    4.3. Fractures in masonry or mortar joints.
    4.4. Fissures in masonry or mortar joints.
    4.5. Spalling.
    4.6. Exposed reinforcement.
    4.7. Detached, dislodged or failing connections.
5. Steel that has been subjected to any of the following conditions:
    5.1. Deterioration.
    5.2. Elastic deformation.
    5.3. Ultimate deformation.
    5.4. Metal fatigue.
    5.5. Detached, dislodged or failing connections.
6. Wood that has been subjected to any of thefollowing conditions:
    6.1. Ultimate deformation.
    6.2. Deterioration.
    6.3. Damage from insects, rodents and other vermin.
    6.4. Fire damage beyond charring.
    6.5. Significant splits and checks.
    6.6. Horizontal shear cracks.
    6.7. Vertical shear cracks.
    6.8. Inadequate support.
    6.9. Detached, dislodged or failing connections.
    6.10. Excessive cutting and notching.

Exceptions:

1. Where substantiated otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted where approved by the code official.

504.1 General.

Plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. Plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

505.1 General.

Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. Kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the International Plumbing Code.

505.3 Supply.

The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

505.4 Water heating facilities.
Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature not less than 110°F (43°C). A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

602.1 Facilities required.
Heating facilities shall be provided in structures as required by this section.

602.2 Residential occupancies.
Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature for the locality indicated in Appendix D of the International Plumbing Code. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating. The installation of one or more portable space heaters shall not be used to achieve compliance with this section.
Exception: In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.

602.3 Heat supply.
Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from [DATE] to [DATE] to maintain a minimum temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms.
Exceptions:
1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.
2. In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.

604.3 Electrical system hazards.
Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

605.1 Installation.
Electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.

605.2 Receptacles.
Every habitable space in a dwelling shall contain not less than two separate and remote receptacle outlets. Every laundry area shall contain not less than one grounding-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain not less than one receptacle. Any

new bathroom receptacle outlet shall have ground fault circuit interrupter protection. All receptacle outlets shall have the appropriate faceplate cover for the location.

701.2 Responsibility.
The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that do not comply with the requirements of this chapter.

704.6 Single- and multiple-station smoke alarms.
Single- and multiple-station smoke alarms shall be installed in existing Group I-1 and R occupancies in accordance with Sections 704.6.1 through 704.6.3.

704.6.1 Where required.
Existing Group I-1 and R occupancies shall be provided with single-station smoke alarms in accordance with Sections 704.6.1.1 through 704.6.1.4. Interconnection and power sources shall be in accordance with Sections 704.6.2 and 704.6.3.
Exceptions:
1. Where the code that was in effect at the time of construction required smoke alarms and smoke alarms complying with those requirements are already provided.
2. Where smoke alarms have been installed in occupancies and dwellings that were not required to have them at the time of construction, additional smoke alarms shall not be required provided that the existing smoke alarms comply with requirements that were in effect at the time of installation.
3. Where smoke detectors connected to a fire alarm system have been installed as a substitute for smoke alarms.

704.6.1.2 Groups R-2, R-3, R-4 and I-1.
Single or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and I-1 regardless of occupant load at all of the following locations:
1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
2. In each room used for sleeping purposes.
3. In each story within a dwelling unit, including basements but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

704.6.1.4 Installation near bathrooms.
Smoke alarms shall be installed not less than 3 feet (914 mm) horizontally from the door or opening of a bathroom that contains a bathtub or shower unless this would prevent placement of a smoke alarm required by Section 704.6.1.1 or 704.6.1.2.

704.6.2 Interconnection.
Where more than one smoke alarm is required to be installed within an individual dwelling or sleeping unit, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit.
Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.
Exceptions:

1. Interconnection is not required in buildings that are not undergoing alterations, repairs or construction of any kind.
2. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for interconnection without the removal of interior finishes.

704.6.3 Power source.
Single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms with integral strobes that are not equipped with battery backup shall be connected to an emergency electrical system. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.
Exceptions:
1. Smoke alarms are permitted to be solely battery operated in existing buildings where construction is not taking place.
2. Smoke alarms are permitted to be solely battery operated in buildings that are not served from a commercial power source.
3. Smoke alarms are permitted to be solely battery operated in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior walls or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for building wiring without the removal of interior finishes.

704.7 Single- and multiple-station smoke alarms.
Single- and multiple-station smoke alarms shall be tested and maintained in accordance with the manufacturer's instructions. Smoke alarms that do not function shall be replaced. Smoke alarms installed in one- and two-family dwellings shall be replaced not more than 10 years from the date of manufacture marked on the unit, or shall be replaced if the date of manufacture cannot be determined.

705.1 General.
Carbon monoxide alarms shall be installed in dwellings in accordance with Section 1103.9 of the International Fire Code, except that alarms in dwellings covered by the International Residential Code shall be installed in accordance with Section R315 of that code.

705.2 Carbon monoxide alarms and detectors.
Carbon monoxide alarms and carbon monoxide detection systems shall be maintained in accordance with NFPA 720. Carbon monoxide alarms and carbon monoxide detectors that become inoperable or begin producing end-of-life signals shall be replaced.

International Residential Code:

R311.1 Means of egress.
Dwellings shall be provided with a means of egress in accordance with this section. The means of egress shall provide a continuous and unobstructed path of vertical and horizontal egress travel from all

portions of the dwelling to the required egress door without requiring travel through a garage. The required egress door shall open directly into a public way or to a yard or court that opens to a public way.

R314.3 Location.
Smoke alarms shall be installed in the following locations:
1. In each sleeping room.
2. Outside each separate sleeping area in the immediate vicinity of the bedrooms.
3. On each additional story of the dwelling, including basements and habitable attics and not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.
4. Not less than 3 feet (914 mm) horizontally from the door or opening of a bathroom that contains a bathtub or shower unless this would prevent placement of a smoke alarm required by this section.
5. In the hallway and in the room open to the hallway in dwelling units where the ceiling height of a room open to a hallway serving bedrooms exceeds that of the hallway by 24 inches (610 mm) or more.

R314.4 Interconnection.
Where more than one smoke alarm is required to be installed within an individual dwelling unit in accordance with Section R314.3, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual dwelling unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.

R314.5 Combination alarms.
Combination smoke and carbon monoxide alarms shall be permitted to be used in lieu of smoke alarms.

R314.6 Power source.
Smoke alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and, where primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection.
Exceptions:
1. Smoke alarms shall be permitted to be battery operated where installed in buildings without commercial power.
2. Smoke alarms installed in accordance with Section R314.2.2 shall be permitted to be battery powered.

R315.3 Location.
Carbon monoxide alarms in dwelling units shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms. Where a fuelburning appliance is located within a bedroom or its attached bathroom, a carbon monoxide alarm shall be installed within the bedroom.

R315.4 Combination alarms.
Combination carbon monoxide and smoke alarms shall be permitted to be used in lieu of carbon monoxide alarms.

R315.5 Interconnectivity.
Where more than one carbon monoxide alarm is required to be installed within an individual dwelling unit in accordance with Section R315.3, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual dwelling unit. Physical interconnection of carbon monoxide alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.
Exception: Interconnection of carbon monoxide alarms in existing areas shall not be required where alterations or repairs do not result in removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for interconnection without the removal of interior finishes.

R315.6 Power source.
Carbon monoxide alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and, where primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection.
Exceptions:
1. Carbon monoxide alarms shall be permitted to be battery operated where installed in buildings without commercial power.
2. Carbon monoxide alarms installed in accordance with Section R315.2.2 shall be permitted to be battery powered.

M1401.1 Installation.
Heating and cooling equipment and appliances shall be installed in accordance with the manufacturer's instructions and the requirements of this code.

Exterior:

1) There are deterioration and decay to the exterior walls.
2) The paint of the structure is peeling, flaking, or chipping throughout it.
3) All of the windows of the structure have been broken, admitting rainwater to the interior of the structure.
4) The exterior doors do not fit correctly in the jamb and/or are missing hardware.
5) The roof has collapsed in on the structure.
6) The detached accessory structure is a total loss due to a fire within.
7) The masonry fencing has fallen over.

Interior:

1) The flooring throughout the structure is covered in collapsed roofing.
2) The plumbing fixtures are not clean and sanitary, or hooked up to an approved sewer system.
3) There is no heating or cooling to the structure.
4) Interior walls have cracks, holes, and missing pieces.
5) There are no smoke or carbon monoxide alarms within the structure.
6) The ceiling throughout the structure has collapsed due to the poor condition of the roof, allowing water and elements inside the structure.

In Closing:

This structure is a hazard to anyone who occupies it. It is unsafe and dangerous in its current state as the roof and floor between the first and second floors are at risk of collapse. This property is an attractive nuisance that has led to criminal activity within the structure and on the property. Until this property is brought into code, the property should be boarded up so that it is not an attractive nuisance.

Respectfully:

Josh Sides/Code Enforcement Manager
Property Maintenance and Housing Inspector (Certification #10314331)
Zoning Inspector (Certification # 10314331)
AACE/ICC Code Enforcement Officer

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/13/2024 **Report Date:** 02/09/2024 **Report No:** 10.

Submitted By: Josh Sides

Subject: Consider, and act upon, Resolution 2024-15, declaring 1409 Crescent Dr. to be so ruined, damaged, and dilapidated that it is a menace to public comfort, health, peace, or safety, and ordering its abatement. *(Josh Sides, Code Enforcement Manager)* **(Roll Call Vote Required)**

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Approve and order the property's abatement.

Background: 1409 Crescent Dr. is so ruined and dilapidated that it is currently a risk to public health and safety.



SWIFTEC
LLC







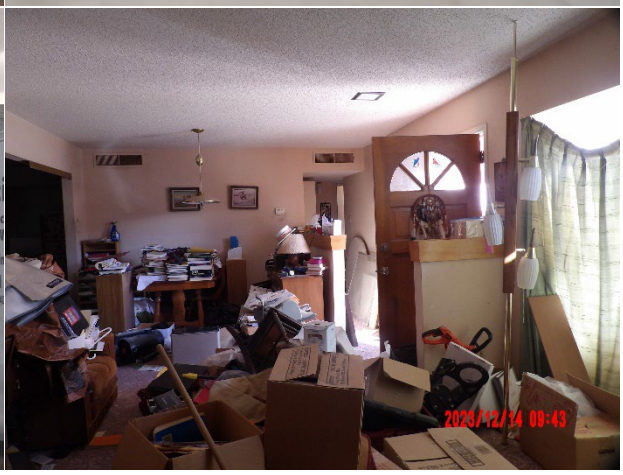




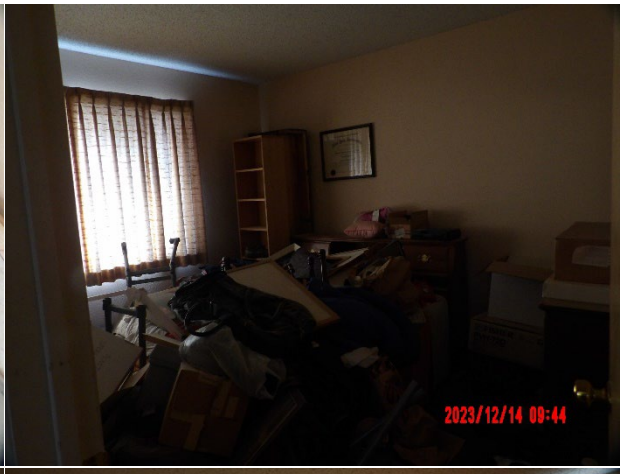


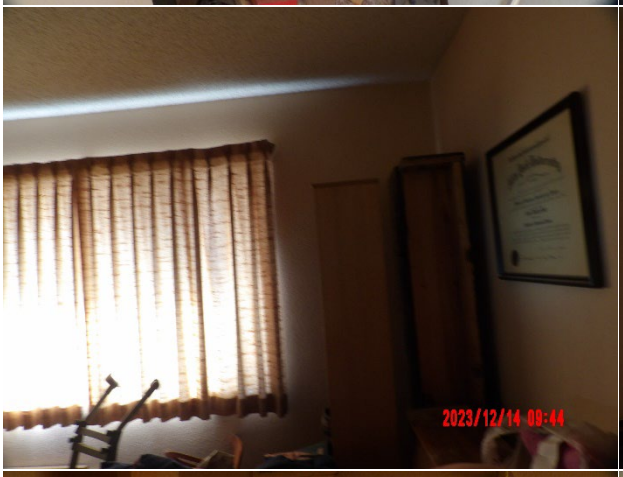




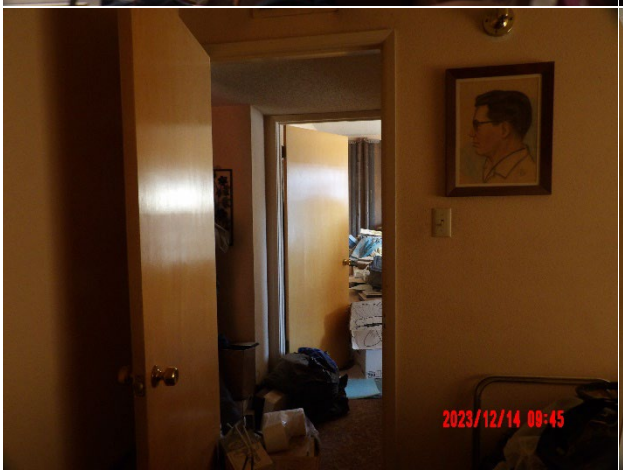

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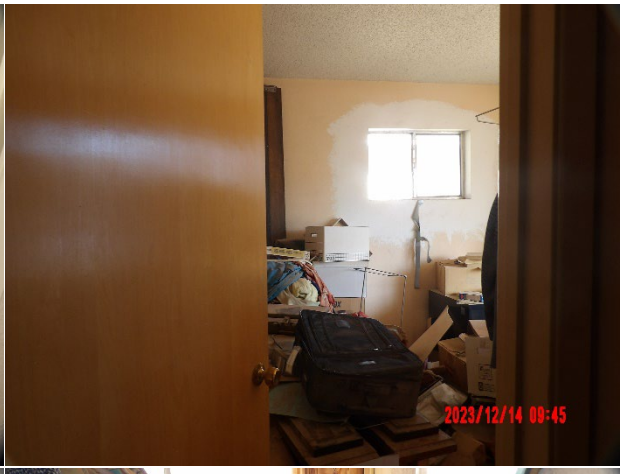

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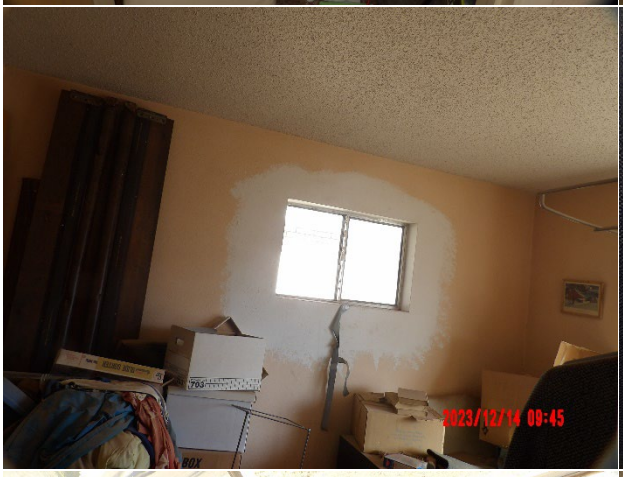

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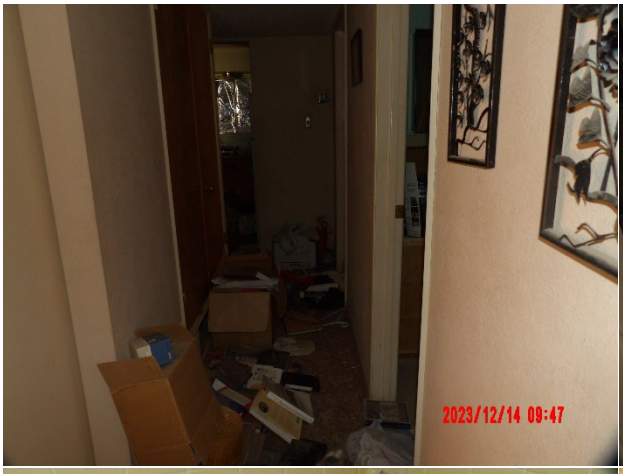

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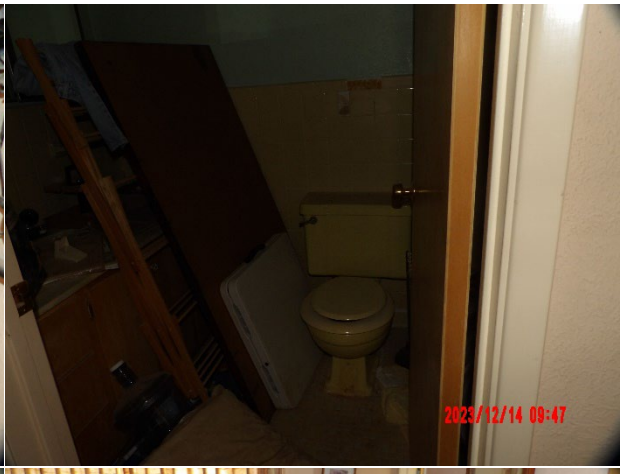

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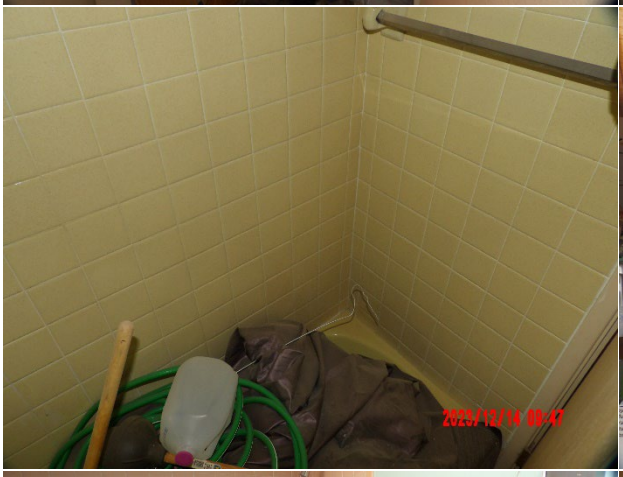

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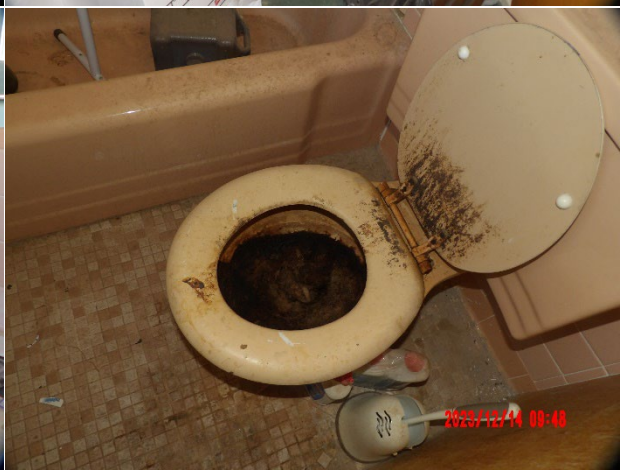

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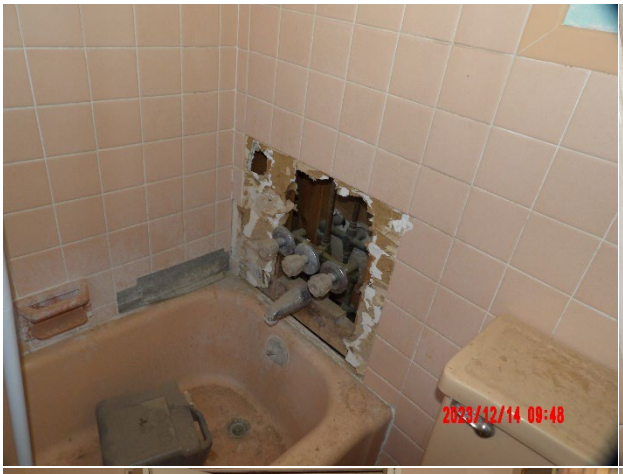

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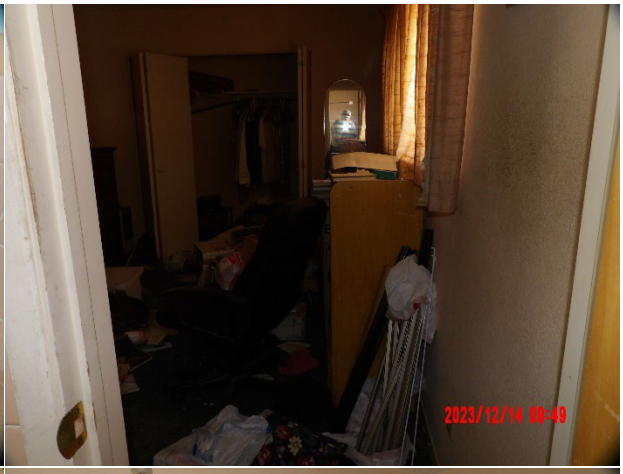

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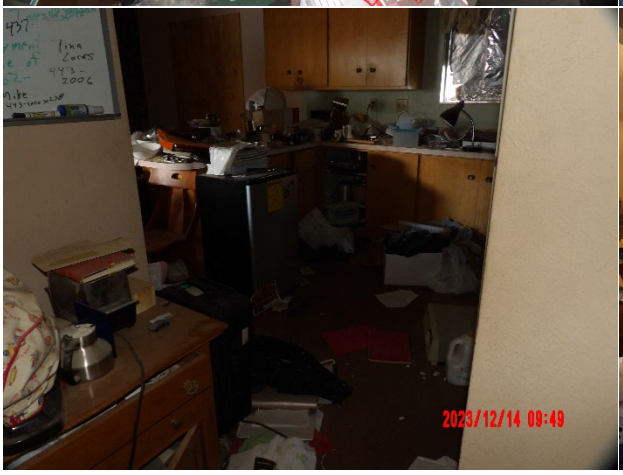

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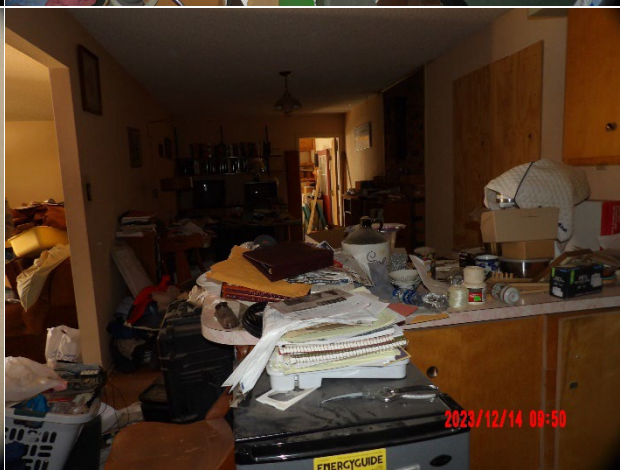

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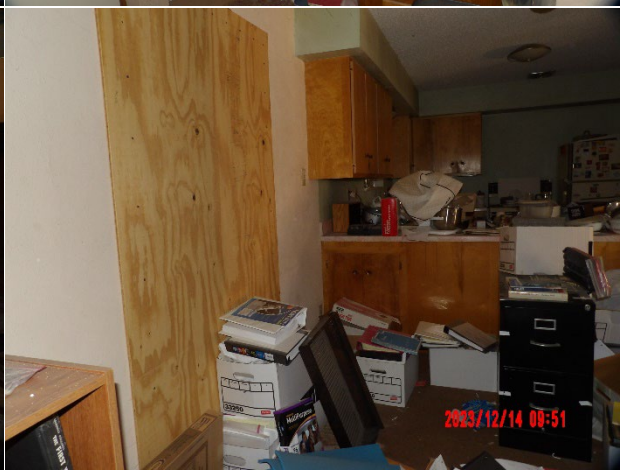

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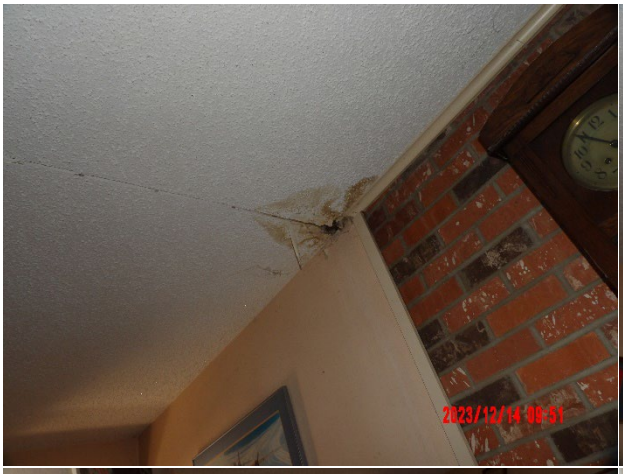

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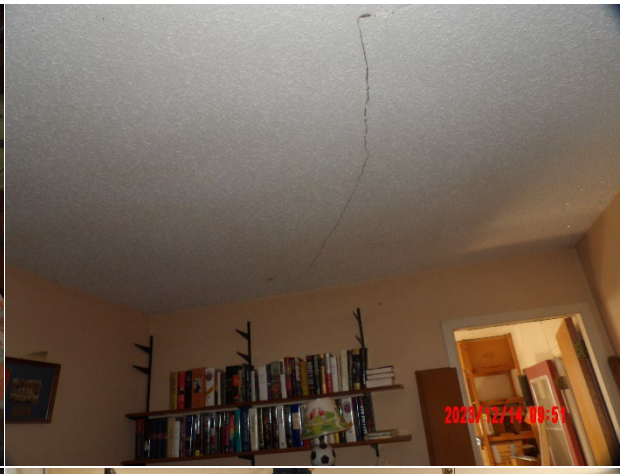

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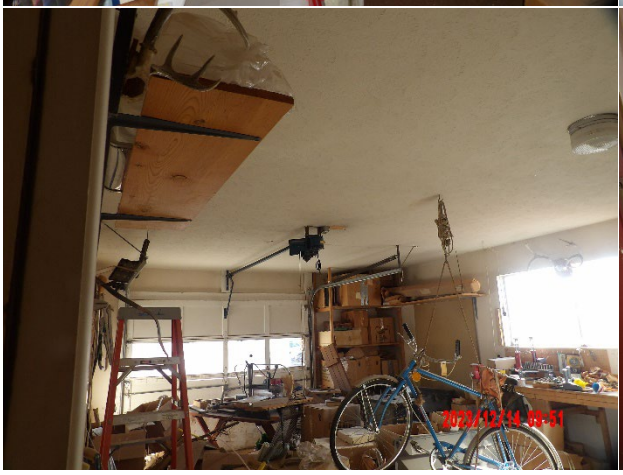

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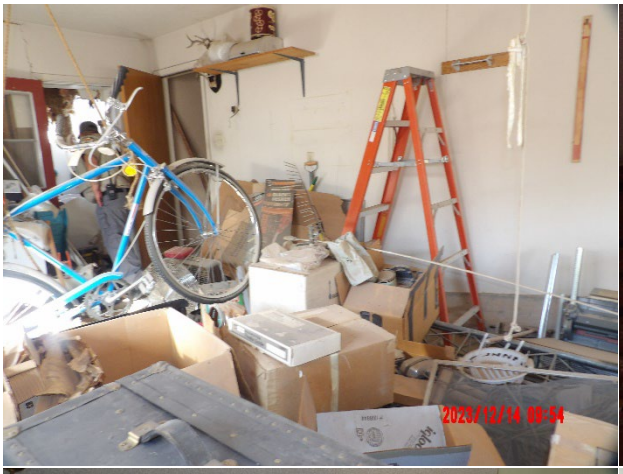

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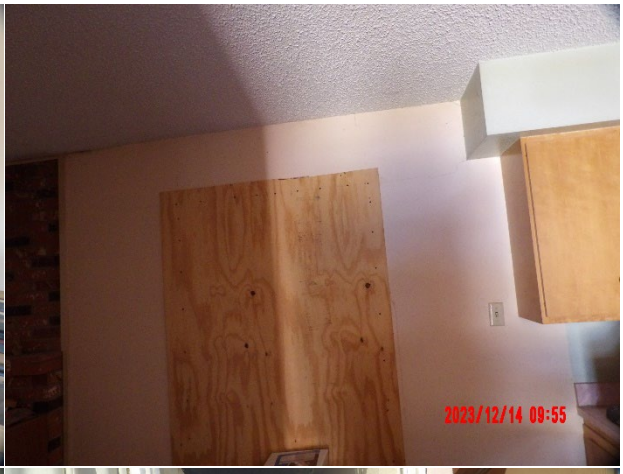

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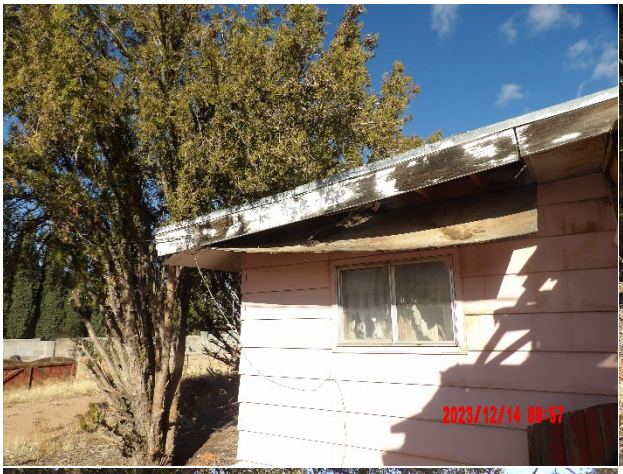

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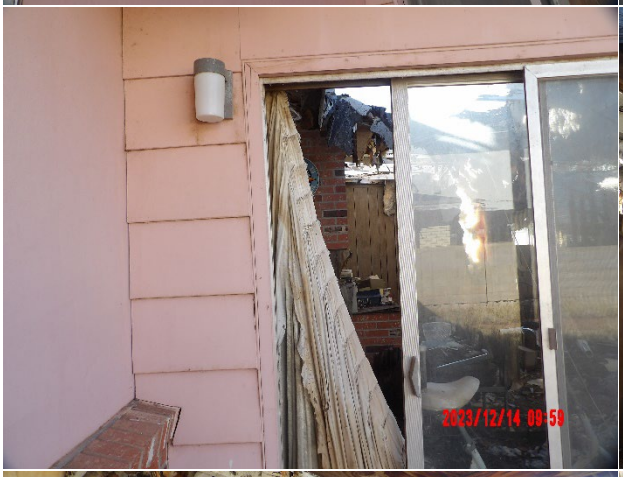

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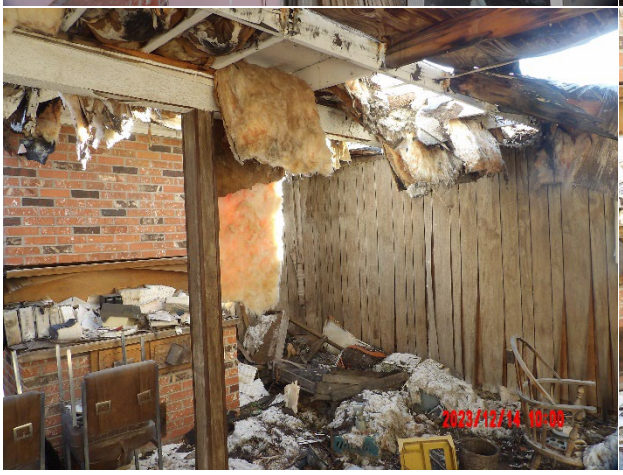

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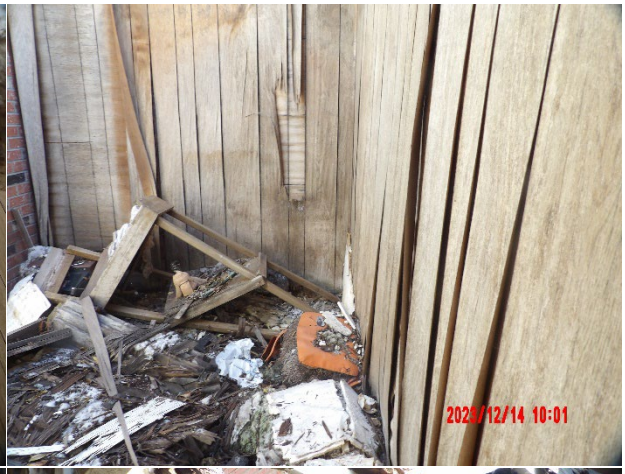

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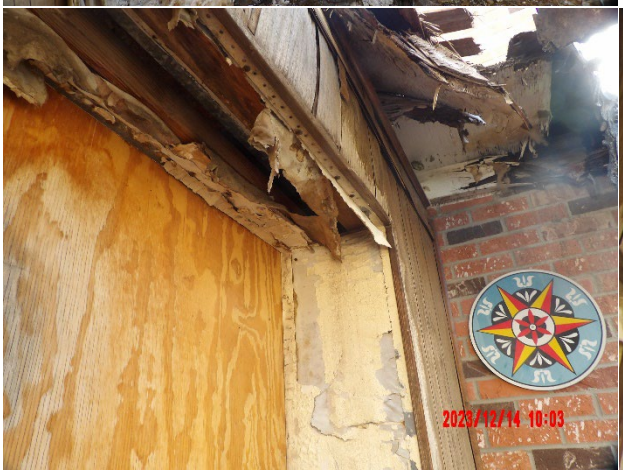

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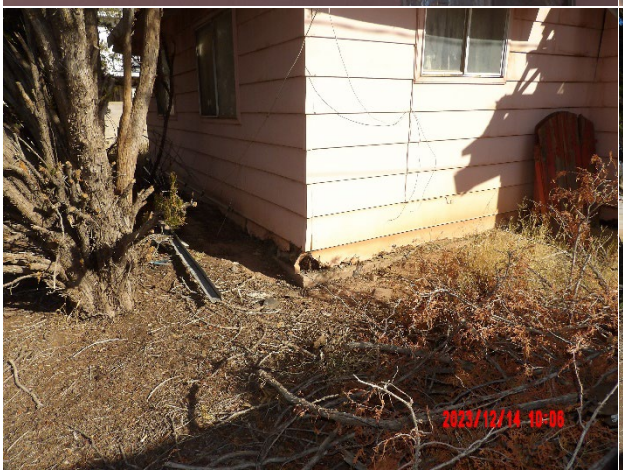

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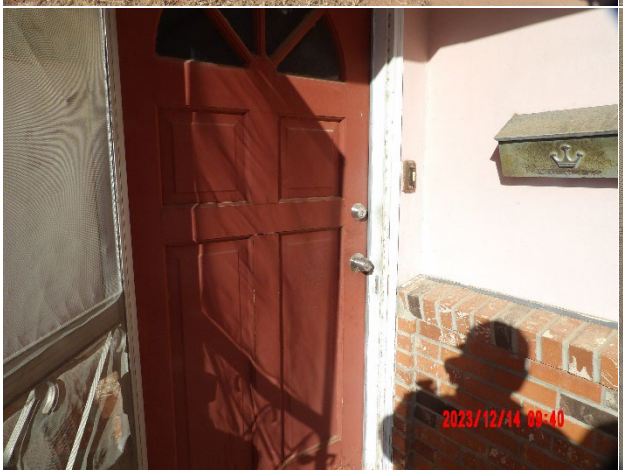

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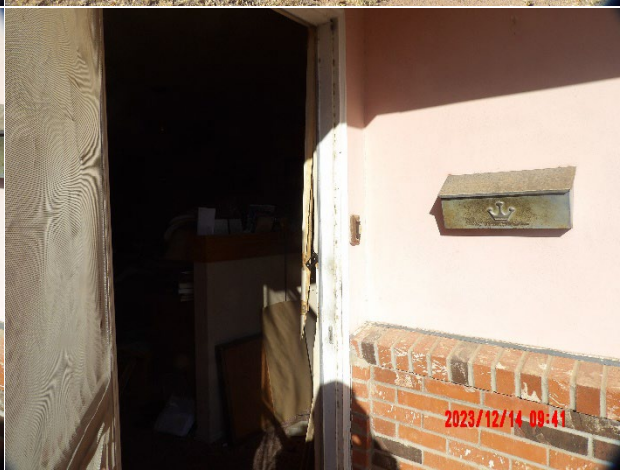

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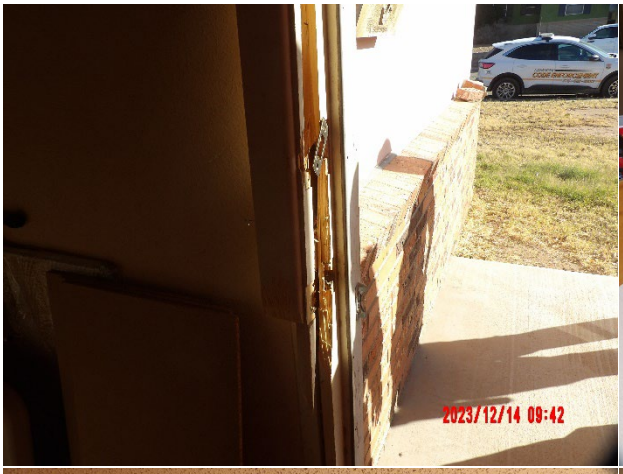

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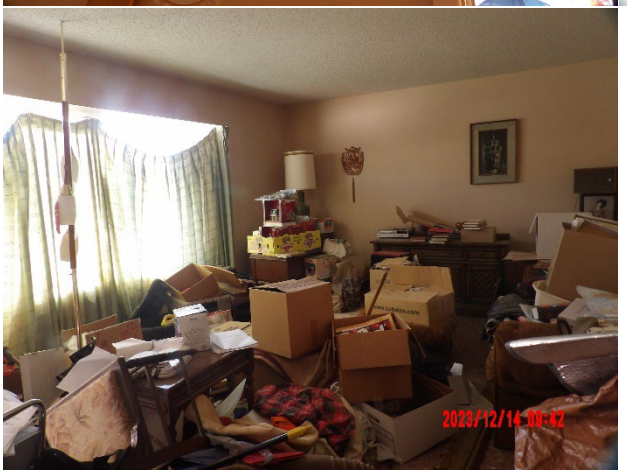

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City of Alamogordo

Public Works Division/Code Enforcement Department

2600 North Florida Ave. Alamogordo, New Mexico 88310

Public Works: 575-439-4240 / Code Enforcement 575-439-4375

December 15, 2023

RE: 1409 Crescent Dr., Alamogordo, New Mexico

To whom it may concern:

On December 14, 2023, the City of the City of Alamogordo Code Enforcement Department and the City of Alamogordo Police Department conducted a fire safety and structural walk-thru of the above-mentioned property. During the walk-thru, the following deficiencies and hazards, in violation of the International Property Maintenance Code and International Residential Code, were discovered and are listed below:

International Property Maintenance Code:

109.1 Unsafe conditions. When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

109.1.1 Unsafe structures. An unsafe structure is one that is found to be hazardous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is dangerous.

109.1.2 Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure that is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

109.1.3 Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

109.1.4 Unlawful structure. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

109.1.5 Hazardous structure or premises. For the purpose of this code, any structure or premises that has any or all of the conditions or defects described as follows shall be considered to be hazardous:
1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the jurisdiction as related to the requirements for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any building, structure or portion thereof that is dangerous.
4. The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.
5. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
6. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
7. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the code official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
8. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health.
9. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

109.2 Closing of vacant structures. If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner or owner's authorized agent to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and shall be collected by any other legal resource.

301.2 Responsibility. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements and the code under which the building was constructed, except as otherwise provided for in this code. The owner or owner's agent shall be responsible to ensure that any repairs, additions or alterations to the building or portion thereof are performed or constructed in accordance with the International Building Code, International Residential Code or International Existing Building Code. A person shall not occupy as owner-occupant or permit another person to occupy premises that are not in a sanitary and safe condition and that do not comply with the requirements of this chapter. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises they occupy and control.

301.3 Vacant structures and land. Vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

302.7 Accessory structures. Accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

304.1 General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

304.1.1 Potentially unsafe conditions. The following conditions shall be considered to be potentially unsafe, shall be assessed and shall be addressed in compliance with the International Existing Building Code, the International Residential Code or the International Building Code:
1. Structural members have deterioration or distress that appears to reduce their load-carrying capacity.
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations has deterioration or distress that appears to reduce its load-carrying capacity.
3. Structures or components thereof have deterioration or distress that appears to reduce their load-carrying capacity.
4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or watertight.
5. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects.
6. Exterior walls that are not anchored to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects.
7. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of deterioration, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects.
8. Flooring and flooring components with defects that affect serviceability or flooring components that show signs of deterioration or fatigue, are not properly anchored or are incapable of supporting all nominal loads and resisting all load effects.
9. Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.
10. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.
11. Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including guards and handrails, are not structurally sound, not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.
12. Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly anchored, or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.

Exceptions:
1. Where substantiated otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted where approved by the code official.

304.4 Structural members. Structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

304.4 Structural members. Structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

304.5 Foundation walls. Foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

304.6 Exterior walls. Exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

304.13 Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weathertight.

304.13.1 Glazing. Glazing materials shall be maintained free from cracks and holes.

305.1 General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure that they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

305.1.1 Potentially unsafe conditions. The following conditions shall be considered to be potentially unsafe, shall be assessed and shall be addressed in compliance with the International Existing Building Code, the International Residential Code or the International Building Code:
1. Structural members have deterioration or distress that appears to reduce their load-carrying capacity.
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations has deterioration or distress that appears to reduce its load-carrying capacity.
3. Structures or components thereof have deterioration or distress that appears to reduce their load-carrying capacity.
4. Stairs, landings, balconies and all similar walking surfaces, including guards and handrails, are not structurally sound, not properly anchored or are anchored with connections not capable of supporting all nominal loads and resisting all load effects.
5. Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects.
Exceptions:
1. Where substantiated otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted where approved by the code official.

305.2 Structural members. Structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

305.3 Interior surfaces. Interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

306.1 General. The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

306.1.1 Potentially unsafe conditions. Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be considered to be unsafe and shall be addressed in compliance with the International Existing Building Code, the International Residential Code or the International Building Code:
1. Soils that have been subjected to any of the following conditions:
1.1. Collapse of footing or foundation system.
1.2. Damage to footing, foundation, concrete or other structural element due to soil expansion.
1.3. Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil.
1.4. Inadequate soil as determined by a geotechnical investigation.
1.5. Where the allowable bearing capacity of the soil is in doubt.
1.6. Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.
2. Concrete that has been subjected to any of the following conditions:
2.1. Deterioration.
2.2. Ultimate deformation.
2.3. Fractures.
2.4. Fissures.
2.5. Spalling.
2.6. Exposed reinforcement.
2.7. Detached, dislodged or failing connections.
3. Aluminum that has been subjected to any of the following conditions:
3.1. Deterioration.
3.2. Corrosion.
3.3. Elastic deformation.
3.4. Ultimate deformation.
3.5. Stress or strain cracks.
3.6. Joint fatigue.
3.7. Detached, dislodged or failing connections.
4. Masonry that has been subjected to any of the following conditions:
4.1. Deterioration.
4.2. Ultimate deformation.
4.3. Fractures in masonry or mortar joints.
4.4. Fissures in masonry or mortar joints.
4.5. Spalling.
4.6. Exposed reinforcement.

4.7. Detached, dislodged or failing connections.
5. Steel that has been subjected to any of the following conditions:
5.1. Deterioration.
5.2. Elastic deformation.
5.3. Ultimate deformation.
5.4. Metal fatigue.
5.5. Detached, dislodged or failing connections.
6. Wood that has been subjected to any of the following conditions:
6.1. Ultimate deformation.
6.2. Deterioration.
6.3. Damage from insects, rodents and other vermin.
6.4. Fire damage beyond charring.
6.5. Significant splits and checks.
6.6. Horizontal shear cracks.
6.7. Vertical shear cracks.
6.8. Inadequate support.
6.9. Detached, dislodged or failing connections.
6.10. Excessive cutting and notching.
Exceptions:
1. Where substantiated otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted where approved by the code official.

308.1 Accumulation of rubbish or garbage. Exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

308.2 Disposal of rubbish. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

502.1 Dwelling units. Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink that shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

702.1 General. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the code under which the building was constructed.

702.2 Aisles. The required width of aisles in accordance with the code under which the building was constructed shall be unobstructed.

704.6 Single- and multiple-station smoke alarms. Single- and multiple-station smoke alarms shall be installed in existing Group I-1 and R occupancies in accordance with Sections 704.6.1 through 704.6.3.

704.6.1 Where required. Existing Group I-1 and R occupancies shall be provided with single-station smoke alarms in accordance with Sections 704.6.1.1 through 704.6.1.4. Interconnection and power sources shall be in accordance with Sections 704.6.2 and 704.6.3.
Exceptions:

1. Where the code that was in effect at the time of construction required smoke alarms and smoke alarms complying with those requirements are already provided.
2. Where smoke alarms have been installed in occupancies and dwellings that were not required to have them at the time of construction, additional smoke alarms shall not be required provided that the existing smoke alarms comply with requirements that were in effect at the time of installation.
3. Where smoke detectors connected to a fire alarm system have been installed as a substitute for smoke alarms.

704.6.1.2 Groups R-2, R-3, R-4 and I-1. Single or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and I-1 regardless of occupant load at all of the following locations:
1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
2. In each room used for sleeping purposes.
3. In each story within a dwelling unit, including basements but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

704.6.1.3 Installation near cooking appliances. Smoke alarms shall be installed a minimum of 10 feet (3.0 m) horizontally from a permanently installed cooking appliance.
Exception: Smoke alarms shall be permitted to be installed a minimum of 6 feet (1.8 m) horizontally from a permanently installed cooking appliance where necessary to comply with Section 704.6.1.1 or 704.6.1.2.

704.6.1.4 Installation near bathrooms. Smoke alarms shall be installed not less than 3 feet (914 mm) horizontally from the door or opening of a bathroom that contains a bathtub or shower unless this would prevent placement of a smoke alarm required by Section 704.6.1.1 or 704.6.1.2.

704.6.2 Interconnection. Where more than one smoke alarm is required to be installed within an individual dwelling or sleeping unit, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.
Exceptions:
1. Interconnection is not required in buildings that are not undergoing alterations, repairs or construction of any kind.
2. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for interconnection without the removal of interior finishes.

704.6.3 Power source. Single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms with integral strobes that are not equipped with battery backup shall be connected to an emergency electrical system. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.
Exceptions:

1. Smoke alarms are permitted to be solely battery operated in existing buildings where construction is not taking place.
2. Smoke alarms are permitted to be solely battery operated in buildings that are not served from a commercial power source.
3. Smoke alarms are permitted to be solely battery operated in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior walls or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for building wiring without the removal of interior finishes.

704.6.4 Smoke detection system. Smoke detectors listed in accordance with UL 268 and provided as part of the building's fire alarm system shall be an acceptable alternative to single- and multiple-station smoke alarms and shall comply with the following:
1. The fire alarm system shall comply with all applicable requirements in Section 907 of the International Fire Code.
2. Activation of a smoke detector in a dwelling or sleeping unit shall initiate alarm notification in the dwelling or sleeping unit in accordance with Section 907.5.2 of the International Fire Code.
3. Activation of a smoke detector in a dwelling or sleeping unit shall not activate alarm notification appliances outside of the dwelling or sleeping unit, provided that a supervisory signal is generated and monitored in accordance with Section 907.6.6 of the International Fire Code.

704.7 Single- and multiple-station smoke alarms. Single- and multiple-station smoke alarms shall be tested and maintained in accordance with the manufacturer's instructions and this code.

704.7.1 Replacement. Smoke alarms shall be replaced where any of the following apply:
1. The smoke alarm fails to respond to operability tests.
2. Where the smoke alarm exceeds 10 years from the date of manufacture marked on the unit, unless an earlier replacement
is specified in the manufacturer's instructions.
3. The smoke alarm end-of-life signal is sounded.
4. The smoke alarm date of manufacturer cannot be determined.

705.1 General. Carbon monoxide alarms shall be installed in dwellings in accordance with Section 1103.9 of the International Fire Code, except that alarms in dwellings covered by the International Residential Code shall be installed in accordance with Section R315 of that code.

705.2 Carbon monoxide alarms and detectors. Carbon monoxide alarms and carbon monoxide detection systems shall be maintained in accordance with NFPA 72. Carbon monoxide alarms and carbon monoxide detectors that become inoperable or begin producing end-of-life signals shall be replaced.

International Residential Code:

R311.1 Means of egress.
Dwellings shall be provided with a means of egress in accordance with this section. The means of egress shall provide a continuous and unobstructed path of vertical and horizontal egress travel from all portions of the dwelling to the required egress door without requiring travel through a garage. The

required egress door shall open directly into a public way or to a yard or court that opens to a public way.

R314.3 Location.
Smoke alarms shall be installed in the following locations:
1. In each sleeping room.
2. Outside each separate sleeping area in the immediate vicinity of the bedrooms.
3. On each additional story of the dwelling, including basements and habitable attics and not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.
4. Not less than 3 feet (914 mm) horizontally from the door or opening of a bathroom that contains a bathtub or shower unless this would prevent placement of a smoke alarm required by this section.
5. In the hallway and in the room open to the hallway in dwelling units where the ceiling height of a room open to a hallway serving bedrooms exceeds that of the hallway by 24 inches (610 mm) or more.

R314.4 Interconnection.
Where more than one smoke alarm is required to be installed within an individual dwelling unit in accordance with Section R314.3, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual dwelling unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.

R314.5 Combination alarms.
Combination smoke and carbon monoxide alarms shall be permitted to be used in lieu of smoke alarms.

R314.6 Power source.
Smoke alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and, where primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection.
Exceptions:
1. Smoke alarms shall be permitted to be battery operated where installed in buildings without commercial power.
2. Smoke alarms installed in accordance with Section R314.2.2 shall be permitted to be battery powered.

R315.3 Location.
Carbon monoxide alarms in dwelling units shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms. Where a fuelburning appliance is located within a bedroom or its attached bathroom, a carbon monoxide alarm shall be installed within the bedroom.
R315.4 Combination alarms. Combination carbon monoxide and smoke alarms shall be permitted to be used in lieu of carbon monoxide alarms.

R315.5 Interconnectivity.
Where more than one carbon monoxide alarm is required to be installed within an individual dwelling unit in accordance with Section R315.3, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual dwelling unit. Physical interconnection of carbon monoxide alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.
Exception: Interconnection of carbon monoxide alarms in existing areas shall not be required where alterations or repairs do not result in removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for interconnection without the removal of interior finishes.

R315.6 Power source.
Carbon monoxide alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and, where primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection.
Exceptions:
1. Carbon monoxide alarms shall be permitted to be battery operated where installed in buildings without commercial power.
2. Carbon monoxide alarms installed in accordance with Section R315.2.2 shall be permitted to be battery powered.

G2419.4 (408.4) Sediment trap. Where a sediment trap is not incorporated as part of the appliance, a sediment trap shall be installed downstream of the appliance shutoff valve as close to the inlet of the appliance as practical. The sediment trap shall be either a tee fitting having a capped nipple of any length installed vertically in the bottommost opening of the tee as illustrated in Figure G2419.4 or other device approved as an effective sediment trap. Illuminating appliances, ranges, clothes dryers, decorative vented appliances for installation in vented fireplaces, gas fireplaces and outdoor grills need not be so equipped.

In Closing:

This structure is a hazard to anyone who occupies it. It is unsafe and dangerous in its current state. This property is an attractive nuisance that has led to infestation of skunks and racoons as well as other vermin within it.

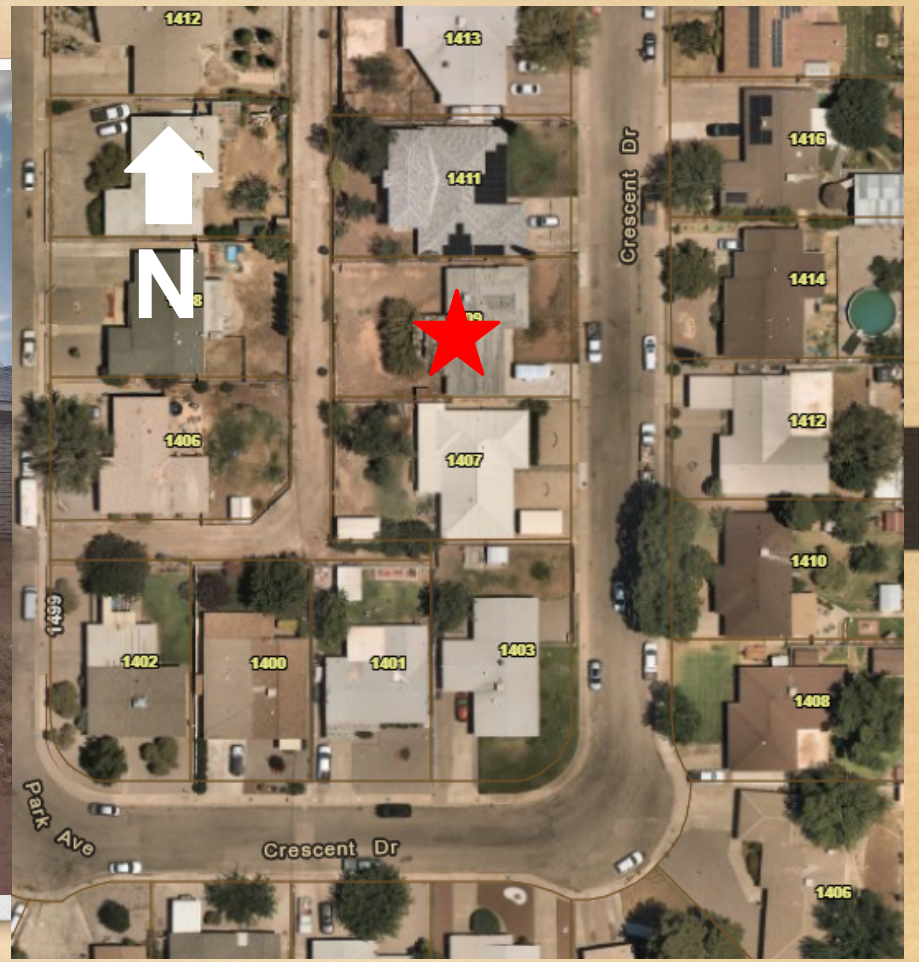
Respectfully:

Josh Sides/Code Enforcement Manager
Property Maintenance and Housing Inspector (Certification #10314331)
Zoning Inspector (Certification # 10314331)
AACE/ICC Code Enforcement Officer

Dilapidated Structure

1409 Crescent Drive




N
1412
1413
1416
1411
Crescent Dr
1414
1406
1407
1412
1410
1499
1402
1400
1401
1403
1408
Park Ave
Crescent Dr
1406

Timeline
1409 Crescent Dr.

- On 08/03/2023, Code Enforcement Department was made aware of a potentially dilapidated structure and conducted an investigation.
- On 10/13/2023, a certified International Property Maintenance Code (IPMC) letter was sent to the owner listing seven violations of IPMC and how to correct them, as well as my contact information.
- On 11/10/2023, the certified IPMC letter was returned unclaimed and was posted on the front door of the property.
- On 12/07/2023, 12th Judicial District Court Judge Jessen granted an Administrative Search Warrant.
- On 12/10/2023, the Administrative Search Warrant was executed on the property.

International Property Maintenance Code Violations
1409 Crescent Dr.

- Total of 51 violations of the International Property Maintenance Code and the International Residential Code
  - 42 Violations of IPMC
  - 9 Violations of IRC

Condition of the Property at 1409 Crescent Dr.





Condition of the Property at 1409 Crescent Dr.





Condition of the Property at 1409 Crescent Dr.





Condition of the Property at 1409 Crescent Dr.





Questions

Josh Sides

Code Enforcement Manager







RESOLUTION NO. 2024-15

A RESOLUTION DECLARING THE BUILDING OR STRUCTURE, OR THE PREMISES LOCATED AT 1409 CRESCENT DRIVE ALAMOGORDO, OTERO COUNTY, NEW MEXICO, TO BE RUINED, DAMAGED, AND DILAPIDATED TO BE A MENACE TO THE PUBLIC COMFORT, HEALTH, PEACE, OR SAFETY, AND ORDERING ITS ABATEMENT

WHEREAS, the governing body of the City of Alamogordo, New Mexico, finds that there is located within the City a certain building, structure, or premises at 1409 Crescent Drive, as more particularly described on the attached Exhibit 1 (the "Property"); and,

WHEREAS, the governing body does further find that the Code Enforcement Manager has investigated the condition of the Property and has found the same to be so ruined, damaged, and dilapidated, or covered with ruins, rubbish, wreckage, or debris, that it constitutes a menace to the public comfort, health, peace or safety so as to warrant abatement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION:

Section 1. That the findings of said Code Enforcement Manager, in regard to the Property, attached hereto as Exhibit 2, are hereby approved and adopted, and that the Property is found to be ruined, damaged, and dilapidated, so as to constitute a menace to the public comfort, health, peace or safety pursuant to Section 3-18-5, NMSA, 1978.

Section 2. That Mr. Robert T. Stouffer, the record owner of the Property, is hereby ordered to commence removal of the building or structure from the Property within ten (10) days after service of a copy of this Resolution, or within said ten (10) day period, file written objection to findings herein with the City Clerk of the City of Alamogordo, asking for a hearing before the City Commission.

Section 3. That if there is a failure of compliance with the provision of Section 2 herein, the City of Alamogordo shall proceed to remove said building or structure from the Property and abate said unsafe condition, at the cost and expense of said record, with said cost and expense constituting a lien against the building or structure so removed, and against the Property, as allowed by law.

Section 4. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word, or phrase of this resolution is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this resolution. The Commission hereby declares that it would have passed this resolution and each section, paragraph, sentence, clause, word, or phrase thereof, irrespective of any provisions being declared unconstitutional or otherwise invalid.

PASSED, APPROVED AND ADOPTED, this ____ day of _____ 2024.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By:_____
Susan L. Payne, Mayor

ATTEST:

_____
Rachel Hughs, City Clerk

APPROVED AS TO FORM:

_____
Ashley Smith, City Attorney

- Account Search
- My Reports
- Help
- Logout Public

Exhibit "1"

Account: R015211

Location

Account Number R015211

Situs Address 1409 CRESCENT DR

Previous Parcel ID 01-05719

Parcel Sequence

Neighborhood A15 - Heights Abcd

Tax Area 01_R

Parcel Number 01N4057093171484

Legal Summary Subd: HEIGHTS ABCD Lot: 5 Block: 44

Appraiser Eileen Dorton

Owner Information

Owner Name STOUFFER, ROBERT T

In Care Of Name FRANK DURAN

Owner Address 13210 SUNSET CANYON DR
ALBUQUERQUE, NM 87111

Assessment History

Actual (2023 - Residential Cap applied)	$107,067
Primary Taxable	$35,689
Exemption Adjustments:	
Head of Household	($2,000)
Adjusted Taxable Total	$33,689

Tax Area: 01_R **Mill Levy**: 25.844000

Type	Actual	Assessed	Acres	SQFT
Residential Land	$13,747	$4,582	0.193	
Residential Improvement	$93,320	$31,107		1652.000

Transfers

Sale Date	Sale Price	Doc Description
		Deed
		Deed
		Deed
		Deed

Tax History

Tax Year	Taxes
*2024	$922.36
2023	$922.36

* Estimated

Images

- Map
- Photo
- Sketch
- GIS



Exhibit "2"

City of Alamogordo

Public Works Division/Code Enforcement Department

2600 North Florida Ave. Alamogordo, New Mexico 88310

Public Works: 575-439-4240 / Code Enforcement 575-439-4375

December 15, 2023

RE: 1409 Crescent Dr., Alamogordo, New Mexico

To whom it may concern:

On December 14, 2023, the City of the City of Alamogordo Code Enforcement Department and the City of Alamogordo Police Department conducted a fire safety and structural walk-thru of the above-mentioned property. During the walk-thru, the following deficiencies and hazards, in violation of the International Property Maintenance Code and International Residential Code, were discovered and are listed below:

International Property Maintenance Code:

109.1 Unsafe conditions. When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

109.1.1 Unsafe structures. An unsafe structure is one that is found to be hazardous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is dangerous.

109.1.2 Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure that is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

109.1.3 Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

109.1.4 Unlawful structure. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

109.1.5 Hazardous structure or premises. For the purpose of this code, any structure or premises that has any or all of the conditions or defects described as follows shall be considered to be hazardous:
1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the jurisdiction as related to the requirements for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any building, structure or portion thereof that is dangerous.
4. The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.
5. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
6. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
7. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the code official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
8. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health.
9. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

109.2 Closing of vacant structures. If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner or owner's authorized agent to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and shall be collected by any other legal resource.

301.2 Responsibility. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements and the code under which the building was constructed, except as otherwise provided for in this code. The owner or owner's agent shall be responsible to ensure that any repairs, additions or alterations to the building or portion thereof are performed or constructed in accordance with the International Building Code, International Residential Code or International Existing Building Code. A person shall not occupy as owner-occupant or permit another person to occupy premises that are not in a sanitary and safe condition and that do not comply with the requirements of this chapter. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises they occupy and control.

301.3 Vacant structures and land. Vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

302.7 Accessory structures. Accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

304.1 General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

304.1.1 Potentially unsafe conditions. The following conditions shall be considered to be potentially unsafe, shall be assessed and shall be addressed in compliance with the International Existing Building Code, the International Residential Code or the International Building Code:
1. Structural members have deterioration or distress that appears to reduce their load-carrying capacity.
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations has deterioration or distress that appears to reduce its load-carrying capacity.
3. Structures or components thereof have deterioration or distress that appears to reduce their load-carrying capacity.
4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or watertight.
5. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects.
6. Exterior walls that are not anchored to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects.
7. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of deterioration, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects.
8. Flooring and flooring components with defects that affect serviceability or flooring components that show signs of deterioration or fatigue, are not properly anchored or are incapable of supporting all nominal loads and resisting all load effects.
9. Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.
10. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.
11. Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including guards and handrails, are not structurally sound, not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.
12. Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly anchored, or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.

Exceptions:
1. Where substantiated otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted where approved by the code official.

304.4 Structural members. Structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

304.4 Structural members. Structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

304.5 Foundation walls. Foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

304.6 Exterior walls. Exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

304.13 Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weathertight.

304.13.1 Glazing. Glazing materials shall be maintained free from cracks and holes.

305.1 General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure that they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

305.1.1 Potentially unsafe conditions. The following conditions shall be considered to be potentially unsafe, shall be assessed and shall be addressed in compliance with the International Existing Building Code, the International Residential Code or the International Building Code:
1. Structural members have deterioration or distress that appears to reduce their load-carrying capacity.
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations has deterioration or distress that appears to reduce its load-carrying capacity.
3. Structures or components thereof have deterioration or distress that appears to reduce their load-carrying capacity.
4. Stairs, landings, balconies and all similar walking surfaces, including guards and handrails, are not structurally sound, not properly anchored or are anchored with connections not capable of supporting all nominal loads and resisting all load effects.
5. Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects.
Exceptions:
1. Where substantiated otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted where approved by the code official.

305.2 Structural members. Structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

305.3 Interior surfaces. Interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

306.1 General. The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

306.1.1 Potentially unsafe conditions. Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be considered to be unsafe and shall be addressed in compliance with the International Existing Building Code, the International Residential Code or the International Building Code:
1. Soils that have been subjected to any of the following conditions:
1.1. Collapse of footing or foundation system.
1.2. Damage to footing, foundation, concrete or other structural element due to soil expansion.
1.3. Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil.
1.4. Inadequate soil as determined by a geotechnical investigation.
1.5. Where the allowable bearing capacity of the soil is in doubt.
1.6. Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.
2. Concrete that has been subjected to any of the following conditions:
2.1. Deterioration.
2.2. Ultimate deformation.
2.3. Fractures.
2.4. Fissures.
2.5. Spalling.
2.6. Exposed reinforcement.
2.7. Detached, dislodged or failing connections.
3. Aluminum that has been subjected to any of the following conditions:
3.1. Deterioration.
3.2. Corrosion.
3.3. Elastic deformation.
3.4. Ultimate deformation.
3.5. Stress or strain cracks.
3.6. Joint fatigue.
3.7. Detached, dislodged or failing connections.
4. Masonry that has been subjected to any of the following conditions:
4.1. Deterioration.
4.2. Ultimate deformation.
4.3. Fractures in masonry or mortar joints.
4.4. Fissures in masonry or mortar joints.
4.5. Spalling.
4.6. Exposed reinforcement.

4.7. Detached, dislodged or failing connections.
5. Steel that has been subjected to any of the following conditions:
5.1. Deterioration.
5.2. Elastic deformation.
5.3. Ultimate deformation.
5.4. Metal fatigue.
5.5. Detached, dislodged or failing connections.
6. Wood that has been subjected to any of the following conditions:
6.1. Ultimate deformation.
6.2. Deterioration.
6.3. Damage from insects, rodents and other vermin.
6.4. Fire damage beyond charring.
6.5. Significant splits and checks.
6.6. Horizontal shear cracks.
6.7. Vertical shear cracks.
6.8. Inadequate support.
6.9. Detached, dislodged or failing connections.
6.10. Excessive cutting and notching.
Exceptions:
1. Where substantiated otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted where approved by the code official.

308.1 Accumulation of rubbish or garbage. Exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

308.2 Disposal of rubbish. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

502.1 Dwelling units. Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink that shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

702.1 General. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the code under which the building was constructed.

702.2 Aisles. The required width of aisles in accordance with the code under which the building was constructed shall be unobstructed.

704.6 Single- and multiple-station smoke alarms. Single- and multiple-station smoke alarms shall be installed in existing Group I-1 and R occupancies in accordance with Sections 704.6.1 through 704.6.3.

704.6.1 Where required. Existing Group I-1 and R occupancies shall be provided with single-station smoke alarms in accordance with Sections 704.6.1.1 through 704.6.1.4. Interconnection and power sources shall be in accordance with Sections 704.6.2 and 704.6.3.
Exceptions:

1. Where the code that was in effect at the time of construction required smoke alarms and smoke alarms complying with those requirements are already provided.
2. Where smoke alarms have been installed in occupancies and dwellings that were not required to have them at the time of construction, additional smoke alarms shall not be required provided that the existing smoke alarms comply with requirements that were in effect at the time of installation.
3. Where smoke detectors connected to a fire alarm system have been installed as a substitute for smoke alarms.

704.6.1.2 Groups R-2, R-3, R-4 and I-1. Single or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and I-1 regardless of occupant load at all of the following locations:
1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
2. In each room used for sleeping purposes.
3. In each story within a dwelling unit, including basements but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

704.6.1.3 Installation near cooking appliances. Smoke alarms shall be installed a minimum of 10 feet (3.0 m) horizontally from a permanently installed cooking appliance.
Exception: Smoke alarms shall be permitted to be installed a minimum of 6 feet (1.8 m) horizontally from a permanently installed cooking appliance where necessary to comply with Section 704.6.1.1 or 704.6.1.2.

704.6.1.4 Installation near bathrooms. Smoke alarms shall be installed not less than 3 feet (914 mm) horizontally from the door or opening of a bathroom that contains a bathtub or shower unless this would prevent placement of a smoke alarm required by Section 704.6.1.1 or 704.6.1.2.

704.6.2 Interconnection. Where more than one smoke alarm is required to be installed within an individual dwelling or sleeping unit, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.
Exceptions:
1. Interconnection is not required in buildings that are not undergoing alterations, repairs or construction of any kind.
2. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for interconnection without the removal of interior finishes.

704.6.3 Power source. Single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms with integral strobes that are not equipped with battery backup shall be connected to an emergency electrical system. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.
Exceptions:

1. Smoke alarms are permitted to be solely battery operated in existing buildings where construction is not taking place.
2. Smoke alarms are permitted to be solely battery operated in buildings that are not served from a commercial power source.
3. Smoke alarms are permitted to be solely battery operated in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior walls or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for building wiring without the removal of interior finishes.

704.6.4 Smoke detection system. Smoke detectors listed in accordance with UL 268 and provided as part of the building's fire alarm system shall be an acceptable alternative to single- and multiple-station smoke alarms and shall comply with the following:
1. The fire alarm system shall comply with all applicable requirements in Section 907 of the International Fire Code.
2. Activation of a smoke detector in a dwelling or sleeping unit shall initiate alarm notification in the dwelling or sleeping unit in accordance with Section 907.5.2 of the International Fire Code.
3. Activation of a smoke detector in a dwelling or sleeping unit shall not activate alarm notification appliances outside of the dwelling or sleeping unit, provided that a supervisory signal is generated and monitored in accordance with Section 907.6.6 of the International Fire Code.

704.7 Single- and multiple-station smoke alarms. Single- and multiple-station smoke alarms shall be tested and maintained in accordance with the manufacturer's instructions and this code.

704.7.1 Replacement. Smoke alarms shall be replaced where any of the following apply:
1. The smoke alarm fails to respond to operability tests.
2. Where the smoke alarm exceeds 10 years from the date of manufacture marked on the unit, unless an earlier replacement
is specified in the manufacturer's instructions.
3. The smoke alarm end-of-life signal is sounded.
4. The smoke alarm date of manufacturer cannot be determined.

705.1 General. Carbon monoxide alarms shall be installed in dwellings in accordance with Section 1103.9 of the International Fire Code, except that alarms in dwellings covered by the International Residential Code shall be installed in accordance with Section R315 of that code.

705.2 Carbon monoxide alarms and detectors. Carbon monoxide alarms and carbon monoxide detection systems shall be maintained in accordance with NFPA 72. Carbon monoxide alarms and carbon monoxide detectors that become inoperable or begin producing end-of-life signals shall be replaced.

International Residential Code:

R311.1 Means of egress.
Dwellings shall be provided with a means of egress in accordance with this section. The means of egress shall provide a continuous and unobstructed path of vertical and horizontal egress travel from all portions of the dwelling to the required egress door without requiring travel through a garage. The

required egress door shall open directly into a public way or to a yard or court that opens to a public way.

R314.3 Location.
Smoke alarms shall be installed in the following locations:
1. In each sleeping room.
2. Outside each separate sleeping area in the immediate vicinity of the bedrooms.
3. On each additional story of the dwelling, including basements and habitable attics and not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.
4. Not less than 3 feet (914 mm) horizontally from the door or opening of a bathroom that contains a bathtub or shower unless this would prevent placement of a smoke alarm required by this section.
5. In the hallway and in the room open to the hallway in dwelling units where the ceiling height of a room open to a hallway serving bedrooms exceeds that of the hallway by 24 inches (610 mm) or more.

R314.4 Interconnection.
Where more than one smoke alarm is required to be installed within an individual dwelling unit in accordance with Section R314.3, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual dwelling unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.

R314.5 Combination alarms.
Combination smoke and carbon monoxide alarms shall be permitted to be used in lieu of smoke alarms.

R314.6 Power source.
Smoke alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and, where primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection.
Exceptions:
1. Smoke alarms shall be permitted to be battery operated where installed in buildings without commercial power.
2. Smoke alarms installed in accordance with Section R314.2.2 shall be permitted to be battery powered.

R315.3 Location.
Carbon monoxide alarms in dwelling units shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms. Where a fuelburning appliance is located within a bedroom or its attached bathroom, a carbon monoxide alarm shall be installed within the bedroom.
R315.4 Combination alarms. Combination carbon monoxide and smoke alarms shall be permitted to be used in lieu of carbon monoxide alarms.

R315.5 Interconnectivity.
Where more than one carbon monoxide alarm is required to be installed within an individual dwelling unit in accordance with Section R315.3, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual dwelling unit. Physical interconnection of carbon monoxide alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.
Exception: Interconnection of carbon monoxide alarms in existing areas shall not be required where alterations or repairs do not result in removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for interconnection without the removal of interior finishes.

R315.6 Power source.
Carbon monoxide alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and, where primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection.
Exceptions:
1. Carbon monoxide alarms shall be permitted to be battery operated where installed in buildings without commercial power.
2. Carbon monoxide alarms installed in accordance with Section R315.2.2 shall be permitted to be battery powered.

G2419.4 (408.4) Sediment trap. Where a sediment trap is not incorporated as part of the appliance, a sediment trap shall be installed downstream of the appliance shutoff valve as close to the inlet of the appliance as practical. The sediment trap shall be either a tee fitting having a capped nipple of any length installed vertically in the bottommost opening of the tee as illustrated in Figure G2419.4 or other device approved as an effective sediment trap. Illuminating appliances, ranges, clothes dryers, decorative vented appliances for installation in vented fireplaces, gas fireplaces and outdoor grills need not be so equipped.

In Closing:

This structure is a hazard to anyone who occupies it. It is unsafe and dangerous in its current state. This property is an attractive nuisance that has led to infestation of skunks and racoons as well as other vermin within it.

Respectfully:

Josh Sides/Code Enforcement Manager
Property Maintenance and Housing Inspector (Certification #10314331)
Zoning Inspector (Certification # 10314331)
AACE/ICC Code Enforcement Officer

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/13/2024 **Report Date:** 02/09/2024 **Report No:** 11.

Submitted By: Josh Sides

Subject: Consider, and act upon, Resolution 2024-16, declaring 512 Maryland Ave. to be so ruined, damaged, and dilapidated that it is a menace to public comfort, health, peace, or safety, and ordering its abatement. *(Josh Sides, Code Enforcement Manager)* **(Roll Call Vote Required)**

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Approve and order the property's abatement.

Background: 512 Maryland Ave. is so ruined and dilapidated that it is currently a risk to public health and safety.

City of Alamogordo

Public Works Division/Facility Maintenance Department

2600 North Florida Ave. Alamogordo, New Mexico 88310

Public Works: 575-439-4240 / Facility Maintenance 575-439-4390

August 1st, 2023

RE: 512 Maryland Ave., Alamogordo, New Mexico

To whom it may concern:

On August 1st,2023, by means of an Administrative Warrant, the City of Alamogordo Fire Department, City Code Enforcement Officer, and City Public Works, conducted a fire safety and structural walk-thru of the above-mentioned property. During the walk-thru, the following deficiencies and hazards, in violation of the International Fire Code, and the International Property Maintenance Code were discovered and are listed below:

International Fire Code:

1) IFC 110.1.1 (Unsafe conditions)- Inadequate Maintenance. The structure is not being maintained.

International Property Maintenance Code:

1) 111.1.1 (Unsafe Structure)
2) 111.1.3 (Structure unfit for human occupancy)
3) 111.1.5 (Dangerous structure or premises) 1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the jurisdiction as related to the requirements for existing buildings.
4) 301.2 (Responsibility) The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy that are not in a sanitary and safe condition and that do not comply with the requirements of this chapter.
5) 302.5 (Rodent Harborage) Structures and exterior property shall be kept free from rodent harborage and infestation.
6) 304.1.1 (Unsafe conditions) The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code or the International Existing Building Code as required for existing buildings. 4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors, and skylights are not maintained, weather resistant or watertight.
7) 304.2 (Protective treatment) Exterior services, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks, and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment.
8) 305.1 (Interior structure general) The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in sanitary condition.
9) 502.1 (Dwelling Units) Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet, and kitchen sink.

10) 605.1 (Electrical Equipment Installation) Electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.
11) 702.1 (General means of egress. Fire safety requirements) A safe, continuous, and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the "International fire code"

In closing:

During the walk-through of this property, it is apparent that this structure is unsafe and unsanitary. I do believe that under the guidance of a contractor, the structure could be brought back into code compliance.

Exterior:

1) Shingles/roll roofing is missing on the front of the house, the rest of the house is metal roofing.
2) Appeared to be a stone foundation.
3) All sewer hookups seem to be on the outside with several issues. Broken pipes and pipes angled the wrong way, Pipes destroyed, and the main vent runs directly in the center of the upstairs window.
4) The main electrical line runs through the tree and is frayed at the Weather head. The meter is missing and there is an old, frayed Romex wire running across the back wall from the panel.
5) The structure has stucco over adobe walls and the stucco is cracked and peeling.
6) The front handicap ramp is very spongy near the top.
7) The structure has had several additions and the roof sealant is questionable.
8) The back shed is full of stuff and is just sitting on cinder blocks.
9) The back cinder block wall had collapsed.
10) The main water line entering the building is questionable. (Possible freeze points)
11) The front wall by the sidewalk is deteriorating.
12) The chimney tack out of the roof is collapsing.

Interior:

1) The dining room stucco ceiling had collapsed and was laying in the middle of the room blocking access to the kitchen.
2) Several cracks in the living room walls.
3) The floor was pitching inside the front door, suggesting foundation problems.
4) Water damage in both bedrooms and both are full of stuff making it difficult to walk through.
5) Both the kitchen and the bathroom are inoperable and need maintenance/replacement.
6) The stairs to the upper loft do not have the proper headroom.
7) The upstairs was completely cluttered.
8) Asbestos tile on the downstairs floors.
9) There was a smell of skunk inside the structure. None were seen but apparent they had been in there.

Respectfully:

Paul Bennett / Facility Maintenance Manager

Property Maintenance and Housing Inspector Certificate # 10247742

EE98 Electrical Contractor

GB98 General Contractor






512

512





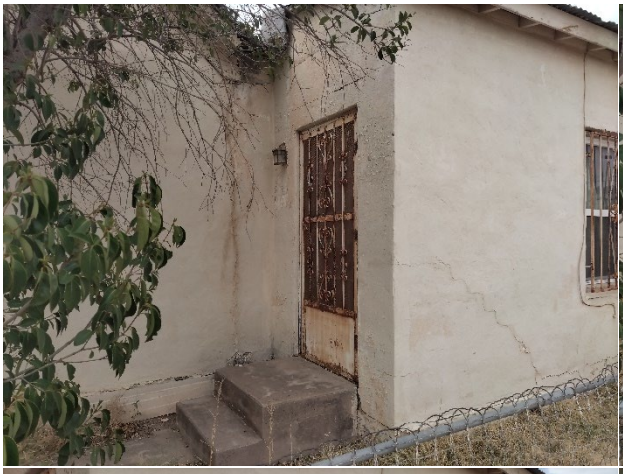


















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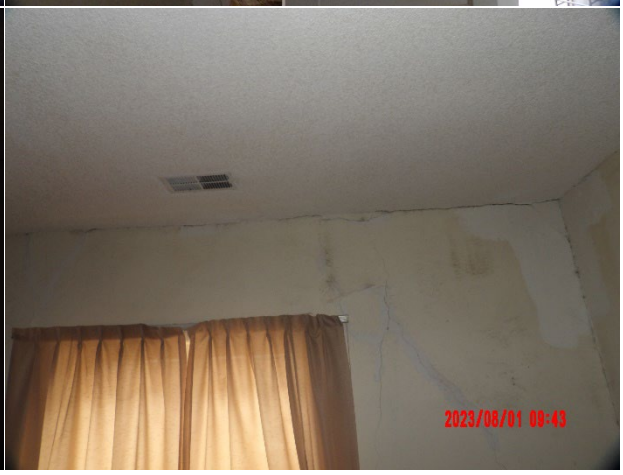

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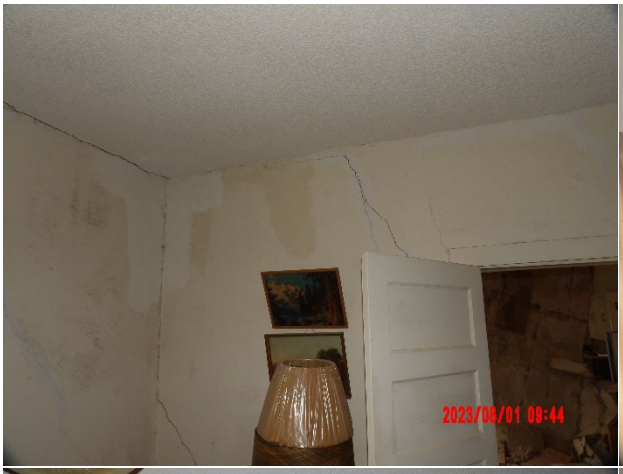

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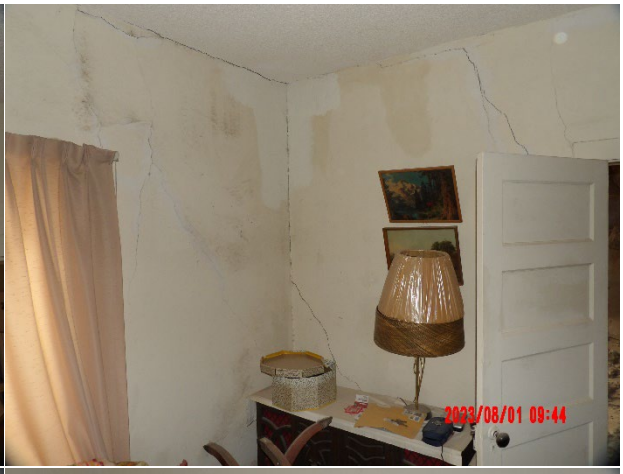

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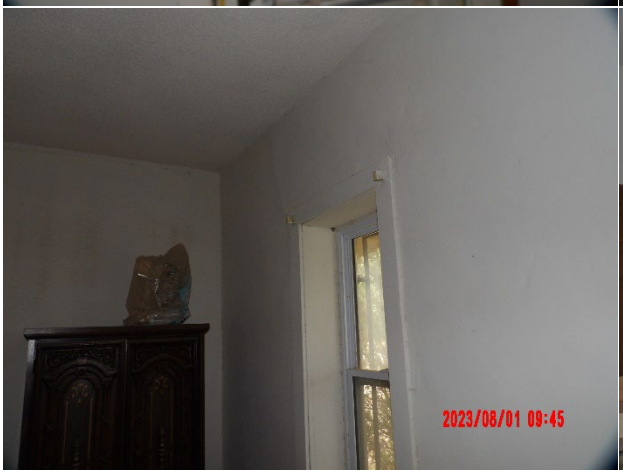

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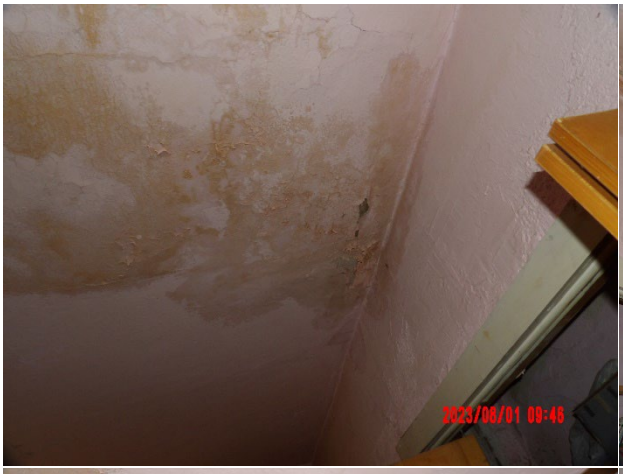

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spots
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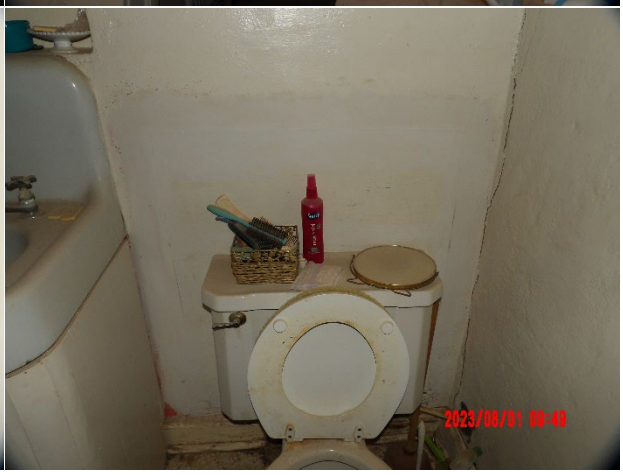

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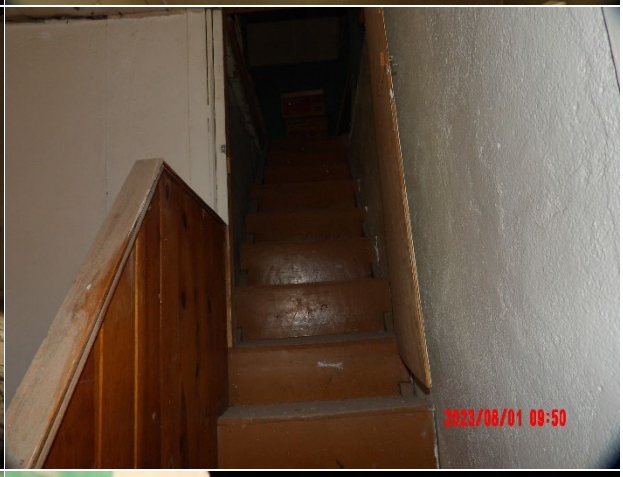

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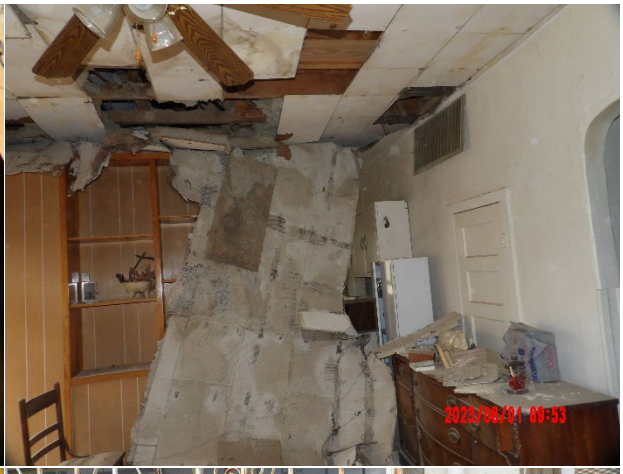

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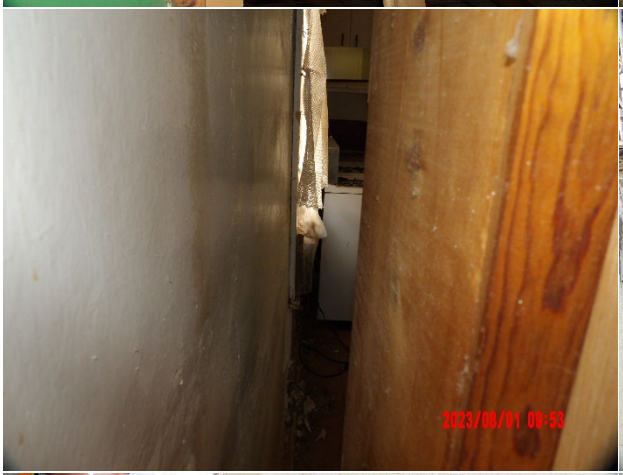

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Dilapidated Structure

512 Maryland Avenue




6th St
N
523
503
501
499
Ave
599
6th St
516
512
508
504
500
517
509
599
5th St

Timeline
512 Maryland Avenue

- On 06/21/2023, Code Enforcement Department was made aware of a potentially dilapidated structure and conducted an investigation.
- On 06/23/2023, a certified International Property Maintenance Code (IPMC) letter was sent to the owner listing seven violations of IPMC and how to correct them, as well as my contact information.
- On 07/11/2023, the return receipt was received by Code Enforcement.
- On 07/31/2023, an Administrative Search Warrant was applied for and granted by a 12th Judicial District Court Judge.
- On 08/01/2023, the Administrative Search Warrant was executed on the property.

International Property Maintenance Code Violations
512 Maryland Avenue

- Total of 12 violations of the International Property Maintenance Code and the International Fire Code

Condition of the Property at 512 Maryland Avenue





Condition of the Property at 512 Maryland Avenue





Condition of the Property at 512 Maryland Avenue





Condition of the Property at 512 Maryland Avenue





Questions

Josh Sides

Code Enforcement Manager







RESOLUTION NO. 2024-16

A RESOLUTION DECLARING THE BUILDING OR STRUCTURE, OR THE PREMISES LOCATED AT 512 MARYLAND AVENUE ALAMOGORDO, OTERO COUNTY, NEW MEXICO, TO BE RUINED, DAMAGED, AND DILAPIDATED TO BE A MENACE TO THE PUBLIC COMFORT, HEALTH, PEACE, OR SAFETY, AND ORDERING ITS ABATEMENT

WHEREAS, the governing body of the City of Alamogordo, New Mexico, finds that there is located within the City a certain building, structure, or premises at 512 Maryland Avenue, as more particularly described on the attached Exhibit 1 (the "Property"); and,

WHEREAS, the governing body does further find that the Code Enforcement Manager has investigated the condition of the Property and has found the same to be so ruined, damaged, and dilapidated, or covered with ruins, rubbish, wreckage, or debris, that it constitutes a menace to the public comfort, health, peace or safety so as to warrant abatement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION:

Section 1. That the findings of said Code Enforcement Manager, in regard to the Property, attached hereto as Exhibit 2, are hereby approved and adopted, and that the Property is found to be ruined, damaged, and dilapidated, so as to constitute a menace to the public comfort, health, peace or safety pursuant to Section 3-18-5, NMSA, 1978.

Section 2. That Mrs. Marguerite Yacubian, the record owner of the Property, is hereby ordered to commence removal of the building or structure from the Property within ten (10) days after service of a copy of this Resolution, or within said ten (10) day period, file written objection to findings herein with the City Clerk of the City of Alamogordo, asking for a hearing before the City Commission.

Section 3. That if there is a failure of compliance with the provision of Section 2 herein, the City of Alamogordo shall proceed to remove said building or structure from the Property and abate said unsafe condition, at the cost and expense of said record, with said cost and expense constituting a lien against the building or structure so removed, and against the Property, as allowed by law.

Section 4. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word, or phrase of this resolution is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this resolution. The Commission hereby declares that it would have passed this resolution and each section, paragraph, sentence, clause, word, or phrase thereof, irrespective of any provisions being declared unconstitutional or otherwise invalid.

PASSED, APPROVED AND ADOPTED, this ____ day of _____ 2024.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By:_____
Susan L. Payne, Mayor

ATTEST:

_____
Rachel Hughs, City Clerk

APPROVED AS TO FORM:

_____
Ashley Smith, City Attorney

- Account Search
- My Reports
- Help
- Logout Public

Exhibit "1"

Account: R010520

Location

Account Number R010520

Situs Address 512 MARYLAND AVE

Previous Parcel ID 01-00806

Parcel Sequence

Neighborhood A1 - South Central Alamogordo

Tax Area 01_R

Parcel Number 01N4055094200333

Legal Summary Subd: ALAMO BLOCKS Lot: 4 Block: 33

Appraiser Sheldon Compton

Owner Information

Owner Name YACUBIAN, MARGUERITE

Owner Address 3124 DALMAZIA AVE HENDERSON, NV 89044

Assessment History

Actual (2023 - Residential Cap applied) $30,736

Primary Taxable $10,245

Tax Area: 01_R **Mill Levy**: 25.844000

Type	Actual	Assessed	Acres	SQFT
Residential Land	$3,300	$1,100	0.172	
Residential Improvement	$27,436	$9,145		1557.000

Transfers

Sale Date	Sale Price	Doc Description
		Deed
		Deed
		Deed
		Probate

Tax History

Tax Year	Taxes
*2024	$264.76
2023	$264.76

* Estimated

Images

- Map
- Photo
- Sketch
- GIS



Exhibit "2"

City of Alamogordo

Public Works Division/Facility Maintenance Department

2600 North Florida Ave. Alamogordo, New Mexico 88310

Public Works: 575-439-4240 / Facility Maintenance 575-439-4390

August 1st, 2023

RE: 512 Maryland Ave., Alamogordo, New Mexico

To whom it may concern:

On August 1st,2023, by means of an Administrative Warrant, the City of Alamogordo Fire Department, City Code Enforcement Officer, and City Public Works, conducted a fire safety and structural walk-thru of the above-mentioned property. During the walk-thru, the following deficiencies and hazards, in violation of the International Fire Code, and the International Property Maintenance Code were discovered and are listed below:

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In closing:

During the walk-through of this property, it is apparent that this structure is unsafe and unsanitary. I do believe that under the guidance of a contractor, the structure could be brought back into code compliance.

Exterior:

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2) Appeared to be a stone foundation.
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Respectfully:

Paul Bennett / Facility Maintenance Manager

Property Maintenance and Housing Inspector Certificate # 10247742

EE98 Electrical Contractor

GB98 General Contractor

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/13/2024 **Report Date:** 02/09/2024 **Report No:** 12.

Submitted By: Josh Sides

Subject: Consider, and act upon, Resolution 2024-17, declaring 607/609 Maryland Ave. to be so ruined, damaged, and dilapidated that it is a menace to public comfort, health, peace, or safety, and ordering its abatement. *(Josh Sides, Code Enforcement Manager)* **(Roll Call Vote Required)**

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Approve and order the property's abatement.

Background: 607/609 Maryland Ave. is so ruined and dilapidated that it is currently a risk to public health and safety.

City of Alamogordo

Public Works Division/Code Enforcement Department

2600 North Florida Ave. Alamogordo, New Mexico 88310

Public Works: 575-439-4240 / Code Enforcement 575-439-4375

December 12, 2023

RE: 607 Maryland Ave., Alamogordo, New Mexico

To whom it may concern:

On December 11, 2023, the City of the City of Alamogordo Code Enforcement Department and the City of Alamogordo Police Department conducted a fire safety and structural walk-thru of the above-mentioned property. During the walk-thru, the following deficiencies and hazards, in violation of the International Property Maintenance Code and International Residential Code, were discovered and are listed below:

International Property Maintenance Code:

111.1 Unsafe conditions.
When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

111.1.1 Unsafe structures.
An unsafe *structure* is one that is found to be dangerous to the life, health, property or safety of the public or the *occupants* of the *structure* by not providing minimum safeguards to protect or warn *occupants* in the event of fire, or because such *structure* contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

111.1.2 Unsafe equipment.
Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure that is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

111.1.3 Structure unfit for human occupancy.
A *structure* is unfit for human *occupancy* whenever the *code official* finds that such *structure* is unsafe, unlawful or, because of the degree to which the *structure* is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks *ventilation*, illumination,

sanitary or heating facilities or other essential equipment required by this code, or because the location of the *structure* constitutes a hazard to the *occupants* of the *structure* or to the public.

111.1.4 Unlawful structure.
An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

111.1.5 Dangerous structure or premises.
For the purpose of this code, any *structure* or *premises* that has any or all of the conditions or defects described as follows shall be considered to be dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the *approved* building or fire code of the jurisdiction as related to the requirements for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any portion of a building, *structure* or appurtenance that has been damaged by fire, earthquake, wind, flood, *deterioration, neglect,* abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become *detached* or dislodged.
4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so *anchored*, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
5. The building or *structure,* or part of the building or *structure*, because of dilapidation, *deterioration,* decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or *structure* is likely to fail or give way.
6. The building or *structure,* or any portion thereof, is clearly unsafe for its use and *occupancy*.
7. The building or *structure* is *neglected*, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or *structure* to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or *structure* for committing a nuisance or an unlawful act.
8. Any building or *structure* has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or *structure* provided by the *approved* building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
9. A building or *structure,* used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, *ventilation,* mechanical or plumbing system, or otherwise, is determined by the *code official* to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
10. Any building or *structure,* because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the *code official* to be a threat to life or health.

11. Any portion of a building remains on a site after the demolition or destruction of the building or *structure* or whenever any building or *structure* is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

301.2 Responsibility.
The *owner* of the *premises* shall maintain the structures and *exterior property* in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as *owner-occupant* or permit another person to occupy *premises* that are not in a sanitary and safe condition and that do not comply with the requirements of this chapter. *Occupants* of a *dwelling unit, rooming unit* or *housekeeping unit* are responsible for keeping in a clean, sanitary and safe condition that part of the *dwelling unit, rooming unit, housekeeping unit* or *premises* they occupy and control.

301.3 Vacant structures and land.
Vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

302.3 Sidewalks and driveways.
Sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

302.4 Weeds.
Premises and exterior property shall be maintained free from weeds or plant growth in excess of six (6) inches. Noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.
Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 108.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

302.8 Motor vehicles.
Except as provided for in other regulations, inoperative or unlicensed motor vehicles shall not be parked, kept or stored on any premises, and vehicles shall not at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

302.9 Defacement of property.
A person shall not willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.
It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

304.1 General.
The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

304.1.1 Unsafe conditions.
The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:
1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength.
2. The *anchorage* of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects.
3. Structures or components thereof that have reached their limit state.
4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight.
5. Structural members that have evidence of *deterioration* or that are not capable of safely supporting all nominal loads and load effects.
6. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.
7. Exterior walls that are not *anchored* to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.
8. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of *deterioration*, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects.
9. Flooring and flooring components with defects that affect serviceability or flooring components that show signs of *deterioration* or fatigue, are not properly *anchored* or are incapable of supporting all nominal loads and resisting all load effects.
10. Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
11. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
12. Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including *guard*s and handrails, are not structurally sound, not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
13. Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly *anchored*, or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
Exceptions:
1. Where substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted where *approved* by the *code official*.

304.2 Protective treatment.
Exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. Siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

304.3 Premises identification.
Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be not less than 4 inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7 mm).

304.4 Structural members.
All structural members shall be maintained free from deterioration and shall be capable of safely supporting the imposed dead and live loads.

304.6 Exterior walls.
Exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

304.18 Building security.
Doors, windows or hatchways for dwelling units, room units or housekeeping units shall be provided with devices designed to provide security for the occupants and property within.

304.18.1 Doors.
Doors providing access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a minimum lock throw of 1 inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

304.13 Window, skylight, and door frames.
Every window, skylight, door, and frame shall be kept in sound condition, good repair, and weather tight.

304.13.1 Glazing.
Glazing materials shall be maintained free from cracks and holes.

304.15 Doors.
Exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

305.1 General.
The interior of a *structure* and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. *Occupants* shall keep that part of the *structure* that they occupy or control in a clean and sanitary condition. Every *owner* of a *structure* containing a *rooming house, housekeeping units*, a hotel, a dormitory, two or more *dwelling unit*s or two or more nonresidential *occupancies*, shall maintain, in a clean and sanitary condition, the shared or public areas of the *structure* and *exterior property*.

305.1.1 Unsafe conditions.
The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength.
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects.
3. Structures or components thereof that have reached their limit state.
4. Structural members are incapable of supporting nominal loads and load effects.
5. Stairs, landings, balconies and all similar walking surfaces, including *guards* and handrails, are not structurally sound, not properly *anchored* or are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
6. Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.

Exceptions:
1. Where substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted where *approved* by the *code official*.

305.3 Interior surfaces.
Interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

305.4 Stairs and walking surfaces.
Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

305.6 Interior doors.
Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

306.1 General.
The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

306.1.1 Unsafe conditions.
Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code or the International Existing Building Code as required for existing buildings:

1. Soils that have been subjected to any of the following conditions:
    1.1. Collapse of footing or foundation system.
    1.2. Damage to footing, foundation, concrete or other structural element due to soil expansion.
    1.3. Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil.
    1.4. Inadequate soil as determined by a geotechnical investigation.
    1.5. Where the allowable bearing capacity of the soil is in doubt.
    1.6. Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.
2. Concrete that has been subjected to any of the following conditions:
    2.1. Deterioration.
    2.2. Ultimate deformation.
    2.3. Fractures.
    2.4. Fissures.
    2.5. Spalling.
    2.6. Exposed reinforcement.
    2.7. Detached, dislodged or failing connections.
3. Aluminum that has been subjected to any of the following conditions:
    3.1. Deterioration.
    3.2. Corrosion.
    3.3. Elastic deformation.
    3.4. Ultimate deformation.
    3.5. Stress or strain cracks.
    3.6. Joint fatigue.
    3.7. Detached, dislodged or failing connections.
4. Masonry that has been subjected to any of the following conditions:
    4.1. Deterioration.
    4.2. Ultimate deformation.
    4.3. Fractures in masonry or mortar joints.
    4.4. Fissures in masonry or mortar joints.
    4.5. Spalling.
    4.6. Exposed reinforcement.
    4.7. Detached, dislodged or failing connections.
5. Steel that has been subjected to any of the following conditions:
    5.1. Deterioration.
    5.2. Elastic deformation.
    5.3. Ultimate deformation.
    5.4. Metal fatigue.
    5.5. Detached, dislodged or failing connections.
6. Wood that has been subjected to any of thefollowing conditions:
    6.1. Ultimate deformation.

6.2. Deterioration.
6.3. Damage from insects, rodents and other vermin.
6.4. Fire damage beyond charring.
6.5. Significant splits and checks.
6.6. Horizontal shear cracks.
6.7. Vertical shear cracks.
6.8. Inadequate support.
6.9. Detached, dislodged or failing connections.
6.10. Excessive cutting and notching.

Exceptions:
1. Where substantiated otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted where approved by the code official.

308.1 Accumulation of rubbish or garbage.
Exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

308.2 Disposal of rubbish.
Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

308.2.2 Refrigerators.
Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises without first removing the doors.

504.1 General.
Plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. Plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

505.1 General.
Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. Kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the International Plumbing Code.

505.3 Supply.
The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

505.4 Water heating facilities.
Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature not less than 110°F (43°C). A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

602.1 Facilities required.
Heating facilities shall be provided in structures as required by this section.

602.2 Residential occupancies.
Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature for the locality indicated in Appendix D of the International Plumbing Code. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating. The installation of one or more portable space heaters shall not be used to achieve compliance with this section.
Exception: In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.

602.3 Heat supply.
Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from [DATE] to [DATE] to maintain a minimum temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms.
Exceptions:
1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.
2. In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.

604.3 Electrical system hazards.
Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

605.1 Installation.
Electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.

605.2 Receptacles.
Every habitable space in a dwelling shall contain not less than two separate and remote receptacle outlets. Every laundry area shall contain not less than one grounding-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain not less than one receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection. All receptacle outlets shall have the appropriate faceplate cover for the location.

701.2 Responsibility.
The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that do not comply with the requirements of this chapter.

704.6 Single- and multiple-station smoke alarms.
Single- and multiple-station smoke alarms shall be installed in existing Group I-1 and R occupancies in accordance with Sections 704.6.1 through 704.6.3.

704.6.1 Where required.
Existing Group I-1 and R occupancies shall be provided with single-station smoke alarms in accordance with Sections 704.6.1.1 through 704.6.1.4. Interconnection and power sources shall be in accordance with Sections 704.6.2 and 704.6.3.
Exceptions:
1. Where the code that was in effect at the time of construction required smoke alarms and smoke alarms complying with those requirements are already provided.
2. Where smoke alarms have been installed in occupancies and dwellings that were not required to have them at the time of construction, additional smoke alarms shall not be required provided that the existing smoke alarms comply with requirements that were in effect at the time of installation.
3. Where smoke detectors connected to a fire alarm system have been installed as a substitute for smoke alarms.

704.6.1.2 Groups R-2, R-3, R-4 and I-1.
Single or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and I-1 regardless of occupant load at all of the following locations:
1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
2. In each room used for sleeping purposes.
3. In each story within a dwelling unit, including basements but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

704.6.1.4 Installation near bathrooms.
Smoke alarms shall be installed not less than 3 feet (914 mm) horizontally from the door or opening of a bathroom that contains a bathtub or shower unless this would prevent placement of a smoke alarm required by Section 704.6.1.1 or 704.6.1.2.

704.6.2 Interconnection.
Where more than one smoke alarm is required to be installed within an individual dwelling or sleeping unit, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit.
Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.
Exceptions:
1. Interconnection is not required in buildings that are not undergoing alterations, repairs or construction of any kind.
2. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for interconnection without the removal of interior finishes.

704.6.3 Power source.
Single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms with integral strobes that are not equipped with battery backup shall be connected to an emergency electrical system. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.
Exceptions:
1. Smoke alarms are permitted to be solely battery operated in existing buildings where construction is not taking place.
2. Smoke alarms are permitted to be solely battery operated in buildings that are not served from a commercial power source.
3. Smoke alarms are permitted to be solely battery operated in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior walls or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for building wiring without the removal of interior finishes.

704.7 Single- and multiple-station smoke alarms.
Single- and multiple-station smoke alarms shall be tested and maintained in accordance with the manufacturer's instructions. Smoke alarms that do not function shall be replaced. Smoke alarms installed in one- and two-family dwellings shall be replaced not more than 10 years from the date of manufacture marked on the unit, or shall be replaced if the date of manufacture cannot be determined.

705.1 General.
Carbon monoxide alarms shall be installed in dwellings in accordance with Section 1103.9 of the International Fire Code, except that alarms in dwellings covered by the International Residential Code shall be installed in accordance with Section R315 of that code.

705.2 Carbon monoxide alarms and detectors.
Carbon monoxide alarms and carbon monoxide detection systems shall be maintained in accordance with NFPA 720. Carbon monoxide alarms and carbon monoxide detectors that become inoperable or begin producing end-of-life signals shall be replaced.

International Residential Code:

R311.1 Means of egress.
Dwellings shall be provided with a means of egress in accordance with this section. The means of egress shall provide a continuous and unobstructed path of vertical and horizontal egress travel from all portions of the dwelling to the required egress door without requiring travel through a garage. The required egress door shall open directly into a public way or to a yard or court that opens to a public way.

R314.3 Location.
Smoke alarms shall be installed in the following locations:
1. In each sleeping room.

2. Outside each separate sleeping area in the immediate vicinity of the bedrooms.
3. On each additional story of the dwelling, including basements and habitable attics and not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.
4. Not less than 3 feet (914 mm) horizontally from the door or opening of a bathroom that contains a bathtub or shower unless this would prevent placement of a smoke alarm required by this section.
5. In the hallway and in the room open to the hallway in dwelling units where the ceiling height of a room open to a hallway serving bedrooms exceeds that of the hallway by 24 inches (610 mm) or more.

R314.4 Interconnection.
Where more than one smoke alarm is required to be installed within an individual dwelling unit in accordance with Section R314.3, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual dwelling unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.

R314.5 Combination alarms.
Combination smoke and carbon monoxide alarms shall be permitted to be used in lieu of smoke alarms.

R314.6 Power source.
Smoke alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and, where primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection.
Exceptions:
1. Smoke alarms shall be permitted to be battery operated where installed in buildings without commercial power.
2. Smoke alarms installed in accordance with Section R314.2.2 shall be permitted to be battery powered.

R315.3 Location.
Carbon monoxide alarms in dwelling units shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms. Where a fuelburning appliance is located within a bedroom or its attached bathroom, a carbon monoxide alarm shall be installed within the bedroom.
R315.4 Combination alarms. Combination carbon monoxide and smoke alarms shall be permitted to be used in lieu of carbon monoxide alarms.

R315.5 Interconnectivity.
Where more than one carbon monoxide alarm is required to be installed within an individual dwelling unit in accordance with Section R315.3, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual dwelling unit. Physical

interconnection of carbon monoxide alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.
Exception: Interconnection of carbon monoxide alarms in existing areas shall not be required where alterations or repairs do not result in removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for interconnection without the removal of interior finishes.

R315.6 Power source.
Carbon monoxide alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and, where primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection.
Exceptions:
1. Carbon monoxide alarms shall be permitted to be battery operated where installed in buildings without commercial power.
2. Carbon monoxide alarms installed in accordance with Section R315.2.2 shall be permitted to be battery powered.

R319.1 Address identification.
Buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background.
Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall not be spelled out. Each character shall be not less than 4 inches (102 mm) in height with a stroke width of not less than 0.5 inch (12.7 mm). Where required by the fire code official, address identification shall be provided in additional approved locations to facilitate emergency response. Where access is by means of a private road and the building address cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address identification shall be maintained.

M1401.1 Installation.
Heating and cooling equipment and appliances shall be installed in accordance with the manufacturer's instructions and the requirements of this code.

Exterior:

1) There are deterioration, decaying, and broken exterior walls.
2) The paint of the structure is peeling, flaking, or chipping throughout it.
3) There is an abundance of graffiti on the exterior fences
4) All of the windows of the structure have been broken, admitting rainwater to the interior of the structure.
5) There are no exterior doors or hardware on the structure.
6) There are numerous noxious weeds growing on the property.
7) There is a lot of garbage, rubbish, and debris throughout the back yard, including two refrigerators.

8) There are three motor vehicles, all in different states of disrepair, in the backyard.
9) There is no address posted on the structure.

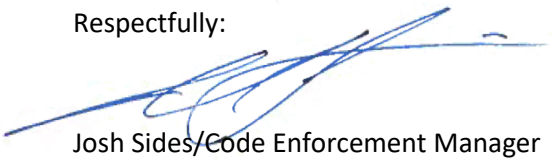
Interior:

1) The flooring throughout the structure is covered in collapsed roofing as well as pigeon excrement.
2) The plumbing fixtures are not clean and sanitary, or hooked up to an approved sewer system.
3) There is no heating or cooling to the structure.
4) All of the electrical has been pulled out of the walls of the structure.
5) Interior walls have cracks, holes, and missing pieces.
6) There are no smoke or carbon monoxide alarms within the structure.
7) There is a large cave dug out in the crawl space that is accessed through a cut-out in the kitchen floor.
8) People have been inside the residence, starting fires in rooms that have caught part of the ceiling and insulation on fire.

In Closing:

This structure is a hazard to anyone who occupies it. It is unsafe and dangerous in its current state. This property is an attractive nuisance that has led to criminal activity within the structure and on the property.

Respectfully:



Josh Sides/Code Enforcement Manager
Property Maintenance and Housing Inspector (Certification #10314331)
Zoning Inspector (Certification # 10314331)
AACE/ICC Code Enforcement Officer


12/11/2023 10:50


12/11/2023 10:50


12/11/2023 10:50


637 RGH
New Mexico USA
Land of Enchantment
1 MAY
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Twas
Bitch Booty
Dancing
with
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CODE
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12/11/2023 09:40















































Dilapidated Structure

607/609 Maryland Avenue




499
622
618
611
614
612
609
610
607
606
605
600
600
601
499
6th St
Delaware Ave
Maryland Ave
N

Timeline
607/609 Maryland Avenue

- On 11/06/2023, Code Enforcement Department was made aware of a potentially dilapidated structure and conducted an investigation.
- On 11/07/2023, a certified International Property Maintenance Code (IPMC) letter was sent to the owner listing seven violations of IPMC and how to correct them, as well as my contact information.
- On 12/03/2023, the letter was returned to Code Enforcement undeliverable and subsequently posted on the property.
- On 12/07/2023, an Administrative Search Warrant was applied for and granted by a 12th Judicial District Court Judge.
- On 12/11/2023, the Administrative Search Warrant was executed on the property.

International Property Maintenance Code Violations
607/609 Maryland Avenue

- Total of 63 violations of the International Property Maintenance Code and the International Residential Code
  - 53 violations of IPMC
  - 10 violations of IRC

Condition of the Property at 607/609 Maryland Avenue





Condition of the Property at 607/609 Maryland Avenue





Condition of the Property at 607 Maryland Avenue





Condition of the Property at 607/609 Maryland Avenue





Questions

Josh Sides

Code Enforcement Manager







RESOLUTION NO. 2024-17

A RESOLUTION DECLARING THE BUILDING OR STRUCTURE, OR THE PREMISES LOCATED AT 607/609 MARYLAND AVENUE ALAMOGORDO, OTERO COUNTY, NEW MEXICO, TO BE RUINED, DAMAGED, AND DILAPIDATED TO BE A MENACE TO THE PUBLIC COMFORT, HEALTH, PEACE, OR SAFETY, AND ORDERING ITS ABATEMENT

WHEREAS, the governing body of the City of Alamogordo, New Mexico, finds that there is located within the City a certain building, structure, or premises at 607 Maryland Avenue, as more particularly described on the attached Exhibit 1 and 2 (the "Property"); and,

WHEREAS, the governing body does further find that the Code Enforcement Manager has investigated the condition of the Property and has found the same to be so ruined, damaged, and dilapidated, or covered with ruins, rubbish, wreckage, or debris, that it constitutes a menace to the public comfort, health, peace or safety so as to warrant abatement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION:

Section 1. That the findings of said Code Enforcement Manager, in regard to the Property, attached hereto as Exhibit 3, are hereby approved and adopted, and that the Property is found to be ruined, damaged, and dilapidated, so as to constitute a menace to the public comfort, health, peace or safety pursuant to Section 3-18-5, NMSA, 1978.

Section 2. That Mr. Robert Chavez, the record owner of the Property, is hereby ordered to commence removal of the building or structure from the Property within ten (10) days after service of a copy of this Resolution, or within said ten (10) day period, file written objection to findings herein with the City Clerk of the City of Alamogordo, asking for a hearing before the City Commission.

Section 3. That if there is a failure of compliance with the provision of Section 2 herein, the City of Alamogordo shall proceed to remove said building or structure from the Property and abate said unsafe condition, at the cost and expense of said record, with said cost and expense constituting a lien against the building or structure so removed, and against the Property, as allowed by law.

Section 4. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word, or phrase of this resolution is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this resolution. The Commission hereby declares that it would have passed this resolution and each section, paragraph, sentence, clause, word, or phrase thereof, irrespective of any provisions being declared unconstitutional or otherwise invalid.

PASSED, APPROVED AND ADOPTED, this ____ day of _____ 2024.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By:_____
Susan L. Payne, Mayor

ATTEST:

_____
Rachel Hughs, City Clerk

APPROVED AS TO FORM:

_____
Ashley Smith, City Attorney

- Account Search
- My Reports
- Help
- Logout Public

Exhibit "1"

Account: R010957

Location

Account Number R010957

Situs Address 607 MARYLAND AVE

Previous Parcel ID 01-01285

Parcel Sequence

Neighborhood A1 - South Central Alamogordo

Tax Area 01_R

Parcel Number 01N4055094177301

Legal Summary Subd: ALAMO BLOCKS Lot: 16 Block: 25

Appraiser STEVE BOYLE

Owner Information

Owner Name CHAVEZ, ROBERT

Owner Address 213 W HILTON AVE PHOENIX, AZ 85003

Assessment History

Actual (2023 - Residential Cap applied) $37,700

Primary Taxable $12,566

Tax Area: 01_R **Mill Levy**: 25.844000

Type	Actual	Assessed	Acres	SQFT
Residential Land	$4,000	$1,333	0.172	
Residential Improvement	$33,700	$11,233		1056.000

Transfers

Sale Date	Sale Price	Doc Description
		Deed
		Deed
		Deed
		Deed
		Deed
		Deed
		Deed
		Deed
		Deed
		Deed

Tax History

Tax Year	Taxes
*2024	$324.76
2023	$324.76

* Estimated

Images

- Map
- Photo
- Sketch
- GIS



- Account Search
- My Reports
- Help
- Logout Public

Exhibit "2"

Account: R010439

Location

Account Number R010439

Situs Address 609 MARYLAND AVE

Previous Parcel ID 01-00707

Parcel Sequence

Neighborhood A1 - South Central Alamogordo

Tax Area 01_R

Parcel Number 01N4055094177296

Legal Summary Subd: ALAMO BLOCKS Lot: 15 Block: 25

Appraiser STEVE BOYLE

Owner Information

Owner Name CHAVEZ, ROBERT

Owner Address 213 W HILTON AVE
PHOENIX, AZ 85003

Assessment History

Actual (2024) $3,662

Primary Taxable $1,221

Tax Area: 01_R **Mill Levy:** 25.844000

Type	Actual	Assessed	Acres
Non-Residential Land	$3,662	$1,221	0.172

Transfers

Sale Date	Sale Price	Doc Description
		Deed
		Deed
		Deed
		Deed
		Deed
		Deed

Tax History

Tax Year	Taxes
*2024	$31.56
2023	$40.48

* Estimated

Images

- Map
- Photo
- GIS



Exhibit "3"

City of Alamogordo

Public Works Division/Code Enforcement Department

2600 North Florida Ave. Alamogordo, New Mexico 88310

Public Works: 575-439-4240 / Code Enforcement 575-439-4375

December 12, 2023

RE: 607 Maryland Ave., Alamogordo, New Mexico

To whom it may concern:

On December 11, 2023, the City of the City of Alamogordo Code Enforcement Department and the City of Alamogordo Police Department conducted a fire safety and structural walk-thru of the above-mentioned property. During the walk-thru, the following deficiencies and hazards, in violation of the International Property Maintenance Code and International Residential Code, were discovered and are listed below:

International Property Maintenance Code:

111.1 Unsafe conditions.
When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

111.1.1 Unsafe structures.
An unsafe *structure* is one that is found to be dangerous to the life, health, property or safety of the public or the *occupants* of the *structure* by not providing minimum safeguards to protect or warn *occupants* in the event of fire, or because such *structure* contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

111.1.2 Unsafe equipment.
Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure that is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

111.1.3 Structure unfit for human occupancy.
A *structure* is unfit for human *occupancy* whenever the *code official* finds that such *structure* is unsafe, unlawful or, because of the degree to which the *structure* is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks *ventilation*, illumination,

sanitary or heating facilities or other essential equipment required by this code, or because the location of the *structure* constitutes a hazard to the *occupants* of the *structure* or to the public.

111.1.4 Unlawful structure.
An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

111.1.5 Dangerous structure or premises.
For the purpose of this code, any *structure* or *premises* that has any or all of the conditions or defects described as follows shall be considered to be dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the *approved* building or fire code of the jurisdiction as related to the requirements for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any portion of a building, *structure* or appurtenance that has been damaged by fire, earthquake, wind, flood, *deterioration, neglect,* abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become *detached* or dislodged.
4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so *anchored*, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
5. The building or *structure,* or part of the building or *structure*, because of dilapidation, *deterioration,* decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or *structure* is likely to fail or give way.
6. The building or *structure,* or any portion thereof, is clearly unsafe for its use and *occupancy*.
7. The building or *structure* is *neglected*, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or *structure* to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or *structure* for committing a nuisance or an unlawful act.
8. Any building or *structure* has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or *structure* provided by the *approved* building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
9. A building or *structure,* used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, *ventilation,* mechanical or plumbing system, or otherwise, is determined by the *code official* to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
10. Any building or *structure,* because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the *code official* to be a threat to life or health.

11. Any portion of a building remains on a site after the demolition or destruction of the building or *structure* or whenever any building or *structure* is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

301.2 Responsibility.
The *owner* of the *premises* shall maintain the structures and *exterior property* in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as *owner-occupant* or permit another person to occupy *premises* that are not in a sanitary and safe condition and that do not comply with the requirements of this chapter. *Occupants* of a *dwelling unit, rooming unit* or *housekeeping unit* are responsible for keeping in a clean, sanitary and safe condition that part of the *dwelling unit, rooming unit, housekeeping unit* or *premises* they occupy and control.

301.3 Vacant structures and land.
Vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

302.3 Sidewalks and driveways.
Sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

302.4 Weeds.
Premises and exterior property shall be maintained free from weeds or plant growth in excess of six (6) inches. Noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.
Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 108.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

302.8 Motor vehicles.
Except as provided for in other regulations, inoperative or unlicensed motor vehicles shall not be parked, kept or stored on any premises, and vehicles shall not at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

302.9 Defacement of property.
A person shall not willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.
It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

304.1 General.
The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

304.1.1 Unsafe conditions.
The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:
1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength.
2. The *anchorage* of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects.
3. Structures or components thereof that have reached their limit state.
4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight.
5. Structural members that have evidence of *deterioration* or that are not capable of safely supporting all nominal loads and load effects.
6. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.
7. Exterior walls that are not *anchored* to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.
8. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of *deterioration*, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects.
9. Flooring and flooring components with defects that affect serviceability or flooring components that show signs of *deterioration* or fatigue, are not properly *anchored* or are incapable of supporting all nominal loads and resisting all load effects.
10. Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
11. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
12. Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including *guard*s and handrails, are not structurally sound, not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
13. Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly *anchored*, or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
Exceptions:
1. Where substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted where *approved* by the *code official*.

304.2 Protective treatment.
Exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. Siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

304.3 Premises identification.
Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be not less than 4 inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7 mm).

304.4 Structural members.
All structural members shall be maintained free from deterioration and shall be capable of safely supporting the imposed dead and live loads.

304.6 Exterior walls.
Exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

304.18 Building security.
Doors, windows or hatchways for dwelling units, room units or housekeeping units shall be provided with devices designed to provide security for the occupants and property within.

304.18.1 Doors.
Doors providing access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a minimum lock throw of 1 inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

304.13 Window, skylight, and door frames.
Every window, skylight, door, and frame shall be kept in sound condition, good repair, and weather tight.

304.13.1 Glazing.
Glazing materials shall be maintained free from cracks and holes.

304.15 Doors.
Exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

305.1 General.
The interior of a *structure* and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. *Occupants* shall keep that part of the *structure* that they occupy or control in a clean and sanitary condition. Every *owner* of a *structure* containing a *rooming house, housekeeping units*, a hotel, a dormitory, two or more *dwelling unit*s or two or more nonresidential *occupancies*, shall maintain, in a clean and sanitary condition, the shared or public areas of the *structure* and *exterior property*.

305.1.1 Unsafe conditions.
The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength.
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects.
3. Structures or components thereof that have reached their limit state.
4. Structural members are incapable of supporting nominal loads and load effects.
5. Stairs, landings, balconies and all similar walking surfaces, including *guards* and handrails, are not structurally sound, not properly *anchored* or are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
6. Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.

Exceptions:
1. Where substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted where *approved* by the *code official*.

305.3 Interior surfaces.
Interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

305.4 Stairs and walking surfaces.
Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

305.6 Interior doors.
Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

306.1 General.
The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

306.1.1 Unsafe conditions.
Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code or the International Existing Building Code as required for existing buildings:

1. Soils that have been subjected to any of the following conditions:
    1.1. Collapse of footing or foundation system.
    1.2. Damage to footing, foundation, concrete or other structural element due to soil expansion.
    1.3. Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil.
    1.4. Inadequate soil as determined by a geotechnical investigation.
    1.5. Where the allowable bearing capacity of the soil is in doubt.
    1.6. Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.
2. Concrete that has been subjected to any of the following conditions:
    2.1. Deterioration.
    2.2. Ultimate deformation.
    2.3. Fractures.
    2.4. Fissures.
    2.5. Spalling.
    2.6. Exposed reinforcement.
    2.7. Detached, dislodged or failing connections.
3. Aluminum that has been subjected to any of the following conditions:
    3.1. Deterioration.
    3.2. Corrosion.
    3.3. Elastic deformation.
    3.4. Ultimate deformation.
    3.5. Stress or strain cracks.
    3.6. Joint fatigue.
    3.7. Detached, dislodged or failing connections.
4. Masonry that has been subjected to any of the following conditions:
    4.1. Deterioration.
    4.2. Ultimate deformation.
    4.3. Fractures in masonry or mortar joints.
    4.4. Fissures in masonry or mortar joints.
    4.5. Spalling.
    4.6. Exposed reinforcement.
    4.7. Detached, dislodged or failing connections.
5. Steel that has been subjected to any of the following conditions:
    5.1. Deterioration.
    5.2. Elastic deformation.
    5.3. Ultimate deformation.
    5.4. Metal fatigue.
    5.5. Detached, dislodged or failing connections.
6. Wood that has been subjected to any of thefollowing conditions:
    6.1. Ultimate deformation.

6.2. Deterioration.
6.3. Damage from insects, rodents and other vermin.
6.4. Fire damage beyond charring.
6.5. Significant splits and checks.
6.6. Horizontal shear cracks.
6.7. Vertical shear cracks.
6.8. Inadequate support.
6.9. Detached, dislodged or failing connections.
6.10. Excessive cutting and notching.

Exceptions:
1. Where substantiated otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted where approved by the code official.

308.1 Accumulation of rubbish or garbage.
Exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

308.2 Disposal of rubbish.
Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

308.2.2 Refrigerators.
Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises without first removing the doors.

504.1 General.
Plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. Plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

505.1 General.
Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. Kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the International Plumbing Code.

505.3 Supply.
The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

505.4 Water heating facilities.
Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature not less than 110°F (43°C). A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

602.1 Facilities required.
Heating facilities shall be provided in structures as required by this section.

602.2 Residential occupancies.
Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature for the locality indicated in Appendix D of the International Plumbing Code. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating. The installation of one or more portable space heaters shall not be used to achieve compliance with this section.
Exception: In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.

602.3 Heat supply.
Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from [DATE] to [DATE] to maintain a minimum temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms.
Exceptions:
1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.
2. In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.

604.3 Electrical system hazards.
Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

605.1 Installation.
Electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.

605.2 Receptacles.
Every habitable space in a dwelling shall contain not less than two separate and remote receptacle outlets. Every laundry area shall contain not less than one grounding-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain not less than one receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection. All receptacle outlets shall have the appropriate faceplate cover for the location.

701.2 Responsibility.
The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that do not comply with the requirements of this chapter.

704.6 Single- and multiple-station smoke alarms.
Single- and multiple-station smoke alarms shall be installed in existing Group I-1 and R occupancies in accordance with Sections 704.6.1 through 704.6.3.

704.6.1 Where required.
Existing Group I-1 and R occupancies shall be provided with single-station smoke alarms in accordance with Sections 704.6.1.1 through 704.6.1.4. Interconnection and power sources shall be in accordance with Sections 704.6.2 and 704.6.3.
Exceptions:
1. Where the code that was in effect at the time of construction required smoke alarms and smoke alarms complying with those requirements are already provided.
2. Where smoke alarms have been installed in occupancies and dwellings that were not required to have them at the time of construction, additional smoke alarms shall not be required provided that the existing smoke alarms comply with requirements that were in effect at the time of installation.
3. Where smoke detectors connected to a fire alarm system have been installed as a substitute for smoke alarms.

704.6.1.2 Groups R-2, R-3, R-4 and I-1.
Single or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and I-1 regardless of occupant load at all of the following locations:
1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
2. In each room used for sleeping purposes.
3. In each story within a dwelling unit, including basements but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

704.6.1.4 Installation near bathrooms.
Smoke alarms shall be installed not less than 3 feet (914 mm) horizontally from the door or opening of a bathroom that contains a bathtub or shower unless this would prevent placement of a smoke alarm required by Section 704.6.1.1 or 704.6.1.2.

704.6.2 Interconnection.
Where more than one smoke alarm is required to be installed within an individual dwelling or sleeping unit, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit.
Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.
Exceptions:
1. Interconnection is not required in buildings that are not undergoing alterations, repairs or construction of any kind.
2. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for interconnection without the removal of interior finishes.

704.6.3 Power source.
Single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms with integral strobes that are not equipped with battery backup shall be connected to an emergency electrical system. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.
Exceptions:
1. Smoke alarms are permitted to be solely battery operated in existing buildings where construction is not taking place.
2. Smoke alarms are permitted to be solely battery operated in buildings that are not served from a commercial power source.
3. Smoke alarms are permitted to be solely battery operated in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior walls or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for building wiring without the removal of interior finishes.

704.7 Single- and multiple-station smoke alarms.
Single- and multiple-station smoke alarms shall be tested and maintained in accordance with the manufacturer's instructions. Smoke alarms that do not function shall be replaced. Smoke alarms installed in one- and two-family dwellings shall be replaced not more than 10 years from the date of manufacture marked on the unit, or shall be replaced if the date of manufacture cannot be determined.

705.1 General.
Carbon monoxide alarms shall be installed in dwellings in accordance with Section 1103.9 of the International Fire Code, except that alarms in dwellings covered by the International Residential Code shall be installed in accordance with Section R315 of that code.

705.2 Carbon monoxide alarms and detectors.
Carbon monoxide alarms and carbon monoxide detection systems shall be maintained in accordance with NFPA 720. Carbon monoxide alarms and carbon monoxide detectors that become inoperable or begin producing end-of-life signals shall be replaced.

International Residential Code:

R311.1 Means of egress.
Dwellings shall be provided with a means of egress in accordance with this section. The means of egress shall provide a continuous and unobstructed path of vertical and horizontal egress travel from all portions of the dwelling to the required egress door without requiring travel through a garage. The required egress door shall open directly into a public way or to a yard or court that opens to a public way.

R314.3 Location.
Smoke alarms shall be installed in the following locations:
1. In each sleeping room.

2. Outside each separate sleeping area in the immediate vicinity of the bedrooms.
3. On each additional story of the dwelling, including basements and habitable attics and not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.
4. Not less than 3 feet (914 mm) horizontally from the door or opening of a bathroom that contains a bathtub or shower unless this would prevent placement of a smoke alarm required by this section.
5. In the hallway and in the room open to the hallway in dwelling units where the ceiling height of a room open to a hallway serving bedrooms exceeds that of the hallway by 24 inches (610 mm) or more.

R314.4 Interconnection.
Where more than one smoke alarm is required to be installed within an individual dwelling unit in accordance with Section R314.3, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual dwelling unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.

R314.5 Combination alarms.
Combination smoke and carbon monoxide alarms shall be permitted to be used in lieu of smoke alarms.

R314.6 Power source.
Smoke alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and, where primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection.
Exceptions:
1. Smoke alarms shall be permitted to be battery operated where installed in buildings without commercial power.
2. Smoke alarms installed in accordance with Section R314.2.2 shall be permitted to be battery powered.

R315.3 Location.
Carbon monoxide alarms in dwelling units shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms. Where a fuelburning appliance is located within a bedroom or its attached bathroom, a carbon monoxide alarm shall be installed within the bedroom.
R315.4 Combination alarms. Combination carbon monoxide and smoke alarms shall be permitted to be used in lieu of carbon monoxide alarms.

R315.5 Interconnectivity.
Where more than one carbon monoxide alarm is required to be installed within an individual dwelling unit in accordance with Section R315.3, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual dwelling unit. Physical

interconnection of carbon monoxide alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.
Exception: Interconnection of carbon monoxide alarms in existing areas shall not be required where alterations or repairs do not result in removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for interconnection without the removal of interior finishes.

R315.6 Power source.
Carbon monoxide alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and, where primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection.
Exceptions:
1. Carbon monoxide alarms shall be permitted to be battery operated where installed in buildings without commercial power.
2. Carbon monoxide alarms installed in accordance with Section R315.2.2 shall be permitted to be battery powered.

R319.1 Address identification.
Buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background.
Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall not be spelled out. Each character shall be not less than 4 inches (102 mm) in height with a stroke width of not less than 0.5 inch (12.7 mm). Where required by the fire code official, address identification shall be provided in additional approved locations to facilitate emergency response. Where access is by means of a private road and the building address cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address identification shall be maintained.

M1401.1 Installation.
Heating and cooling equipment and appliances shall be installed in accordance with the manufacturer's instructions and the requirements of this code.

Exterior:

1) There are deterioration, decaying, and broken exterior walls.
2) The paint of the structure is peeling, flaking, or chipping throughout it.
3) There is an abundance of graffiti on the exterior fences
4) All of the windows of the structure have been broken, admitting rainwater to the interior of the structure.
5) There are no exterior doors or hardware on the structure.
6) There are numerous noxious weeds growing on the property.
7) There is a lot of garbage, rubbish, and debris throughout the back yard, including two refrigerators.

8) There are three motor vehicles, all in different states of disrepair, in the backyard.
9) There is no address posted on the structure.

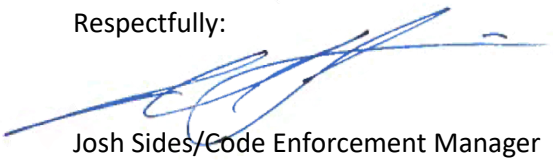
Interior:

1) The flooring throughout the structure is covered in collapsed roofing as well as pigeon excrement.
2) The plumbing fixtures are not clean and sanitary, or hooked up to an approved sewer system.
3) There is no heating or cooling to the structure.
4) All of the electrical has been pulled out of the walls of the structure.
5) Interior walls have cracks, holes, and missing pieces.
6) There are no smoke or carbon monoxide alarms within the structure.
7) There is a large cave dug out in the crawl space that is accessed through a cut-out in the kitchen floor.
8) People have been inside the residence, starting fires in rooms that have caught part of the ceiling and insulation on fire.

In Closing:

This structure is a hazard to anyone who occupies it. It is unsafe and dangerous in its current state. This property is an attractive nuisance that has led to criminal activity within the structure and on the property.

Respectfully:



Josh Sides/Code Enforcement Manager
Property Maintenance and Housing Inspector (Certification #10314331)
Zoning Inspector (Certification # 10314331)
AACE/ICC Code Enforcement Officer

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/13/2024 **Report Date:** 02/02/2024 **Report No:** 13.

Submitted By: Britney Ybarra

Subject: Consider, and act upon, an emergency funds appropriation of $12,297.75 through the Capital Outlay Bureau with the Aging & Long-Term Services Department. This is for the purchase and relocation of a new evaporator/condenser for the Senior Center Kitchen's outdoor freezer. *(Magdalena Morales, ASC Manager and Veronica Ortega, Community Services Director)*

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:
The total amount budgeted is $12,297.75.

Recommendation: Approve the emergency funding.

Background: The evaporator/condenser is currently located at the back of the freezer. Because this setup prevents air flow, the freezer cannot maintain the required temperatures. Staff have occasionally had to move food from the outdoor freezer to the indoor freezer. To remedy this, the new unit will be placed on the roof of the building.

APPROPRIATION RECIPIENT:

Grantee: City of Alamogordo, Magdalena Morales, Senior Center Manager
Title: Alamo Senior Center – Condenser & evaporator outdoor freezer equipment
Address: 2201 Puerto Rico Ave., Alamogordo, New Mexico 88310
Email: mmorales@ci.alamogordo.nm.us Telephone: 575-439-4150 ext 4291

APPROPRIATION NUMBER:	APPROPRIATION AMOUNT:	APPROP TERM DATE:
A23H2068-4	**$ 12,297.75**	**June 30th, 2027**

APPROPRIATION LANGUAGE

Laws of 2023, Chapter 199, Section 4, Paragraph 65 – for emergency requests to plan, design, renovate, improve, equip and furnish the Alamo Senior Center in the City of Alamogordo including delivery and installation of building systems and the purchase and installation of meals equipment, and to purchase and equip vehicles for senior centers statewide. (Any grant funds unexpended by June 30, 2024, will be terminated and re-issued back to the appropriation for other statewide needs)

CERTIFICATION

I hereby certify that the City of Alamogordo

1. Will only use the appropriation funds for permissible purposes as described in appropriation language.
2. Will comply with State Procurement Code and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the project (if applicable).
3. Ensures that the appropriation funds only benefit entities in accordance with applicable law, including, but not limited to Article IX, Section 14 of the Constitution of the State of New Mexico, "Anti-Donation Clause."
4. Will follow the procedure described in "Appropriation Reimbursement" for reimbursement of appropriated funds.

APPROPRIATION REIMBURSMENT

The appropriation funds will be disbursed through a reimbursement process. The Appropriation Recipient will submit to the Agency Exhibit A: Request for Payment form along with supporting document(s) that evidence the expenses to be reimbursed. The Agency will review these documents to ensure all reimbursed expenses reflect the intent and purposed of the appropriation language. All expenditures for which the Appropriation Recipient requests reimbursement must occur prior to the reversion date. The latest date the Appropriation Recipient may submit a Request for Payment for FY24 (July 1, 2023 – June 30, 2024) is June 30th, 2024. With the submission of the final Exhibit A: Request for Payment, the Appropriation Recipient must include a completed Exhibit B: Final Report form in order to receive the final reimbursement.

/ Rick Holden
City Manager Signature / Printed Name

Date

AUTHORITY

State Agency on Aging (28-4-1 to 28-4-9 NMSA 1978: successor agency, Aging and Long-Term Services Department (9-23-1 to 9-23-12 NMSA 1978) may enter into grants and contracts as appropriated by law. I hereby approve this certification for appropriation number

A23H2068-4 Condenser & evaporator outdoor freezer equipment - $12,297.75

Agency Designee signature

Date

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/13/2024 **Report Date:** 02/06/2024 **Report No:** 14.

Submitted By: Evelyn Huff

Subject: Consider, and act upon, Resolution 2024-18 authorizing the City Manager to execute an Energy Performance Agreement with a Contractor awarded on the Statewide Price Agreement with the State of New Mexico pending State approval, financing, and legal review of the contract. *(Evelyn Huff, Finance Director)* **(Roll Call Vote Required)**

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Approve the resolution

Background: In November 2022, the City of Alamogordo contracted with Yearout Energy for an Investment Grade Audit (IGA) of all of the City facilities. This IGA is an evaluation of all building systems and operations that utilize energy, with recommendations for energy efficiency improvements accompanied by an evaluation of costs and energy savings.
The City, through its participation in the New Mexico Energy, Minerals and Natural Resources Department Local Energy Efficiency Performance program (LEEP), has the benefit of an independent third-party review of the IGA, and State review of the terms and conditions of the Guaranteed Energy Savings Performance Contract. The City and Yearout Energy have identified three (3) cost savings mechanisms. The first is the energy cost savings from the cost that the Energy Services Provider must contractually guarantee through this contract. The second cost savings is from maintenance that would not have to be done by county staff because of the project. The third cost savings is the value of the capital replacement that the project will include.

RESOLUTION NO. 2024-18

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN ENERGY PERFORMANCE AGREEMENT WITH A CONTRACTOR AWARDED ON THE STATEWIDE PRICE AGREEMENT WITH THE STATE OF NEW MEXICO PENDING STATE APPROVAL, FINANCING, AND LEGAL REVIEW OF THE CONTRACT.

WHEREAS, in November 2022, the City of Alamogordo contracted with Yearout Energy for an Investment Grade Audit (IGA) of all of the City facilities; and

WHEREAS, this IGA is an evaluation of all building systems and operations that utilize energy, with recommendations for energy efficiency improvements accompanied by an evaluation of costs and energy savings; and

WHEREAS, the City, through its participation in the New Mexico Energy, Minerals and Natural Resources Department Local Energy Efficiency Performance program (LEEP), has the benefit of an independent third-party review of the IGA, and State review of the terms and conditions of the Guaranteed Energy Savings Performance Contract; and

WHEREAS, the City and Yearout Energy have identified three (3) cost savings mechanisms. The first is the energy cost savings from the cost that the Energy Services Provider must contractually guarantee through this contract. The second cost savings is from maintenance that would not have to be done by county staff because of the project. The third cost savings is the value of the capital replacement that the project will include;

NOW, BE IT FURTHER RESOLVED BY THE GOVERNING BODY OF THE CITY OF ALAMOGORDO, NEW MEXICO, authorize the City Manager to execute an Energy Performance Agreement with a Contractor awarded on the Statewide Price Agreement with the State of New Mexico pending State approval, financing, and legal review of the contract.

PASSED, APPROVED AND ADOPTED by the Governing Body of the City of Alamogordo, New Mexico, at a Regular Meeting held this 13th. day of February 2024.

CITY OF ALAMOGORDO, NEW MEXICO,
A NEW MEXICO MUNICIPAL CORPORATION

By: _____
Susan L. Payne, Mayor

ATTEST:

_____
Rachel Hughs, City Clerk

APPROVED AS TO FORM:

_____
Ashley N. Smith, City Attorney

YEAROUT ENERGY

CITY OF ALAMOGORDO

ENERGY SAVINGS PROJECT

FEBRUARY 13, 2024



YEAROUT ENERGY

PROJECT BACKGROUND

November 2022: City of Alamogordo engaged **Yearout Energy** to perform an **Investment Grade Audit (IGA)** of City Facilities.

OBJECTIVES



Improve comfort levels in City buildings and reduce the amount of time spent by City staff addressing cold/hot calls.



Mitigate escalating utility costs.



Improve amenities for staff and constituents.

YEAROUT ENERGY

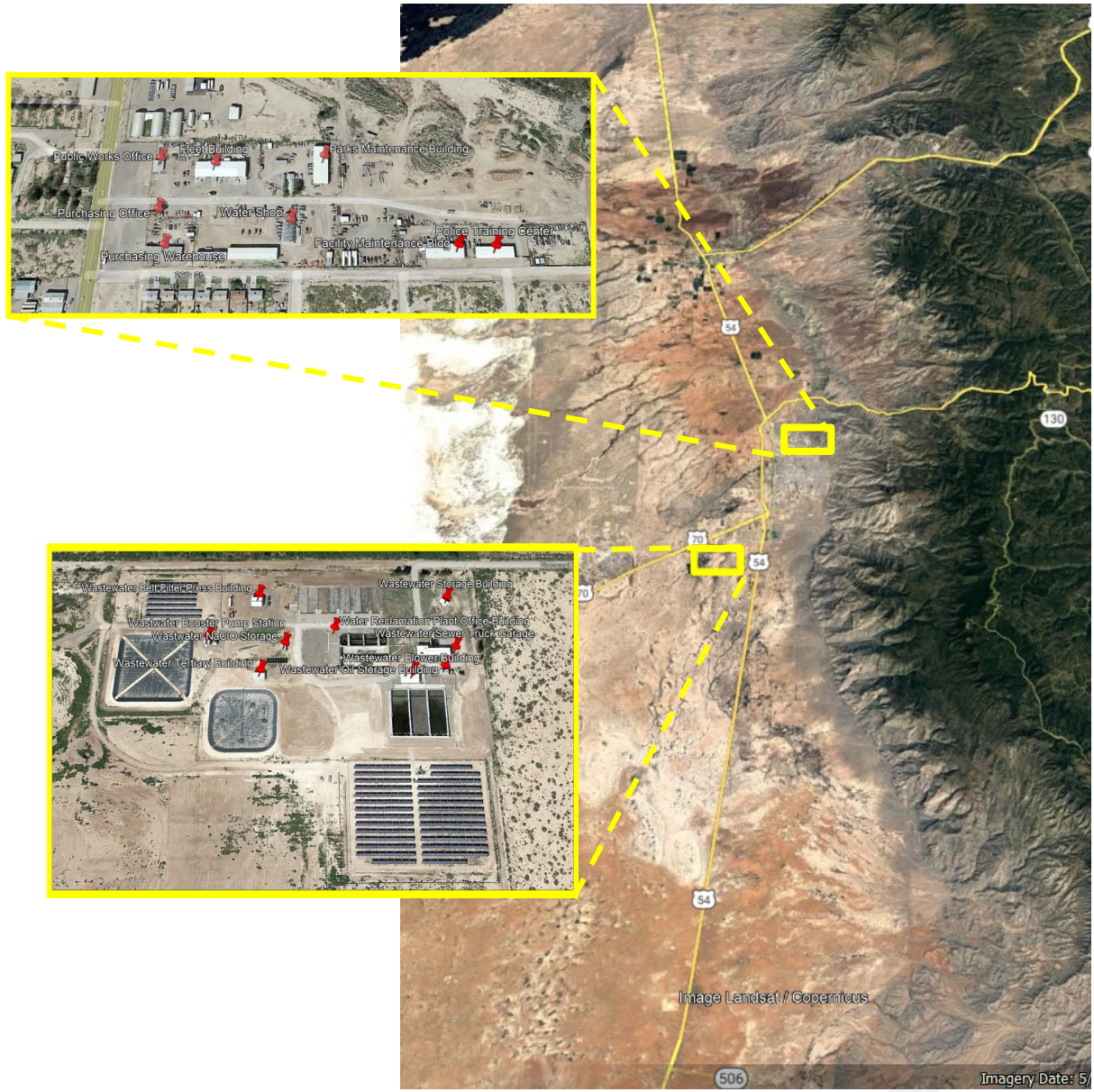
CITY OF ALAMOGORDO

112 sites included in audit

373,565 ft² of building area audited

167 utility meters evaluated

213 cost/benefit analyses performed



INTRODUCTION TO YEAROUT ENERGY & PERFORMANCE CONTRACTING

ABOUT YEAROUT ENERGY

WHO WE ARE

- Mission driven design-build contractor serving both private and public sector clients throughout the Southwest.
- Lead the state in implementation of **EPC projects**.

OUR MISSION

Our mission is to empower the communities we serve to improve the built-environment and leverage untapped resources by applying practical solutions that deliver meaningful projects with confident outcomes.

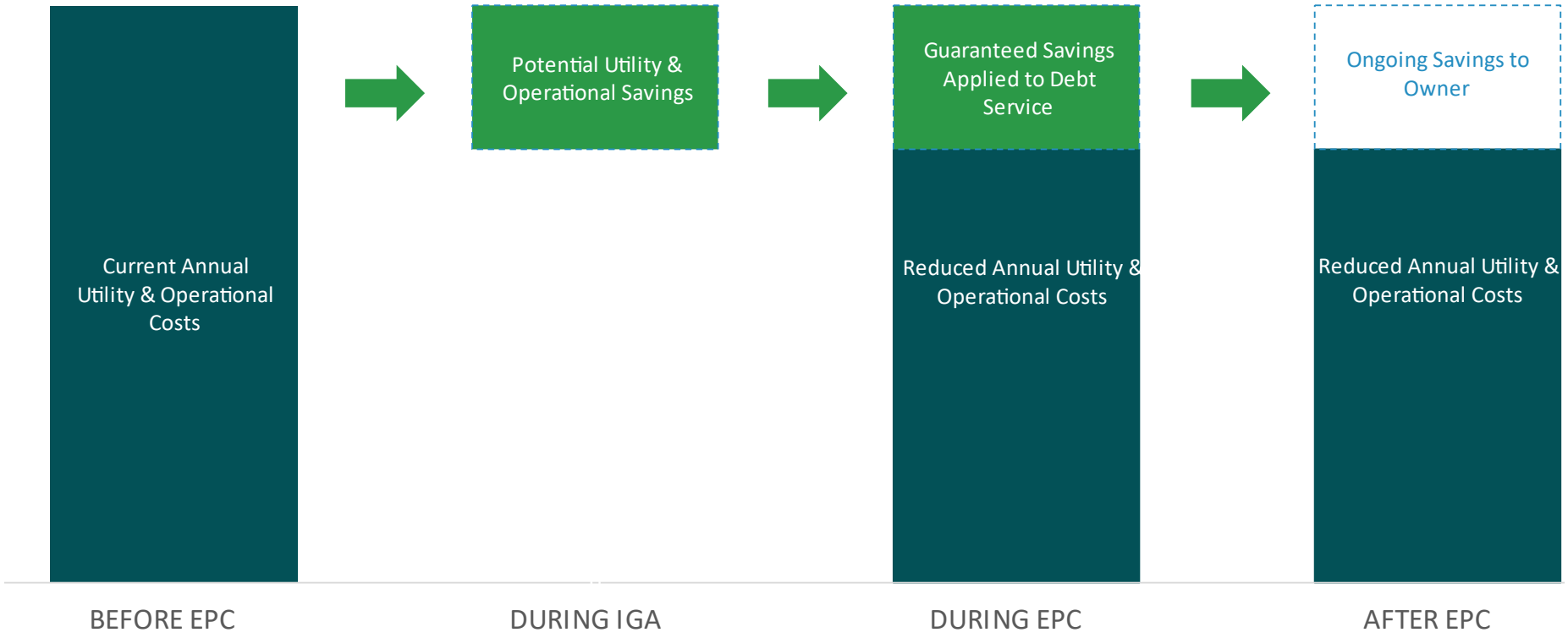
EPC: BUDGET-NEUTRAL APPROACH

40+ Year old Proven Project Funding Mechanism

Enabling Legislation in All 50 States & The Federal Government

Budget-Neutral Approach

Fund Critical Infrastructure Needs Today By Leveraging Tomorrow's Dollars



OUR EXPERIENCE

A Few of our Clients Across the Region

TEXICO WOLVERINES

THE UNIVERSITY OF NEW MEXICO

EL PASO INDEPENDENT SCHOOL DISTRICT

RIO ARRIBA COUNTY

ONE ALBUQUERQUE

WNMU

Diné College

Deming Public Schools

EPTX CITY OF EL PASO

TELLURIDE R-1 SCHOOL DISTRICT

CITY OF BLOOMFIELD NEW MEXICO

City of Santa Fe The Oldest Capital City in the United States

BERNALILLO COUNTY STATE OF NEW MEXICO

NMDOT

DORA CONSOLIDATED SCHOOLS COYOTES

New Mexico Department of WORKFORCE SOLUTIONS

SOCORRO COUNTY NEW MEXICO

ROSWELL ALL-AMERICA CITY

New Mexico Educational Assistance Foundation

SANTA FE COUNTY

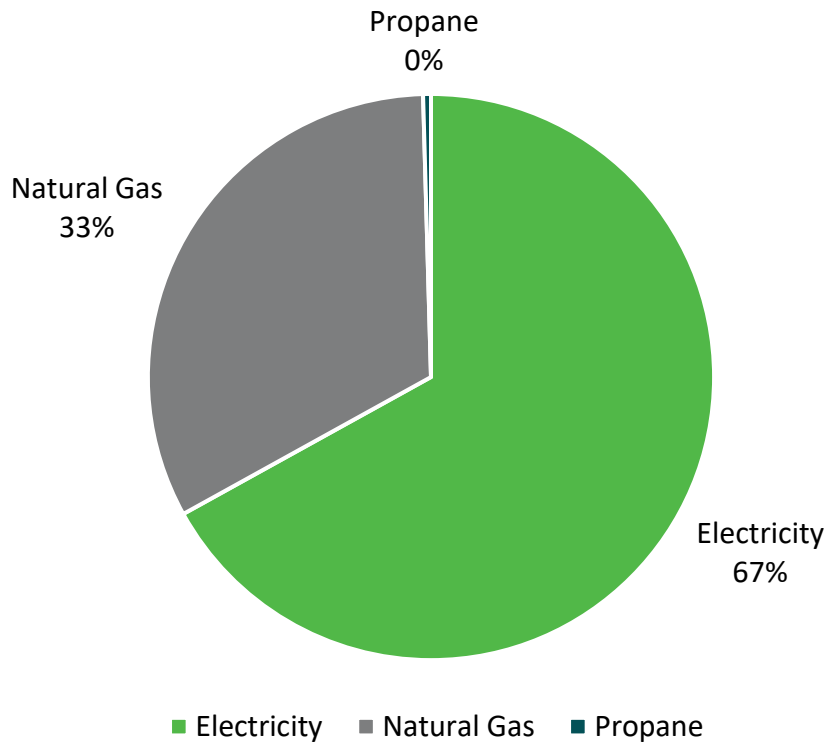
Gila Regional Medical Center

GALLUP-McKINLEY COUNTY SCHOOLS

CITY OF ALAMOGORDO PROJECT

BASELINE ANNUAL ENERGY CONSUMPTION

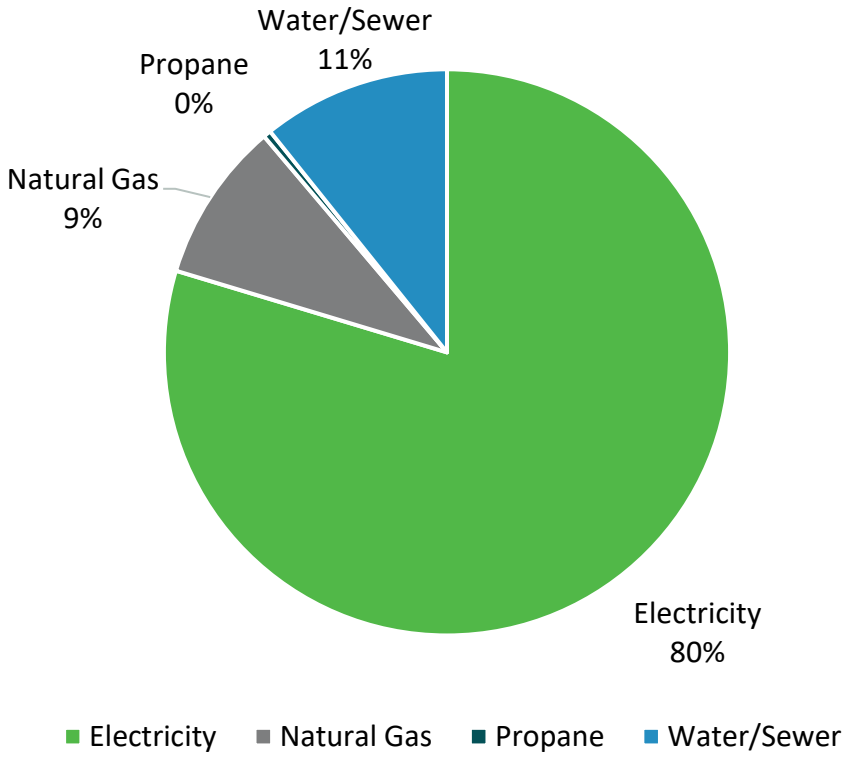
Baseline utility information depicted is based on utility information made available to YE | 167 meters | 27 months



Utility	Baseline Usage (Units/y)	Baseline Usage (kBTU/y)
Electricity	6,996,296 (kWh)	23,871,363
Natural Gas	116,177 (Therms)	11,617,680
Propane	1,734 (Gal)	159,523
Total		35,648,566

BASELINE ANNUAL UTILITY COST

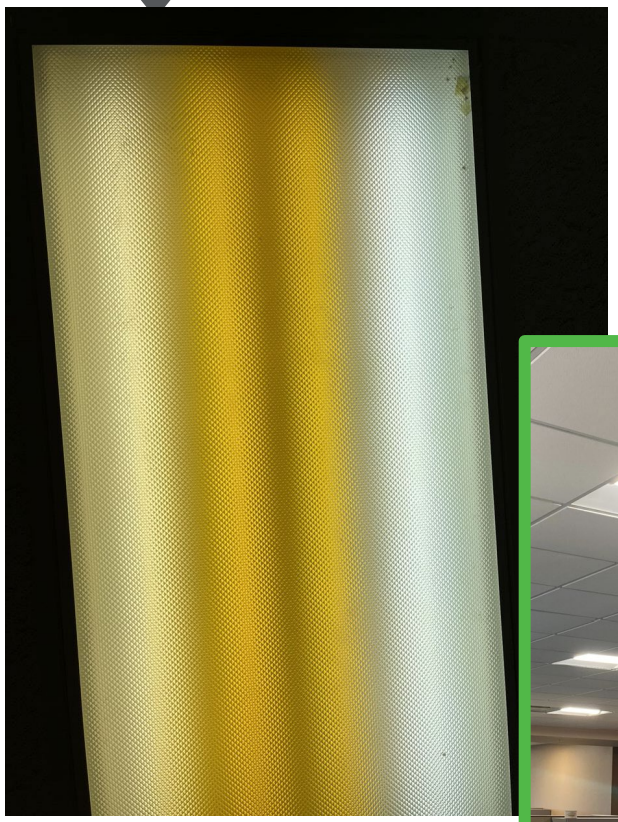
Baseline utility information depicted is based on utility information made available to YE | 167 meters | 27 months



Utility	Baseline Cost ($/y)
Electricity	$951,454
Natural Gas	$109,385
Propane	$5,277
Water/Sewer	$128,317
Total	$1,194,433

SCOPE

LED LIGHTING

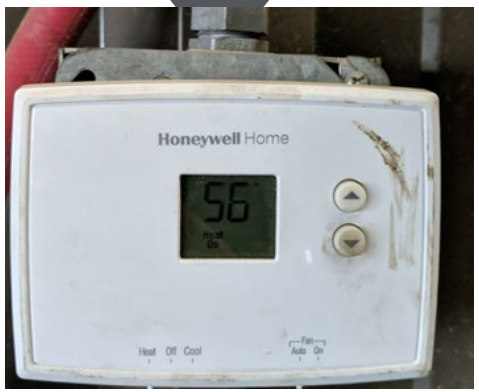




Police Department

- Replacing, relamping, and retrofitting **1,400+ fixtures** at 21 sites
- High-End Trim (Occupied), Dimming, and Daylight Harvesting

HVAC CONTROLS



Fleet Building





Senior Center

- Replacing **123 thermostats** at 25 sites
- This system allows for
  - Scheduling
  - Remote monitoring
  - Programmable dead-band

HIGH EFFICIENCY LOW VOLTAGE TRANSFORMERS

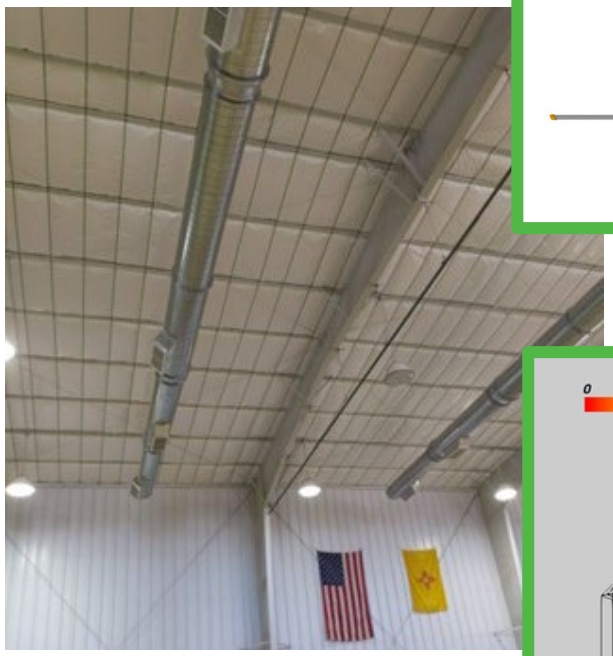


Fire Station 5

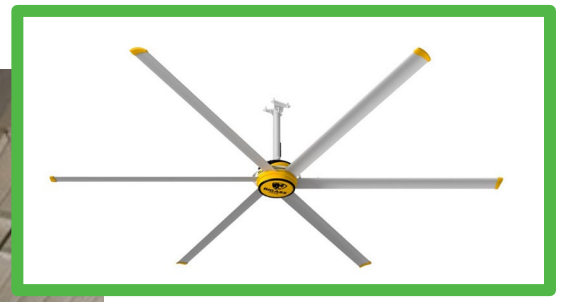


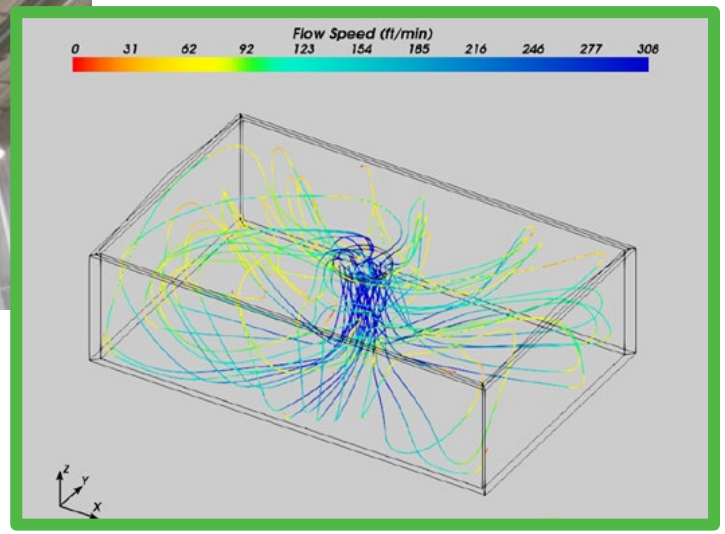
- Replacing **17 transformers** totaling 810 kVA.
- Modern high-efficiency transformers that meeting current DOE regulations and improve energy system resiliency.

AIR DESTRATIFICATION



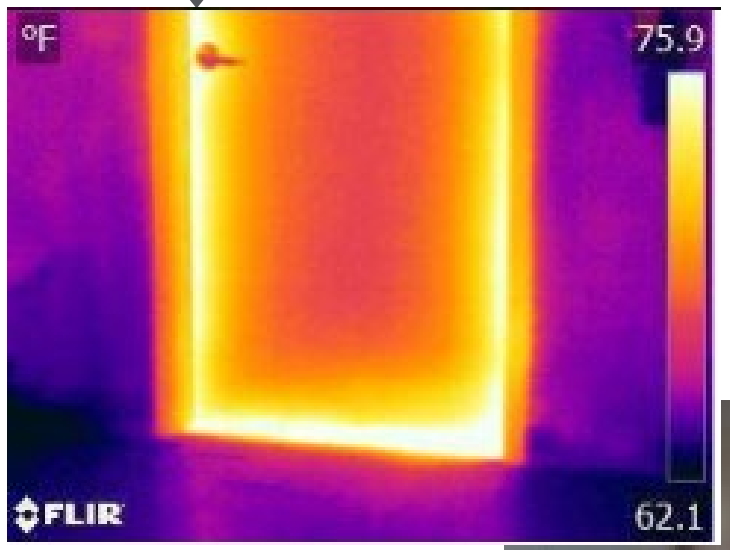
Family Rec Center





- Install **1 Destratification Fan** at the Family Recreation Center
  - Improve air flow for more efficient heating/cooling
    - 100% fan speed can cause a person to feel up to 12 degrees colder
    - Air temperature can raise by up to 10 degrees on a 20-ft ceiling
    - Reduce setpoint in winter, raise it in summer

BUILDING WEATHERIZATION

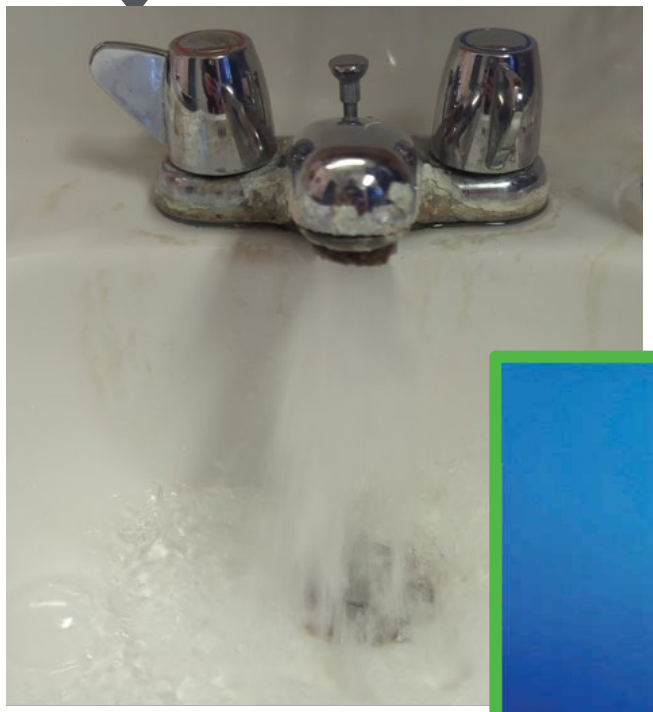




Senior Center – Exercise Room

- **Remediate ~48.9 ft^2** of wall cracks and gaps around window and door frames and vents at 20 facilities.
  - Install/replace window seals, door sweeps, and astragals
  - Seal gaps around outlets, lights, water connections, etc.

WATER CONSERVATION



Fire Station 7



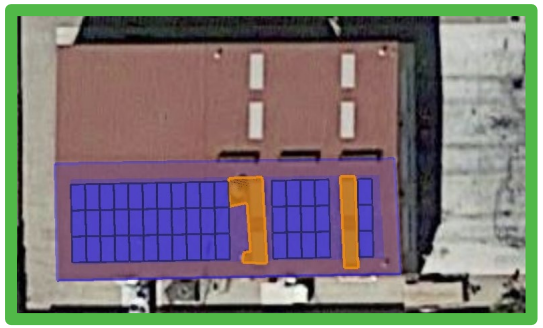
- Reduce water consumption for **8 sites** in anticipation of rate increase.
  - Component replacements, system tuning, toilet and sink retrofits.
- **45,000 gallons** of water saved annually.

RENEWABLE ENERGY



Prather Well

Fire Station 1





Public Library

Location	Size of Array (kW)
Fire Station 1	24
Fire Station 5	27
Fleet Building	19
Public Library	64.5
Purchasing Warehouse	22
Griggs Booster Pump	19
Hooser Booster Pump	12
Lower Heights Booster	27
Prather Well 1	77
TOTAL	**291.5**

SPORTSLIGHTING



Griggs Fields





- Replacing Sports Lights at **4 of Griggs Fields** with LED Technology
  - Fields 1, 2, 3 and 7
  - Includes Airmesh Wireless and Remote Controls

PROJECT FINANCIALS

PROJECT FINANCIAL FIGURES

	20-Year Term
Turn-Key Project Cost	**$4,521,286**
Year 1 Total Annual Savings	$138,222
Estimated Inflation Reduction Act Direct Payment	$693,845
Grant Funding	$76,060
Estimated Rebates	$20,987
Annual Interest Rate	4.500%
Upfront Capital Contribution	**$1,450,000**
Useful Life of Project	23 Years
Savings Over Useful Life	**$5,946,372**


YEAROUT
ENERGY

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/13/2024 **Report Date:** 02/06/2024 **Report No:** 15.

Submitted By: Rick Holden

Subject: Presentation and discussion on Setback requirements/Subdivision Ordinance. *(Rick Holden, City Manager, and Kevin Jewell, French Brothers Homes President)*

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Provide direction to staff.

Background:

City of Alamogordo City Commission Meeting
AGENDA REQUEST FORM

Today's Date: 1/29/2024

Request Date of Meeting: February 13, 2024

Name and Title: Kevin Jewell, President, French Brothers Homes

Address: 1010 Zuni Dr. - Corporate Office

Alamogordo, NM **ZIP** 88310

Phone Number: 575-437-7134

E-Mail Address: maggie@frenchbrothers.com or kevin@frenchbrothers.com

Item requested will be for Information only

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

Setback requirements / Subdivision Ordinance

Signature: Kevin Jewell Jr.

Please return to: **Rachel Hughs, CMC, City Clerk**
City of Alamogordo
1376 E. 9th Street
Alamogordo, NM 88310

Phone: (575) 439-4100 **Fax: (575) 439-4396** **E-mail:** rhughs@ci.alamogordo.nm.us

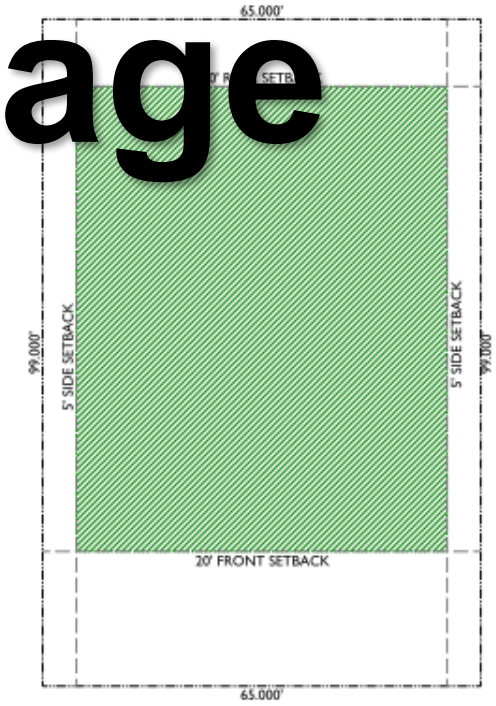
Revised 2/3/2022



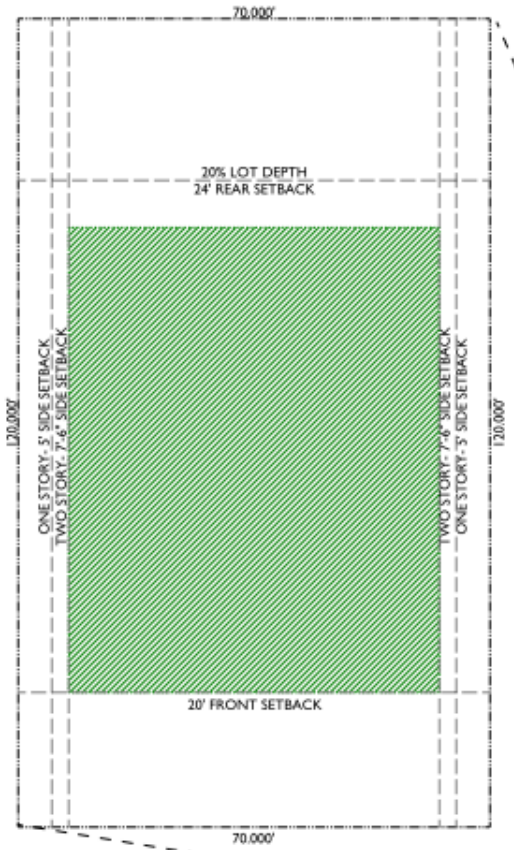
What Could Be, And What Is

French Brothers Homes

Mesa Village



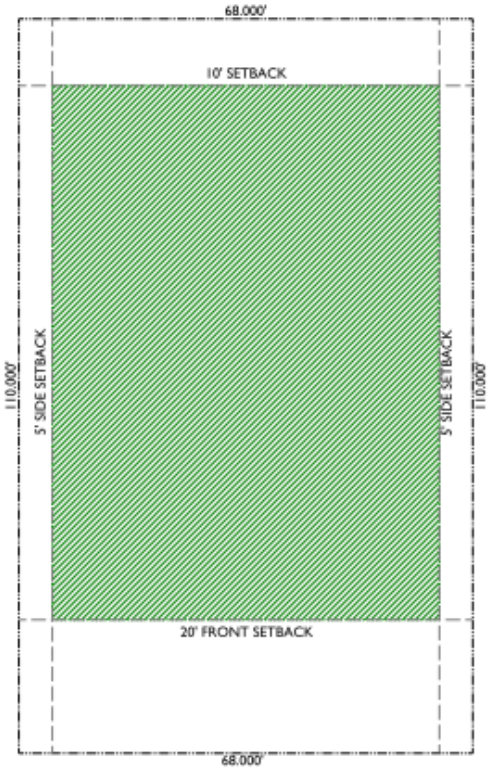
Proposed Lot Size & Resulting Home Price:
65’ x 99’
$376,437



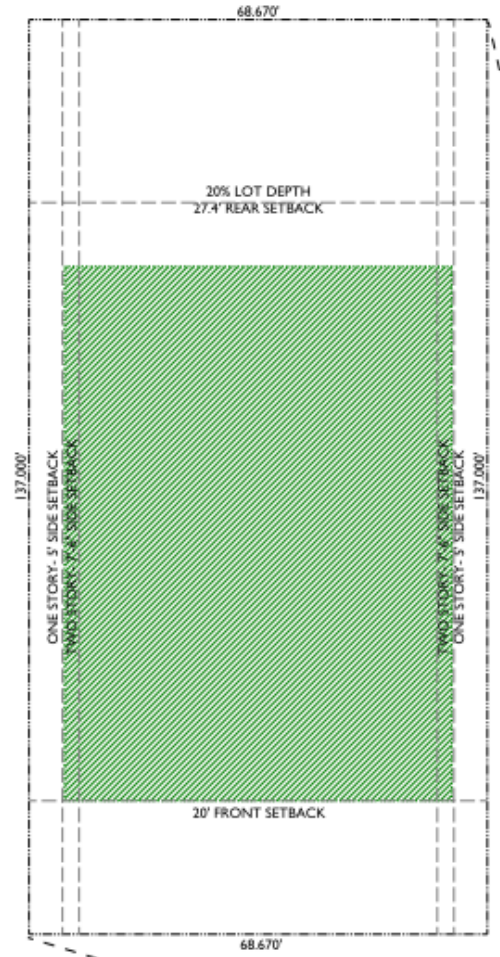
Current Lot Size & Minimum Home Price:
70’ x 120’
$398,241



Bella Vista



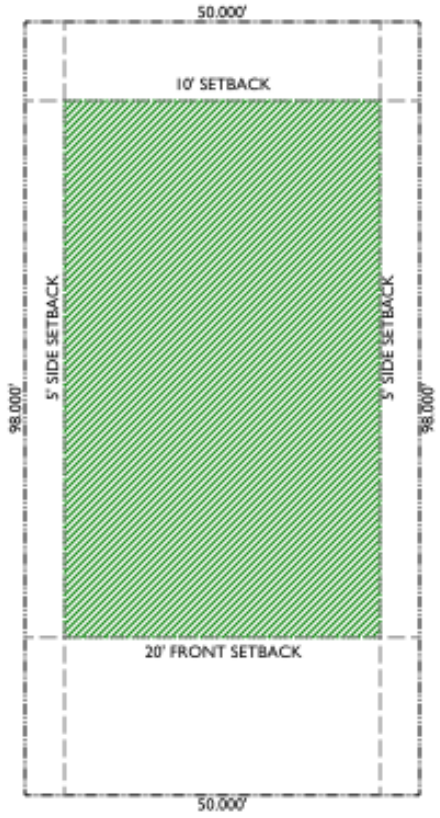
Proposed Lot Size & Resulting Home Price:
68’ x 110’
$346,235



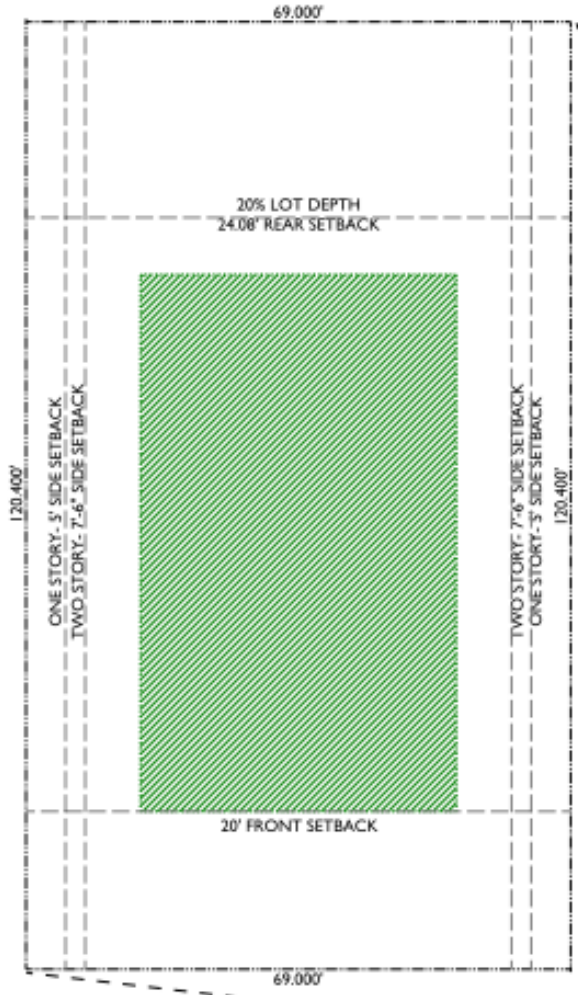
Current Lot Size & Minimum Home Price:
68.67’ x 137’
$367,626



Quail Hollow



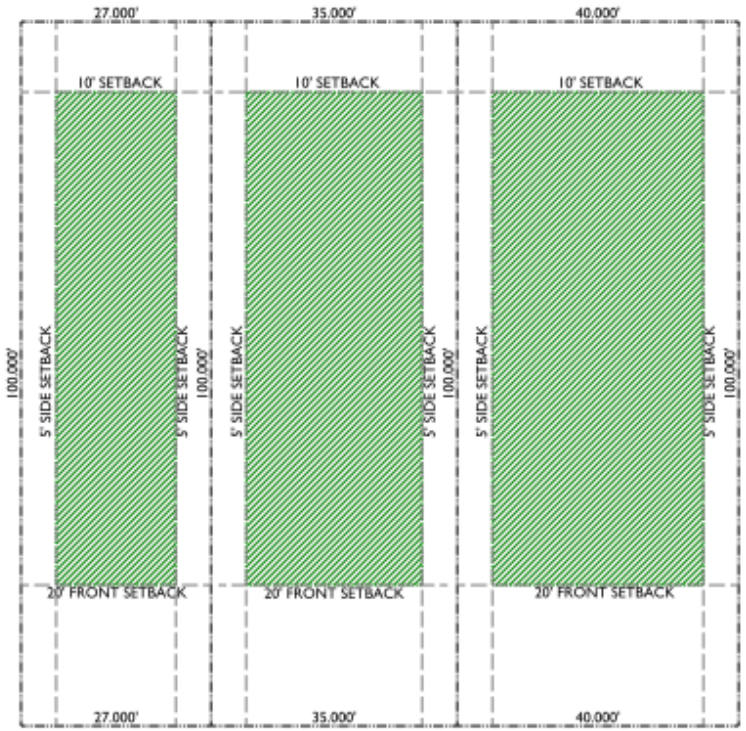
Proposed Lot Size & Resulting Home Price:
50’ x 98’
$276,957



Current Lot Size & Minimum Home Price:
69’ x 120.4’
$314,769



Somerset



Proposed Lot Sizes & Resulting Home Prices:

40’ x 100’ - Single Family

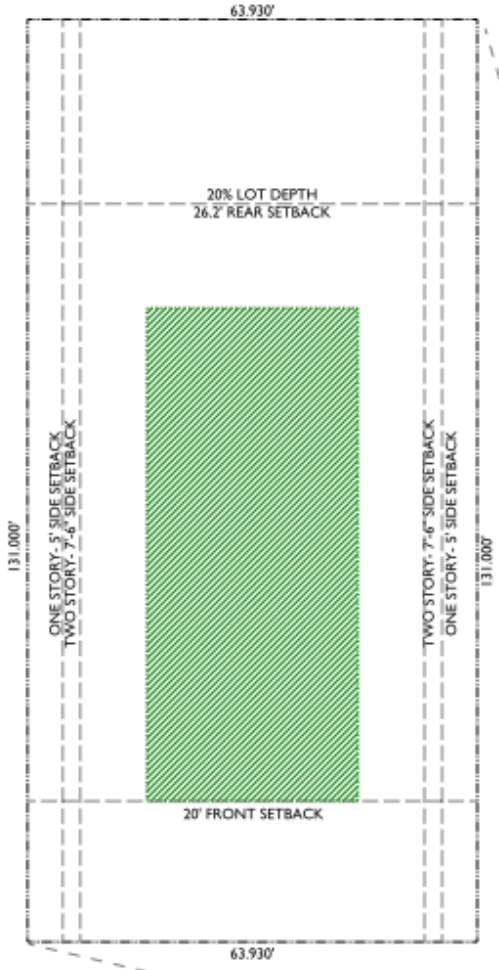
$256,844

35’ x 100’ - Multi Family

$215,885

27’ x 100’ - Multi Family

$150,353



Current Lot Size & Minimum Home Price:

63.93’ x 131’

$305,388



Current Lot Size & Minimum Home Price:

Mesa Village
70’ x 120’
$398,241

Bella Vista
68.67’ x 137’
$367,626

Quail Hollow
69’ x 120.4’
$314,769

Somerset
63.93’ x 131’ - Single Family
$305,388

Price Difference

Mesa Village
$21,804

Bella Vista
$21,391

Quail Hollow
$37,811

Somerset
$48,544
to $155,034

Proposed Lot Sizes & Resulting Home Prices:

Mesa Village
65’ x 99’
$376,437

Bella Vista
68’ x 110’
$346,235

Quail Hollow
50’ x 98’
$276,957

Somerset
40’ x 100’ - Single Family
$256,844

35’ x 100’ - Multi Family
$215,885

27’ x 100’ - Multi Family
$150,353

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/13/2024 **Report Date:** 01/24/2024 **Report No:** 16.

Submitted By: Rachel Hughs

Subject: Consider, and act upon, appointing a member representative and an alternate to the Southeast Regional Transportation Planning Organization (SERTPO) committee. *(Rachel Hughs, City Clerk)*

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Appoint a SERPTO member representative and an alternate to the committee.

Background:

SERPTO has requested the names of the member representative and an alternate for the committee. Currently, City Planner Rael is the member that actively attends the meetings and former commissioner Melton was the alternate.

The Southeast Regional Transportation Planning Organization (SERTPO) is a regional transportation planning organization made up of local, county and tribal governments within the counties of Chaves, Curry, De Baca, Eddy, Guadalupe (Town of Vaughn), Lea, Lincoln, Otero and Roosevelt Counties. Attached are the SERTPO Bylaws.

OFFICIAL SERTPO COMMITTEE MEMBER(S) CONFIRMATION

As **Mayor** of the **City of Alamogordo,** I hereby appoint the following individual(s) as Representative/ Alternate to the Southeast Regional Transportation Planning Organization (SERTPO):

SERTPO Committee Representative (Full Name): _____

Title: _____

Contact Telephone (Business/Home): _____

Mailing Address (PO Box/Street Address): _____

City/State/Zip Code: _____

E-Mail Address: _____

SERTPO Committee Alternate (Full Name): _____

Title: _____

Contact Telephone (Business/Home): _____

Mailing Address (PO Box/Street Address): _____

City/State/Zip Code: _____

E-Mail Address: _____

SERTPO Committee Member Representatives are the principal officials, or their designated alternates, representing the municipal, county and tribal governments. The Committee provides policy guidance in the development of SERTPO activities and takes all official actions. The SERTPO Committee reviews, rates and/or prioritizes transportation projects for its Regional Transportation Improvements Program Recommendations (RTIPR), state-or-federally-funded. The Committee may receive input from subcommittees.

SIGNED: _____ _____

Susan L. Payne, Mayor Date

From: Mary Ann Burr
To: Susan L. Payne
Cc: Rachel Hughs
Subject: SERTPO Appointment(s)
Date: Tuesday, January 23, 2024 5:04:19 PM
Attachments: ALAMOGORDO Confirmation Form 1-23-24.docx

Some people who received this message don't often get email from mburr@snmedd.com. Learn why this is important

We are conducting our annual communication to chief elected officials regarding representation for the Southeast Regional Planning Organization (SERTPO).

It is important to periodically review your representation. Currently, our records show **Stella Rael** as designated Representative and **Karl Melton** as designated Alternate. Representatives need to have the flexibility in their schedules to attend approximately five meetings per year, which are held at various locations within the region. Our next SERTPO meeting is on **Wednesday, January 31, 2024 (10:00 am**) at the **Ruidoso Convention Center**. Meetings are held in person.

Please review the attached confirmation form and designate/re-affirm your SERTPO Representative and/or Alternate. These appointments are for the transportation planning group only (not to be confused with SNMEDD Board appointments). Please return the form to: mburr@snmedd.com.

For your reference, a list of current SERTPO membership can be viewed at: SERTPO Committee – Southeastern New Mexico Economic Development District (snmedd.com)

Thank you for your attention to this matter, and please contact me if you have any questions.

Mary Ann Burr, SERTPO Program Manager
Southeastern New Mexico Economic Development District¦
Council of Governments
1600 SE Main, Suite D
Roswell, NM 88203
Office (575) 624-6131
mburr@snmedd.com

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links or open attachments unless you are sure the content is Safe. If unsure, send an email to the BITS helpdesk for analysis.

Southeast Regional Transportation Planning Organization

Bylaws

Amended June 29, 2022

Name and Status

The name of the organization is the Southeast Regional Transportation Planning Organization (SERTPO). SERTPO was created by the New Mexico Department of Transportation (NMDOT), and NMDOT has contracted with Councils of Governments (COGs) throughout New Mexico to carry out the requirements for Regional Transportation Planning Organizations (RTPOs).

Purpose

1. To assist municipal, county and tribal governments within the SERTPO boundaries conform to the federal laws, rules and regulations concerning transportation.
2. To ensure regional transportation planning processes in nonmetropolitan areas include consultation with local elected officials (Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), p. 1963).
3. To address the transportation needs of nonmetropolitan areas in Southeastern New Mexico through enhanced planning, coordination and implementation of statewide strategic long-range transportation plans and transportation improvement programs (Moving Ahead for Progress in the 21st Century (MAP-21), 2012, p. 119).
4. To consult with the State regarding the service needs of areas with a population greater than 5,000 and less than 200,00 in Southeastern New Mexico (Fixing America's Surface Transportation (FAST) Act, 2015, pp. 1340-41).
5. To work with all municipal, county and tribal governments within the SERTPO boundaries.
6. To carry out the tasks and activities as outlined in the Regional Work Program (RWP), developed in coordination with NMDOT as referenced within the Cooperative Agreements entered between NMDOT and the Southeastern New Mexico Economic Development District/Council of Governments and Eastern Plains Council of Governments.

SERTPO Responsibilities

The Regional Transportation Planning Organizations (RTPOs) responsibilities, as outlined in the NMDOT Planning Procedures Manual (PPM), include:

1. Develop and maintain regional long-range multimodal transportation plans (RTPs) , in cooperation with the State of New Mexico (the State).
2. Develop Regional Transportation Improvement Program Recommendations (RTIPR) for consideration by the State.
3. Foster the coordination of local planning, land use, and economic development plans with State, regional and local transportation plans and programs.
4. Provide technical assistance to local officials.
5. Provide training to Board/Committee members that are relevant to the work of the RTPOs.

6. Participate in national, multistate, and State policy and planning development processes to ensure the regional and local input of nonmetropolitan areas in transportation planning.
7. Provide a forum for public participation in the statewide and regional transportation planning processes.
8. Consider and share transportation plans and programs with neighboring regional transportation planning organizations, metropolitan planning organizations and tribal organizations.
9. Maintain a RTPO website that includes current information such as meeting agendas and minutes, as well as current planning documents, such as the Long Range Regional Transportation Plan, Regional Work Program, Title VI Plan, etc.
10. Conduct other duties, as necessary, to support and enhance the regional and statewide transportation planning process.
11. Maintain, in an organized fashion, all applicable records per the State's archiving requirements (identified in a following section) and to make those records constantly accessible and available to NMDOT, FHWA-NM and FTA Region 6 to review (see section on Quality Assurance Reviews for more information).

Definitions

1. SERTPO Participating Area: Chaves, Curry, De Baca, Eddy, Lea, Lincoln, Otero and Roosevelt counties, all municipalities located within the foregoing counties, the Southwestern corner of Guadalupe County including the Town of Vaughn, all lying within NMDOT District 2.

2. SERTPO Membership: All municipalities, county, and tribal governments (Local Governments) contained within the SERTPO Participating Area.

SERTPO Membership

SERTPO business is conducted through the actions of its SERTPO Committee and any created sub-committees. The SERTPO Committees shall be composed of voting members, non-voting associated and advisory members, representing their pertinent organization(s) within the SERTPO Participating Area.

1. Local Government Members: All Local Government Members shall be considered voting participants. Membership of the Local Governments in the Southeast Regional Transportation Planning Organization is indefinite. Local Government entities are responsible for appointing representatives to SERTPO and providing updated names and addresses for their chief elected officials and SERTPO representative Committee Members to the SERTPO Planning Program Managers (hereafter referred to as SERTPO Managers).
2. SERTPO Committee Member Representatives. SERTPO Committee Member Representatives, appointed in writing by their respective governments, are the principal officials, or their designated alternates, representing the municipal, county and tribal governments. SERTPO Committee is a requirement of statute (23 USC §135(m)(3)(A)) and is the decision-making authority of SERTPO. Member Representatives shall include a majority of nonmetropolitan local elected officials appointed in writing by their respective governments or their designees, and as appropriate additional representatives from city/county/tribal management, planning, private business,

transportation service providers, economic development practitioners, public in region, and other local entity personnel, appointed in writing by SERTPO members, but in no case shall the number of additional representatives equal or exceed the number of member representatives. Appointment of members that possess technical knowledge of transportation needs is encouraged and may include city/county/tribal engineers, road superintendents/managers and public works personnel, but in no case shall the appointment of members with technical knowledge result in SERTPO Committee Member Representatives to become a minority within the SERTPO Committee. The SERTPO Committee receives initial transportation project applications for its RTIPR and reviews applications based upon established criteria. The SERTPO Committee provides policy guidance in the development of SERTPO activities and takes all official actions by a majority vote of the quorum present. Each municipal, county and tribal entity has one vote.

3. Standing and Ad Hoc Committee(s). The SERTPO Committee is determined by SERTPO and meets at specified, regular intervals. Ad Hoc Committees are determined by SERTPO for a specific purpose and meet to accomplish its stated purpose. These types of committees are not a requirement, and SERTPO may determine whether to have them as separate or joint groups. These Committees meet privately to form and offer recommendations at public meetings of the SERTPO Committee. Membership representatives will be determined at the time of creation based upon the needs of the specific committee.

4. Advisory Member. Such member would be any person or persons representing Local, State and Federal agencies having direct responsibility for transportation planning and programs within the region. Such persons shall be considered non-voting members and will act in an advisory capacity only.

5. Associate Member. Such member would be any person or persons representing a public, quasi-public, political subdivision of the state, private sector or other organization that provides transportation services (e.g., freight providers (rail and trucking), public transit providers, emergency transportation providers, law enforcement, etc.). Such persons shall be considered non-voting members.

6. Ex-Officio Members. "Because of the nature of the office or position". Includes department heads from State and Federal government.

7. Representative's Membership Term. Member Representatives are appointed in writing by their respective member municipal, county or tribal government and serve for an indefinite term. Annually, the SERTPO staff will give the chief elected official of local governments the opportunity to appoint or confirm their designated Committee member representative(s).

8. Participation in the SERTPO Committees shall not be contingent on memberships with the Councils of Governments.

Officers

1. Officer Term. The Chairman and Vice-Chairman are elected by the voting member representatives of the SERTPO Committee at the first meeting in March on even numbered years, and serve a two-year term, unless removed as described in Part 3. There are no term limits.

2. Vacancy. If a vacancy occurs in the office of the Chair or Vice Chair, the office shall be filled by the voting member representatives of the respective Committee. Until the election of a new Chair,

the Vice Chair shall serve as Chair. The unexcused absence of a Chair or Vice Chair for two consecutive meetings may be considered a vacancy.

3. Removal. The Officer(s) may be removed by election, resignation, noncompliance with the attendance policy, or by member governments (i.e., when the Officer no longer represents his or her member government entity).

Duties of Officers

The officers of the SERTPO Committee shall be chosen from the voting member representatives and shall consist of a Chair and Vice Chair for the SERTPO Committee.

1. Chairman. The Chairman is the chief executive officer of the Committee and presides at all Committee meetings. The Chairman is responsible for calling all meetings and shall consult with SERTPO staff regarding the place and time of such meetings. The Chairman may, at their discretion, call a meeting of any committee to be held remotely using the best medium to conduct the meeting or allow individual members to attend the meeting remotely. The Chairman directs the business of the Committee and establishes standing and ad hoc subcommittees to focus upon specific areas of concern. The Chairman is an ex-officio member of all standing subcommittees.

2. Vice Chairman. The Vice Chairman presides at all meetings at which the Chairman is absent and performs all duties for which the Chairman is responsible during such meetings.

Staff Support

The SERTPO fiscal/administrative agents are the Southeastern New Mexico Economic Development District/Council of Governments (SNMEDD/COG) and Eastern Plains Council of Governments (EPCOG). Each Council of Government (COG) enters into a Cooperative Agreement with NMDOT to operate SERTPO. Additionally, each COG provides professional planning, management and administrative support and employs the SERTPO Managers, who coordinate SERTPO activities and meetings in accordance with regional work programs.

1. SERTPO Managers will provide the SERTPO Committee and any of its subcommittees with the necessary staff and technical assistance to support the regional transportation planning processes. SERTPO Managers will be responsible for assembling information and preparing the documentation of plans, programs, meeting packets, project applications, correspondence and other records necessary to conduct the regional transportation planning process.

2. Proposed projects will be submitted to the SERTPO Managers in the designated format. .

3. While a vacancy is pending in the Committee, SERTPO Managers will redirect mail and email communications to the chief elected official for the local entity to ensure there is no interruption in the flow of information to the local government. In those instances where an email address is not available or offered, alternate email addresses for a local government contact will be used to ensure the delivery of information.

Compliance with New Mexico Open Meetings Act

All meetings of the SERTPO Committee shall be conducted according to the Open Meetings Act, (N.M.S.A., 10-15-1 to 10-15-4). Any remote meetings called by the Chairman will ensure that any mem-

bers and member representatives participating by remote conferencing can be identified when speaking, all participants are able to hear each other at the same time and any members of the public attending the meeting are able to hear any member of the public body who speaks during the meeting. If the entire meeting is held remotely, the public will also be allowed an avenue to attend the meeting remotely. Annually, the SERTPO Committee will adopt a resolution addressing compliance with the New Mexico Open Meetings Act requirements.

Meetings

All meeting expenses are paid for by the COGs and reimbursed by the NMDOT. Meetings should be consistent with the SERTPO Public Participation Plan and Title VI Plan.

1. Notice: SERTPO shall determine, at least annually in its public SERTPO Committee meeting, what form of notice to the general public is reasonable for the next 12 month period. The reasonable form of notice decided by the SERTPO Committee shall include an agenda with specific items of business to be discussed or information on how the public may obtain a copy of the agenda. The agenda is to be posted on the SERTPO website at least 3 days prior to any meeting, except in the case of an emergency meeting. If unforeseen circumstances that if not addressed will likely result in injury or damage to person or property or substantial financial loss to SERTPO arises, an emergency meeting can be called and within 10 days of such meeting SERTPO shall report to the attorney general's office the action taken and the circumstances creating the emergency. At a minimum SERTPO gives the following notice of public meetings:

Regular Meetings	10 days' notice to the general public
Special Meetings	3 days' notice to members
Emergency Meetings	As much time as is practical

2. Scheduling Meetings:

   a. The SERTPO Committee will meet as often as needed to conduct business and when called by the Chairman of the committee. SERTPO Managers must ensure that draft minutes of meetings are recorded and prepared within ten (10) days of the previous meeting and distributed to all members, the NMDOT District 2 Engineer and NMDOT Liaison(s). Minutes for the previous meeting shall be approved, amended or disapproved at the next meeting where a quorum is present. Official minutes shall be made available online.

   b. Future meeting dates are typically scheduled prior to the completion of a meeting. If no date is set during a meeting, the Chairman of the Committee may call a meeting and set the date, time, and place in coordination with the SERTPO Managers.

3. Procedures of Meetings:

   a. Conduct. All meetings shall be conducted in accordance with Roberts' Rules of Order.

   b. Opening of Meetings. All meetings are opened by the Chairman or if the Chairman is not present, by the Vice Chairman of the committee. If no officer is present, a Chairperson Pro Term shall be selected by a consensus of the voting member representatives present during the meeting.

   c. Agenda. Any items proposed to be placed on an agenda should be received by SERTPO Managers no later than 7 calendar days prior to the date of the meeting, to coincide with the

delivery of meeting packets and public notice requirements. Packets will be hand-delivered, mailed, emailed and/or delivered electronically to Committee members and NMDOT Liaisons no later than 7 calendar days prior to the date of meeting. The Agenda will be made available to the general public through notice or through the SERTPO website at least three days prior to any meeting.

d. Proxy Votes. If the designated committee member representative is unable to attend a meeting, any elected official or full-time employee of the local government entity may act as the voting member representative without designation in writing. If someone not employed by the local entity is to serve as proxy, this indication must be given in writing by the local governing agency.

e. Attendance. In order to encourage participation and prevent cancellation of meetings due to lack of quorum, if any local government entity or any committee misses three (3) consecutive meetings, their names will be removed from the membership roster used for quorum purposes. Committee membership for quorum purposes can be reestablished at the next meeting. Officers may be replaced at the next meeting following their third missed meeting.

f. Quorum. Since the Committee Members represent a diverse assembly of governments from a large geographic area that makes attendance of meetings difficult, a quorum for each public meeting is specifically defined herein. A quorum consists of 33% of the voting member representatives present during any one of the previous three meetings of the Committee.

Member Training

1. SERTPO shall provide member representative training from time to time to new member representatives as well as existing member representatives. Member representatives are provided training during SERTPO meetings through presentations and other training activities. Longer trainings may be coordinated to follow regular SERTPO meetings or on specified dates for full-day training. All new member representatives shall be provided orientation materials. RTPO staff will offer informal orientation to new member representatives.

2. Members are notified of additional training opportunities outside SERTPO meetings on a continuing basis, primarily through email communications and online postings at www.snmedd.com. Trainings are usually transportation-related but may also include other topics to expand member knowledge (e.g., economic development).

Records

Records generated by the SERTPO Committee and any subcommittees in conducting SERTPO business are jointly owned by the NMDOT and the membership of the SERTPO. Upon Committee Officer removal, any substantive records accumulated during that tenure must be passed on to the respective Committee Chairman and SERTPO Manager(s).

Amendment of the Bylaws

The Bylaws may be amended by an affirmative vote of the SERTPO Committee with a quorum present. Any voting member may propose amendments to the Bylaws. Amendments must be submitted in writing to SERTPO Manager(s) and the Chairman of the SERTPO Committee in sufficient time to be included in

training. All new member representatives shall be provided orientation materials. RTPO staff will offer informal orientation to new member representatives.

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Records generated by the SERTPO Committee and any subcommittees in conducting SERTPO business are jointly owned by the NMDOT and the membership of the SERTPO. Upon Committee Officer removal, any substantive records accumulated during that tenure must be passed on to the respective Committee Chairman and SERTPO Manager(s).

Amendment of the Bylaws

The Bylaws may be amended by an affirmative vote of the SERTPO Committee with a quorum present. Any voting member may propose amendments to the Bylaws. Amendments must be submitted in writing to SERTPO Manager(s) and the Chairman of the SERTPO Committee in sufficient time to be included in regular meeting agendas. These Bylaws shall be in effect upon approval by the SERTPO Committee and concurrence by the New Mexico Department of Transportation.

Approval and Amendments

PASSED, ADOPTED AND APPROVED this 29th day of June, 2022, during a regular meeting of the Southeast Regional Transportation Planning Organization SERTPO Committee.

SERTPO Committee Chair/Vice-Chair

ATTEST:

SERTPO Planning Program Manager

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/13/2024 **Report Date:** 01/26/2024 **Report No:** 17.

Submitted By: Rachel Hughs

Subject: Consider, and act upon, appointing a board member to the Southeastern New Mexico Economic Development District/Council of Governments (SNMEDD/COG) Board. *(Rachel Hughs, City Clerk)*

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Appoint a board member to the SNMEDD/GOG.

Background:

SNMEDD/GOG has requested a member to be on the board for the next two years.
Currently, Mayor Payne is the board member.

The city pays an annual member government contribution of $9,121 to the SNMEDD/GOG. The invoice, agreement, resolution, and bylaws are attached.

SNMEDD/GOG
This is a voluntary association of local governmental units and principal economic interests located within Chaves, Eddy, Lea, Lincoln and Otero Counties.
The objectives of the District shall be to encourage and permit local units of government to join and cooperate with one another and representatives of federal and state agencies, major economic interests, citizen groups, and groups experiencing economic distress to improve the health, safety and general welfare of their citizens and to plan for the future development of the region. In achieving these objectives, the District may exercise any powers heretofore or hereafter conferred upon it by state or federal law.

The membership of the Southeastern New Mexico Economic Development District, Inc. includes the communities of Alamogordo, Artesia, Capitan, Carlsbad, Carrizozo, Cloudcroft, Corona, Dexter, Eunice, Hagerman, Hobbs, Hope, Jal, Lake Arthur, Loving, Lovington, Roswell, Ruidoso, Ruidoso Downs, Tatum and Tularosa; the counties of Chaves, Eddy, Lea, Lincoln and Otero.

Dora Batista
Executive Director

SOUTHEASTERN NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT

COUNCIL OF GOVERNMENTS

1600 SE Main, Suite D
Roswell, NM 88203
Phone: (575) 624-6131
Fax: (575) 624-6134
www.snmedd.com

December 1, 2023

OFFICIAL BOARD MEMBER CONFIRMATION

In accordance with SNMEDD/COG by-laws, board appointments are for a two-year period unless or until it is necessary that they be replaced by the governing body of the member municipality or community. Therefore, in an effort to assist us in formalizing our official board roster for 2024, please complete the information below, even if there are no changes.

MUNICIPALITY OF: **CITY OF ALAMOGORDO**

Our designated SNMEDD/COG Board Member is:

Name: _____

Title: _____

Mailing Address: _____

E-mail Address: _____

Telephone: (home) _____ (business) _____

SIGNED: _____ _____
(Mayor) (Date)

Dora Batista
Executive Director

SOUTHEASTERN NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT

COUNCIL OF GOVERNMENTS

1600 SE Main, Suite D
Roswell, NM 88203
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January 5, 2022

OFFICIAL BOARD MEMBER CONFIRMATION

In accordance with SNMEDD/COG by-laws, board appointments are for a two-year period unless or until it is necessary that they be replaced by the governing body of the member municipality or community. Therefore, in an effort to assist us in formalizing our official board roster for 2022, please complete the information below, even if there are no changes.

MUNICIPALITY OF: City of Alamogordo

Our designated SNMEDD/COG Board Member is:

Name: Susan L. Payne

Title: Mayor

Mailing Address: 1376 E. 9th Street, Alamogordo, NM 88310

E-mail Address: spayne@ci.alamogordo.nm.us

Telephone: (home) 575.491.0211 (business) 575.214.0024 (City cell)

SIGNED: Susan L. Payne, MPA (Mayor) 1/5/2022 (Date)

A Non-Profit Organization Involved in ...

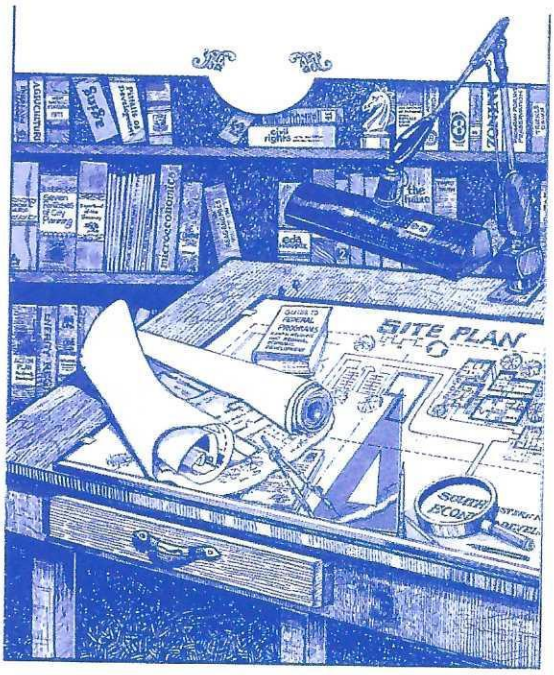
- Business Development
- Business Retention
- Community Facilities Planning
- Economic Development
- Grant Assistance
- Human Resources Development
- Land/Water Management Planning
- Legislative Initiatives
- Transportation Planning & Development
- Urban & Regional Planning

Leadership to enhance the region's quality of life, services and jobs.

Mission

The fundamental mission of the SNMEDD is to strengthen the regional economic base, which is responsible for providing quality jobs to area residents.

One of the most important functions of the SNMEDD involves the optimal utilization of regional capabilities. Projects included are solid waste, water and sewer system improvements, business retention, business assistance, business development, recreation facilities, industrial park improvements, job development and assistance, public buildings and transportation-related initiatives. The regional planning organization can: (1) Assist local governments in planning for major capital improvements, (2) Assist in procuring federal and state aid for needed capital improvement projects, and (3) Assist with capacity building and technical assistance.



BY-LAWS

OF THE

SOUTHEASTERN NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT/ COUNCIL OF GOVERNMENTS

AS AMENDED JULY 11, 2014

ARTICLE I. ORGANIZATION, OBJECTIVES AND PURPOSE

1. There is hereby organized within the New Mexico Planning and Development District VI, as defined herein under the authority of local legislative action, the Regional Planning Act, Section 14-57-1 to 14-57-9 and the Joint Powers Agreement Act, Section 4-22-1 to 4-22-7, N.M.S.A. 1953 Compilation, a nonprofit corporation which shall be known as the SOUTHEASTERN New MEXICO ECONOMIC DEVEOPMENT DISTRICT, INC. This is a voluntary association of local governmental units and principal economic interests located within Chaves, Eddy, Lea, Lincoln and Otero Counties.

2. The objectives of the District shall be to encourage and permit local units of government to join and cooperate with one another and representatives of federal and state agencies, major economic interests, citizen groups, and groups experiencing economic distress to improve the health, safety and general welfare of their citizens and to plan for the future development of the region. In achieving these objectives, the District may exercise any powers heretofore or hereafter conferred upon it by state or federal law.

3. The District shall have the following general purposes:
   A. Promote the orderly growth and development of the region
   B To undertake studies, collect data, and develop regional plans and programs pertaining to such subjects as land use, transportation, housing, economic development, human resource development, community facilities, and the general improvement of living and working environments.
   C. To engage in such other activities as the District finds necessary or desirable to improve area development and correct regional problems.
   D. To prepare and periodically update a regional Comprehensive Economic Development Strategy for the long range economic growth of the region.
   E To assist, encourage and coordinate the activities of all parties concerned, both public and private, in implementing those plans and programs which affect the growth and development of the region.

ARTICLE II. DEFINITIONS - As used in these By-laws

1. "District VI" shall mean all or part of the territory encompassed with the five New Mexico counties of Chaves, Eddy, Lea, Lincoln and Otero, defined as State Planning District VI, under the Regional Planning Act., Section 14-57-1 to 14-57-9 NMSA 1953.

2. "District" means the Southeastern New Mexico Economic Development District, Incorporated.

3. "Region" or "Planning Region" means the area embraced by Chaves, Eddy, Lea, Lincoln and Otero Counties

4. "Governmental Unit" shall mean units of government including but not necessarily limited to political subdivisions of the state, municipalities, cities, towns, villages, counties and Indian reservations.

5. "City" means any incorporated city, town or village in the region. Do we need to include a definition for "County"? County means governments for Chaves, Eddy, Lea, Lincoln and Otero counties.

6. "County" means the governmental units of Chaves, Eddy, Lea, Lincoln and Otero Counties.

7. "Board" means the Board of Directors of the District

8. "Population" means the population according to the last decennial U.S. Census encompassing the entire region.

9. "Director" shall mean a person designated by these By-Laws as a member of the Board of Directors of the Southeastern New Mexico Economic Development District.

10. "Dues", Assessment established by the Board of Directors on members to insure the financial stability of the District.

11. "In Good Standing" shall mean that a member's dues are paid in full by August 1, of the Fiscal Year.

12. "Member" shall include any political subdivision, individual or entity physically located in the Counties defined as part of Planning District VI authorized to conduct business in that County and/or is a legal resident of the County and State of New Mexico.

13. "Corporate Member". Any business enterprise established, authorized and licensed to conduct business in the State of New Mexico shall be eligible for membership, subject to exceptions and shall be governed in accordance with the

authority if the Executive Committee, the Board of Directors and the by laws of the District. This can be eliminated. We no longer have Corporate Members.

14. "Sponsor" May include any political subdivision, individual or entity physically located or conducting business/providing services in the Counties defined as part of Planning District VI and is a legal resident of the State of New Mexico shall be eligible for membership and shall be governed in accordance with the authority of the Executive Committee, the Board of Directors and the By-Laws of the District. This can be eliminated no longer have "Sponsors" in our Board make up.

ARTICLE III. MEMBERSHIP

1. The membership of the Southeastern New Mexico Economic Development District, Inc. includes the communities of Alamogordo, Artesia, Capitan, Carlsbad, Carrizozo, Cloudcroft, Corona, Dexter, Eunice, Hagerman, Hobbs, Hope, Jal, Lake Arthur, Loving, Lovington, Roswell, Ruidoso, Ruidoso Downs, Tatum and Tularosa; the counties of Chaves, Eddy,. Lea, Lincoln and Otero. The membership shall represent, but not be limited to governmental entities and the principal economic interests of the District including agriculture, business, finance, industry, labor, the professions, transportation, and utilities. In meeting this requirement, the representatives of governmental entities and the principal economic interests may be private citizens, elected officials, their duly appointed representatives, or minority representatives. Each member shall have one vote via their representative on the Board of Directors.

ARTICLE IV. BOARD OF DIRECTORS

1. The Board of Directors shall exercise the powers of the corporation, control its property and conduct its affairs. It shall be the duty of the Directors to:
    A. Perform any and all duties imposed on them collectively or individually by law, by the Articles of Incorporation of the corporation or these By-Laws.
    B. Employ an Executive Director to manage the corporation and authorize him/her to employ such other staff into positions that have been authorized by the Board of Directors to realize the objectives and the purposes of the corporation.
    C. Supervise the Executive Director to assure that his/her duties are properly performed.
    D. Approve the annual work program and budget of the corporation.
    E. Meet at such times and places as required by these By-Laws.
    F. Enter into contracts, working agreements or statements of agreement with such agencies and organizations as may be deemed necessary or useful to carry out the functions, plans and purposes of the corporation.
2. The Board of Directors shall consist of all members in good standing and shall be constituted as follows:

A. Each of the District's Boards of County Commissioners shall select one of its Commissioners, Chief Administrative Officer, or other duly appointed Administrative Officer to serve on the Board of Directors. Any of the other County Commissioners, the Chief Administrative Officer, or other duly appointed Administrative Officer may act as alternate delegate in the absence of the regular Board member.
B. Each of the District's municipalities shall select the Mayor, or one of its Council Commission, Trustee, Chief Administrative Officer, or other duly appointed Administrative Officer to serve on the Board of Directors. Any of the other members of the Council, Commission, Board of Trustees, Chief Administrative Officer, or other duly appointed Administrative Officer may act as the alternate delegate in the absence of the regular Board member.
C. In each County the representatives already selected under A & B and by consensus shall select a private sector members representative of one or more of the principal economic interests as defined in Article III, Paragraph 1 of this document. Nominees shall be presented to the full board for confirmation at the annual meeting held each January.
D. All regular or alternate board members are eligible to serve on the District's Executive Committee.
E. The Executive Committee shall with the advice and consent of a majority of the full Board appoint a sufficient number of individuals at large to comply with minority and private sector EDA Board requirements.

1. Any Board member who, for any reason, shall no longer be an official of the appointing government unit shall have his/her position on the Board vacated automatically. Any private sector member who shall no longer be a legal resident of the County in which he/she is representing shall have his/her position on the Board vacated automatically

2. The terms of office of each Director shall be two years. Terms of all Directors shall commence on January 1. Maybe it should read, "The terms of office of each Director shall be limited only by the appointing member government." Instead of two years.

3. Vacancies on the Board shall exist on the death, resignation, or removal of a member and shall be filled by appointment of a successor by the member government.

4. A person selected as a Director to fill a vacancy as provided in this Section, shall hold office for the unexpired term of their predecessor. This should work in conjunction with #2 above and should read "until the vacancy is permanently filled by the appointment of a new member by the affected member government"

5. Directors shall serve without compensation, provided, however, that nothing in this Section shall prohibit payment to a Director for mileage and/or per diem approved by the Board or Executive Committee.

6. The Directors shall not be personally liable for the debts, liabilities or other obligations of the corporation.

ARTICLE V. MEETINGS

1. All meetings of the District shall be in compliance with Article 15, Section 10-15-1 to 10-15-4, NMSA 1978. Formation of Public Policy (Open Meetings Act).

2. The annual corporation meeting shall be held during the regular meeting in JANUARY of each year at a time and place to be determined by the Board of. Directors shall be given TEN (10) days notice of the annual meeting. Eliminate the period.

3. The Board of Directors shall adopt the "New Mexico Open Meetings Act" NMSA 1978, Sections 10-15-1 to 10-15-4 annually at the regularly scheduled meeting of the Board of Directors in January.

4. The Board shall meet quarterly at a regular meeting to be held in JANUARY, APRIL, JULY and OCTOBER of each year or at such times as called by the president.

5. All Directors shall receive notice of any regular meeting, other than the annual meeting, at least THREE (3) days prior to the date set, and at least FIVE (5) DAYS notice of any special meeting. For the purpose of this Article, it shall be conclusively presumed that notice mailed from the corporate office will be received by the addressee Director on the following day. Change by adding language that says "Meeting notices will be provided via email to each Board Member and shall be posted on the District's website www.snmedd.org."

6. The Board shall hold its meeting at such place as it may determine.

7. Special meetings of the Board shall be held whenever called by the President or a majority of the Board of Directors. Directors shall be notified by mail as stated in Section 3 above and said notice shall specify the nature of all business to be conducted at said meeting. Change by adding language to say "Meeting notices will be provided via email to each Board Member and shall be posted on the District's website www.snmedd.com."

8. A majority of the Board of Directors representing the member governments shall constitute a quorum for the transaction of business. When a quorum is present at any meeting, majority vote of the Directors considered present shall

decide any question under consideration, except as provided in Article XIII of these By-Laws

9. In the event there is not a quorum present, the presiding officer shall appoint those Board Members present to act as "Committee of the Whole" to review the business pending before the Board, and to submit their recommendations at the next regular meeting where a quorum of the Board of Directors is present.

10. Meetings of the directors shall be presided over by the President of the District or, in his/her absence by the Vice-President or, in his/her absence, by a Chairperson appointed by the President or by a majority of the Directors present.

11. Any Member whose Director is unable to attend any regular or special meeting of the Board of Directors may by written instrument filed with the Secretary of the corporation, give their proxy to any other Director or alternate who shall be present and that Director may vote on all matters requiring action by the Board of directors at such meetings.

ARTICLE VI. OFFICERS

1. The Officers of the corporation shall be a President, a Vice-President, a Secretary and a Treasurer.

2. Any Director representing a member government of the corporation is qualified to be an Officer of the corporation. Officers other than those appointed pursuant to Section 3 or Section 5 of this Article, shall be elected annually by the Board of Directors at the annual meeting of the corporation and each such officer shall hold office until they resigns or are removed or are otherwise disqualified to serve or until their successor shall be elected and qualified, whichever occurs first. The term of all officers shall be ONE (1) YEAR and no person shall serve more than TWO (2) consecutive terms in the same capacity as an officer of the corporation with the exception of the Secretary and Treasurer. They shall serve at the pleasure of the Board with unlimited terms.

3. The Board of Directors may appoint other officers as it may deem desirable or necessary. Those officers shall serve terms, have authority and perform duties as may be prescribed by the Board of Directors.

4. Any officer may be removed for cause by a majority of the Directors at any regular or special meeting of the Board. Officers shall be removed should they cease to be qualified for the office as required in the Corporation's By-Laws. Any officer may resign at any time by giving written notice to the Board of Directors or to the President or Secretary of the corporation.

5. The PRESIDENT shall:
Be the chief executive officer of this corporation and it shall be his/her duty:

A. Perform all such duties as are incident to the office and such other duties as may be required by law, by the Articles of Incorporation of this corporation or by these By-Laws or which may be prescribed by the Board of Directors
B. To preside at meetings of the Board of Directors and of the Executive Committee
C. To make and execute contracts in the ordinary course of business of the corporation, to execute other legal instruments when authorized by the Board of Directors, except as otherwise expressly approved by law, by the Articles of Incorporation or these By-Laws. Add the comma.
D. To appoint all committees and committee chairpersons subject to the approval of the Board of Directors except as otherwise provided in the Articles of Incorporation or by these By-Laws.
E. To serve as an ex-officio member of all standing and ad hoc committees.
F. To have such other powers and perform such duties as may be assigned to them by the Board of Directors.

6. The VICE-PRESIDENT shall:
   A. In the absence of the President or in the event of President's inability or refusal to act, or if the office is vacant, perform the duties of the President and when acting as President shall have all the powers and be subject to all the restrictions of the President.
   B. Have other powers and perform other duties as may be prescribed by law, by the Articles of Incorporation, or by these By-laws or as may be assigned to them by the Board of Directors.

7. The SECRETARY shall:
   A. Certify and keep at the principal office of the corporation the original or a copy of these By-Laws as amended or otherwise altered to date.
   B. Keep or cause to be kept at the principal office of the corporation, or at such other place as the Board may order, a book of minutes of all meetings of the Board and Executive Committee, recording therein the time and place of the meetings, whether regular or special and, if special, how authorized, names of those present and the proceedings.
   C. See that all notices are duly given in accordance with the provisions of these By-Laws or as required by law.
   D. Be custodian of the records and the seal of the corporation and see that the seal affixed to all duly executed documents and the execution of which on behalf of the corporation under its seal is authorized by law or by these By-Laws.
   E. Keep or cause to be kept at the principal office of the corporation, a membership book containing the name and address of each member entity and, in any case where membership has been terminated, they shall record such fact in the book together with the date on which the membership ceased.

F. Exhibit at any reasonable time to any Director, or to his agent or attorney, upon request the By-Laws, the membership book and the minutes of the proceedings of the Board and Executive Committee.
G. Prepare or cause to be prepared a report to the Executive Committee and the Board a list of all Members in good standing and eligible to vote in all elections and on all issues to come before the District.
H. In general, perform all duties incident to the office of Secretary and other duties as may be required by law, by the Articles of Incorporation or by these By-Laws, or which may be assigned to them by the Board of Directors.
I. The Office of Secretary shall be filled by the Executive Director of the District and serve at the pleasure of the Board for an unlimited term.

8. The TREASURER shall:
   A. Keep or cause to be kept adequate and correct accounts of the corporation's properties and business transactions, including accounts of its assets, liabilities, receipts, disbursements, surpluses and deficits.
   B. Exhibit at any reasonable time the books of account and financial records to any Director or to their attorney upon request.
   C. Render to the President and Directors, whenever they request an account of any or all of the transactions of the corporation and of the financial condition of the corporation.
   D. Prepare or cause to be prepared an annual audit and certification of the corporation's financial statements.
   E. In general, perform all duties incident to the office of Treasurer and other duties as may be required by law, by the Articles of Incorporation, or by these By-Laws or which may be assigned to them by the Board of Directors.

ARTICLE VII. EXECUTIVE COMMITTEE:

1. All members of the Executive Committee shall be Directors as defined in Article IV above. The Committee shall consist of each of the corporate officers except the Secretary, plus ONE (1) Director representing each county not otherwise represented on the Committee. The Committee members, other than the elected officers, shall be appointed by the President with the approval of the Board.
2. The President shall serve as the Executive Committee Chairman and as a voting member of the Committee.
3. The Executive Committee shall meet on call by the President or by a majority of the members of the Committee and shall carry out such business as may be delegated by the Board of Directors.
4. The Executive Committee may act for the Board on the interim between regular Board Meetings, where time limitations prevent action by the full Board, only when such action is consistent with established Board policy.
5. The Executive Committee may make regular and continuing review of matters of corporate business in order to make recommendations to the full Board and to

provide such information in advance of the preparation of the agenda for the succeeding Board Meeting.

6. Minutes of the Executive Committee Meeting shall be kept and a copy delivered to each Board member in attendance at the next regular Board Meeting. All actions taken by the Executive Committee shall be specifically reported at the next regular Board meetings and, to be binding on the corporation, must be ratified by the Board.
7. A quorum of the Executive Committee shall consist of a majority of the members.

ARTICLE VIII. COMMITTEES

1. The Board may establish such committees or advisory groups as it deems necessary in order to carry on its duties and discharge it responsibilities. The membership of such committees must be persons who reside within District VI.

ARTICLE IX. STAFF:

1. The Board shall appoint an Executive Director, qualified by training and experience, who shall serve at the pleasure of the Board and who shall direct the administrative and day-to-day activities of the District.
2. The Board shall authorize the Executive Director to enter into contracts for professional or technical services upon approval of the Board.
3. The Executive Director shall carry out the purposes of the corporation, these By-Laws, District policies, and procedures, and the general and specific assignments given by the Board. The functions of the Executive Director shall include, but not be limited to:
    A. Employment, supervision and discharge of other employees of the District as authorized by the Board or Executive Committee
    B. Attendance at meetings of the Board and Executive Committee, except when otherwise determined by the President.
    C. Represent the Board in dealings with the public and with other agencies.
    D. Such other duties and responsibilities as may be delegated to them by the President of the Board

ARTICLE X. FINANCE

1. Upon request, the District shall submit to any participating local government a budget of its estimated expenditures, revenues, and sources thereof, in advance of the fiscal year. The fiscal year shall be from July 1 to June 30 of each year.
2. Each District budget shall contain specific amounts to be contributed by member governments. The total amount of the contributions shall be determined on the basis of a formula established by the Board.
3. The Treasurer shall keep or cause to be kept accurate account of all receipts and disbursements which shall be subject to audit and accounting procedures established by the Board. All receipts and disbursements of funds controlled by the District shall be audited at least annually by a Certified Public Accountant.
4. The District shall comply with the laws of the State of New Mexico governing audit and inspection of accounts.

5. The District is authorized to apply for, receive, and utilize grants or other aid from federal, state, local government sources, from private sources, or from any other sources.
6. The Board may authorize the Executive Director to utilize the facilities and administrative abilities of a member government by contract for the administration of District funds.

ARTICLE XI. EXTRAORDINARY OR SPECIAL STUDIES AND ACTIVITIES.

1. In the event one or more member governments desire the District staff to conduct an extraordinary or special study or activity pertaining to a portion of the region, they may make a request of the Board by resolution or letter to have Staff undertake the study or activity. If the Board deems the extraordinary or special study or activity feasible, it may choose to enter into a separate contract with the particular government or governments to conduct same for an additional negotiated cost if deemed appropriate by the Board.

2. If a governmental unit, school district, non-for-profit organization or non-governmental unit not a member of the District but within the District boundaries requests assistance from the District staff, the District's priority shall be as follows: (1) DISTRICT MEMBERS (2) NON-DISTRICT MEMBERS .

ARTICLE XII. ANNUAL REPORT

1. The District shall submit an annual report to the Board, legislative bodies, member governmental units, the Economic Development Administration of the US Department of C of the Board of Directors and the State of New Mexico.

ARTICLE XIII. AMENDMENTS

1. These By-Laws may be altered or amended only by the affirmative vote of THREE-FOURTHS (3/4) of the full membership of the Board of Directors. Amendments may be made at any regular meeting of the Board or special meeting called for that purpose, provided notice of such intention to amend, together with the proposed amendment(s) shall have been given to each Director at least FIVE (5) days prior to such meeting.

ARTICLE XIV. TERMINATION

1. The Southeastern New Mexico Economic Development District shall remain in force and effective so long as THREE (3) or more counties remain active participants and ELEVEN (11) or more municipalities remain active participants.
2. Any member government of the District may terminate its membership
3. A member government wishing to withdraw or terminate its membership must provide notice in writing not less than NINETY (90) days prior to the date of the withdrawal or termination. The notice shall be served upon the President personally or by registered mail. The NINETY day period runs from the date the notice is received by the President. It is understood that the withdrawal of a member does not abrogate or impair any contract or commitment previously made by the withdrawing member for the fiscal year.

4. Any member governmental unit whose annual contribution has not been paid by the time set by the Board in Article II Section 11 shall be considered delinquent and the Board shall determine action with respect to the delinquent member's continued membership.
5. Upon the dissolution of the corporation, the corporation shall, after paying or making provisions for payment of all the liabilities of the corporation, dispose of all assets of the corporation in proportion to the total contribution made by the members remaining at the time of the termination, or to such organization or organizations organized and operated exclusively for charitable, educational, or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501(c)3 of the Internal Revenue Code of 1954 (or the corresponding provision of any future United State Internal Revenue Law), as the corporation shall determine. Any of such assets not so disposed of shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said court shall determine which are organized and operated exclusively for such purposes.

ARTICLE XV. WAIVER OF NOTICE

1. Whenever any notice is required to be given under the provisions of the By-Laws to any member, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein shall be deemed sufficient.

WE HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE BY-LAWS OF THE CORPORATON CONSISING OF ELEVEN (11) PAGES. AMENDED AND ADOPTED AT THE BOARD OF DIRECTORS MEETING OF THE CORPORATION HELD ON THE 11th DAY OF JULY, 2014.

_____

President

Attest:

_____

Secretary

Dora Batista
Executive Director

SOUTHEASTERN NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT

COUNCIL OF GOVERNMENTS

1600 SE Main, Suite D
Roswell, NM 88203
Phone: (575) 624-6131
Fax: (575) 624-6134
www.snmedd.com

Invoice

Invoice Date: July 5, 2023

Susan Payne, Mayor
City of Alamogordo
1376 E. Ninth
Alamogordo, NM 88310-5855

DESCRIPTION	AMOUNT
FY 2023-2024 MEMBER GOVERNMENT CONTRIBUTION	$9,121.00
	Total Due $9,121.00

PO 2240122

- **Please make checks payable to Southeastern New Mexico Economic Development District.**

T h a n k Y o u

RESOLUTION NO. 2023-39

APPROVING THE AGREEMENT BETWEEN THE CITY AND SOUTHEASTERN NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT/COG (SNMEDD)

WHEREAS, the City Commission for the City of Alamogordo, New Mexico, hereinafter referred to as the Municipality, is a member of and desires the services of the Southeastern New Mexico Economic Development District/COG; and,

WHEREAS, in accordance with Article 58, §4-58-1 to §4-58-6 NMSA 1978, an agreement setting forth the terms and conditions of active membership in the Southeastern New Mexico Economic Development District/COG is required; and,

WHEREAS, it is the desire of the Municipality to continue as an active member of the Southeastern New Mexico Economic Development District/COG.

NOW, THEREFORE, BE IT RESOLVED, by the City Commission for the City of Alamogordo, New Mexico that:

1. The Agreement attached to this Resolution expresses the desires and intent of the Municipality.

2. The Agreement attached is hereby ratified and approved and the proper officials of the Municipality are hereby authorized and instructed to affix their signatures thereto.

3. A copy of this Resolution (together with the referenced Agreement) shall be filed with the State of New Mexico Department of Finance and Administration, Local Government Division, and the Southeastern New Mexico Economic Development District/COG, and shall be made a part of the budget documentation of the Municipality.

DONE this 8th day of August, 2023.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By: _____
Susan L. Payne, Mayor

ATTEST:

_____
Rachel Hughs, City Clerk

APPROVED AS TO FORM:

_____
Ashley Smith, City Attorney

AGREEMENT

This Agreement, entered into by and between the Southeastern New Mexico Economic Development District/COG (hereinafter known as the "District") and the City of Alamogordo a member of said District (hereinafter known as the "Member") is as follows:

I. **The District agrees to provide the following services to the Member upon request and final approval of the District budget:**

A. Undertake studies, collect data and develop regional plans and programs pertaining to such subjects as human and natural resource development, community facilities and the general improvement of living and working environments.

B. Furnish technical and management assistance in the development of planning activities.

C. Coordinate local planning with that of other Members of the District and the State.

D. Assist in community and economic development, transportation and public works projects.

E. Assist member governments with their legislative activities.

F. Assist in the preparation of applications for funding under various state, federal and private grant programs. Contracts for administration may be entered into between Member and District if Member requires or desires District to administrate project.

G. Provide a Comprehensive Economic Development Strategy at the direction of the Board.

H. Engage in such other activities as are necessary to improve area development and address regional problems.

II. **The Member agrees to the following:**

A. To remain an active member of the District.

B. To make an annual contribution of $ 9,121.00 to the District as recognition of active membership.

Entered into this 9th **day of** August**, 2023, at**

Alamogordo
New Mexico

ATTEST:

Clerk

Mayor/Commission Chairman

ATTEST:

Dora Batista, Secretary

SOUTHEASTERN NEW MEXICO
ECONOMIC DEVELOPMENT DISTRICT/COG

Mike Gallagher, President

Dora Batista
Executive Director

SOUTHEASTERN NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT

COUNCIL OF GOVERNMENTS

1600 SE Main, Suite D
Roswell, NM 88203
Phone: (575) 624-6131
Fax: (575) 624-6134
www.snmedd.com

RECEIVED
JUL 21 2023
CITY CLERK

July 5, 2023

Susan Payne, Mayor
City of Alamogordo
1376 E. Ninth
Alamogordo, NM 88310-5855

Dear Mayor Susan Payne:

With regard to your annual membership in the District for the 2023-2024 fiscal year, we have enclosed the following:

I. **AGREEMENT** – required by the Department of Finance and Administration for disbursement of local funds and which conforms to state regulations. Two copies are enclosed. After the Agreement has been executed, please keep one copy and return one to our office.

II. **RESOLUTION** – upon approval by your council or commission, it is to be signed, attached to and distributed with the attached Agreement.

III. **2023-2024 ASSESSMENT SCHEDULE AND BUDGET FOR 2023-2024** enclosed for your information.

IV. **WORK PROGRAM FOR STATE APPROPRIATED FUNDS** – enclosed for your information.

V. **INVOICE** – enclosed for billing and bookkeeping purposes. Please return one copy with your check.

The most recent audit and financial statements are available upon request.

As you know, we are in the process of finalizing the SNMEDD/COG budget for the coming year and your prompt attention is greatly appreciated.

If you have any questions or require further information, please feel free to contact me. Thank you for your support and letting us serve you.

Sincerely,

Dora Batista
Executive Director

DB/pm
Enclosures

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/13/2024 **Report Date:** 01/25/2024 **Report No:** 18.

Submitted By: Maria Herndon

Subject: Consider, and act upon, Ordinance 1686 for first publication to add Article 11-08, Section 08-010 - 08-040 to Chapter 11 Criminal Code, concerning Peddler and Solicitor Regulations. *(Ashley Smith, City Attorney)* **(Roll Call Vote Required)**

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Approve Ordinance 1686 for first publication.

Background:

Ordinance 1686 came before the commission for first publication at the December 5, 2023, commission meeting to **amend** Article 11-08, Section 08-010 - 08-040 concerning Peddler and Solicitor Regulations to Chapter 11. The strikeouts in the ordinance on December 5, 2023, were incorrect as the article and section cannot be amended because they do not exist in Chapter 11 yet, and there were article numbers that did not pertain to Chapter 11. Therefore, Ordinance 1686 is coming before the commission for approval of its first publication again.

ORDINANCE NO. 1686

AN ORDINANCE ADDING ARTICLE 11-08 PEDDLER AND SOLICITOR REGULATIONS TO CHAPTER 11 CRIMINAL CODE OF THE ALAMOGORDO CODE OF ORDINANCES

WHEREAS, the City Commission of the City of Alamogordo, New Mexico, acknowledges that peddlers and solicitors shall not be a nuisance to the citizens of Alamogordo; and,

WHEREAS, the City Commission of the City of Alamogordo, New Mexico, recognizes peddlers and solicitors shall abide by regulations to make our citizens feel safe; and,

WHEREAS, the City Commission of the City of Alamogordo, New Mexico, considers it necessary to add Article 11-08 to Chapter 11 Criminal Code of the Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Alamogordo, New Mexico, that Chapter 11, Article 11-08, Sections 08-010 - 08-040 of the Code of Ordinances read as follows:

CHAPTER 11 CRIMINAL CODE

11-08. PEDDLER AND SOLICITOR REGULATIONS

11-08-010. Definitions.

For the purposes of this article, the terms used herein are defined as follows:
Aggressive manner means and includes:

a) Intentionally or recklessly making any physical contact with or touching another person during the solicitation without the person's consent.

b) Following the person being solicited if that conduct is:

    1) Intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or

    2) Is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

c) Continuing to solicit within five (5) feet of the person being solicited after the person has made a negative response, if continuing the solicitation is:

1) Intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or

2) Is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation, it is prima facie evidence of an intention to cause a reasonable person fear of imminent bodily harm, if the person continues to solicit from a person who has asked him/her to stop.

d) Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person or the driver of a vehicle to take evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one's constitutional right to picket or legally protest shall not constitute obstruction of pedestrian or vehicular traffic.

e) Intentionally using obscene or abusive language or gestures:

1) Intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or

2) Words intended to or reasonably likely to intimidate the person into responding affirmatively to the solicitation; or

f) Approaching the person being solicited in a manner that:

1) Is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or

2) Intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

An automated teller machine is a device linked to a financial institution's account records, which can carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.

Automated teller machine facility means the area comprising one (1) or more automatic teller machines and any adjacent space which is made available to banking customers after regular banking hours.

Check cashing business means any business which represents itself to the public as engaged in the business of cashing checks, drafts, or money orders for consideration.

Peddler means any person who goes from house to house, place to place, or from street to street carrying, conveying, or transporting foods, wares, or merchandise, meats, fish, vegetables, fruits,

garden truck, farm products, or provisions, offering or exposing such for sale or making sales and delivering articles to purchasers. The term "peddler" shall include the terms "hawker, huckster, transient merchant, and itinerant vendor." Peddler shall not include persons exempt from licensing under Section 7-23-1, NMSA 1978.

Public area means an area to which the public or a substantial group of persons has access and includes, but is not limited to, alleys, bridges, buildings, driveways, parking lots, parks, playgrounds, plazas, sidewalks, and streets open to the public, and the doorways and entrances to buildings and dwellings, and the grounds enclosing them.

Solicit means to request immediate payment, donation of money, or other things of value, including an order or promise of future payment, from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value. The solicitation may be, without limitation, by the spoken, written, or printed word or by other means of communication.

Solicitation activities shall mean the practices of solicitors as listed in (1) and (2) under the definition of "solicitor," as well as the practice of peddling.

Solicitor shall mean any person, including an employee or agent of another, traveling either by foot, automobile, truck, or another type of conveyance, who engages in the practice of going door-to-door, house-to-house or along any streets within the city:

(1) Selling or taking orders for or offering to sell or take orders for goods, merchandise, wares or other items of value for future delivery or for services to be performed in the future for commercial purposes; or

(2) Requesting contribution of funds, property, or anything of value or of the pledge of any future donation or selling or offering for sale any type of property, including but not limited to goods, tickets, books, and pamphlets, for political, charitable, religious, or other noncommercial purposes.

11-08-020. Prohibited Solicitations

It shall be unlawful for any person to solicit money or other things of value or to solicit the sale of goods or services in the manner described in subparagraphs (a) 1 through 4. of this section.

a) Solicitation is prohibited as follows:

1) In an aggressive manner in a public area;

2) Within fifteen (15) feet of any entrance or exit of any bank or check cashing businesses or within fifteen (15) feet of any automated teller machine during the hours of operation of such bank, automated teller machine, or check cashing business without the consent of the owner or other person legally in possession of such facilities. Provided, however, that when an automated teller machine is located within an automated

teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility.

3) On private property if the owner tenant, or lawful occupant has asked the person not to solicit on the property or has posted a sign clearly indicating that solicitations are not welcome on the property; or

4) From any occupant of a motor vehicle that is in traffic on a public street, whether in exchange for cleaning the vehicle's windows, or for blocking, occupying, or reserving a public parking space, or directing the occupant to a public parking space; provided, however, that this paragraph shall not apply to services rendered in connection with emergency repairs requested by the occupants or passengers of such vehicle.

b) It shall be unlawful for any driver or occupant of a vehicle upon a roadway, while not parked, to invite, request, offer or encourage a person, not in the vehicle to solicit money or other things of value, or to solicit the sale of goods or services in the manner described in subparagraphs (2) 1 through 4 above.

11-08-030. Solicitation on or near street or highway.

a) The purpose of this section is to prevent dangers to persons and property, to prevent traffic delays, and to avoid interference with traffic flow. Roadways that have center medians often are designed to handle specific traffic flow problems. Any delay or distraction may interfere with traffic planning. Sometimes persons stand near intersections and near traffic lights to contact drivers or passengers in cars that are passing or that are stopped temporarily due to traffic lights.

b) It shall be unlawful for any person to solicit employment, business, contributions, or sales of any kind, or collect monies for the same, from the occupant of any vehicle traveling upon any street or highway when the solicitation or collection:

1) Causes the person performing the activity to enter onto the traveled portion of a street or highway.

2) Involves the person performing the activity to be located upon any median area which separates traffic lanes for vehicular travel.

3) The person performing the activity is located such that vehicles cannot move into a legal parking area to safely conduct the transaction.

c) For purposes of this section, the traveled portion of the street or highway shall mean that portion of the road normally used by moving motor vehicle traffic.

11-08-040. Penalties

Any person who violates any provision of this article shall be subject to the penalty provisions contained in section 1-01-100 through 1-01-120, inclusive, of this code.

PASSED, APPROVED, AND ADOPTED this _____ day of _____, 2024.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By: _____
Susan L. Payne, Mayor

ATTEST:

_____
Rachel Hughs, City Clerk

APPROVED AS TO FORM:

_____
Ashley Smith, City Attorney

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/13/2024 **Report Date:** 01/25/2024 **Report No:** 19.

Submitted By: Maria Herndon

Subject: Consider, and act upon, Ordinance 1687 for first publication to add Article 11-07, Section 07-010 - 07-060 to Chapter 11 Criminal Code, concerning Alcoholic Beverage Regulations. *(Ashley Smith, CIty Attorney)* **(Roll Call Vote Required)**

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Approve Ordinance 1687 for first publication.

Background:

Ordinance 1687 came before the commission for first publication at the December 5, 2023, commission meeting to amend Article 11-07, Section 07-010 - 07-060 concerning Alcoholic Beverage Regulations to Chapter 11. The strikeouts in the ordinance on December 5, 2023, were incorrect as the article and section cannot be amended because they do not exist in Chapter 11 yet, and there were article numbers that did not pertain to Chapter 11. Therefore, Ordinance 1687 is coming before the commission for approval of its first publication again.

ORDINANCE NO. 1687

AN ORDINANCE ADDING ARTICLE 11-07 ALCOHOLIC BEVERAGE REGULATIONS TO CHAPTER 11 CRIMINAL CODE OF THE ALAMOGORDO CODE OF ORDINANCES

WHEREAS, the City Commission of the City of Alamogordo, New Mexico, acknowledges that offenses relating to alcoholic beverages regulations shall be enforced in the city of Alamogordo; and,

WHEREAS, the City Commission of the City of Alamogordo, New Mexico, considers it necessary to add Article 11-07 to Chapter 11 Criminal Code, of the Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Alamogordo, New Mexico, that Chapter 11, Article11-07, Sections 07-010 – 07-060 of the Code of Ordinances read as follows:

CHAPTER 11 CRIMINAL CODE

ARTICLE 11-07. ALCOHOLIC BEVERAGE REGULATIONS

11-07-010. Definitions.

All words and terms used in this chapter shall be deemed to have and carry the meaning as defined by the laws of the state, particularly, but not limited to §60-3A-3 NMSA 1978. Where such words and terms are not defined by the laws of the state, then they shall be deemed to have and carry their common, ordinary meaning.

11-07-020. Location regulations.

It shall be unlawful for anyone to drink or to use any alcoholic beverages of any kind, whether lawfully purchased or not, in any public dance hall, poolroom, bowling alley or in any street or in any government building, whether state or federal, or in any other public place except establishments, or other public places having a license to dispense alcoholic beverages.

11-07-030. Selling or giving alcoholic liquor to minors; minor allowing self to be served.

a) The term "minor" used in this section shall mean any person who is under the age of twenty-one (21) years.

b) It shall be a violation of this section for any club, retailer, dispenser, bartender, waiter or servant or employee of any club, retailer, or dispenser, or for any taxi driver, hotel employee or any other person, to do any of the following acts:

    1) To sell, serve or give any alcoholic beverage to a minor.

2) To buy alcoholic beverages for, or to procure the sale or service of alcoholic beverages to, a minor.

3) To deliver alcoholic beverages to a minor.

4) To aid or assist a minor to buy, procure or be served alcoholic beverages.

c) It shall be a violation of this section for any minor to buy, receive, possess, or permit himself to be served any alcoholic liquor.

d) In the event any person except a minor shall procure any other person to sell, serve or deliver any alcoholic beverage to a minor by actual or constructive misrepresentation of any facts calculated to cause, or by the concealment of any facts the concealment of which is calculated to cause, the person, selling, serving or delivering such alcoholic beverages to such minor, that such minor is legally entitled to be sold, served or delivered alcoholic beverages; and actually deceiving him by such misrepresentation or concealment, then that person, and not the person so deceived by such misrepresentation or concealment, shall have violated this section.

11-07-040. Drinking in public places.

a) Drinking in public places consists of drinking or consuming alcoholic beverages (as the term is defined in Section 60-3A-3 NMSA 1978, (as amended) in any public place, private club, key club, whether operated for profit or not, or on a parking lot adjacent to an establishment licensed to dispense alcoholic beverages; provided, that this chapter shall not apply to drinking inside an establishment having a license to dispense alcoholic beverages.

b) It shall be unlawful for any person to commit the offense defined in this section.

11-07-050. Selling of alcohol in public places.

a) Selling of alcohol in public places consists of selling, serving, furnishing, or permitting the drinking or consumption of alcoholic beverages (as the term is defined in section 60-3A-3, NMSA 1978., as amended) in any public place or private club, or key club, whether operated for profit or not, except establishments having a license to dispense alcoholic beverages by the owner, operator, lessee, or proprietor thereof.

b) For the purposes of this chapter, "public place" shall mean: an area, whether enclosed or open, held out for use by the public and to which the public is invited, or in which the public is permitted, whether owned or operated by public or private interests.

11-07-060. Penalties.

Violation of any of the sections in this chapter shall be a misdemeanor punishable by up to five hundred dollars ($500.00) per day and up to six (6) months in jail per day of each violation.

PASSED, APPROVED, AND ADOPTED this _____ day of _____, 2024.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By: _____
Susan L. Payne, Mayor

ATTEST:

_____
Rachel Hughs, City Clerk

APPROVED AS TO FORM:

_____
Ashley Smith, City Attorney

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/13/2024 **Report Date:** 02/05/2024 **Report No:** 20.

Submitted By: Ashley Smith

Subject: Consider, and act upon, terminating the lease with Downtown Ventures for default on the lease. *(Ashley Smith, City Attorney)*

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Staff recommends terminating the lease with Downtown Ventures.

Background: Downtown Ventures has defaulted on several sections in their lease. Legal has given the required 30 day notice of default to Downtown Ventures. Downtown Ventures has not corrected the defaults and therefore we are asking for termination of the lease.

LEASE, MAINTENANCE AND OPERATIONS AGREEMENT

THIS LEASE AGREEMENT, is made and entered into as of the date set forth in the Basic Lease Information (this lease agreement, together with all amendments and supplements hereto, this "Lease"), by and between the City of Alamogordo, a New Mexico municipal corporation, having an address at 1376 East 9th Street, Alamogordo, New Mexico 88310 (the "Landlord"), and Downtown Venture Corporation, a limited liability corporation, having an address at 3751 Mesa Village Dr, Alamogordo, NM 88310 (together with any successor or assign permitted by this Lease, hereinafter collectively called the "Tenant").

1. DEFINITIONS

Capitalized terms used herein shall have the following meanings for all purposes of this Lease and shall be equally applicable to both the singular and plural forms of the terms herein defined.

"Bowling Equipment" means all pin setting machines (pinsetters/pinspotters), ball returns, settees, scoring systems (including front desk systems), lanes, lane cleaning machines, bumpers, approaches, foul lights, gutters, and masking units located at the Facility, including any Site, from time to time.

"Business Days" or "Business Day" means any day excluding Saturday, Sunday and any day which is a legal holiday under the laws of the State of New Mexico or is a day on which banking institutions located in such state are closed.

"Capital Reserve Account" is an interest-bearing account managed by the landlord into which all "rent" moneys are paid by tenant. The express purpose of this account is to pay, in part or in whole, the costs of Capital Improvements, significant repairs, or extraordinary maintenance.

"Casualty" means any damage or destruction caused to the Facility by any reason, including fire.

"Claims" shall mean Liens (including lien removal and bonding costs), liabilities, obligations, damages, losses, demands, penalties, assessments, payments, fees of Mortgagee, fines, claims, actions, suits, judgments, settlements, costs, expenses and disbursements (including legal fees incurred and expenses and costs of investigation and environmental remedial action) of any kind and nature whatsoever.

"Commencement Date" is the date that all parties have signed this agreement.

"Grand Opening" for lease purposes, is the date which begin accumulation of "rent" moneys.

"Excluded Taxes" means any income or franchise taxes based upon, measured by, or calculated with respect to net income or profits (but not including any franchise tax based upon gross receipts with respect to the Rent), inheritance, estate, succession, transfer or any similar taxes.

"Extraordinary Maintenance" as part of and use under "Capital Reserve Account" is solely intended to offset in whole, or in part, the landlord's costs of "extraordinary" maintenance of the building, grounds, or equipment deemed landlord's responsibility. This is above and beyond what is considered as "normal" maintenance and upkeep under tenant's responsibilities.

"Improvements" means all buildings, structures, improvements, equipment, heating, ventilation, air conditioning, plumbing, electrical, mechanical, utility and life safety systems, cribbing, and all fixtures therein (including parking areas, and driveways) now or hereafter located on the Land, other than and specifically excluding Tenant's Personal Property and any Bowling Equipment owned by

tenant. To the extent Landlord acquires title to any Bowling Equipment, the term "Improvements" shall include such Bowling Equipment located at the Facility.

Lease Expiration Date: _____, 20___, which is the last day of the _____ full calendar month following the Commencement Date, unless extended pursuant to paragraph 4(b) of the Lease.

"Land" means the title and interest of Landlord in and to the real estate described on Exhibit A hereto, and to the extent any such real estate shall include by law, then any land lying in the bed of any existing dedicated street, road or alley adjoining thereto, all strips and gores adjoining thereto, and all rights, ways, easements, privileges and appurtenances thereunto belonging, including all of Landlord's right, title, and interest in and to all other property rights, tangible or otherwise, arising out of or connected with Landlord's ownership thereof, but none of the Improvements thereon.

"Tenant's Personal Property" means all personal property of Tenant in or on the Facility, affixed or not, which is not necessary for the operation of the Improvements, including, without limitation the following: bowling balls; bowling shoes; ball racks; pins; x-treme bowling systems; bowling tools; spare parts; bowling cleaning machines; vending and amusement game machines; billiard tables; ATM and credit card machines; copiers; computers; telephone systems; point-of-sale systems; audio and visual entertainment equipment; satellites and related equipment; alarm systems and related equipment; Tenant's trade fixtures, equipment, supplies, consumables, and inventories, including, without limitation, tables, chairs, desks, filing cabinets, ovens, refrigerators, freezers, stoves, food preparation equipment, kitchen utensils, glassware, inventory of food, beverages, liquor, and paper goods; liquor licenses; signs; signage; advertising and marketing materials and equipment; trademarks and trade names (including, without limitation, any sign, symbol, or mark containing the name of "AMF" or Tenant's logo, each as now or hereafter existing), patents, goodwill, and related intangible property; records of confidential or proprietary information including, but not limited to, financial information, operating manuals, employee records, league records, and customer lists; and any other equipment ancillary to a Permitted Use, but specifically excluding the Bowling Equipment.

"Completion Date" means the first day of the first month following the earliest date upon which (i) the Facility has been substantially completed in accordance with the plans approved by the Landlord and Tenant and a certificate of occupancy issued and (ii) possession of the Facility shall have been delivered to Tenant.

"FF&E" means all furniture, furnishings, trade fixtures, apparatus and equipment, including without limitation maintenance vehicles and equipment, cash registers, scoreboards, interior signage, sports equipment, benches, kitchen equipment, appliances, office equipment, computers, copy machines, facsimile machines, telephone systems (not including pay telephones) and other personal property used in or held in storage for use in the operation of the Facility, other than Operating Inventory. FF&E includes both (i) fixtures and related items of furniture, furnishings and equipment to be purchased and installed by the contractor selected to construct the Facility Improvements as part of the construction contract and (ii) furniture, furnishings and equipment to be purchased by the Landlord separately from the construction contract.

"Full Operating Year" means the 12 month period during the Term starting July 1 and continuing through June 30 of the following calendar year.

"Operating Inventory" means consumable items used or held in storage for use in the operation of the Facility, including; retail pro shop merchandise, food and beverage inventory, kitchen supplies, paper and plastic ware, bathroom supplies, paper towels, fuel, cleaning materials, fertilizers, pesticides, seed, maintenance parts and supplies, office supplies and other similar items.

"Operating Year" means either a Full Operating Year or a Partial Operating Year.

"Partial Operating Quarter" means any calendar quarter in which the Completion Date falls on any day other than the first day of such calendar quarter.

"Partial Operating Year" means any calendar year in which the Completion Date falls on any day other than July 1 or any calendar year in which the Term ends on any day other than June 30.

"Sound Practice" means managing and operating the Facility in a manner calculated to increase Gross Revenues subject to maximizing profits, on a long-term basis and consistent with Sound Standards and safe, conservative and sound financial management and operating practices.

"Sound Standards" means operate and maintain the Facility in a manner (i) equal to normal and fair business practice); (ii) using commercially reasonable efforts to maximize the safety of participants and spectators using the Facility and minimize liability to the Landlord arising from the operation and maintenance of the Facility; and (iii) intended to enhance the quality of experience for all patrons attending events at the Facility make the Facility an attractive venue to promote and book events.

2. DEMISE OF FACILITY, TENANT'S EQUIPMENT, BOWLING EQUIPMENT, LANDLORD WAIVER

2.1 Landlord hereby demises and leases to Tenant and Tenant hereby leases and rents from Landlord the Facility, IN ITS "AS IS" CONDITION, SUBJECT TO THE EXISTING STATE OF TITLE (WITHOUT EXPRESS OR IMPLIED WARRANTY OF LANDLORD WITH RESPECT TO THE CONDITION, QUALITY, REPAIR OR FITNESS OF THE FACILITY FOR A PARTICULAR USE OR TITLE THERETO, ALL SUCH WARRANTIES BEING HEREBY DISCLAIMED BY LANDLORD AND WAIVED AND RENOUNCED BY TENANT). The "Facility" consists of collectively, Landlord's interest in the Land, the Improvements, together with any easements, rights, and appurtenances in connection therewith or belonging to said Land and Improvements. The foregoing disclaimer in this paragraph has been negotiated by Landlord and Tenant, each being represented by independent counsel, and is intended as a complete negation of any representation or warranty by Landlord, express or implied, with respect to the condition, quality, repair, or fitness of the Facility for a particular use, or title thereto.

2.2 The "Facility" includes the Land and Improvements located at 3751 Mesa Village Dr, Alamogordo, NM 88310. The Land and Improvements at all such locations collectively constitute the Facility.

2.3 Landlord does further shall lease to Tenant, and Tenant leases from Landlord, governmental liquor license #_____ for the purpose of fulfilling its contractual obligation under this Agreement for the operation of the Facility for lease duration only.

3. USE

3.1 Tenant shall, subject to applicable zoning restrictions and any recorded covenants or restrictions in the public records upon the Commencement Date, use and occupy the Facility only as a bowling center, with ancillary uses including dining establishments, banquet facilities, game rooms, amusement arcade, karaoke, darts room, laser tag, pro shops, including live music entertainment and other ancillary entertainment uses, uses permitted pursuant to the next succeeding sentence, and other lawful purposes which are incidental thereto (including beverage service, including the sale of alcohol) (collectively, the "Permitted Use"). The foregoing restriction on use shall not apply to any minor sublease for a portion of the Facility if such sublease is supporting or ancillary to the Permitted Use. Tenant shall not use, suffer or permit the Facility, or any portion thereof, to be used by Tenant, any third party or the public, as such, without restriction or in such manner as might adversely affect Landlord's title to or interest in the Facility, or in such manner as might make possible a claim or claims of adverse possession by the public, as such, or third Persons, or of implied dedication of the Facility, or any portion thereof.

3.2 So long as no Event of Default under this Lease shall have occurred and be continuing, Tenant shall not be disturbed in its possession of the Facility by Landlord except for such access to the Facility as specifically provided for and subject to the terms and conditions of this Lease. This covenant shall be construed as a covenant running with the Facility and is not a personal covenant of Landlord. So long as no Event of Default under this Lease shall have occurred and be continuing, Landlord's use of any portion of the Facility shall not interfere, in any material respect, with any or all of (i) Tenant's rights to occupy and use the Facility (in the manner and for the purposes contemplated hereunder), (ii) Tenant's right to utilize the vehicular parking areas located on the Facility, and (iii) Tenant's right of access, ingress and egress to and from the Facility.

4. TERM

4.1 **Primary Term.** The primary term of this Lease (the "Primary Term") shall be for a period of fifteen (15) years, beginning on the Commencement Date and ending on the Lease Expiration Date.

4.2 **Option Term.** Provided Tenant is not in default of this Agreement, Tenant is hereby given the option(s) to extend the Primary Term of this Agreement for two separate option periods of ten (10) years each with original based terms stated in 5.1.1 (each, an "Extended Term") following the expiration of the Initial Term (the Initial Term and the Extended Term(s) are collectively referred to herein as the 'Term"). The City shall have the right to review and approve the extension of this Agreement into the option periods, which approval shall not be unreasonably withheld or conditioned. The option periods must be exercised successively, to run from the end of the Primary Term, and shall be exercised only by giving notice of exercise of the option ("Option Notice") to City at least four months before the expiration of the Primary Term or the first Extended Term, as applicable. If Tenant, following notice and the expiration of all applicable opportunity to cure periods, is in default hereunder, it may not give an Option Notice and this Agreement shall expire at the end of the then-current Term.

5. RENT; SECURITY DEPOSIT; REVENUES; CAPITAL IMPROVEMENTS, MAINTENANCE AND REPAIRS

5.1 **Lease Amount.** Tenant shall pay the City an amount for the privilege of occupying the Facility (the "Lease Amount") according to the calculation procedure and schedule of payment set forth below:

5.1.1 **Lease Amount Calculation**. The Lease Amount shall be at a rate of two thousand dollars ($2000) per month or twenty four thousand dollars ($24,000) per year. The estimated fair market lease value of the building is approximately $36,000 per year. The twelve thousand ($12,000) additional rent

dollars shall come from the creation and maintenance of one job at the facility which pays at least $12,000 per year. Tenant shall provide proof of at least one job per year to the City to receive the rent credit of $12,000 per year, for the entire term of the lease. If Tenant refuses to provide the City with such proof, or does not have one job that pays at least $12,000 per year, then Tenant shall be considered in default of this agreement, and rent will be raised to $36,000 annually. Landlord will deposit lease payments into an interest-bearing account, identified as Capital Reserve Account, for the purposes of capital improvements, major repairs, and extraordinary maintenance.

5.1.2 **Lease Amount Payment.** The Lease Amount shall be calculated annually; however Tenant shall pay the Lease Amount to the City in quarterly estimates, with an annual reconciliation amount equal to the difference between the quarterly estimates and the actual, calculated Lease Amount. Tenant shall pay to the City quarterly in arrears with respect to each calendar quarter during the Term. Tenant shall pay to the City annually in arrears any Lease Amount due for that Operating Year less prior Estimated Payments. Each annual payment shall be due within 90 days after the end of the Operating Year. In the event this Agreement is terminated prior to the end of the Term hereof, Tenant shall pay the City, not later than 30 days after the early termination date, any portion of the Lease Amount due on the date of such early termination.

5.1.3 **Liquidated Damages.** If Tenant fails to operate the Facility or breaches the terms of this Agreement at any time prior to the natural expiration of the Agreement, Tenant hereby agrees that, upon its default hereunder and expiration of the cure period set forth below, it shall pay the City, as liquidated damages, within 30 days of receipt of the City's written demand therefore, 100% of the amount that would have been due to the City as Lease Amount according to the calculation set forth above as of the date of the City's written demand. If tenant elects to exercise paragraph 7.2 of this agreement to terminate the lease within first (7) years of this lease, Tenant will only be liable for the six-months lease termination notice period as defined in paragraph 7.2, and any outstanding LEDA fund balance.

5.2. **Net Profit and Facility Expenses.** Subject to payment of all amounts due City under this Agreement and to the payment of Facility Expenses, Tenant shall be entitled to all income, revenues and profits from the Facility during the Term. After the Commencement Date, Tenant shall bear and pay all of the following ("Facility Expenses"): all routine and ordinary maintenance and repairs to the Facility required to preserve it in good working repair during their projected useful life, including (A) any costs incurred by or imposed on Tenant in the performance of its obligations under this Agreement, (B) all fees payable to City under this Agreement, and (C) any cost expressly identified as a Facility Expense in this Agreement, but expressly excluding (1) any cost allocated to the City under this Agreement and (2) any financing cost incurred by the City.

5.3. **Financials**

5.3.1 **Sales Recording and Records.** All records will be kept at the facility. The semi-annual P&L statement and the balance sheet to be furnished to the City as provided herein shall be prepared in accordance with generally accepted accounting principles (either cash or accrual basis). Tenant shall also be responsible for maintaining and reporting any documents or reports needed in accordance with the Project Participation Agreement.

5.3.2 **Semi-Annual P&L Statements and Balance Sheets.**

(a) Semi-Annual Financial Reports. Tenant shall furnish the City with a Semi-Annual P&L Statement and Balance Sheet certified as correct by an authorized member or Officer of Tenant. This Report is due 45 days after the end of each reporting period during the Term, Such terms normally end July 1st and January 1st.

(b) Annual Financial Reports. Within 90 days following the end of each Operating Year commencing with respect to the first Full Operating Year, Tenant shall furnish the City with an Annual P&L Statement and an Annual Balance Sheet certified as correct by an authorized member or officer of Tenant.

(c) Form and Content. Each Semi-annual P&L Statement and Annual P&L Statement shall be in the form of the financial statement attached as Exhibit C. The Parties may change the form of the P&L Statements from time to time by mutual agreement. The P&L Statements and the Balance Sheets shall be prepared on a cash or accrual basis, as determined by Tenant, provided the method chosen for a particular Operating Year shall be consistently used throughout such Operating Year and subject to the requirements of Section 5.3 with respect to the Annual P&L Statement and the Balance Sheet.

5.3.3 **Examination Rights**.

(a) Examination of Books. Tenant shall, for a period of seven years following the delivery of each Annual P&L Statement, including the seven year period following the end of the Term, keep and maintain, safe and intact, all of the records, books and accounts required under this Section, and shall from time to time, upon request, make these records available to the City, the City's auditor, representative or agent for examination at any reasonable time on five days advance written notice. Tenant's books and records shall be made available for inspection by the City or its representative at the Facility. The City shall also have the right to make abstracts from the records, to make copies of any or all of the records and to examine and make copies of any or all contracts, leases, licenses and concession agreements. In addition, on request of the City or the City's representatives, Tenant shall furnish copies of Tenant's state and local gross receipts tax returns.

(b) City Staff Inspections. City staff shall have the right, from time to time to visit and inspect the operations of the Facility to confirm compliance with this Agreement.

5.5 Capital Improvements, Repairs and Maintenance.

5.5.1 Capital Reserve Account. Commencing on the Commencement Date and continuing thereafter on each anniversary thereof until the Lease Expiration Date, City shall deposit $24,000 for the previous operating year into a separate interest bearing account established solely for the purpose of holding funds for use in making Capital Repairs or Improvements (the "Capital Reserve Account"). All interest shall be added to the Capital Reserve Account.

Notwithstanding anything to the contrary contained herein, Tenant's maintenance, repair and replacement obligations under this Lease shall in no way be limited by the amount of funds from time to time held in the Capital Reserve Account.

5.5.2 Repairs and Maintenance. "Routine and Ordinary Repair or Replacement" means any maintenance and repair expense that individually is less than ($ 12,000). All such maintenance or repair expenses shall be a Facility Expense. A Capital Improvement means any repair or improvement that is individually in excess of ($ 12,000). All Capital Improvements, repairs, or maintenance projects shall require the City's prior authorization and, to the extent funds are available, are to be paid out of the Capital Reserve Account. At all times on and after the Commencement Date, to and including the date of the termination of the Term, by lapse of time or otherwise, the Tenant shall maintain the Facility in good repair and condition and in conformity with all requirements and shall make or cause to be made all Minor Repairs and Replacements. In making any such repairs, all work done by the Tenant, or on its account, shall be of first class quality in both materials and workmanship. In the event that the Tenant refuses or neglects to make any repairs required by this Agreement, or if Landlord is required to make any repairs necessitated by the negligent acts or omissions of the Tenant, its employees, agents, servants, or licensees, Landlord shall have the right, but shall not be obligated, to make such repairs on behalf of or for the account of the Tenant upon prior written notice to Tenant. In the event that Landlord shall make such repairs, such work shall be paid for by the Tenant upon receipt of a statement therefore in the amount of Landlord's costs plus an amount for overhead as shall be determined from time to time by Landlord or by offset to amounts owed by Landlord to the Tenant. Nothing herein contained shall prevent Landlord from determining that the failure of the Tenant to comply with the terms of this provision constitutes a material breach of this Agreement permitting Landlord to terminate this Agreement. Any amount unpaid shall accrue interest at the then existing Prime Rate plus five percent (5%) from the date incurred.

Maintenance for the facility parking lot will be the responsibility of the Tenant for the first two (2) years of the lease, except for the parking lot lighting, and thereafter shall revert back to the City.

5.5.3 Capital Improvements. Tenant and Landlord agree that all rent monies collected by Landlord from Tenant shall be deposited into an account known as the Capital Reserve Account. Landlord shall have control over these monies to make capital improvements to the building. Prior to April 1st of each Operating Year, Tenant shall submit a written request to the City Manager or authorized designee, of any Capital Improvement projects to be included in the City's annual capital improvement projects budget. Landlord agrees to meet with Tenant and discuss the feasibility and need for the requested capital improvements, but reserves the right to deny the requested improvements without explanation. However, the Landlord cannot deny an improvement that must be made in order to keep and preserve the essential functions of the building. The cost of all City-approved Major Improvements shall be charged against the Capital Reserve Account. In the event that the cost of a Capital Improvement project exceeds the amount in the Capital Reserve Account, the shortfall shall be paid by the Landlord. Upon the sale of the building to the Tenant, all amounts then on deposit in the Capital Reserve Account shall be paid over by the Landlord to the Tenant.

5.5.4 Material Improvements. If Tenant elects to make any changes to the building itself including erecting new walls, taking down walls, or any other construction, Tenant must first get permission in writing from the Landlord. Tenant must also provide architectural or engineered plans for such design as requested and at Tenant's expense. Any improvements that are beneficial changes to the property that are made by or for the benefit of the Tenant may not be removed once they are in

place, without the express written consent of the Landlord.

5.5.5 Credit for Improvements. If Tenant elects to purchase the business at any time during the duration of this lease, Landlord shall give Tenant a credit on the purchase price of the current appraised value of improvements that Tenant made from means other than LEDA monies.

6. TAXES

6.1 Tenant agrees that it is solely responsible for complying with all Local, State and Federal laws regarding taxation, including but not limited to, Gross Receipts Tax (GRT), and any and all employment taxes that may be due from time to time. Property Tax is a responsibility of the Landlord.

7. TERMINATION PROCEDURE; RIGHT OF FIRST REFUSAL

7.1 Tenant shall pay when due, and save Landlord harmless from and against, any and all costs, charges and expenses attributable to the Facility, including each fine, fee, penalty, charge (including governmental charges), assessments, sewer rent, Impositions, insurance premiums as may be required under this Lease, utility expenses, costs, expenses and obligations of every kind and nature whatsoever, general and special, ordinary and extraordinary, foreseen and unforeseen, the payment for which Landlord or Tenant is, or shall become liable by reason of any rights or interest of Landlord or Tenant in, to or under the Facility or this Lease or in any manner relating to the ownership, leasing, operation, management, maintenance, repair, rebuilding, use or occupation of the Facility, or of any portion thereof; provided, however, that nothing herein contained shall be construed as imposing upon Tenant any obligation to pay any Excluded Taxes of Landlord arising out of, or levied in connection with, this Lease or Landlord's right or interest in the Facility or the Rent.

7.2 At any time during the first seven (7) years of this lease, Tenant may, in writing, advise the Landlord that they wish to terminate the lease. Tenant is required to give the Landlord six (6) months notice before terminating the lease, and will be required to keep the business open and operational, with continued lease payments, during those last six (6) months at the same standards set forth elsewhere in this agreement. At the time that notice is given, Tenant must immediately make available its financial statements and books to the City, and must allow City to inspect and advertise the business for lease or sale.

7.3 Landlord agrees that during the pendency of Tenants lease, Landlord will not advertise the building for sale, nor will Landlord actively look for any prospective buyers. Landlord agrees to not sell the building to any prospective buyer during the pendency of the lease. At any time if Tenant elects to buy the building and or at the expiration of the lease, tenant will have the first opportunity to buy the building at fair market value as determined by an appraisal at any time during the lease. At the end of the lease, should the Tenant decline to purchase the building, the City is free to sell the building to any qualified buyer, as deemed fit by the City. At the time of the sale of the building or property, Tenant will continue to remain as a tenant unless removed due to default clause stated in this agreement.

7.4 Trade fixtures and improvements. Tenant agrees that building, at time of lease, is fully operational, i.e. the building contains kitchen equipment, bowling equipment, and laser tag equipment, plus associated furniture that allow for the operation of those aforementioned areas. If Tenant elects to

terminate the lease, or vacate the premises, Tenant agrees to restore the premises to substantially the same condition (i.e. with functioning equipment and furniture) as it was given. Landlord reserves the right to find noncompliance and ask for a cure within 30 days of the premises being vacated. Should Tenant fail to cure, Landlord reserves all rights within Local, State and Federal laws.

7.5 Right of first refusal on added equipment. Tenant agrees that at any time during this lease, should Tenant give Landlord a termination notice, that Landlord has the right of first refusal to purchase all added equipment owned by Tenant that is not a permanent fixture in the building. Tenant agrees that Landlord will be given the opportunity with prices set at current appraised fair market value.

8. SERVICES

8.1 Commencing upon the Commencement Date and continuing through the Term, Landlord grants to Tenant the exclusive right to occupy, maintain and operate the Facility pursuant to this Agreement, and Tenant covenants and agrees to maintain and operate the Facility according to Sound Standards and Sound Practice and pursuant to the terms and conditions set forth in this Agreement.

8.2 Tenant shall during the Term, at Tenant's sole cost and expense, be responsible for supplying the Facility with electricity, heating, ventilating and air conditioning, water, natural gas, lighting, replacement for all lights (except for the parking lot lighting), restroom supplies, telephone service, window washing, security service, janitor, pest control and disposal services (including, if applicable, hazardous and biological waste disposal), and such other services as Tenant determines to furnish to the Facility. Landlord shall not be in default hereunder or be liable for any damage or loss directly or indirectly resulting from, nor shall the Lease Amount or Additional Rent be abated or a constructive or other eviction be deemed to have occurred by reason of, the installation, use or interruption of use of any equipment in connection with the furnishing of any of the foregoing services, any failure to furnish or delay in furnishing any such services, whether such failure or delay is caused by accident or any condition beyond the control of Landlord or Tenant or by the making of repairs or improvements to the Facility, or any limitation, curtailment, rationing or restriction on use of water, electricity, gas or any form of energy serving the Facility, whether such results from mandatory governmental restriction or voluntary compliance with governmental guidelines. Tenant shall pay the full cost of all of the foregoing services and all other utilities and services supplied to the Facility as Additional Rent.

8.3 **Operation Services.** Tenant shall have the right and responsibility to: (i) determine, establish, and implement the policies, standards, fees and schedules for the operation and maintenance of the Facility and all matters affecting customer relations; (ii) hire, train, and supervise all Facility employees; (iii) supervise and direct advertising, sales and business promotion; and (iv) establish accounting and payroll procedures and functions. Without in any way limiting Tenant's right and responsibility to operate the Facility in accordance with the terms of this Agreement, Tenant shall perform the following operations and maintenance services, or cause the same to be performed for the Facility. Unless specifically set forth otherwise in this Agreement, all expenditures of Tenant and costs and expenses incurred by Tenant in performing these services shall be Facility Expenses:

8.3.1. League, tournament, open and private bowling activities to be offered at the Facility.

8.3.2. Consummate arrangements with concessionaires, licensees, tournament promoters, contractors or other intended users of the Facility.

8.3.3. Enter into contracts for the furnishing of utilities and maintenance and other services to the Facility.

8.3.4. Incur such expenses as shall reasonably be determined to be necessary for the proper operation of the Facility, including without limitation rental expenses for leased FF&E as necessary.

8.3.5. Maintain a level of Operating Inventory deemed appropriate by Tenant for supplying the needs of the Facility and its customers.

8.3.6. Use commercially reasonable efforts to do, or cause to be done, all such acts in and about the Facility as shall be reasonably necessary to comply with all requirements of each insurance policy applicable to the Facility (the "Insurance Requirements").

8.3.7. Use commercially reasonable efforts to market the Facility and maximize Gross Revenues, consistent with Sound Practice.

8.3.8. Purchase additional FF&E as necessary to operate and maintain the Facility in a first-class manner.

8.3.9. Pay initial activation charges or connection fees for utilities and services for the Facility.

8.3.10. Not permit any mechanic's or materialmen's liens to be asserted against the Facility for work or materials by or on behalf of Tenant.

8.3.11. Comply with all applicable laws, statutes, ordinances, orders, rules, regulations, permits, licenses, authorizations, directives and requirements of all governments and governmental authorities, which now or hereafter may be applicable to Tenant, the Facility or the operation of the Facility (the "Legal Requirements").

8.4 **Maintenance and Repair.** Tenant shall furnish, maintain and repair the Facility to keep it in first class condition and in good repair (damage by casualty or condemnation and reasonable wear and tear excepted) throughout its useful life.

8.4.1 General Maintenance, Repair and Upkeep. Tenant shall maintain the Facility in a clean, safe and attractive state, including, but not limited to the surrounding sidewalk and landscape areas, telephone and data lines, offices, rest rooms and open areas. A clean and attractive state includes replacing bulbs and ballasts in lamps and lighting fixtures; cleaning, repairing and replacing signs; maintaining fire alarm call boxes, fire extinguishers and hose boxes and systems in proper working condition; general facility maintenance and repairs by tradesmen as required to ensure a clean, attractive and safe environment such as maintenance and repairs of electrical equipment, plumbing fixtures; painting pedestrian areas, offices, rest rooms, etc., other repairs as necessary; supplying rest rooms with soap, towels, toilet paper and providing for their disposal.

8.4.2 Garbage Removal. Tenant shall arrange for the storage, removal and disposal of all waste material in connection with the Facility. Tenant shall also be responsible for all storage and disposal of all waste materials throughout the entire Facility. Tenant shall comply with all applicable ordinances, statutes and regulations for storage, removal and disposal of waste materials.

8.4.3 Pest Control. Tenant shall maintain a pest control program that minimizes the infestation of pests and vermin in accordance with all applicable ordinances, statutes and regulations.

8.4.4 Graffiti Removal. Tenant shall remove or cause to be removed all graffiti applied to surfaces of the Facility and elsewhere in and around the Facility in a manner (chemicals and process) approved by the Landlord.

8.4.5 Maintenance and Custodial Equipment. Tenant shall keep all maintenance and custodial equipment in good repair and working order.

8.4.6 Maintenance of Electronic Security and Surveillance Equipment. Tenant shall keep all electronic security and surveillance equipment in good repair and working order.

8.4.7 Maintenance of Score Boards, Sound System and Video Boards. Tenant shall maintain the scoreboards, sound system, video boards, and video production equipment at the Facility in good repair and working order.

8.4.8 Window Washing. Tenant shall be responsible for window washing.

8.5 **Personnel**. Except for Landlord employees working at the Facility for the Landlord in connection with Landlord Activities, all employees working at the Facility shall be full or part time employees of Tenant or an Affiliate. The number of employees working at the Facility, and the compensation (salaries or wages, benefits and commissions) paid to them, shall be reasonably established by Tenant. Tenant shall recruit, hire, train, discharge, promote and supervise the Facility staff, all of whom shall be Tenant employees and Tenant shall be solely responsible for paying all federal, state and local taxes and all benefits for all such employees. The compensation (including benefits) of the Facility staff and all other Facility employees shall be a Facility Expense.

8.6 **Specific Operating Procedures.** In addition to the more general responsibilities of Tenant for operations of the Facility as provided herein, Tenant shall operate the Facility in accordance with the following operating procedures:

8.6.1 Facility Operating Hours. Tenant shall operate the Facility on days and at hours consistent with Sound Practice, subject to closure due to, casualty, condemnation, Force Majeure Events or major alterations or improvements.

8.6.2 Fees and Charges. Tenant shall set and establish fees and charges accordingly to maintain operations of the business.

8.6.3 Security and Crowd Control

i. Security. Tenant shall be responsible for the general safety, security and well being of all occupants of the Facility at all times, including providing and arranging for security and crowd control as reasonably necessary in connection with the Facility and events to be held therein. To the extent consistent with Sound Standards, Tenant shall provide security by means of electronic surveillance and foot patrols.

ii. Medical Staffing. To the extent consistent with Sound Standards, Tenant shall be responsible for (a) implementing appropriate medical policies as required on an event-by-event basis or (b) ensuring the access of on-call public medical services.

iii. Safety Plans. In conjunction with the Landlord, Tenant shall develop and implement (a) an emergency and evacuation plan and (b) a public safety and fire management plan for the Facility.

8.6.4 Landscape and Irrigation System Maintenance. Tenant shall maintain, repair and upkeep the landscape.

8.6.5 Tobacco. Tenant shall not allow the sale of tobacco products, either manually or through vending machines, anywhere within the Facility.

8.6.6 Management, Operation and Maintenance Plans. Tenant shall create a set of books, plans, or documents, which define management, operations, and maintenance of the facility. These documents shall be physically located within the facility.

8.7 **Contracts and Agreements.** All leases and financing agreements for additional FF&E beyond those initially provided by Landlord, and all contracts and agreements relating to the operation and maintenance of the Facility (including without limitation contracts for maintenance and repair services, pest control, supplies and landscaping services, and agreements for tournaments, banquets and other group functions), entered during the Term shall be entered by Tenant as the contracting party. Tenant shall not enter any contract or agreement which extends beyond the Term of this Agreement unless such contract or agreement is cancelable on 30 days notice.

8.8 **Compliance with Environmental Laws.** Subsequent to the Commencement Date, Tenant shall comply with all federal, state and local laws and regulations pertaining to the storage, use and disposal of "Hazardous Materials", meaning any material, substance or matter which is flammable, explosive, corrosive, radioactive or toxic, or which contains asbestos, or is a pesticide, or is a chemical known to cause cancer or reproductive toxicity or which is defined as a hazardous substance, material or waste, or as a toxic substance, material or waste, in any federal, State of New Mexico or applicable local law, regulation or order. All expenditures of Tenant and costs and expenses incurred by Tenant in performing the foregoing services or in remediating damage to the Property resulting from the storage, use or disposal of such Hazardous Materials by Tenant subsequent to the Commencement Date shall be considered Facility Expenses and shall be paid or borne solely by Tenant. Landlord shall be responsible for all costs and expenses associated with the remediation of, and liability arising from or related to, damages to the Property from the storage, use or disposal of Hazardous Materials ("Hazmat Costs"): (A) before the Completion Date; or (B) percolating under the property whether before or after the Completion Date. Tenant will be responsible for all Hazmat Costs by Tenant, its employees, agents and contractors after the Commencement Date.

8.9 Tenant shall maintain, and (to the extent in its possession) turn over to Landlord upon expiration or termination of this Lease, then current operating manuals and original warranties (to the extent assignable) for all equipment and fixtures then located at the Facility specifically excluding, in all cases, Tenant's Personal Property at the Facility which Tenant's Personal Property may and which are subsequently removed by Tenant upon expiration or earlier termination of this Lease.

9. DESTRUCTION OF OR DAMAGE TO FACILITY

If the Facility is damaged by fire or other casualty during the Term of this Lease, Tenant shall (a) repair such damage and restore the Facility to substantially the same or better condition as existed before the occurrence of such fire or other casualty using materials of the same or better grade than that of the materials being replaced (herein, a "Casualty Repair") and (b) this Lease shall remain in full force and effect. Such repair and replacement by Tenant shall be done in accordance with the terms and the standards of this Agreement and Tenant shall, at its expense, obtain all permits required for such work. An architect or engineer selected by Landlord shall review, at Tenant's expense, all plans and specifications and all draw requests hereunder. In no event shall Lease Amount or Additional Rent abate, nor shall this Lease terminate by reason of such damage or destruction. Provided that no Event of

Default by Tenant shall then exist under this Lease (and no event has occurred which, with the passage of time, the giving of notice, or both, would constitute an Event of Default), and provided Tenant has: (i) delivered to Landlord plans and specifications and a budget for such Casualty Repair (all of which Landlord shall have approved), and (ii) deposited with Landlord cash or a letter of credit meeting the requirements (other than amount) of a Letter of Credit outlined in Section 5 above, in the sum equal to the excess, if any, of the total cost set forth in such approved budget over the amount of insurance proceeds received on account of such casualty, Landlord shall make available to Tenant all insurance proceeds actually received by Landlord on account of such casualty, for application to the costs of such approved repair and restoration, as set forth below.

10. INSURANCE, HOLD HARMLESS AND INDEMNIFICATION

10.1 To the fullest extent permitted by law, Landlord shall not be liable to Tenant for any damage to or loss or theft of any property or for any bodily or personal injury, illness or death of any person in, on or about the Facility arising at any time and from any cause whatsoever. Tenant waives all claims against Landlord arising from any liability described in this paragraph 10.

10.2 Tenant hereby agrees to indemnify and defend Landlord against and hold Landlord harmless from all third-party claims, demands, liabilities, damages, losses, costs and expenses, including attorneys' fees and disbursements, arising from or related to any use or occupancy of the Facility, or any condition of the Facility, or any damage to any property (including property of employees and invitees of Tenant) or any bodily or personal injury, illness or death of any person (including employees and invitees of Tenant) occurring in, on or about the Facility or any part thereof or any part of the building or the land constituting a part of the Facility arising at any time and from any cause whatsoever or occurring outside the Facility when such damage, bodily or personal injury, illness or death is proximately caused by any act or omission of Tenant or its agents, officers, employees, contractors, invitees or licensees. This paragraph 10.2 shall survive the termination of this Lease with respect to any damage, bodily or personal injury, illness or death occurring prior to such termination.

10.3 Insurance

10.3.1 Tenant's Insurance. Tenant shall obtain, pay for and maintain at all times during the Term the following insurance on or in connection with the Facility:

(a) Commercial General Liability Insurance, against claims for personal and bodily injury, death or property damage occurring on, in or as a result of the use of the Facility, in an amount not less than $1,000,000 per occurrence/annual aggregate on a claims occurrence basis; and liquor legal liability (or so-called Dram Shop Liability) insurance in an amount not less than $1,000,000 per occurrence/annual aggregate.

(b) Business Automobile Liability Insurance (including Non-Owned and Hired Automobile Liability), against claims for personal and bodily injury, death or property damage occurring on, in or as a result of the use of the Facility, in an amount not less than $250,000 per occurrence/annual aggregate on a claims occurrence basis; and liquor legal liability (or so-called Dram Shop Liability) insurance in an amount not less than $1,000,000 per occurrence/annual aggregate.

(c) Workers' Compensation and Employers Liability Insurance as required by New Mexico Law. Tenant shall comply with the provisions of the New Mexico Workers' Compensation Act, the Subsequent Injury Act, and the New Mexico Occupational Disease Disablement Law.

Tenant shall procure and maintain during the term of this Lease complete Workers' and Employer's Liability Insurance in accordance with New Mexico laws and regulations. Such insurance shall include coverage permitted under Section 52-1-10, NMSA 1978, for safety devices. With respect to Workers' Compensation Insurance, if Tenant elects to be self-insured, Tenant shall comply with the applicable requirements of law. If any portion of the work is to be sublet, Tenant shall require the subtenants similarly to provide such coverage (or qualify as a self-insured) for all the latter's employees to be engaged in such work. Tenant hereby covenants and agrees that City, its officers, or employees will not be liable or responsible for any claims or actions occasioned by Tenant's failure to comply with the provisions of this subparagraph and that the Indemnification provision of this Agreement shall apply to this paragraph. It is expressly agreed that the employees of Tenant are not City employees for any purpose.

(d) Business Interruption Insurance at limits sufficient to cover 100% of the period of indemnity not less than twelve (12) months from time of loss, including extended period of indemnity which provides that after the physical loss to the Improvements and equipment has been repaired, the continued loss of income will be insured until such income either returns to the same level it was at prior to the loss, or the expiration of six (6) months from the date that the Facility is repaired or replaced and operations are resumed, whichever first occurs.

(e) During any period in which Capital Improvements, Capitalized Repairs, or any other substantial alterations at the Facility are being undertaken, builder's risk insurance covering the total completed value, including all hard and soft costs (which shall include business interruption coverage) with respect to the Improvements being constructed, altered or repaired (on a completed value, non-reporting basis), replacement cost of work performed and equipment, supplies and materials furnished in connection with such construction, alteration or repair of Improvements or Building Systems Equipment, together with such other endorsements as Landlord may reasonably require, and general liability, worker's compensation and automobile liability insurance with respect to the Improvements being constructed, altered or repaired.

(f) Tenant shall, at all times during the Term, maintain, at Tenant's sole cost and expense, an insurance policy naming Landlord as an additional insured covering the Landlord's Personal Assets, insuring the Landlord's Personal Assets against loss by fire and other casualty or theft, with such coverage and deductibles to be agreed to between Landlord and Tenant and consistent with insurance coverage previously maintained on the Landlord's Personal Assets (whether by Landlord or any prior owner of the Landlord's Personal Assets).

(g) Such other insurance (or other or different terms with respect to any insurance required pursuant to this Article 10.3.1, including without limitation amounts and types of coverage, deductibles, form of mortgagee clause, insurer rating) on or in connection with any of the Facility as Landlord may reasonably require; provided that such insurance is available to Tenant on a commercially reasonable basis and is consistent, as to types of coverage and amounts, with the requirements generally of prudent owners or operators of similar properties.

10.3.2 Policies of insurance shall be written by companies authorized to write such insurance in New Mexico. When requested by City, Tenant shall allow City to review in the presence of Tenant's insurance representatives any or all policies of insurance for the insurance coverage required in this Section.

10.3.3 Each policy required by any provision of Section 10.3.1 except clause (d) thereof, shall provide that it may not be cancelled, substantially modified or allowed to lapse on any renewal date except after at least thirty (30) days' prior written notice to Landlord.

10.3.4 Tenant shall pay as they become due all premiums for the insurance required by Section 10.3.1, shall renew or replace each policy and deliver to Landlord evidence of the payment of the full premium therefor or installment then due at least ten (10) days prior to the expiration date of such policy, and shall promptly deliver to Landlord all original certificates of insurance evidencing such coverages.

10.3.5 Each policy obtained by Tenant shall contain an effective waiver by the carrier against all claims for payment of insurance premiums against Landlord and shall contain a full waiver of subrogation against the Landlord. Each policy obtained by Landlord, if any, shall contain an effective waiver by the carrier against all claims for payment of insurance premiums against Tenant and shall contain a full waiver of subrogation against Tenant. Tenant waives subrogation against Landlord to extent of insurance proceeds actually received or would have been received if adequate coverage had been in place.

10.3.6 Landlord's Right to Obtain Tenant's Insurance. Notwithstanding anything to the contrary contained in this Article10.3.1, if at any time Tenant fails to provide evidence of the insurance required to be maintained by Tenant hereunder within ten (10) Business Days of Landlord's request for same (said requests not to be made more than once per calendar quarter), Landlord shall have the right, but not the obligation, by providing written notice of such election to Tenant, to itself obtain and maintain all or any portion of such insurance, in which event Landlord shall charge Tenant the cost of such insurance as Additional Rent hereunder. In the event that Landlord so elects to obtain and maintain such insurance, Landlord shall cause Tenant, if Tenant so requests in writing, to be added as additional insureds and loss payees under the applicable insurance policy(ies), as its interests may appear. Landlord and Tenant agree to reasonably cooperate with each other in order to coordinate the acquisition and maintenance of any such insurance by Landlord, which may include, without limitation, the execution of any required forms and applications and providing relevant information to Landlord's insurance carrier.

10.3.7 During the continuance of any Event of Default, Tenant shall pay to Landlord on the first day of each calendar month an amount equal to one twelfth (1/12) of the premiums for property and casualty insurance required by this paragraph 10, as reasonably estimated by Landlord on the basis of bills and estimates thereof. If such premium payments shall have been made by Tenant, such amounts shall be held by Landlord, without interest, and shall not be deemed to be trust funds and may be commingled with the general funds of Landlord. Landlord shall apply such amounts to the payment of the insurance premiums with respect to which such amounts were paid. Landlord shall make no charge for holding and applying such amounts. If at any time the amount on deposit pursuant to this paragraph shall be less than the amount deemed necessary by Landlord to pay such premiums as they become due, Tenant shall pay to Landlord the amount necessary to make the deficiency within five (5) calendar days after notice from Landlord requesting payment thereof. Upon the expiration or termination of the term of this Lease (other than as a result of an Event of Default), Landlord shall promptly refund to Tenant any amount held by Landlord pursuant to this paragraph.

11. COMPLIANCE WITH LAWS, COVENANTS

11.1 Tenant shall with respect to the Facility and Bowling Equipment throughout the Term promptly comply or cause compliance with or remove or cure any violation of any and all present and future laws including the Americans with Disabilities Act of 1990 as the same may be amended from time to time ("ADA") (Landlord acknowledges that Tenant shall only be required to make accommodations under the ADA to the extent required by the ADA), ordinances (zoning or otherwise), orders, rules, regulations and requirements of all Federal, State, municipal and other governmental bodies having jurisdiction over the Facility and the appropriate departments, commissions, boards and officers thereof, or any other body now or hereafter constituted exercising lawful or valid authority over the Facility (collectively, "Legal Requirements"), or any portion thereof, and whether the compliance, curing or removal of any such violation and the costs and expenses necessitated thereby shall have been foreseen or unforeseen, ordinary or extraordinary, and whether or not the same shall be presently within the contemplation of Landlord or Tenant or shall involve any change in governmental policy, or require structural or extraordinary repairs, alterations or additions by Tenant and irrespective of the amount of the costs thereof.

11.2 In connection with its operations or other activities at the Facility, Tenant shall at all times and in all respects comply with all Environmental Laws including Federal, State and local laws, ordinances and regulations pertaining to Hazardous Substances, which are applicable to the Facility and Tenant's activities. Upon expiration or earlier termination of this Lease, Tenant shall cause all Hazardous Substances introduced to the Facility by Tenant or its agents or invitees to be removed from the Facility as required by and in compliance with applicable environmental laws, and transported for use, storage, or disposal in accordance and in compliance with all applicable Environmental Laws. "Environmental Laws" means the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. §§6901, et seq. (RCRA), as amended, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§9601 et seq. (CERCLA), as amended, the Toxic Substance Control Act, as amended, 15 U.S.C. §§2601 et seq., the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. §§136 et seq., and all applicable federal, state and local environmental laws, ordinances, rules and regulations, as any of the foregoing may have been or may be from time to time amended, supplemented or supplanted, and any other federal, state or local laws, ordinances, rules and regulations, now or hereafter existing relating to regulations or control of Hazardous Material or materials. The term "Hazardous Materials" as used in this Lease shall mean substances defined as "hazardous substances", "hazardous materials", "hazardous wastes" or "toxic substances" in any applicable federal, state or local statute, rule, regulation or determination, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §§1801, et seq.; the Resource, Conservation and Recovery Act of 1976, 42 U.S.C. §§6901, et seq.; and, asbestos, pcb's, radioactive substances, methane, volatile hydrocarbons, petroleum or petroleum-derived substances or wastes, radon, industrial solvents or any other material as may be specified in applicable law or regulations.

12. PARTIAL TAKING

If less than substantially all of any Site shall be taken for public or quasi-public purposes, Tenant will promptly, at its sole cost and expense, restore, repair, replace or rebuild the improvements so taken in conformity with the requirements of this agreement as nearly as practicable to the condition, size, quality of workmanship and market value thereof immediately prior to such taking, without regard to the adequacy of any condemnation award for such purpose. There shall be no abatement of Rent during

such period of restoration. In performing its obligations, Tenant shall be entitled to all condemnation proceeds available to Landlord for restoration or repair of the Facility under the same terms and conditions for disbursement set forth for casualty proceeds. Tenant shall, at its sole cost and expense, negotiate and, if necessary, litigate, the amount of the award, and Landlord shall have the right to participate in such process, at its sole cost and expense (it being acknowledged and agreed by Landlord that Tenant shall have the right to control such proceeds and settle all awards), and if Tenant fails to diligently prosecute such efforts, Landlord may take control of the process. Any condemnation proceeds in excess of the amounts used or requested as are made by Tenant for restoration or repair of the Facility, shall be the sole and exclusive property of Landlord. Tenant shall have the right to control all condemnation proceedings on Landlord's behalf, and shall also be entitled to receive any award made by the condemning authority in respect of business loss or, if available, business relocation and any other claim permitted by law which does not, in any such case, diminish Landlord's recovery.

13. SUBSTANTIAL TAKING

In the event the whole of the Facility shall be taken or condemned in any eminent domain, condemnation, compulsory acquisition, expropriation, or like proceeding (including transfers in lieu thereof) by any competent authority for any public or quasi-public use or purpose, or in the event such a portion thereof shall be taken or condemned (or transferred in lieu thereof) as to make it imprudent or unreasonable to use the remaining portion of the Facility for the permitted uses of the type and class immediately preceding such taking or condemnation (or transfer in lieu thereof) then, in any of such events, this Lease shall terminate as of the date of the taking and the parties hereto shall have no further liability under the lease .

14. DEFAULT: EVENTS OF DEFAULT

14.1 The occurrence of any one or more of the following events ("Event of Default") shall constitute a breach of this Lease by Tenant:

14.1.1 Tenant fails to pay any Lease Amount as and when such Lease Amount becomes due, and such failure continues for five (5) calendar days after written notice thereof, provided that if Tenant is more than five (5) calendar days late in the payment of Lease Amount once in any twelve (12) consecutive month period, only one notice need be given by Landlord during such 12 month period and any subsequent failure to pay Lease Amount on or before its due date within such twelve (12) consecutive months shall constitute an Event of Default after five (5) calendar days without notice;

or

14.1.2 An Event of Default occurs under paragraph 21, subletting/assignment; or

14.1.3 Tenant fails to perform or breaches any agreement or covenant of this Lease not separately covered in this paragraph 14 to be performed or observed by Tenant as and when performance or observance is due and such failure or breach continues for more than thirty (30) calendar days after Landlord's giving written notice thereof to Tenant; provided, however, that if, by the nature of such agreement or covenant, such failure or breach cannot reasonably be cured within such period of thirty (30) calendar days, an Event of Default shall not exist as long as Tenant commences with due diligence and dispatch the curing of such failure or breach within such period of thirty (30) calendar days and, having so commenced, thereafter prosecutes with diligence and dispatch and completes the curing of such failure or breach within a reasonable time not to exceed one hundred eighty (180) calendar days, provided, further, that in the event that the cure of such

failure or breach cannot be cured within such one hundred eighty (180) day period and the cure of such failure or breach does not involve a cost in excess of $100,000, then the Event of Default shall be waived so long as Tenant is diligently continuing to prosecute the curing of such failure or breach; or

14.1.4 Tenant (i) files, or consents by answer or otherwise to the filing against Tenant of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction, (ii) makes an assignment for the benefit of Tenant's creditors, (iii) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Tenant or of any substantial part of Tenant's property, or (iv) takes corporate action for the purpose of any of the foregoing; or

14.1.5 A court or government authority enters an order, and such order is not stayed or vacated within sixty (60) calendar days, (i) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Tenant or with respect to any substantial part of Tenant's property, or (ii) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy, insolvency or other debtors' relief law of any jurisdiction, or (iii) ordering the dissolution, winding-up or liquidation of Tenant; or

14.1.6 Any event occurs which is specifically stated to be an Event of Default under this Lease; or

14.1.7 An event of default shall occur under any loan agreement, indenture or other agreement related to Debt of Tenant securing or relating to an amount in excess of $75,000 and which event of default causes the lenders (or other parties) under such loan agreement, indenture or other agreement to exercise the right to accelerate the Debt or other obligations secured thereby. Tenant shall promptly give notice of any such default or acceleration to Landlord; or

15.1.8 Any representation or warranty of Tenant contained in this Lease shall have been materially and adversely false as of the date it was made and not corrected within thirty (30) calendar days after Landlord gives written notice thereof to Tenant; or

14.1.9 This Lease or any estate of Tenant hereunder is levied upon under any attachment or execution and such attachment or execution is not stayed or vacated within thirty (30) calendar days; or

14.1.10 Tenant shall abandon the Facility for thirty (30) calendar days; or

14.1.11 Any judgment or order for the payment of money in excess of $50,000 shall be rendered against Tenant and not paid or otherwise covered under any policy of insurance within thirty (30) calendar days after all rights to appeal shall have expired; or

14.1.12 Tenant fails to continuously maintain all insurance required to be maintained by Tenant in accordance with the terms and conditions of this Lease.

14.2 Landlord may treat the occurrence of any one or more of the foregoing Events of Default as a breach of this Lease. For so long as such Event of Default continues, Landlord, at its option and with or without notice or demand of any kind to Tenant or any other Person, may have any one or more of the remedies provided in this Lease, in addition to all other remedies and rights provided at law or in equity.

15. REMEDIES

15.1 Upon the occurrence of and during the continuance of an Event of Default, Landlord shall, in addition to, and not in derogation of any remedies for any preceding breach, with or without notice of demand (except as otherwise expressly provided herein) and without limiting Landlord in the exercise of any right or remedy which Landlord may have by reason of such Event of Default have all of the following remedies available:

15.1.1 Landlord shall have the right to terminate Tenant's right to possession of the Facility and repossess the Facility by any lawful means without terminating this Lease. Landlord shall use good faith and reasonably prompt efforts, to the extent required by applicable law of the state where the Facility are located, to re-let the Facility for the account of Tenant for such rent and upon such terms as may be satisfactory to Landlord. For the purposes of that re-letting, Landlord may repair, and perform normal remodeling and alterations to the Facility. If Landlord fails to re-let the Facility, Tenant shall pay to Landlord the Rent in this Lease for the balance of the Term as those amounts become due in accordance with the terms of this Lease. If Landlord re-lets the Facility, but fails to realize a sufficient sum from the re-letting to pay the full amount of Rent in this Lease for the balance of the Term as those amounts become due in accordance with the terms of this Lease, after paying all of the costs and expenses of all normal and customary decoration, repairs, remodeling, alterations and additions and the expenses of the re-letting and of the collection of the rent accruing from the re-letting, Tenant shall pay to Landlord the amount of any deficiency upon Landlord's demand from time to time made.

15.1.2 Landlord shall have the right at any time to give a written termination notice to Tenant and, on the date specified in such notice, Tenant's right to possession shall terminate and this Lease shall terminate. Upon such termination, Landlord shall have the right to recover from Tenant:

(a) The "worth at the time of determination" of all unpaid Rent which had been earned at the time of termination;

(b) The "worth at the time of determination" of the amount by which the unpaid Rent for the balance of the then Term of this Lease after the time of termination, excluding the potential Lease Term under any unexercised options for any Extension Terms, exceeds the greater of (A) the net rental proceeds actually received or to be received from any actual subsequent replacement tenant(s) for any Site or (B) the amount of such rental loss that Tenant proves could be reasonably avoided; and

(c) All other amounts necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform all of Tenant's obligations under this Lease or which in the ordinary course of things would be likely to result therefrom. The "worth at the time of determination" of the amounts referred to in clause (i) above shall be computed by allowing interest at the Overdue Rate. The "worth at the time of determination" of the amount referred to in clause (ii) above shall be computed by discounting such amount to present value by using the discount rate equal to the sum of two percent (2%) plus the then Treasury Rate. For the purpose of determining unpaid Rent under clause (i) and (ii) above, the Rent reserved in this Lease shall be deemed to be the total Rent payable by Tenant under paragraph 5 hereof.

15.1.3 Even if Landlord terminates Tenant's possession under this Lease, this Lease shall continue in effect and Landlord shall have the right to enforce all its rights and remedies under this Lease, including the right to recover all Rent as it becomes due under this Lease up to the time of the termination. Acts of maintenance or preservation or efforts to relet the Facility or the appointment of a receiver upon initiative of Landlord to protect Landlord's interest under this Lease shall not constitute a termination of the Lease unless and until written notice of such termination is given by Landlord to Tenant. Landlord

shall have unrestricted rights of entry for such purposes following an Event of Default. Landlord shall be entitled to an administrative fee of five percent (5%) of all amounts expended under this paragraph 15.

15.1.4 All agreements and covenants to be performed or observed by Tenant under this Lease shall be at Tenant's sole cost and expense and without any abatement of Lease Amount or Additional Rent. If Tenant fails to pay any sum of money to be paid by Tenant or to perform any other act to be performed by Tenant under this Lease as and when due or required to be performed, Landlord shall have the right, but shall not be obligated, and without waiving or releasing Tenant from any obligations of Tenant, to make any such payment or to perform any such other act on behalf of Tenant in accordance with this Lease. All sums so paid by Landlord and all necessary incidental costs shall be deemed Additional Rent hereunder and shall be payable by Tenant to Landlord on demand, together with interest on all such sums from the date of expenditure by Landlord to the date of repayment by Tenant at the Overdue Rate. Landlord shall have, in addition to all other rights and remedies of Landlord, the same rights and remedies in the event of the nonpayment of such sums (plus interest at the Overdue Rate) by Tenant as in the case of default by Tenant in the payment of Rent.

15.1.5 If Tenant abandons or surrenders the Facility, or any portion thereof, or an Event of Default by Tenant pursuant to paragraph 14.1.11 above shall have occurred, or Tenant is dispossessed by process of law or otherwise, any movable furniture, equipment, trade fixtures or personal property belonging to Tenant and left in the Facility, or any portion thereof, shall be deemed to be abandoned, at the option of Landlord, and Landlord shall have the right to sell or otherwise dispose of such personal property in any commercially reasonable manner. If an Event of Default by Tenant pursuant to paragraph 14.1.11 above shall have occurred Landlord shall have the right, but not the obligation, to sublet the Facility, or any portion thereof, on reasonable terms for the account of Tenant, and Tenant shall be liable for all costs of such subletting, including the cost of preparing the Facility, or any portion thereof, for subtenants and leasing commissions paid to brokers.

15.1.6 Landlord shall be entitled to collect from Tenant Landlord's costs and expenses, including attorneys' fees and expenses, in connection with the enforcement of its remedies and/or the defense of any matter, including during an appeal and whether suit is actually filed or not.

15.1.7 Upon the occurrence of and during the continuance of an Event of Default, Landlord shall have the right to commence an action in any court of competent jurisdiction located in the State of New Mexico for the purpose of adjudicating the Event of Default and any or all of Landlord's rights and remedies under the Lease. Tenant hereby consents to the exercise of personal jurisdiction over Tenant in any such court in New Mexico and to New Mexico as the choice of venue.

16. LANDLORD'S RIGHT OF ENTRY

Landlord, and its respective designees, shall have the right to enter the Facility, and any part of the Facility, at any time during normal business hours and any part of the Facility on Two (2) Business Days' advance notice and to inspect the same, post notices of non-responsibility, monitor construction, perform appraisals, perform environmental site assessments and engineering studies, and during the last twenty four (24) months of the Term or at any time after and during the continuance of an Event of Default, exhibit the Facility to prospective purchasers, and examine Tenant's books and records pertaining to the Facility, insurance policies, certificates of occupancy and other documents, records and permits in Tenant's possession with respect to the Facility; provided, however, that such entry shall (i) not unreasonably interfere with Tenant's conduct of its business operations and (ii) be subject to the escort of Tenant.

17. NOTICES

Notices, statements, demands, or other communications required or permitted to be given, rendered or made by either party to the other pursuant to this Lease or pursuant to any applicable law or requirement of public authority, shall be in writing (whether or not so stated elsewhere in this Lease) and shall be deemed to have been properly given, rendered or made, when received by personal delivery or overnight delivery or overnight courier delivery (or, if such delivery is refused, upon the date that delivery would have occurred but for such refusal) or facsimile transmission (with electronic confirmation therefor) with a confirmation copy of the entire original transmittal sent by overnight delivery or by overnight courier delivery addressed to the other parties as follows:

To Landlord: City Of Alamogordo
City Manager's Office
1376 E 9th St
Alamogordo, NM 88310

To Tenant: Downtown Venture Corporation
3751 Mesa Village Dr
Alamogordo, NM 88310

Any party listed in this paragraph 17 may, by notices as aforesaid, designate a different address for addresses for notice, statements, demands or other communications intended for it.

18. MECHANICS' LIENS

18.1 Except for liens created by or through the act of Landlord, Tenant shall not suffer or permit any mechanic's lien or other lien to be filed or recorded against the Facility, equipment or materials supplied or claimed to have been supplied to the Facility at the request of Tenant, or anyone holding the Facility, or any portion thereof, through or under Tenant. If any such mechanic's lien or other lien shall at any time be filed or recorded against the Facility, or any portion thereof, Tenant shall cause the same to be discharged of record or bonded over within sixty (60) calendar days after the date that Tenant receives notice of filing or recording of the same. However, in the event Tenant desires to contest the validity of any lien it shall (i) on or before thirty (30) calendar days prior to the due date thereof (but in no event later than sixty (60) calendar days after the filing or recording thereof), notify Landlord, in writing, that Tenant intends to so contest same; (ii) on or before the due date thereof, if such lien involves an amount in excess of $10,000, bond over or deposit with Landlord security (in form and content reasonably satisfactory to Landlord) for the payment of the full amount of such lien, and from time to time deposit additional security so that, at all times, adequate security will be available for the payment or bonding over of the full amount of the lien together with all interest, penalties, costs and other charges in respect thereof.

If Tenant complies with the foregoing, and Tenant continues, in good faith, to contest the validity of such lien by appropriate legal proceedings which shall operate to prevent the collection thereof and the sale or forfeiture of the Facility, or any part thereof, to satisfy the same, Tenant shall be under no obligation to pay such lien until such time as the same has been decreed, by court order, to be a valid lien on the Facility. If an Event of Default exists, Landlord may apply any deposit then held by Landlord with respect to any such lien to discharge such lien. If no Event of Default exists, then any deposit then

held by Landlord will be so applied upon Tenant's written direction. Any surplus deposit retained by Landlord, after the payment of the lien shall be repaid to Tenant. Provided that nonpayment of such lien does not cause Landlord to be in violation of any of its contractual undertakings, Landlord agrees not to pay such lien during the period of Tenant's contest. However, if Landlord pays for the discharge of a lien or any part thereof from funds of Landlord (and not amounts deposited with Landlord by Tenant for such event), any amount paid by Landlord, together with all costs, fees and expenses in connection therewith (including attorney's fees of Landlord plus an administration fee equal to 5% of such costs and expenses), shall be repaid by Tenant to Landlord on demand by Landlord, together with interest thereon at the Overdue Rate. Tenant shall indemnify and defend Landlord against and save Landlord and the Facility, and any portion thereof, harmless from and against all losses, costs, damages, expenses, liabilities, suits, penalties, claims, demands and obligations, including attorney's fees, resulting from the assertion, filing, foreclosure or other legal proceedings with respect to any such mechanic's lien or other lien or the attempt by Tenant to discharge same as above provided.

18.2 All materialmen, contractors, artisans, engineers, mechanics, laborers and any other Person now or hereafter furnishing any labor, services, materials, supplies or equipment to Tenant with respect to the Facility, or any portion thereof, are hereby charged with notice that they must look exclusively to Tenant to obtain payment for the same. Notice is hereby given that Landlord shall not be liable for any labor, services, materials, supplies, skill, machinery, fixtures or equipment furnished or to be furnished to Tenant upon credit, and that no mechanic's lien or other lien for any such labor, services, materials, supplies, machinery, fixtures or equipment shall attach to or affect the estate or interest of Landlord in and to the Facility, or any portion thereof.

18.3 Tenant shall not create, permit or suffer, and, subject to the provisions of paragraph 21(a) hereof, shall promptly discharge and satisfy of record, any other lien, encumbrance, charge, security interest, or other right or interest which, as a result of Tenant's action or inaction contrary to the provisions hereof, shall be or become a lien, encumbrance, charge or security interest upon the Facility, or any portion thereof, or the income therefrom, other than Permitted Encumbrances. However, in the event Tenant desires to contest the validity of any other lien, encumbrance, charge, security interest, or other right or interest it shall (i) on or before sixty (60) calendar days prior to the due date thereof (but in no event later than sixty (60) calendar days after Tenant receives notice of the filing or recording thereof), notify Landlord, in writing, that Tenant intends to so contest same; (ii) on or before the due date thereof, if such lien, encumbrance, charge, security interest, or other right or interest involves an amount in excess of $10,000, bond over or deposit with Landlord security (in form and content reasonably satisfactory to Landlord) for the payment of the full amount of such lien, encumbrance, charge, security interest, or other right or interest, and from time to time deposit additional security so that, at all times, adequate security will be available for the payment or bonding over of the full amount of such lien, encumbrance, charge, security interest, or other right or interest together with all interest, penalties, costs and other charges in respect thereof.

19. END OF TERM

19.1 Upon the expiration or earlier termination of this Lease in its entirety, Tenant shall surrender the Facility to Landlord in good operating condition and repair suitable for the use of the Facility for the Permitted Use, except as repaired, rebuilt or altered as required or permitted by this Lease (or, in the case of termination pursuant to paragraph 13, as condemned). Upon expiration of this Lease in its entirety, Tenant shall remove all alterations not consented to by Landlord and all of Tenant's Personal Property from the Facility and the Bowling Equipment, unless Landlord has previously acquired the

Bowling Equipment, in which event all Bowling Equipment shall remain with the Facility. Tenant shall repair at its sole cost any damage caused by such removal. Any Personal Property not so removed, including Tenant's Personal Property shall become the property of Landlord at no cost, expense or liability to either party. Twelve (12) months prior to the expiration or earlier termination of the Lease in its entirety and for each Site, Landlord and Tenant shall jointly prepare an inspection report identifying those matters requiring repair, restoration or replacement prior to surrender of the Facility. Without limitation of Landlord's regular inspection rights under this Lease, if the Lease is not extended for any Extension Term then 24 months prior to the expiration or termination of the Primary Term and if the Lease is extended for any Extended Term then eighteen (18) months prior to the expiration or termination of the Term, Landlord and Tenant shall re-evaluate the condition of the Facility and update the inspection report. Tenant covenants not to defer any replacement work during the final twenty (24) months of the Term.

19.2 If the Facility is not surrendered as above set forth, Tenant shall indemnify, defend and hold Landlord harmless from and against loss or liability resulting from the delay by Tenant in so surrendering Facility, including any claim made by any succeeding occupant founded on such delay. Tenant's obligation to observe or perform this covenant shall survive the expiration or other termination of this Lease for six (6) years. In addition to the foregoing, and in addition to the Additional Rent, Tenant shall pay in advance and on a monthly basis to Landlord a sum equal to 1/12 of one hundred fifty percent (150%) of the Lease Amount payable during the preceding year during each month or portion thereof for which Tenant shall remain in possession of the Facility or any part thereof after the termination of the Term or of Tenant's rights of possession, whether by lapse of time or otherwise. The provisions of this paragraph 19.2 shall not be deemed to limit or constitute a waiver of any other rights or remedies of Landlord provided herein, at law or at equity.

19.3 All property of Tenant not removed on or before the last day of the Term of this Lease shall be deemed abandoned. Tenant hereby agrees that Landlord may remove all property of Tenant, including Tenant's Personal Property, from the Facility upon termination of this Lease and to cause its transportation and storage, all at the sole cost and risk of Tenant and Landlord shall not be liable for damage, theft, misappropriation or loss thereof and Landlord shall not be liable in any manner in respect thereto and Landlord shall be entitled to dispose of such property, as Landlord deems fit, without the requirement of an accounting. Tenant shall pay all costs and expenses of such removal, transportation and storage. Tenant shall reimburse Landlord upon demand for any expenses reasonably and actually incurred by Landlord with respect to removal or storage of abandoned property and with respect to restoring said Facility in accordance with the terms and conditions of this Lease.

19.4 Except for surrender upon the expiration or earlier termination of the Term hereof as expressly provided herein, no surrender to Landlord of this Lease or of the Facility shall be valid or effective unless agreed to and accepted in writing by Landlord.

20. MEMORANDUM OF LEASE

The parties agree to simultaneously with the execution of this Lease promptly execute a Memorandum of Lease in recordable form and either of the parties shall have the right, without notice to the other party, to record such Memorandum of Lease. If a Memorandum of Lease is recorded, Landlord and Tenant shall execute such customary amendments and terminations related thereto as may be required or requested by Landlord or Tenant.

21. SUBLETTING/ASSIGNMENT

21.1 Except as set forth in paragraph 21.2 below, Tenant shall not, directly or indirectly, without the prior written consent of Landlord, assign this Lease or any interest herein, or any interest in Tenant, or sublease the Facility or any part thereof, or permit the use or occupancy of the Facility or any portion thereof, by any Person other than Tenant, such consent not to be unreasonably withheld, conditioned or delayed. This Lease shall not, nor shall any interest herein, be assignable as to the interest of Tenant involuntarily or by operation of law without the prior written consent of Landlord, such consent not to be unreasonably withheld, conditioned or delayed. For purposes of this paragraph, the occurrence of a Corporate Control Event, shall be deemed to be an assignment of this Lease which is prohibited by the preceding paragraph unless Tenant obtains Landlord's prior written consent as set forth above. Any of the foregoing prohibited acts without such prior written consent of Landlord, if required, shall be void and shall, at the option of Landlord, constitute an immediate Event of Default that entitles Landlord to all remedies available at law and pursuant to this Lease. Tenant agrees that the instrument by which any assignment or sublease to which Landlord consent is accomplished shall expressly provide that the assignee or subtenant will perform all of the covenants to be performed by Tenant under this Lease (in the case of a partial assignment or a sublease, only insofar as such covenants relate to the portion of the Facility subject to such partial assignment or a sublease) as and when performance is due after the effective date of the assignment or sublease and that Landlord will have the right to enforce such covenants directly against such assignee or subtenant. Any purported assignment or sublease without an instrument containing the foregoing provisions shall be void. Unless and until expressly released by Landlord, Tenant shall in all cases remain primarily liable (and not liable merely as a guarantor or surety) for the performance by any assignee or subtenant of all such covenants, as if no assignment or sublease had been made.

21.2 If Landlord consents in writing, Tenant may complete the intended assignment or sublease with its terms and conditions approved in writing by the Landlord.

21.3 Unless and until expressly released by Landlord (it being agreed that Landlord shall not be required to give such release), no assignment or sublease whatsoever shall release Tenant from Tenant's obligations and liabilities under this Lease (which shall continue as the obligations of a principal and not of a guarantor or surety) or alter the primary liability of Tenant to pay all Rent and to perform all obligations to be paid and performed by Tenant. The acceptance of Rent by Landlord from any other Person shall not be deemed to be a waiver by Landlord of any provision of this Lease. Consent to one assignment or sublease shall not be deemed consent to any subsequent assignment or sublease. If any assignee, subtenant or successor of Tenant defaults in the performance of any obligation to be performed by Tenant under this Lease, Landlord may proceed directly against Tenant without the necessity of exhausting remedies against such assignee, subtenant or successor. Landlord may consent to subsequent assignments or subleases or amendments or modifications to this Lease with assignees, subtenants or successor of Tenant, without notifying Tenant or any successor of Tenant and without obtaining any consent thereto from Tenant or any successor of Tenant, and such action shall not release Tenant from liability under this Lease.

21.4 Tenant shall have no right to mortgage, grant a lien upon, encumber or otherwise finance Tenant's interest under this Lease or record a lien upon Tenant's interest in the Facility under this Lease, and Tenant shall not permit, cause or suffer to be recorded in the real estate records of the county in which the Facility are located any mortgage, deed to secure debt, deed of trust, assignment, UCC

financing statement or any other document granting, perfecting, or recording a lien upon Tenant's interest in this Lease or interest in the Facility under this Lease.

21.5 If Tenant shall assign this Lease or sublet the Facility or any portion thereof to any Person other than Landlord, or request the consent of Landlord to any assignment, subletting, or other action which requires Landlord's consent hereunder, Tenant shall pay (i) Landlord a processing fee in each instance equal to $200 and (ii) Landlord's attorneys' fees and costs incurred in connection therewith.

22. DISPUTE RESOLUTION.

In order to provide a mechanism for resolving disputes regarding the foregoing provisions of this Lease, the Parties agree as follows:

22.1 Negotiations. Within thirty (30) calendar days after either Party's receipt of a written notice of a dispute from the other Party, the Dispute shall be submitted for resolution through good faith negotiations between representatives of the Parties with authority to resolve the matter. Such persons shall negotiate in good faith to resolve the matter within sixty (60) calendar days (unless the Parties mutually agree to extend the negotiations). The negotiations shall be considered to have failed if, after at least three (3) joint meetings, either Party determines that no reasonable resolution can be reached and provides written notice to the other representatives of a request for mediation.

22.2 Mediation. Any Dispute which cannot be resolved by the negotiation provisions of paragraph 26.1 shall be subject to the following mediation process:

22.2.1 The mediation shall be conducted by one mediator who shall be selected jointly by the Parties within ten (10) calendar days after notice of the request for mediation. If the Parties cannot agree on a mediator, the third shall be appointed by a court of competent jurisdiction upon motion of either Party. Each Party shall share equally in the cost of the jointly appointed or court appointed mediator.

22.2.2 The mediation shall be non-binding and shall commence within five (5) calendar days after the selection of the mediator.

22.2.3 The mediation shall continue until the earlier of (i) thirty (30) calendar days after selection of the mediator, or (ii) the date the Dispute is settled or the mediator declares that the Parties are at an impasse and the Dispute cannot be resolved.

23 MISCELLANEOUS PROVISIONS

23.1 This Lease and all of the covenants and provisions hereof shall inure to the benefit of, and be binding upon, the parties hereto and the heirs, personal representatives, successors and permitted assigns of the parties.

23.2 The titles and headings appearing in this Lease are for reference only and shall not be considered a part of this Lease or in any way to modify, amend or affect the provisions thereof.

23.3 This Lease contains the complete agreement of the parties with reference to the leasing of the Facility, and may not be amended except by an instrument in writing signed by Landlord and Tenant.

23.4 Any provision or provisions of this Lease which shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision hereof, and the remaining provisions hereof shall nevertheless remain in full force and effect.

23.5 This Lease may be executed in one or more counterparts, and may be signed by each party on a separate counterpart, each of which, taken together, shall be an original, and all of which shall constitute one and same instrument.

23.6 The term "Landlord" as used in this Lease shall mean only the owner or owners at the time in question of the Facility and in the event of any transfer of such title or interest, Landlord named in this Lease (and in case of any subsequent transfers, then the grantor) shall be relieved from and after the date of such transfer of all liability as respects Landlord's obligations thereafter to be performed hereunder, provided that any funds in the hands of Landlord or the then grantor at the time of such transfer, in which Tenant has an interest, shall be delivered to the grantee. The obligations contained in this Lease to be performed by Landlord shall, subject as aforesaid, be binding on Landlord's successors and assigns, only during their respective periods of ownership.

23.7 This Lease shall be governed by and construed and enforced in accordance with and subject to the laws of the State of New Mexico

23.8 Any claim based on or in respect of any liability of Landlord under this Lease shall be enforced only against the Facility (and the proceeds therefrom) and not against any other assets, properties or funds of (1) Landlord or any director, officer, member, shareholder, general partner, limited partner, or direct or indirect member, partner, employee or agent of Landlord or any of its members (or any legal representative, heir, estate, successor or assign of any thereof), and (2) any predecessor or successor partnership, corporation or limited liability company (or other entity) of Landlord or any of its members, either directly or through Landlord or its predecessor or successor partnership, corporation of limited liability company of Landlord or its general partners.

23.9 Without the written approval of Landlord and Tenant, no Person other than Landlord, Tenant and their respective successors and assigns shall have any rights under this Lease.

23.10 There shall be no merger of the leasehold estate created hereby by reason of the fact that the same Person may own directly or indirectly, (1) the leasehold estate created hereby or any interest in this Lease or such leasehold estate and (2) the fee estate in the Facility. Notwithstanding any such combined ownership, this Lease shall continue in full force and effect until terminated by an instrument executed by both Landlord and Tenant.

23.11 Whenever in this Lease either party is required to take an action within a particular time period, delays caused by acts of God, war, major casualty, strike, labor shortage or other cause beyond the reasonable control of such party shall not be counted in determining the time in which such performance must be completed (except in the case of the obligation to pay money) so long as such party shall, promptly after becoming aware of the commencement of such delay, shall give the other party notice thereof and estimating the duration thereof.

23.12 If at any time a dispute shall arise as to any amount to be paid by one party to the other hereunder, the obligor may make payment "under protest", and such payment shall not be deemed a voluntary payment, and the right of the obligor to contest its liability for such payment shall survive such payment without prejudice to the obligor's position.

23.13 Landlord and Tenant each represent that they have dealt with no broker, finder or other Person who could legally charge a commission in connection with Landlord's acquisition of the Land or with the Lease or Tenant's Other Lease.

23.14 The parties hereto specifically acknowledge and agree that, notwithstanding any other provision contained in this Lease, it is the intent of the parties that their relationship hereunder is and shall at all times be that of landlord and tenant, and not that of partners, joint venturers, lender and borrower, or any other relationship other than that of a landlord and tenant.

23.15 The parties hereto specifically acknowledge and agree that time is of the essence with regard to all obligations under this Lease.

23.16 TO THE EXTENT PERMITTED BY APPLICABLE LAW, LANDLORD AND TENANT HEREBY WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING, AND WITH RESPECT TO ANY CLAIM ASSERTED IN ANY SUCH ACTION OR PROCEEDING, BROUGHT BY EITHER OF THE PARTIES AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, TENANT'S USE OR OCCUPANCY OF THE FACILITY, ANY CLAIM OF INJURY OR DAMAGE, OR ANY EMERGENCY OR OTHER STATUTORY REMEDY WITH RESPECT THERETO.

IN WITNESS WHEREOF, the parties have hereunto set their hands under seal on the day and year first above written.

TENANT	**LANDLORD**
By: _____ Title: Jay Chun CEO of Downtown Venture Corp Date: 1/4, 2018	**City of Alamogordo** By _____ Richard Boss, Mayor Date: 01/04, 2018 ATTEST: _____ Rachel Hughs, City Clerk APPROVED AS TO FORM: _____ Petria Schreiber, City Attorney

STATE OF NEW MEXICO)
)SS.
COUNTY OF OTERO)

The foregoing instrument was acknowledged before me this 4th day of January, 2018, by Richard Boss, the Mayor of the City of Alamogordo, a New Mexico municipal corporation, on behalf of the corporation.



NOTARY PUBLIC

My Commission Expires:

August 25, 2019

STATE OF NEW MEXICO)
)SS.
COUNTY OF OTERO
)

The foregoing instrument was acknowledged before me this 4th day of January, 2018, by Jay Chun on behalf of the Tenant.



NOTARY PUBLIC

My Commission Expires:

August 25, 2019

Rocket City Family Fun Center
Jay Chun
jc@downtownvc.com
213.291.7800

January 17, 2024

Mr. Rick Holden, City Manager
Ms. Ashley Smith, City Attorney
1376 E. Ninth St.
Alamogordo, NM 88310

Dear Mr. Holden and Ms. Smith;

I write in acknowledgment of your letters dated December 6, 2023 and January 16, 2024 in regards to the relationship between Downtown Venture Corporation and the City of Alamogordo. I have received and reviewed the remedies which you are requesting and we are working as quickly as possible to gather the payroll documents to complete the LEDA audits. Ms. Williams has been in communication with Ms. Huff and Ms. Ashe; and may need to visit the location to gather the final pieces of information.

As to the defaults of the Project Participation Agreement (PPA), as stated above, we are working to provide the payroll information which will show that we did indeed create the jobs requested, with the exception of the time we were closed during COVID. We additionally agree that cessation of operations is in default of the PPA, however, we were simply left with no financial choice, due to circumstances which we had struggled with since having to close for COVID. This proposed default was concerned with the failure to fully complete the jobs required to fully repay the funding. The important factor is going to be whether the LEDA obligation has been paid, and what steps will need to be taken following that determination.

I will be seeking to have the City of Alamogordo's security interest in the equipment secured through LEDA funding removed once the job audit is completed and, as I suspect, my obligation has been completed. Following that release, we will need to discuss ownership interest in equipment in the building as well as lease payments and repairs. Additionally, there is a significant amount of valuable property in the building which belongs to my company and was not secured with LEDA funding, as well as documents which belong to my company.

As to the Lease Agreement and any proposed defaults, as stated above, I was unable to continue in business for the required six months. I had made numerous attempts, as previously stated, to reach City management to discuss the situation and received no response. Clearly I am unable to put forward over $30,000 in lease payments, as I was unable to even keep the business open.

At the time of signing these agreements that I advised City Staff that I was opposed to there being any City interference with the way I operated my business and therefore, I do not feel that P&L statements are relevant to any further discussion at this time.

I have spoken with a company who would be interested in taking over the operation of the Fun Center, and I would welcome the opportunity to assist in that transition, in particular since I have reason to believe that I will have an interest in much of the equipment in the building.

At this time, I believe it is premature to present this matter to the commission, as there are still questions to be answered. Should you choose to do so anyway, I will not take up their time speaking at this time and will await information as to what they believe should be done. At that time I will determine what actions I will need to take.

Please do not hesitate to reach out to myself or Ms. Williams should you need any further information at this time.

Sincerely,

/s/
Jay Chun

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/13/2024 **Report Date:** 02/07/2024 **Report No:** 21.

Submitted By: Beau Dylan Aleshire

Subject: Appointments to Boards and Committees. *(Susan L. Payne, Mayor)*

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Three applications were received. Staff recommends three appointments to the Alamogordo Disability Council.

Background: Alamogordo Disability Council

- Four current vacancies. Applications by Lorraine Adam, Gregory Mancil, and Gary Bond were received. If reappointed, this would be Ms. Adam's second term; she previously served on this Council from 2014 to 2016. If appointed, this would be Gregory Mancil's first term. If appointed, this would be Gary Bond's first term.

Airport Zoning Board

- Two current vacancies. No applications by City residents were received.

Print

Application to Serve on a Board/Committee - Submission #6886

Date Submitted: 1/28/2024

City of ALAMOGORDO

City of Alamogordo Application to Serve on a City Board/Committee

First Name:*

Lorraine

Last Name:*

Adam

Phone Number:*

5759211809

Email Address:*

rainecoate@yahoo.com

Physical Address:*

1313 CATALINA LN

City:*

ALAMOGORDO

State:*

NM

Zip Code:*

88310

Is the above address within City Limits?*

- (●) Yes
- ( ) No

Mailing Address:*

1313 Catalina Ln

City:*

Alamogordo

State:*

New Mexico

Zip Code:*

88310-5626

Present Employer:*

NMSBVI

Job Title:

occupational therapist

Board/Committee you would like to serve on (1st choice):*

Alamogordo Disability Council (ADC)

Board/Committee you would like to serve on (2nd choice):

-- Select One --

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 an Elected Official of the City of Alamogordo?*

- Yes
- (•) No

Is so, what is their relation to you?

Experience and education relating to the Board/Committee:*

I have previously served on this committee. As an occupational therapist I am knowledgeable about disabilities and accessibility. I currently work with individuals who are blind and/or are physically impaired.

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

I'm interested in helping Alamogordo be accessible to all individuals.

Print

Application to Serve on a Board/Committee - Submission #6840

Date Submitted: 1/3/2024

City of ALAMOGORDO

City of Alamogordo Application to Serve on a City Board/Committee

First Name:*

Gregory

Last Name:*

Mancil

Phone Number:*

575-214-4695

Email Address:*

grmancil@gmail.com

Physical Address:*

1841 Corte Del Sol

City:*

Alamogordo

State:*

NM

Zip Code:*

88310

Is the above address within City Limits?*

- (●) Yes
- ( ) No

Mailing Address:*

1841 Corte Del Sol

City:*

Alamogordo

State:*

NM

Zip Code:*

88310

Present Employer:*

MECA Therapies

Job Title:

Behavior Analyst

Board/Committee you would like to serve on (1st choice):*

Alamogordo Disability Council (ADC)

Board/Committee you would like to serve on (2nd choice):

-- Select One --

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 an Elected Official of the City of Alamogordo?*

- Yes
- No

Is so, what is their relation to you?

Experience and education relating to the Board/Committee:*

I have a PhD. in Special Education. I have been working with individuals with disabilities in various capacities for 25 years.

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

I have a PhD. in Special Education. I have been working with individuals with disabilities in various capacities for 25 years.

Print

Application to Serve on a Board/Committee - Submission #6895

Date Submitted: 1/31/2024

City of ALAMOGORDO

City of Alamogordo Application to Serve on a City Board/Committee

First Name:*

Gary

Last Name:*

Bond

Phone Number:*

5754156464

Email Address:*

gdbond1@gmail.com

Physical Address:*

1410 Juniper Dr

City:*

Alamogordo

State:*

NM

Zip Code:*

88310

Is the above address within City Limits?*

- (●) Yes
- ( ) No

Mailing Address:*

1410 Juniper Dr

City:*

Alamogordo

State:*

NM

Zip Code:*

88310

Present Employer:*

NMSU Alamogordo

Job Title:

Accessibility Services Coord

Board/Committee you would like to serve on (1st choice):*

Alamogordo Disability Council (ADC)

Board/Committee you would like to serve on (2nd choice):

-- Select One --

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 an Elected Official of the City of Alamogordo?*

- Yes
- (•) No

Is so, what is their relation to you?

Experience and education relating to the Board/Committee:*

I am a certified ADA Coordinator through the ACTCP offered through the Governors Commission on Disability. I have worked in Accessibility Services at NMSU-A for the past 7 years. I have focused much of my higher education on disability in education.

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

Yes, I would like to serve on the ADC.

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/13/2024 **Report Date:** 02/06/2024 **Report No:** 22.

Submitted By: Sean McGranaghan

Subject: Consider, and act upon, Case SP-2023-0007(A), property owner Bobbie Jo Stone is requesting to be granted a special permit to allow her niece to reside in an RV on her property at 1000 Post Ave. *(Stella Rael, City Planner)*

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact: N/A

Recommendation: Deny Special Permit

Background:

Consider and act upon Case SP-2023-0007(A). Property owner Bobbie Jo Stone is requesting to be granted a special permit to allow her niece to continue residing in an RV on her property located at 1000 Post Ave. The case was presented to the city commission at the regular scheduled meeting on November 1, 2023. The item was tabled by a vote of 6-0-0 and the property owners were given direction from the commission that they were to communicate with the Planning and Zoning department during the renovation process of the RV. The Planning and Zoning department was given direction from the commission to bring the tabled item back for continued discussion on February 13, 2024.

The minutes from November 1, 2023, are attached, agenda item 6.

CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., DONALD E. CARROLL COMMISSION CHAMBERS
November 1, 2023

SUSAN PAYNE, MAYOR
SHARON McDONALD, COMMISSIONER
JOSH RARDIN, COMMISSIONER
STEPHEN BURNETT, COMMISSIONER
NICHOLAS PAUL, COMMISSIONER
DUSTY WRIGHT, MAYOR PRO-TEM
KARL MELTON, COMMISSIONER
STEPHANIE HERNANDEZ, ACTING CITY MANAGER
ASHLEY SMITH, CITY ATTORNEY
RACHEL HUGHS, CITY CLERK

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

Mayor Payne called the meeting to order at 6:30 p.m. Roll Call was taken by the Deputy City Clerk. Deputy City Clerk Aleshire announced there was a quorum present. Mayor Pro-Tem Wright was absent. Commissioner McDonald arrived after the Invocation. Invocation was given by Chaplain Brian Bagwell, and the Pledge of Allegiance was led by Commissioner Rardin.

APPROVAL OF AGENDA

Commissioner Melton moved to approve the agenda.
Commissioner Burnett seconded the motion.
Motion carried with a vote of 6-0-0.

PRESENTATIONS

1. Extra Mile Day Proclamation. ***(Susan L. Payne, Mayor)***

Mayor Payne proclaimed November 1, 2023, as "Extra Mile Day" in Alamogordo and urged each individual of the community on this day to not only "Go the Extra Mile" in his or her own life, but to also acknowledge all those who are inspirational in their efforts and commitment to make their organizations, families, community, country, or world a better place.

PUBLIC COMMENT

None.

CITY MANAGER'S REPORT

Acting City Manager Hernandez made the following remarks:
1. She will be out on Friday and likely out of cell phone service. If the Commission needs anything, Finance Director Huff will be the contact person.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Commissioner McDonald made the following comments:
There will be a cleanup this week at Dudley School at 8 in the morning. If you would like, come out on Friday and Saturday and help with the window paint and the fence along the property. Joe Lewandowski and Jonathan would welcome you to be there.

Commissioner Paul made the following comments:
He asked if someone would send an overview of the action items from yesterday's Joint Meeting with the County. Acting City Manager Hernandez said she could do that. She had them written down but had not gotten them together. City Clerk Hughs will get the actual minutes. I will put together the action items. City Attorney Smith and I will get the letter started on our side. We will get you all to approve it and all of them to approve it, and then everybody can sign the letter going out to Santa Fe.

Commissioner Melton made the following comments:
Yesterday, I had the pleasure of having a tour of some of our water facilities in town, including the Wastewater Plant. I knew a little going in, but there is a lot that people do not realize regarding the amount of work it takes to get clean drinking water and water for the parks. He wanted to thank City staff. He encouraged the Commission to visit if they had the opportunity.

CONSENT AGENDA

2. Approve the minutes for the Regular Commission meeting on October 24, 2023. ***(Rachel Hughs, City Clerk)***

3. Approve the statements related to the Executive Closed Sessions held on October 24, 2023. ***(Rachel Hughs, City Clerk)***

4. Consider, and act upon, Ordinance 1683, Z-2023-0006(A) for adoption and final publication, a map amendment to change the current zoning of the property at 1111 US Hwy 70 W, from C-3 Business District, to M-1 Light Industrial District ***(Stella Rael, City Planner)*** **(Roll Call Vote Required)**

5. Consider, and act upon, acceptance of approval of Resolution No. 2023-52 to enter into grant agreement LP20044, from the New Mexico Department of Transportation, in the amount of $600,000.00, for repair of the 10th Street Concrete Box Culvert. Grant funds total $570,000, the City match is $30,000 and any amount exceeding $600,000. ***(Nancy Beshaler, Public Works Director and Debbie Osborne, Grant Coordinator)*** **(Roll Call Vote Required)**

Commissioner Paul moved to approve the Consent Agenda.
Commissioner McDonald seconded the motion.
Roll Call Vote was taken.
Motion carried with a vote of 6-0-0.

NEW BUSINESS

6. Consider, and act upon, Case SP-2023-0007(A), property owner Bobbie Jo Stone is requesting to be granted a special permit to allow their niece to reside in an RV on their property at 1000 Post Ave. ***(Sean McGranaghan, Assistant City Planner)***

Assistant City Planner McGranaghan gave his presentation. No letters or phone calls of opposition were received. There was a call received regarding concerns about the condition of the property. In the ordinance, the property owner needs to show there is a hardship with either the way the property is, the surrounding properties, or unusual personal circumstances. The niece is not the property owner, so we recommend denial of the special permit request.

Commissioner Rardin asked if we knew how long the RV would sit on the property. Assistant City Planner McGranaghan said if you approve this, it would be a year, and then they could renew it for another year. Commissioner Rardin said this is very similar to that other situation we had. Where on the lot would that actually sit? Assistant City Planner McGranaghan said it is just north of the mobile home. Commissioner Rardin asked if that was all one lot. Assistant City Planner McGranaghan said our property map shows two separate lots. Commissioner Rardin said so it would actually sit on the one that has the mobile home. Assistant City Planner McGranaghan said it is north of the mobile home and is actually split between the two.

Commissioner Burnett asked what was wrong with the property. What were the concerns? Assistant City Planner McGranaghan said the person who called said they were concerned about the trash and garbage on the property.

Mayor Payne asked Assistant City Planner McGranaghan why he was recommending denial. He replied that it is supposed to be a hardship of the property owner, but it is a hardship of their niece; she is the one living in the RV, so that is why we are recommending denial.

Commissioner Rardin asked if the RV was already there. Assistant City Planner McGranaghan said it was. Code Enforcement saw it and told them they would need to apply for a permit, so they came in.

Commissioner Melton asked if we had only granted one of these in the past. Assistant City Planner McGranaghan said yes.

Commissioner Burnett asked if Code Enforcement had been out there to issue any violations for trash. Assistant City Planner McGranaghan said they issued a violation. He said he talked to a Code Enforcement Officer last week, and they said they were cleaning it up. He said he was unsure of the status. Commissioner Burnett asked the property owner if they were in the process of cleaning it up. Property Owner Bobby Stone said they had already cleaned it up, and she had pictures. Commissioner Burnett asked Ms. Stone how she would address the sewer issue. Ms. Stone said they only had that hooked up to the sewer to empty the tanks. They are trying to get it renovated but are not living in it. They are renovating it for us so we can sell it. Commissioner Burnett said so you guys are renovating the RV. Ms. Stone said they are. Her niece and nephew are renovating the RV. They had to hook it up to empty the septic tanks. Commissioner Burnett asked if it was hard piped or just from the snorkel tube. Ms. Stone said it was the snorkel tube.

Commissioner Rardin said so they are not actually going to reside in the RV. Is it just parked there? Ms. Stone said yes, it is just parked there right now to do renovations. It does not even work right now. Commissioner Rardin asked if they would eventually be living in it. Ms. Stone said no, they are getting it renovated to sell it. Mayor Payne said so why are we here? Commissioner Rardin asked why they needed approval if they were parking it on their property and nobody lived there. Ms. Stone said it was because the snorkel was on the septic tank. They said we needed a special permit. Assistant City Planner McGranaghan said that the submitted application said the reason for the request was for the niece to live in the RV because there is nowhere else to go, and she has no job. Mayor Payne asked Ms. Stone if she was going to live in it or not. Ms. Stone said no; she had been bouncing back and forth from family to family. She will be in there to renovate it and then go somewhere else to sleep. Mayor Payne said so she is not going to live in it. Ms. Stone said no. Commissioner Burnett said so it is basically there for storage. Ms. Stone said yes. They go in there to renovate and leave. Commissioner Burnett asked if they were on septic. Ms. Stone said yes. They had to empty the septic tank. He asked if they hooked up to the City sewer at their home. Ms. Stone said her home, yes, she is on the City sewer. Commissioner Burnett said that you should not have septic in that particular area. So, you are saying you are dumping it to clean out? Ms. Stone said yes. Commissioner Burnett said

they are within City limits and should not be hooked up to septic. There are some areas with septic here, but this is not one of them.

Assistant City Planner McGranaghan said the application says in order to live in the RV. They do not need a special permit if they do not need that. Mayor Payne asked Assistant City Planner McGranaghan what gave him the idea they were living in the RV. Assistant City Planner McGranaghan said that is what their application said. Mayor Payne asked Ms. Stone what gave her the idea that she needed to put that in the application. Ms. Stone said the Code Enforcer came into our yard and saw it hooked up. My niece and nephew were in there working. Mayor Payne said, but you never told him anyone lived there. Ms. Stone said no. Commissioner Burnett said so you guys are not residing in it. Commissioner Rardin said they are just storing it on their property. Did you have to pay fees for all of this? Assistant City Planner McGranaghan said there was a $250 fee. Mayor Payne said so the Code Enforcement Officer that went out was under the misguided impression that somebody was living in the RV, but that is not exactly true. Acting City Attorney Smith said it was probably because it was hooked up to the septic, which we do not allow. We had the impression that it was being used because it was hooked up to utilities. Mayor Payne said she has an issue with them paying the $250 if that is not the case. Acting City Manager Hernandez said on the application itself, they wrote it out. Mayor Payne said she thought they did it based on whatever Code Enforcement told them, thinking they had to do that. That is the impression I am getting.

Commissioner Rardin said that if you have your camper hooked up at your property and hook up to the City sewer to dump your tanks, that is not legal. We are not allowed to dump into this system when we pay for it? Acting City Manager Hernandez said no. Not on an RV or temporary hookup. Commissioner Rardin said if I brought mine back from Truth or Consequences and dumped my tanks in my cleanouts that I pay City services for, we are not allowed to do that. Acting City Manager Hernandez said no. City Attorney Smith said, per the ordinance, no on that. Commissioner Rardin said he did not see the difference whether you flush it down the toilet or dump it out of a tube into the line. You are paying for the service. City Attorney Smith said she understood that but did not believe that we allowed any temporary hookups to septic at all. She said she asked that question to Utilities before, and it has something to do with it going through a certain pipe and things.

Mayor Payne said it sounds like they did what they thought they were supposed to do, but there was a misunderstanding. Assistant City Planner McGranaghan said that Code Enforcement said someone lived in it. Commissioner Melton asked why someone would say they would like to live here in their application. Assistant City Planner McGranaghan said under present use it says living in. Mayor Payne asked if the application said that her niece would live there. Assistant City Planner McGranaghan said yes. Mayor Payne asked Ms. Stone why she put that on the application. Ms. Stone said because the Code Enforcer said they had to have a special permit to be there. All they are doing is renovating the RV. Commissioner Melton said that is not what the application says. Ms. Stone said yes, she understood what he was saying. Her husband was there, and she was at work. Her husband told her she would have to have a special permit for the RV to be on the lot. Mayor Payne said we are in a quandary. Commissioner Rardin said we are; it looks like they are just storing it on their property.

Mayor Payne said we do not have to issue a special permit because you are telling us no one will live there. Ms. Stone said no ma'am. Mayor Payne said if Code Enforcement were to go back by two weeks and determine somebody is living there, then what? Ms. Stone said nobody was living there. Kelsie Perry, Ms. Stone's niece, said the whole thing started because there was an A/C unit inside of the window because it was extremely hot. We hooked up the septic tank just to drain it out, and my mother is the one who purchased the RV. My husband and I just fell on short times. We decided to come down and help my mother renovate it because she does not have the health to do it. We were allowed to come and stay between households until we could get on our own feet. We are fairly new,

but when people hook up an A/C unit and septic, you just kind of figure. The RV is not in a working condition. It does not run, and there is no electricity to it. Mayor Payne asked how they ran the A/C. Did you run a cord? Ms. Perry said yes. It is only temporary.

Acting City Manager Hernandez said that Code Enforcement Manager Sides was contacted by Code Enforcement Officer Otero, who was the officer that went out there. Code Enforcement Officer Otero was told that the niece was living there. You can ask Code Enforcement Manager Sides any further questions. Ms. Perry said there was no trash on the property, and the code enforcement officer was more upset about the shrubbery we dug up. It was mostly mesquite, brush, and stuff that was tough for us to get down into the roots. As far as the trash, the RV is usually parked in the alleyway. Most of the trash he is complaining about is from the alleyway. It just blows all over the place. My husband and I do our best to satisfy the needs of everybody. We are not trying to cause any problems.

Commissioner Melton said it sounds like we need to deny this if no one lives there. Commissioner Rardin said he felt like we should refund their money as well. It was pointless to ask for the special permit, and it was based on assumptions. Mayor Payne said in fairness to the staff, it does say on the permit that the niece is living there. That is all they have to go by. She is not saying that they cannot refund the money; that would be a City thing, and she would not be making that determination. Commissioner Rardin said as long as they are not living in it, he has no problem with it sitting on the property. That is not illegal. He asked if they would be living in the camper at any time or if they were just working on it. Ms. Stone said they are strictly working on it.

Commissioner Melton moved to deny the special permit request.

Mayor Payne said the refund is a completely separate issue and does not pertain to this. Commissioner Rardin said it kind of does. He said he does not want to deny it and have Code harassing them that it is sitting on the property. Commissioner Melton said if we approve this, that allows someone to live there. Mayor Payne said she is not in favor of approving this at all. Commissioner Rardin said it is legal for it to sit there. Mayor Payne said right, so they do not need a permit, so why would we approve it? If we approve it, they are definitely not getting $250 back.

Commissioner Rardin seconded the motion.

Ms. Robin Perry, the mother of Kelsie Perry and sister of Ms. Bobby Stone, said that if they are in the RV most of the time, temporary but not permanent, will that be an issue? Commissioner Burnett asked what she meant by in it. Like remodeling it? Ms. Robin Perry said yes. Commissioner Burnett said the working aspect of it does not matter. Commissioner Rardin asked if they are sleeping in there at night and residing in the camper. Mayor Payne said if their clothes are moved in, they have got stuff in there, a cord running from the RV to the house; if you walk in there, you can tell if someone is living there. There is a difference between remodeling something torn apart and putting it back together versus kicking back and having electricity and clothes in here. The issue is, are they residing in it, or are they not? All we can do is take you at your word. There was an application, a $250 fee, and a request to have your daughter live in it. Now you are telling us nobody lives in it. We would deny this request if nobody lives in it because you would not need the permit. Ms. Robin Perry asked if it would be different if they got the permit. Mayor Payne said that if you got the permit, we would have to decide whether to approve the permit. She said she had an issue with an extension cord running from the trailer to the house. That is not legal. Commissioner Burnett asked if they had an outlet on the meter. Ms. Robin Perry said that the meter does not work. How do we get that fixed? Commissioner Burnett said they would have to call an electrician. In other words, we are asking if there is a 30-amp service. Ms. Robin Perry said there is an actual box out there, but it is not in working order. She said she did not want to say they needed to stay there from time to time. I live with my parents at the moment, and she has got

her family. We are all here from Texas. Commissioner Burnett said you would need the permit even if they are living or staying there periodically. If that is what they are doing, your application correctly says they are staying there. Somebody will reside there at some point in time, periodically. Mayor Payne asked who lived in the mobile home on the property. Ms. Robin Perry said Ms. Stone and her husband. Mayor Payne asked Ms. Stone if there was a reason why they could not stay with her in the mobile home. Ms. Stone said there was not enough room. They only have two bedrooms. She and her husband have one, and her son has the other. Mayor Payne said so your niece is just her and her husband. There are no kids. Ms. Stone said no ma'am. Commissioner Burnette said so in other words, sometimes, you are staying in the camper. Ms. Robin Perry said she would rather be safe than sorry, yes. Ms. Kelsie Perry said we are not living or residing inside. It is a temporary situation. What she is trying to ask is, in the future. We do not have a place to stay. She will sleep at her grandparents or at her mother's and vice versa. What we are trying to say is once it gets to a livable state. We are renovating it to get money back, hoping we can get on our feet. Mayor Payne said you are saying that you are fixing it up to live in. Ms. Kelsie Perry said she is hoping not, but she has no place to go right now and does not have a job. She said that Ms. Stone needed the money from the RV, and we needed a place to stay. We are staying between families trying to get this up to par. Ms. Robin Perry said there will be times when they have to sleep in it. We just want to be sure our grounds are covered, and we are not doing something illegal. Assistant City Planner McGranaghan said that if the Commission approves this, they would have a year to live in it. If you deny it, they would not be able to live in it. Code Enforcement could cite them for living in the RV. Commissioner Burnett said the first issue is that you guys need to get upgraded electrical to be safe. Commissioner Paul said the camper needs to be functional. If we approve a permit like this, it opens us up to approve anybody and everybody to roll a box onto the property. Mayor Payne said the key is, Assistant City Planner McGranaghan said it is good for a year. If you get it functional, the property cleaned up, the electricity upgraded, and you do all those things, then maybe come back. This is not really a discussion right now. They are admitting the camper is not livable, and they are running a cord, so it is not safe. The other situation was completely different. We would be irresponsible to approve it right now. Commissioner Melton said if we deny this, can they apply again? Assistant City Planner McGranaghan said nothing is stopping them. Acting City Manager Hernandez said she suggested we table this. That way, they do not have to reapply with another payment if they get it up to standards or livable conditions. We can table it for a later meeting. Commissioner Rardin asked how long they needed to get the camper in livable condition. Ms. Kelsie Perry asked if they could get a year. Commissioner Rardin said we do not want to issue the permit since it is not in livable condition. If we issue the permit, you are allowed to live in it. Ms. Kelsie Perry said they were trying to get as much material as possible. The main issue is getting it up to par financially, but she is willing to do the work. She said she did construction for fourteen years so she could do the work, but not having a job is why we are in this situation. We were not even on the lot for twelve hours before this became an issue. Now that we have some material, we can begin stripping down walls. We do not want anybody to see all the material we are bringing out of the year to be seen as trash. We are removing things in there to be hauled off. Mayor Payne said you can tell, there is a difference. Commissioner Burnett said the biggest issue is the safety for you guys. As Commissioner Paul said, it opens us up to issues if we issue the permit and you guys somehow get hurt. Ms. Kelsie Perry said it is not hooked up to power or septic twenty-four seven. Whenever the Code Enforcement officer rolls up, it is going to look like it is being inhabited. That is why we are pushing to get the permit approved, just in case that is an issue in the future. Commissioner Rardin said we could table this and revisit this in thirty days to see where you all are at. Commissioner Melton said aren't they going to need more time than that. Mayor Payne said how about ninety days, three months. Commissioner Rardin said the issue we have is, if we issue the permit, you are allowed to reside there. If it is not safe, then well. Ms. Robin Perry said everything in the RV works if you can plug it into the electricity, but we do not have that access. Commissioner Burnett said right, the ninety days would give you time to get some things situated. Then we will revisit. If we have to table it again, we can retable it. Ms. Robin Perry asked if they could plug it into the mobile home outlet. Commissioner

Rardin said no. Ms. Kelsie Perry said they called the electric company to see how much it would be to replace the meter. Nobody came to look at it for sure, but they threw a price and said anywhere from $1000 to $5000 for a new one. An outlet is already there but not functioning. Commissioner Burnett said it has a lot to do with your panel. Ms. Robin Perry said we actually have a panel for the mobile she had bought. Commissioner Rardin said he did not know how everyone else feels, but maybe table this, give them ninety days, and see where they are at. Acting City Manager Hernandez said that as this is a torn decision, tabling it would be the best option right now. She said that ninety days is fair to see the progress on it. That way they do not have to reapply and repay. That would be the fairer option.

Commissioner Melton rescinded his motion and made a new motion to table the matter for ninety days.
Commissioner Rardin seconded the motion.
Motion carried with a vote of 6-0-0.

Acting City Manager Hernandez said this would probably take us to the meeting on February 13th. Mayor Payne said it would be incumbent upon them to return to us on February 13th and at least show us progress. Maybe they could coordinate with Assistant City Planner McGranaghan and tell him what is going on. Communication is key. As long as you are communicating, we are willing to try to figure something out.

7. Consider and act upon Ordinance 1684 for first publication, amending Chapter 14, Article 1, Section 140 Generally- Outdoor automotive storage and Section 150 Outdoor Storage *(Josh Sides, Code Enforcement Manager)* (Roll Call Vote Required)

Code Enforcement Manager Sides said both sections have language that refers to the Department of Public Safety, which, as of about 2012, is no more. Making that the City Manager or his designee, which is the same verbiage from the rest of the articles in that chapter. Also including unlicensed motor vehicles, which is verbiage from International Property Maintenance Code, or IPMC. Those are the only changes coming to outdoor automotive storage and outdoor storage as far as the ordinance is concerned. In outdoor automotive storage, we are including unlicensed motor vehicles, and we are taking out the verbiage of the Department of Public Safety and adding in the City Manager or his designee.

Mayor Payne said unlicensed includes in the driveway, right? Code Enforcement Manager Sides said yes.

Commissioner Melton said so, a designee essentially means any contractors we hire to tow. Code Enforcement Manager Sides said he interprets the designee as the City Manager has the authority to appoint a designee. So, in this case, in the enforcement of these ordinances, that would be Code Enforcement.

Commissioner Burnett asked who was taking care of this before. Code Enforcement Manager Sides said this came up when I started looking at ordinances because we are going to go through full rewrites of several different chapters of the ordinances. We are looking at what needs to be changed, what the ordinance actually says, and what we can and cannot do. We do weed abatements quite frequently because it says the City Manager or designee to abate weeds. These specifically say the Department of Public Safety. He said he assumed, because these were drafted long before him, that when these were drafted, Code at the point was under the Department of Public Safety.

Commissioner McDonald said what about people who have cars in the front yard earning a living. I saw that it said any vehicle sitting in the front yard, and I know of a house with three or four cars on

blocks being worked on. That is his livelihood. Code Enforcement Manager Sides said being on blocks does not fall under outdoor automotive storage. It falls under outdoor storage. Being on blocks is a safety hazard. No vehicle at any time can be up on jacks or blocks. Obviously, if you are making repairs or changing a tire, something like that, you are there by it, and you can. He said he sees vehicles up on jacks quite a bit, and those are safety hazards we address pretty quickly. If he makes a living on that, he needs a business license. We will ask him for his business license and send him to the Clerk's Office.

Commissioner Rardin said we are going to open up a can of worms. There are a lot of businesses that have a lot of vehicles sitting around them. Some of them are repair businesses, and some of them are restoration businesses. Code Enforcement Manager Sides said that it comes down to the letter of the law and the spirit of the law. If an automotive shop has an unlicensed motor vehicle, then obviously, they are an automotive shop working on it, so we are not. Commissioner Rardin said as this is written, it does not matter. If you go down to One Stop Auto, the back of their yard does not have a fence. You guys could have it towed if it does not have current tags. Code Enforcement Manager Sides said that goes back to the letter of the law and spirit of the law. The letter of the law says yes, we can, but does the spirit of it? In that case, would we? No.

Commissioner Melton said it is not targeting those businesses. It is targeting residential areas. Commissioner Burnett said he knew a lot of people who are restoring their cars in their driveway. Code Enforcement Manager Sides said ultimately, if this is denied, he would send them an IPMC letter, bring it before the Commission, and we are doing it anyway. If the body should pass the resolution. If the ordinance does not change, it still falls under IPMC. Mayor Payne said it has always been unlicensed cars.

Commissioner Rardin said Section C says, "Any person, firm, or corporation to store on or permit to be stored or placed on." He said multiple vehicles sit at his place, and sometimes they do not move. One of them is an unlicensed vehicle without tags on it. Technically, that vehicle would be out of compliance, but it is in a commercial yard and used for storage, so the storage is not outside. It is a box truck. Commissioner Wright's yard has multiple semi-trailers that probably do not have tags and are used for storing parts and miscellaneous things. The way this is written, those could be towed and cited. Maybe Payne said, but hasn't this always been like this? Code Enforcement Manager Sides said he has not changed any verbiage other than taking out and adding unlicensed motor vehicles. Mayor Payne said what if there is an unlicensed vehicle, as long as that vehicle is covered? Code Enforcement Manager Sides said we are getting away from coverings. The wind will tear them to shreds, and then they become rubbish or garbage. Instead of having a nice car cover, you now have an accumulation of garbage or rubbish in your yard, and we are back out there telling you that you have to keep all that stuff up. Mayor Payne said this has always been an ordinance, but it also used to be if it was covered. Her son was in the military and stationed overseas. He had an '84 Camero. Why keep it licensed when he was overseas for several years? We stored it. We backed it in and had it covered. That would be something where there are extenuating circumstances. However, there is a difference between that and having car parks all over the place. There is a tasteful way to store a car instead of just having stuff everywhere. That is what this boils down to. It is unsightly. She said her husband was in the business for thirty years, and it was not uncommon for him to bring a car home to work on. At night, it was cleaned up, done, and moved. There is a proper way to store this stuff.

Acting City Manager Hernandez asked the Commission if there was any wording to cover the issues that were being brought up. Is there any suggested wording we can put back in?

Commissioner Rardin said we have OFCU's and Loco Credit Union's Repo Lot. When they bring those in, they often remove the license plates from those vehicles. They are parked and stored there. They

do not have valid registration. We cannot tow those because they belong to that bank. Do you see what we are saying? There are a lot of issues. Mayor Payne said again that does not look distasteful, is not a mess, and is not dangerous. Commissioner Rardin said it sometimes is. It is not about today; it is about down the road. Mayor Payne said nothing has changed that has not been the same. When was the last rewrite of this? Code Enforcement Manager Sides said he did not know. Commissioner Rardin asked if we were in a rewrite of this now. Code Enforcement Manager Sides said no. Our ordinance rewrites for Code Enforcement, like Chapters 8, 14, and 26, would probably not be on there for another year. They are still going through Planning and Zoning.

Commissioner Rardin said we would have an exorbitant number of calls. There are a lot of properties that have vehicles. Some of them are problems, and some of them are not. Mayor Payne said again, nothing has changed, so we should have had the calls by now. Commissioner Rardin said we will start having them as soon as Code starts. City Attorney Smith said the original ordinance was in 1960. Commissioner Rardin said how many times it had been updated. City Attorney Smith said the last update was in 2006. Acting City Manager Hernandez asked if it would fix something if we put a licensed business or an exception to that? Mayor Payne said we can, but again, nothing has changed. This has been the same thing for as long as I can remember. We certainly have not received an exorbitant amount of calls.

Commissioner Burnett asked how often we have towed someone's vehicle? Code Enforcement Manager Sides said we have not yet. Commissioner Burnett asked when the last time was. Code Enforcement Manager Sides said he did not know.

Commissioner Rardin said he understood the intent of this. It is more in the residential areas. There is a gentleman over in my district with an enormous amount of vehicles parked in his driveway, backyard, and street. He said he understood that we do not really have teeth to do anything. We have cited him in court numerous times. He pays the fines and moves on. He said he thought this would create some issues for the outlying areas of town. Commissioner Paul said nothing is really changing. Those vehicles out there are probably dismantled, partially dismantled, or inoperable. You could leave unlicensed out of here, and they could still go and enforce what they can through this or property maintenance. He understood that you do not want somebody to come around, but I never see our Code Enforcement becoming fifty-strong and unleashing on the City of trying to do all that. Commissioner Rardin said he did not have a problem so much in the residential areas. It is more the commercial side, other than the place he mentioned earlier that was a huge eyesore. Code Enforcement Manager Sides said when he was rereading these ordinances, he found some and would send the gentleman a letter tomorrow.

Commissioner Paul asked Commissioner Rardin if his property where he had the box truck was in a business or industrial district, zoning-wise. Commissioner Rardin said yes, it is commercial and zoned C-3. The property across the street has an automotive repair and body shop business. They have a few inoperable vehicles, but they are parked neatly. Commissioner Paul asked if we could exclude certain zoned areas. Commissioner Rardin said not maybe zoning, but maybe registered businesses. Mayor Payne asked if a Code Enforcement officer saw a business with cars on it that were not registered, would they pay much attention to that to even find out if they were registered? How likely is that? Code Enforcement Manager Sides said not very. If they do, they are going to get talked to. That is a spirit of the law thing; could you, yes, should you, no. Mayor Payne said nothing has really changed. It is up to you if you want to add something.

Commissioner Rardin said the paragraph above the added unlicensed motor vehicle part states the exact same thing. Code Enforcement Manager Sides said there is, in ordinance, if we go to a residence that has an unlicensed motor vehicle, they get a warning. A certain amount of days is specified within

the ordinance that says you have this many days. After that many days, it then gets kicked to me. I send them a letter of notice of violation with impending abatement action. That is what I do for weeds right now. That is a new process we started, but for weeds, it has been going on since the new weed ordinance kicked in. The letter says you have fifteen days from this letter to either correct the violations or I will correct them for you. If that is the case, we can correct them, and we can cite them into court. It is not either or one way. There is an appeals process. In automotive storage, there is even a request to go to the City Manager to say why it does not violate the ordnance or undue hardship. Commissioner Rardin said that part of getting a permit or the appeal process with the City Manager is being struck out of this ordinance. Acting City Manager Hernandez said we could put the appeal process back in. Commissioner Rardin said the permit or the appeal process? Acting City Manager Hernandez said the appeal process. She said there has not been a permit ever issued as far as City Clerk Hughs and I could go back. Nobody has ever actually filed for a permit. That is how this one came to my attention. We did not know it existed. Commissioner Rardin said he felt we should leave that in there. He said that Mayor Payne mentioned that when her son was out of time for an extended period, they stored the vehicle. In a situation like that, they should have the availability to get a permit to store it there. Commissioner Burnett said he agreed with that. We do have a lot of military. Mayor Payne said at that time we were just allowed to cover it. Commissioner Rardin said the ordinance had been in place since 1960. Mayor Payne said that is what I am telling you. It was in place, and we were allowed to cover it. Commissioner Rardin said it was not enforced. That is how we used to do it. Mayor Payne said that would solve the problem. There has to be exceptions. What is the point of not allowing unregistered vehicles on a property? Code Enforcement Manager Sides said it was basically for blight. Most of our outdoor automotive storage complaints are on unregistered motor vehicles. Commissioner Melton said he gets calls complaining about that. Mayor Payne said if you cover the vehicle, then it is not so unsightly.

Commissioner Rardin said there is a gentleman in town with a large number of unregistered vehicles parked in a fenced-in lot out in District 5. How do we address something like that? I think there is even an airplane and a couple of boats sitting in that lot. What do we do in a situation like that? Code Enforcement Manager Sides asked if it was visible from the public right-of-way. Commissioner Rardin said it was, it was very visible. Code Enforcement Manager Sides said that we should be out there having a discussion with him about those. Commissioner Rardin said he did not know if he wanted to have a discussion with that man. The issue is that it lies in an older part of town, more of a commercial area, and has businesses. He said he was unsure if he was licensed as a business out there in that particular lot, but knew he had businesses elsewhere. Do you see the can of worms that particular one could open up? There are probably sixty cars sitting in that fenced-in commercial area zoned C-3. Commissioner Burnett asked if it was two lots. Commissioner Rardin said it may be. Mayor Payne asked if he lived on that property. Commissioner Burnett said no. Commissioner Rardin said he just stores stuff there. There are storage buildings. Commissioner Burnett said there was a mechanic shop on the corner.

Acting City Manager Hernandez said we should table this and let Code Enforcement Manager Sides, Public Works Director Beshaler, and herself work on this. Put some wording in there for exceptions and appeal. Commissioner Rardin said our intent is more for the residential areas, correct? Acting City Manager Hernandez said yes. Commissioner Rardin asked how long they needed. Until the next meeting? Acting City Manager said yes, we can probably bring it to the next meeting.

Commissioner Rardin moved to table this until the next meeting.
Commissioner Burnett seconded the motion.
Motion carried with a vote of 6-0-0.

8. Consider, and act upon, Ordinance 1685, for first publication amending Chapter 24, Article 01, Section 010, Schedule of Penalty Assessments. *(Ashley Smith, City Attorney)* (Roll Call Vote Required)

Mr. Teddy Rich said he was an intern for the Legal Department at City Hall and was here to present for them. The current fees have not been raised since 2017. Inflation has increased significantly, meaning the value of the dollar has decreased along with the value of the punishment we deal. The current fees do not deter people from breaking our road laws. Nmcourts.gov states that fifty percent of crime is committed by repeat offenders. Fifty percent of crime refers to the generic term of crime. However, this still shows the significant amount of our road laws being violated. Traffic violations cause risk to our residents. According to city-data.com, in 2021, seventeen people were involved in fatal incidents, and five of them ultimately died. This has seriously increased since then. Our fees do not reflect those of our surrounding cities, such as Roswell, Carlsbad, and Las Cruces. To make this change, we looked at the penalty assessment program for the previous cities. We then took our fees, raised them by $5, and chose the highest between us and the state of the cities so that our fees would be compared to our neighbors. If we make these changes, we hope that we will see less repeat offenders, safer roads, fines appropriate to the offense, and lastly, that the increased fees will help fund City Hall costs.

Commissioner Rardin asked what some of these charges were, like processions and limits on backing. What is the actual violation? Chief Kunihiro said limitations and limits on backing is, for example, if you back up and hit something, then it is your fault. You are supposed to yield to a procession. So, if we are doing a funeral escort, a procession, and you decide to drive past and not yield to us, that would be that. Commissioner Rardin asked what unlawful riding was. Chief Kunihiro said it would be like if you got a truck with running boards on the side and you are riding on the side, hanging on. Commissioner Paul asked what about eye protection and windshields. Chief Kunihiro said he sees cars driving around all the time without windshields. Commissioner Rardin asked what parking for uncertain purposes was. Chief Kunihiro said he did not know; he would have to read it. It is not common. Commissioner Rardin said we can cite for parking in alleyways. Chief Kunihiro said yes, that is public right-of-way. Commissioner Rardin said so permitting unlicensed persons to drive is basically an unlicensed driver? Chief Kunihiro said correct. Commissioner Rardin said so if I let my daughter drive, you can cite me? Chief Kunihiro said absolutely. Commissioner Rardin asked what Basic Rule 2412611 was. Chief Kunihiro said that he would want to read the definition before commenting. We have cited it. City Attorney Smith said that Basic Rule says that no person shall drive a vehicle at a speed greater than as is reasonable and prudent under the conditions and having regards to the actual and potential hazards then existing consistent with the foregoing, every person shall drive at a safe and appropriate speed when approach and crossing an intersection or railroad grade crossing when approaching and going around a curb, when approaching a high crest, when traveling upon any narrow or winding street, and when special hazards exist in respect to pedestrians or other traffic or by reason of whether or highway conditions. Basically, if you are driving too fast for conditions. Chief Kunihiro said it is compared to careless driving in a way. So, like around on Lavelle where the railroad curb is. If you went there and crashed, and we determined how fast you were going, that is something we could cite if you lost control. Commissioner Rardin said it is more likely you guys would cite careless driving. Chief Kunihiro said probably, yes. Commissioner Rardin asked about driving on street lanes for traffic. Chief Kunihiro said operating motorcycles on street lanes for traffic. Well, driving on street lanes for traffic is actually driving on the lane you are supposed to be in. Commissioner Rardin asked if you could be cited for that. Chief Kunihiro said yes. One of the key indicators for driving impaired is if you are driving outside of your lane. Commissioner Rardin said so if you are crossing the lane. Chief Kunihiro said yes.

Mayor Payne said that under new material, I am assuming these are new things that were added. City Attorney Smith said the only thing we are changing is the penalty assessment, so the fines. The violations did not change. We are changing how much it will cost if someone violates it. Commissioner Paul asked if these raised fees were comparable to Roswell, Carlsbad, and Las Cruces. Mr. Rich said yes. Mayor Payne said they went up quite a bit, but we have not added anything new. City Attorney Smith said there are no new types of violations. We did not change any of the other ordinances, just the cost of things. She said that Mr. Rich did a great job researching and looking at other cities and communities. Some of these went up quite a bit because we were very low compared to other communities. We are having a tougher stance on crime, and this is one of those ways. Commissioner Rardin asked when the last time we raised these fees was. City Attorney Smith said the last change was in 2017.

Commissioner Rardin asked what the charge of carrying articles was, 24128-6. Mr. Rich said the charge of carrying articles would be riding a bike, but you are carrying things in both hands making it impossible to use the handlebars. Mayor Payne asked what an unattended motor vehicle was. Is that like if you leave it running? Mr. Rich said he did not know. Chief Kunihiro said for what it is worth, throughout his career, when he has cited somebody, he has feedback saying they would take the penalty assessment all day. In Texas, it would be $100 more, so they would be willing to take yours, so there is no fear. Commissioner Rardin asked what standing parking on one-way streets or on divided streets. Chief Kunihiro said he would have to read it. Commissioner Rardin said he understood the parking part, but what about standing? I have always wanted to ask you all about these. Chief Kunihiro said there are a lot of ordinances we do not cite commonly. Commissioner Rardin asked if overtaking on a right was permitted. Is that passing on the right? Chief Kunihiro said basically, a lot of these are written when it is safe to do so. Let's say you are driving in front of the high school, and a car is going to turn left into the high school parking lot, and you go around it to the right, and you crash into something. That would be something where you did not perform that action safely. Commissioner Rardin asked about further limits on driving left of center. Mayor Payne asked what stopping, standing, and parking was. Chief Kunihiro said you are basically stopped. I would consider that maybe in a school zone, like a no-parking zone. You are blocking the right-of-way.

Commissioner Paul moved to approve.
Commissioner Melton seconded the motion.
Roll Call Vote was taken.
Motion carried with a vote of 6-0-0.

9. Appointments to Boards and Committees. ***(Susan Payne, Mayor)***

Mayor Payne read the openings and reappointed Karen LeComte to a 2nd term on the Mayor's Committee on Aging. No one was opposed.

EXECUTIVE SESSION

10. Adjourn into Executive Closed Session in compliance with 10-15-1(h) 8, NMSA (as amended) to discuss Real Property - 523 Maryland Lot -Dudley School Lot. (Roll Call Vote Required)

Commissioner Rardin moved to adjourn at 7:47 p.m.
Commissioner Melton seconded the motion.
Motion carried with a vote of 6-0-0.

ADJOURNMENT



Mayor Susan L. Payne

ATTEST:

City Clerk Rachel Hughs

(Prepared by Dylan Aleshire, Deputy City Clerk)
Approved at the Regular Meeting held on November 14, 2023.

SPECIAL PERMIT APPLICATION

CITY OF ALAMOGORDO
PLANNING & ZONING DEPARTMENT
PROPERTY OWNERSHIP DATA
1376 E. NINTH STREET • ALAMOGORDO, NEW MEXICO 88310-5938
(575)439-4220 FAX (575)439-4343
pnz@ci.alamogordo.nm.us

ALAMOGORDO PLANNING AND ZONING

EG2162

PF-011-3705-312.11-06
CASE: SP- 2023-0007(A)
Fee: 250.00

DATE: 10-12-23
Receipt No. 1610

SPECIAL PERMIT APPLICATION
(Please Type or Print)

1. Applicant: Robbie Jo Stone 1000 Post Ave 480-758-2495
   Name Address Phone
2. Property Owner: Robbie Jo Stone 1000 post Av 480-758-2495
   Name Address Phone
3. Request Special Permit for RV to Park for 1 years
4. Present Use: Living
5. If Applicant is not property owner, explain: _____
6. Reason for request: My Niece to live in RV because have no where to go and has NO job.
7. Property Description: A legal survey showing property SHOULD be submitted with the correct legal description. It is the responsibility of the applicant to ensure that the survey is correct. This information becomes a part of the permanent case file.
   a. Size of property (acres or square feet) 5,663 Sq. Ft.
   b. Address or general location 1000 post Ave
   c. Legal description: (If Metes & Bounds, Attach Copy to Application)
      Lot_____ Block_____ Subdivision_____

Applicant/Agent Signature

Owner Signature

For use by the City of Alamogordo (do not write below)

ZONING DISTRICT(S) _____
CITY COMMISSION DECISION REQUIRED: APPROVED_____ DENIED_____
CITY COMMISSION MEETING DATE _____

City of Alamogordo

City Commission

SP-2023-0007(A)

Stella Rael, City Planner
February 13, 2024

Special Permit Case: SP-2023-0007(A)

Request:

The property owner is requesting a special permit to allow for his niece to continue living in an RV on his property at 1000 Post Ave.

Applicant:

Bobbie Jo Stone

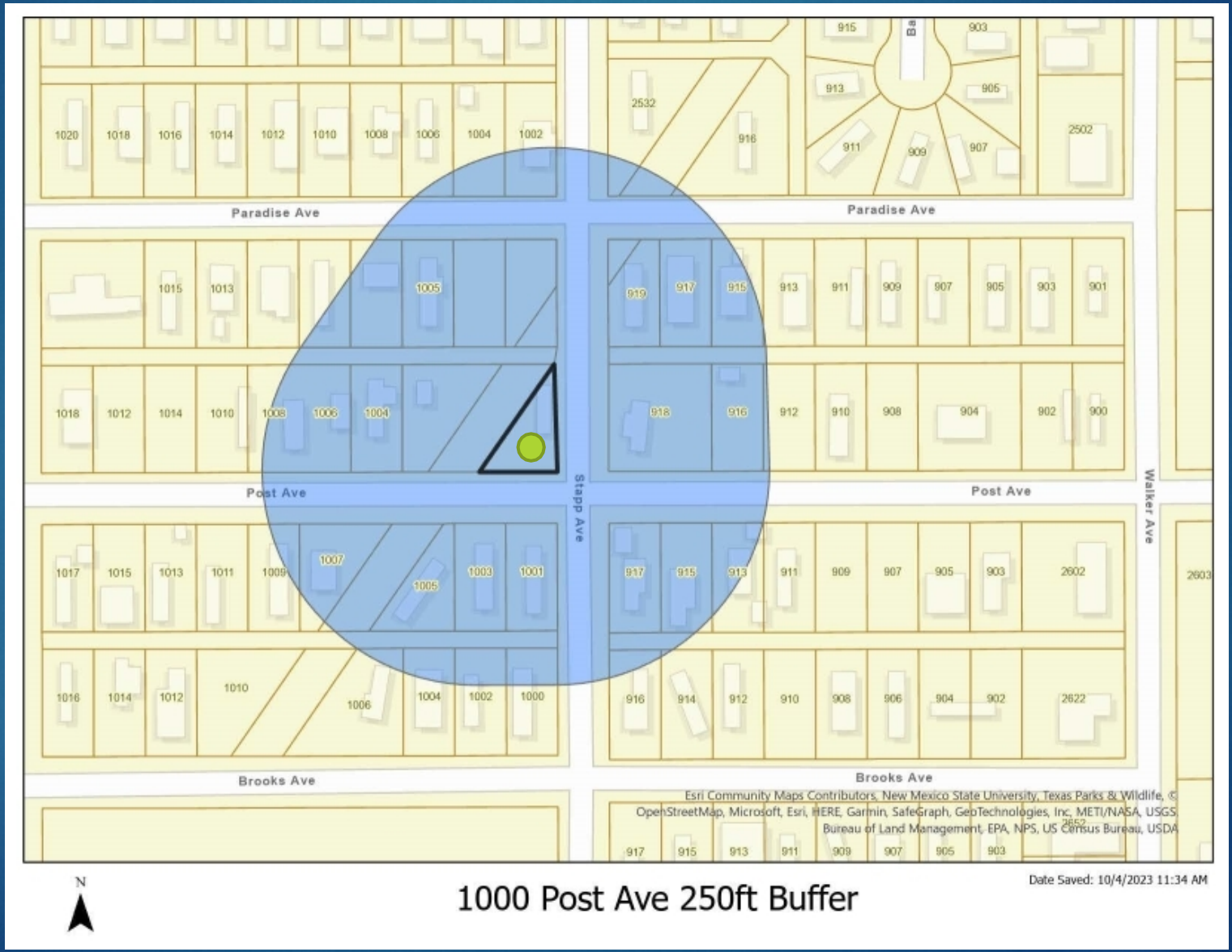
1000 Post Ave

Alamogordo, NM 88310

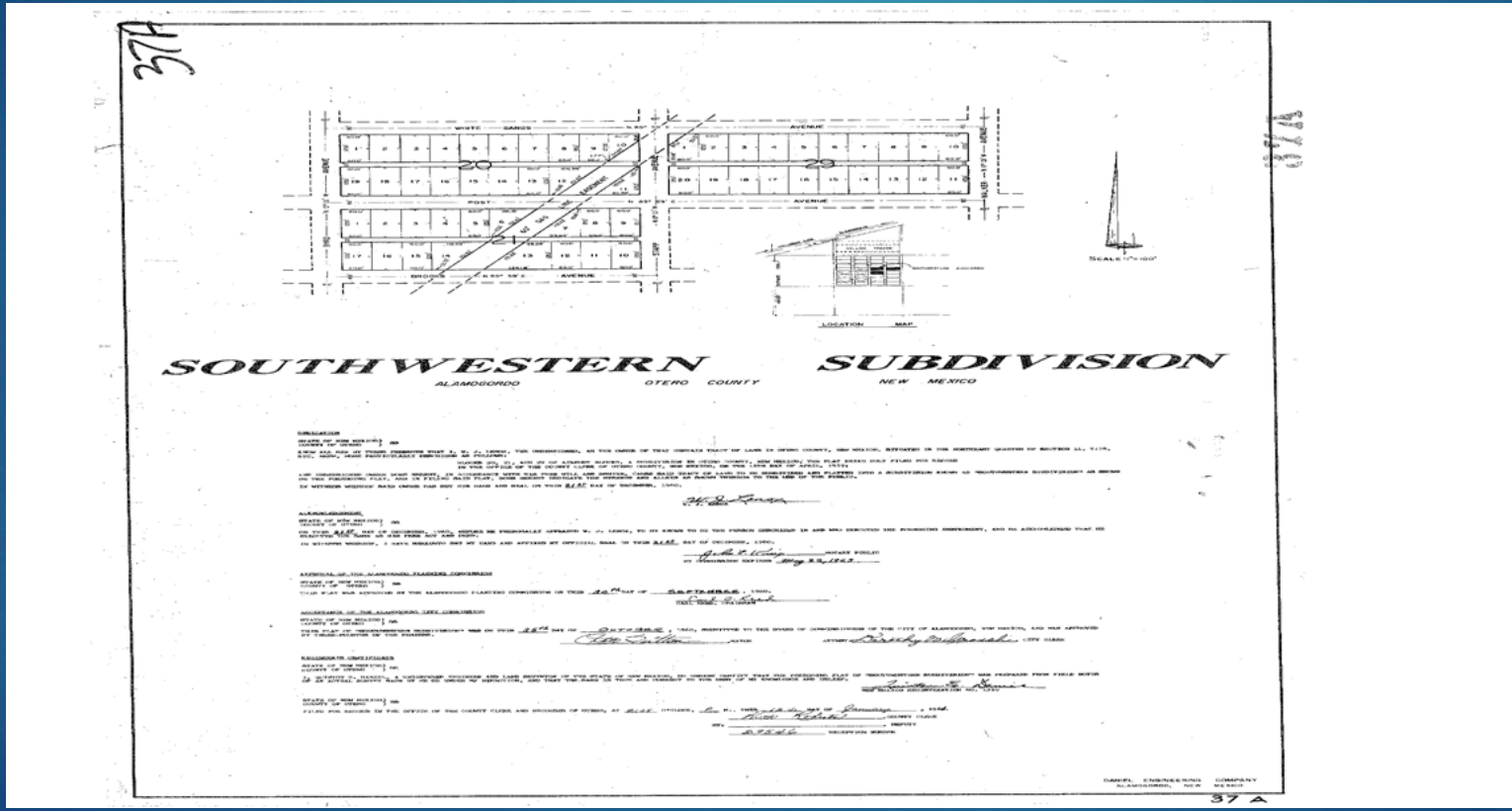
AERIAL



Protest Area



Southwestern Subdivision
Lot 11, Block 20
60’ Gas Line Easement



Current Conditions
2-6-2024





Current Conditions
2-6-2024





Current Conditions
2-6-2024





SP-2023-0007(A)

Findings of Fact

- 1. This item was presented to the City Commission on November 1, 2023 By Assistant City Planner.
- 2. Item was tabled by a vote of 6-0-0 with direction from the Commission that staff brings back to the regular scheduled meeting on February 13, 2024.
- 3. Property owner was directed by the commission to stay in communication with the Planning and Zoning department during the renovation process of the RV
- 4. The property owner has not communicated with the Planning and Zoning department.

Z-2023-0007(A)

- 7. Staff recommends denial.

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/13/2024 **Report Date:** 02/05/2024 **Report No:** 23.

Submitted By:

Subject: Adjourn into Executive Closed Session in compliance with 10-15-1(H)(8) NMSA (as amended) to discuss: Real Property land accusation of Mountain Park Farm, located in Highrolls, NM. **(Roll Call Vote Required)**

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation:

Background: