



Alamogordo City Commission

NOTICE OF MEETING

Regular Meeting Agenda

August 23, 2016 - 6:30 PM
City Hall, City Commission Chambers
1376 E. Ninth St.

Richard Boss Mayor
Al Hernandez Mayor Pro-Tem, District 5
Jason Baldwin District 1
Nadia Sikes District 2
Susan Payne District 3
Jenny Turnbull District 4
Erica Martin District 6

Maggie Paluch Acting City Manager
Canon P. Stevens Interim City Attorney
Nancy Jacobs City Clerk

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

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

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

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

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

CALL TO ORDER & ROLL CALL

Announce the presence of a Quorum.

INVOCATION & PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

PRESENTATIONS

1. Presentation of the Otero County Economic Development Council (OCEDC) Quarterly Report. (Mike Espiritu, President/CEO of OCEDC)

PUBLIC COMMENT

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

CITY MANAGER'S REPORT

REMARKS AND INQUIRIES BY THE CITY COMMISSION

CONSENT AGENDA (Roll Call Vote Required 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 August 9, 2016 Regular Meeting. *(Nancy Jacobs, City Clerk)*
3. Approve the statement related to the Executive Session held on August 9, 2016. *(Nancy Jacobs, City Clerk)*
4. Consider, and act upon, Resolution No 2016-36 approving a Grant Agreement between the City of Alamogordo and the New Mexico Department of Finance and Administration, Local Government for Special Appropriation Project 16-A2467 in the amount of \$200,000 to purchase and equip police vehicles. *(Daron Syling, Police Chief)* **(Roll Call Vote required)**
5. Consider, and act upon, approval of Amendment No.1 to the Engineering Professional Services Agreement with Smith Engineering Company for the McKinley Channel Utility Relocation project. *(Nancy Beshaler, Project Manager)*
6. Consider, and act upon, approval of an application for participation in the Fire Protection Fund Grant FY 2017 for the Alamogordo Fire Department. *(Mikel Ward, Fire Chief)*
7. Consider, and act upon, final publication of Ordinance No. 1525 amending Section 18-01-030 of the Code of Ordinances concerning Municipal Court conditional discharge. *(Lauren Truitt, Asst. City Attorney)* **(Roll Call Vote required)**
8. Consider, and act upon, final publication of Ordinance No. 1526 amending Section 24-01-020 of the Code of Ordinances pertaining to reckless driving, by strengthening the penalty for such crime. *(Lauren Truitt, Asst. City Attorney)* **(Roll Call Vote required)**

ITEMS REMOVED FROM CONSENT AGENDA

UNFINISHED BUSINESS

9. Consider, and act upon, options for pool coverings for the Family Recreation Center pool. *(Maggie Paluch, Acting City Manager)*

NEW BUSINESS

10. Consider, and act upon, award of Public Works Bid No. 2016-002 to CSW Contractors, Inc., related to the Rehab Effluent Storage Ponds - Desert Lakes Golf Course, in an amount not to exceed \$505,139.25, including tax. *(Brian Cesar, Public Works Director)*
11. Consider, and act upon, a request by George Sandoval II, related to a leak adjustment request for 504 E. First St. (Margo's Mexican Food). *(Mark Threadgill, Customer Service Manager)*
12. Consider, and act upon, a request by the City of Alamogordo related to a leak adjustment request for 3102 N. Florida Ave. *(Mark Threadgill, Customer Service Manager)*

13. Consider, and act upon, edits and corrections to the City of Alamogordo Leak Abatement Policy. *(Mark Threadgill, Customer Service Manager)*
14. Consider, and act upon, the Low Flow Toilet Policy. *(Mark Threadgill, Customer Service Manager)*
15. Consider, and act upon, Resolution No. 2016-37 adopting an Infrastructure Capital Improvement Plan (ICIP) and identifying the top five (5) recommended projects for Fiscal Years 2018-2022. *(Maggie Palach, Acting City Manager)* **(Roll Call Vote required)**
16. Appointments to Boards and Committees. *(Richard Boss, Mayor)*

WORK SESSION

17. Consider, and act upon, providing direction to staff regarding amending the Alamogordo Code of Ordinances Chapter 14, Garbage, Trash, and Refuse, to restructure the requirements for the removal of Abandoned, Wrecked, Dismantled or Inoperative Motor Vehicles. *(Mikel Ward, Fire Chief)*

EXECUTIVE SESSION (Roll Call Vote Required)

18. Recess into Executive Session in compliance with Section 10-15-1(H), NMSA 1978 (as amended), to discuss: collective bargaining negotiations (AFSCME, APSOA & non-represented employees), limited personnel matters (City Manager candidates), and purchase, acquisition or disposal of real property (First & Florida project) . **(Roll Call Vote required)**

RECONVENE INTO OPEN SESSION

ADJOURNMENT

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 08/23/2016

Report Date: 8/17/2016

Report No: 1.

Submitted By: Nancy Jacobs

Subject: Presentation of the Otero County Economic Development Council (OCEDC) Quarterly Report. *(Mike Espiritu, President/CEO of OCEDC)*

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation:

Background: As per the agreement (Section 1.2), which was signed May 24, 2016, OCEDC is required to give a brief presentation of their Quarterly Report to the Commission.

City of Alamogordo

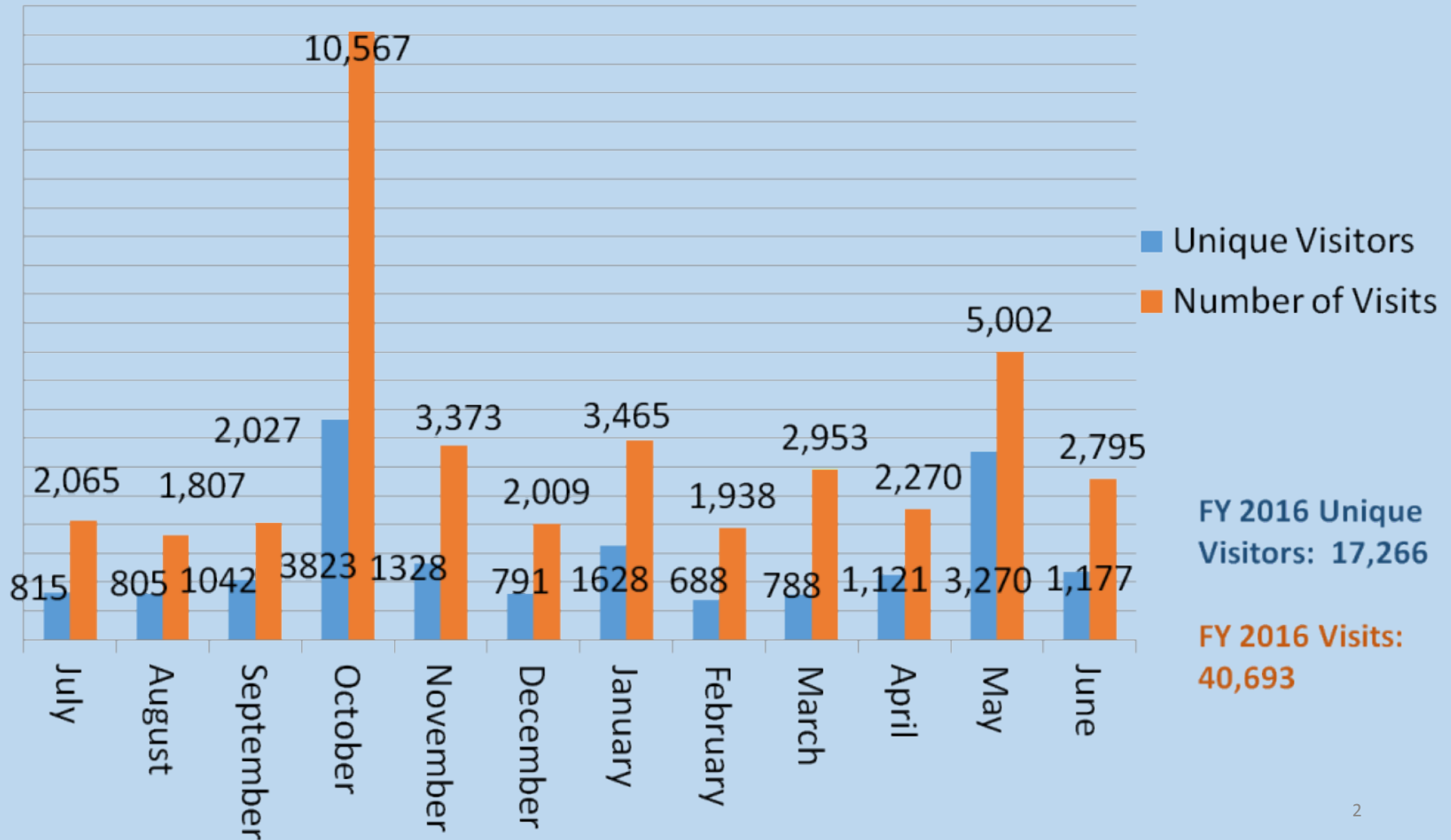
Economic Development Quarterly Update

August 23, 2016



Michael Espiritu
President/CEO
OCEDC

Web Site Activity





Existing employee headcounts of economic-based businesses

- PreCheck, Inc.: 177
- Xerox Services: 151
- Emerging Technology Ventures: 13
- NM Ties and Poles: 3+
- TDS: 82



Prospective Company Recruitment

- Property inquiries: 9
- Number of contacts or potential businesses: 19
- Number of leads generated through marketing in trade/industry publications: 21
- Number of Prospective Recruitment Opportunities (PRO's) from the New Mexico Partnership: 7
- Follow-ups on previous leads: 63
- Business Retention and Expansion Visits:
 - PreCheck – Rene Hatfield
 - Exotic Pets & Animals – Jan Odell
 - Subway – Kumar Malhotra



Business Attraction Events

- MRO America's (Maintenance, Repair and Overhaul-Aerospace Industries), April 4-10, 2016
- NM Rural Economic Development Council, April 14-15, 2016 and June 29-July 1, 2016
- Washington DC Sales and legislative trip, April 17-22, 2016
- Association of Unmanned Vehicle Systems International (AUVSI), May 2-5, 2016
- Governor's Conference on Tourism, May 16-18, 2016
- Site Selection Familiarization Tour and consultant meetings, May 31-June 3, 2016



Current Projects

- Project Lock
- Project FAB
- Project Garnet
- Project Grasshopper
- Project Green City

City of Alamogordo

Economic Development Quarterly Update

August 23, 2016



Michael Espiritu
President/CEO
OCEDC



Otero County Economic Development Council, Inc.

1301 N. White Sands Blvd.
Alamogordo, NM 88310
(575) 434-5882 • (575) 437-7139-Fax
www.ocedc@alamogordo.com

Reporting Period: April-June 2016

1. Economic Development Web Site. Active website with demographic information available. Identification of public owned, shovel ready sites are continuously being updated with area realtors and property owners. Incentive packages and materials are available.
2. Web activity

Total Unique Visitors	Total Number of Visits	Total Pages	Total Hits
5,568	10,067	60,557	107028

3. Support Services for Existing Businesses.

Current employee headcount of area's top employers:

HAFB – 4006	Xerox – 151	OFCU - 96	French Brothers - 21
APS – 844	Lowe's Pay N Save - 176	Otero County Coop. – 67	Morrison Supply – 10
GCRM – 720	PreCheck – 177	White Sands Const. – 41	PNM – 24
Walmart - 427	Mesa Verde - 138	Bank'34 – 26	Jack Wayte Construction - 27
NMSU-A – 325	Lowe's Home Imprv. – 123	Western Bank - 27	Texas NM Gas – 21
City – 357	Home Depot – 87	TBTC - 29	Home Service Contractors- 25
County – 243	First National Bank – 86	Wells Fargo Bank – 22	McDonalds - 115
Albertsons - 169	TDS - 82	National Construction - 19	Alamogordo Dental Group - 20

4. Prospective Company Recruitment.

a. Number of sales, trade show, or similar events attended:

- i. MRO America's (Maintenance, Repair and Overhaul-Aerospace Industries), April 4-10, 2016
- ii. NM Rural Economic Development Council, April 14-15, 2016 and June 29-July 1, 2016
- iii. Washington DC Sales and legislative trip, April 17-22, 2016
- iv. Association of Unmanned Vehicle Systems International (AUVSI), May 2-5, 2016
- v. Governor's Conference on Tourism, May 16-18, 2016
- vi. Site Selection Familiarization Tour and consultant meetings, May 31-June 3, 2016

b. Number of "home-grown" businesses locating in Alamogordo:

Project Pole is applying for state Local Economic Development Act (LEDA) funds. Documents for state LEDA funds are being prepared. Awaiting actions by City Attorney and Commission for award of state LEDA funding.

Project Lock performed a site visit in Alamogordo. Meetings and possible commercial locations were conducted/visited, with a company presentation May 2016 in Alamogordo to local product buyers.

Project Grasshopper, a local producer of wood products is now working with the Small Business Development Center (SBDC) to prepare financial and other business documents for purchase of a re-purposed commercial facility and state LEDA funding request. Meetings with SBDC and Western Bank were conducted to complete documents.

Project Protect, lithium ion battery manufacturer from California is seeking relocation and require \$5-10 MM in funding. OCEDC has secured a potential investor for the company with meetings being scheduled by the company with the investor.

Project Green City Water, manufacturers of desalination equipment is also seeking investors, and OCEDC has linked them to a potential investor. Company is working documentation for due diligence actions for investor.

c. Listing of contacts or potential businesses obtained through serving as the lead contact:

- i. Gemini Rosemont Commercial Real Estate Brokerage
- ii. Coker Group
- iii. EDC Canada
- iv. Adams Radio Group
- v. Marin UAV
- vi. IR Cameras
- vii. Inertial Sense
- viii. Transparent Sky
- ix. Aerialtronics
- x. Deveron UAS
- xi. Swift Engineering
- xii. Elmo Motion Control
- xiii. Robotic Skies
- xiv. Dronelife
- xv. Delta Airport Consultants, Inc
- xvi. Vectornav
- xvii. Novatel
- xviii. Flightglobal Aviation
- xix. Silicone Forest Electronics
- xx. K&L Microwave
- xxi. Stratasys Direct Manufacturing
- xxii. Custom Systems Integration Inc.
- xxiii. Aviation Unmanned
- xxiv. Torc Robotics
- xxv. Applied Composites Engineering
- xxvi. Austin Consulting
- xxvii. CBRE

- xxviii. Ernst and Young LLP
- xxix. BNSF Railway Company
- xxx. Plaza Realty
- xxxi. Duff & Phelps, LLC
- xxxii. Newmark Grubb Knight Frank Global Corporate Services

- a. Property Inquiries: 9
- b. Business Facilities Magazine leads: 21
- c. Trade Show: 87
- d. Follow-ups: 63
- e. NM Partnership Prospective Recruitment Opportunities (PRO): 7
- f. Business Retention and Expansion Visits:
 - i. PreCheck – Rene Hatfield
 - ii. Exotic Pets & Animals – Jan Odell
 - iii. Subway – Kumar Malhotra
- g. Quality of Life Report: 1

5. Marketing Materials Directed Toward Target Businesses.

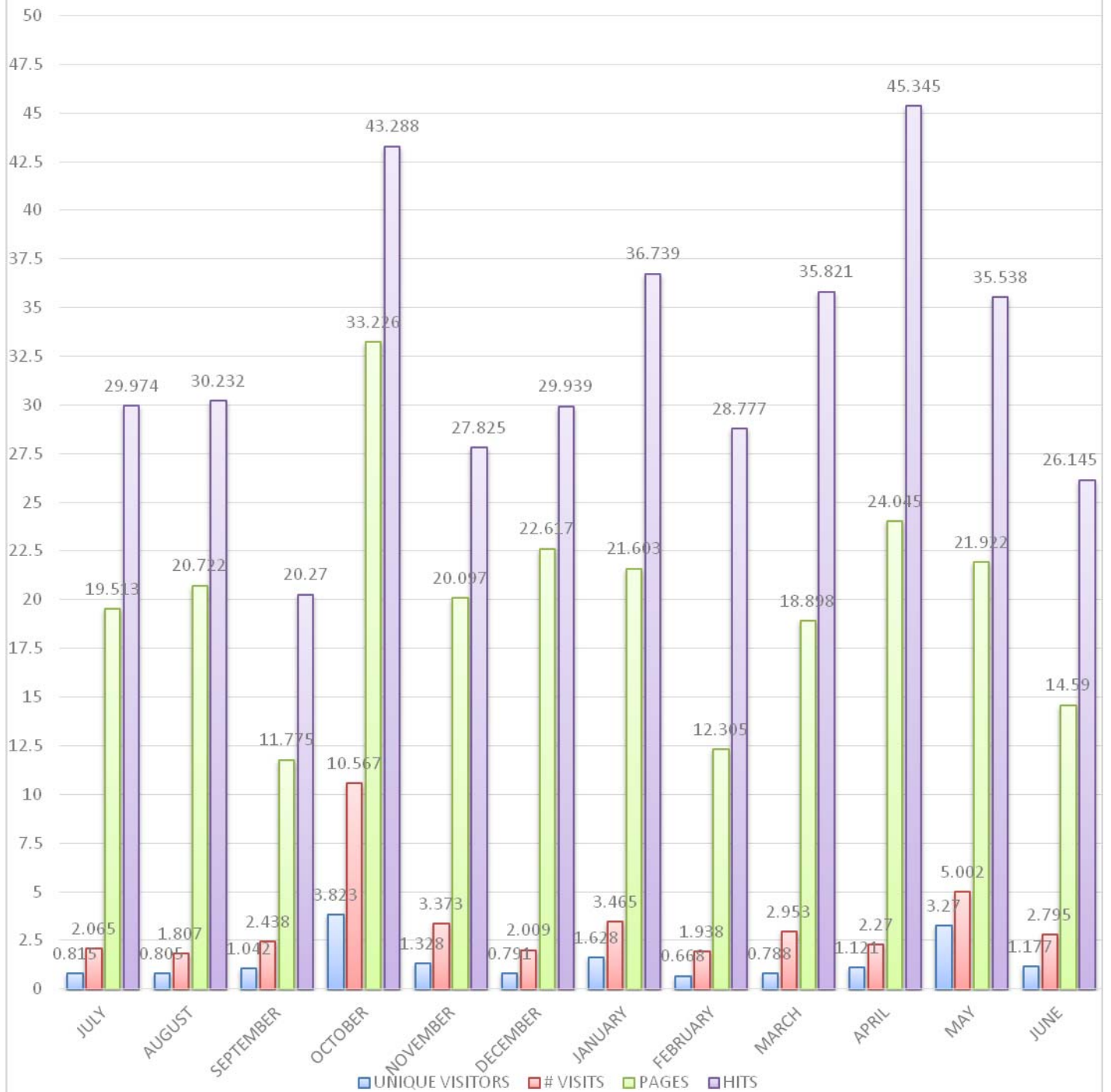
New collateral developed for Site Selection Familiarization meetings with six consultants. Additional materials are currently being created for new advertising and sales/trade missions.

6. Other items this past quarter:

- a. Attended meetings with the Employer Support of the Guard and Reserve (ESGR) on how we can best support veterans and employers and potential employers.
- b. Held meetings with the Small Business Development Center, (SBDC) concerning the renovation of the former Tularosa Basin Museum for the SBDC relocation.
- c. Coordinated and attended meetings with NMSUA President, Dr. Van Winkle concerning development of curriculum for existing and future workforce needs.
- d. Chaired the NM Rural Economic Development Council (current President) discussing numerous topics impacting rural NM communities, to include challenges with Workforce, Broadband deployment, Public Assistance Benefits, Economic Development Organization certifications, NMEDD LEADS Grant program, and others.
- e. Attended trip with the Committee of Fifty to Langley AFB, Virginia, Air Combat Command Headquarters, meeting with key senior leaders to include General Hawk Carlisle, Commander to discuss future of Holloman Air Force Base and impact of the German Air Force's (GAF) pending departure. Held discussions on Reserve component, additional missions for F-16 and RPA at Holloman AFB.
- f. Visited the Pentagon, with senior USAF leaders on same subjects as at Langley with the Deputy Director of Policy, Programs and Strategy (International Affairs), Deputy Chief of Staff for USAF Operations, Principal Deputy Assistant Secretary of the USAF for Installations, Environment and Energy, and the Deputy Chief if Staff of International Affairs for the F-35 Program Subject matter Experts.
- g. Also visited the Department of Defenses Office of Economic Adjustment, BRAC Downsizing and the USAF Military Liaison. Discussed future of Holloman and impact of the GAF.
- h. Meet our congressional delegation, US House Representative Steve Pearce, Michelle Grisham, and Ben Ray Lujan. Also, meet with US Senators Tom Udall and Martin Heinrich. Also meet with Legislative Fellow Stephen Traver.

- i. Attended a meeting with Gerald Champion Regional Medical Center to discuss the impact of the new Burrell College of Osteopathic Medicine to Alamogordo, with students performing internships at GCRMC I their periods of study.
- j. Arranged a tour of the National Research Center for Desalination of Brackish Groundwater (BGNDRF) for local civic leaders.
- k. Attended the Grand Opening of the White Sands Regional Airport's runway expansion.
- l. Conducted a site visit by Project Circuit, an electronics manufacturing company from Vancouver, Washington for possible expansion into Alamogordo.
- m. Attended a dinner meeting at Holloman AFB for USAF Secretary Deborah James.
- n. Coordinated the open house event for Project Lock (metal roofing manufacturer) with company and local contractors. The Vice President for Valspar Paints also attended. Company is seeking expansion into Alamogordo, and is a project OCEDC has been working on for several years.
- o. Provided an oral presentation to the New Mexico Economic Development Commission in Albuquerque for a marketing grant of \$15,000 for FY16-17. Formal applications were already provided and the presentation culminated in the successful award of the request.
- p. Participated with Gerald Champion Regional Medical Center leadership in the development of their strategic planning.
- q. Assisted in the interviews for the New Mexico Partnership President/CEO selection in a national search.

Web Site Activity 2015-2016 (measured in thousands)



AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 08/23/2016

Report Date: 8/9/2016

Report No: 2.

Submitted By: Nancy Jacobs

Subject: Approve the minutes for the August 9, 2016 Regular Meeting. *(Nancy Jacobs, 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., COMMISSION CHAMBERS
AUGUST 9, 2016**

**RICHARD BOSS, MAYOR
JASON BALDWIN, COMMISSIONER
NADIA SIKES, COMMISSIONER
JENNY TURNBULL, COMMISSIONER
SUSAN PAYNE, COMMISSIONER**

**AL HERNANDEZ, MAYOR PRO-TEM
ERICA MARTIN, COMMISSIONER
MAGGIE PALUCH, ACTING CITY MANAGER
CANON STEVENS, ACTING CITY ATTORNEY
NANCY JACOBS, CITY CLERK**

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

Mayor Boss called the meeting to order at 6:30 p.m. Roll Call was taken by the City Clerk. Mayor Pro-Tem Hernandez and Commissioner Turnbull were absent. Clerk Jacobs announced there was a quorum present. Invocation was given by Commissioner Payne and the Pledge of Allegiance and Pledge to the New Mexico Flag were led by Commissioner Sikes.

APPROVAL OF AGENDA

Commissioner Baldwin moved to add the addendum to the agenda. Commissioner Martin seconded the motion. Motion carried with a vote of 5-0-0.

Commissioner Baldwin moved to approve the agenda as amended. Commissioner Martin seconded the motion. Motion carried with a vote of 5-0-0.

PRESENTATIONS

1. Presentation to update the Commission concerning possible flood control for the northern areas of Alamogordo by the Corps of Engineers. (*Keith Clements, presenter*)

Keith Clements, chairman of the North Alamogordo Flood Control Committee addressed the Commission. Mr. Clements had been aggressively seeking funding for flood control for Dry and Beeman Canyons. He said flood control for this area would cost approximately \$60 million, of which the City would have to contribute 15% which is \$15 million. He had been told by a representative of the Corps of Engineers they were putting in a request to fund this flood control project for FY2017. Mr. Clements' concern was if the City was saving money for their share in case this funding came through, and felt City Staff should set up meetings with state legislators to gain their help in procuring this money.

Mayor Boss said this would be an on-going project of at least 10 years. Mr. Clements said it could be done in about 11 years, and a retention pond could be built in the meantime to let flood water out slowly. Mayor Boss said we would have over 10 years to pay the money. Mr. Clements said the Corps needed to know whether the City had access to \$15 million before they could move forward with funding the project.

2. Presentation of complaint related to water drainage on the 800 block of New York Ave. (*Marilyn Kite, presenter*)

Marilyn Kite explained to the Commission that the 800 block of New York Ave. had a problem with poor drainage; 800, 802 and 804 New York was the problem area. Her business was located at 802 New York Ave. She had no problem with this from 2007-2011, and the street sweeper came by every Monday morning; for the next three years there were water line leaks in front of her business. Because of this, the sidewalk had sunk lower than the rest of the block. Water leaks and rain water washed mud, sediment and oil onto this area; some citizens have fallen down and she was posting a sign daily to warn individuals of this. (Pictures included in Agenda Packet). She hadn't seen a street sweeper in years so had shoveled this mud herself. (Someone from the audience commented – unintelligible)

Mayor Boss asked Public Works Director Cesar to come forward to answer questions. Mr. Cesar explained about past road reconstruction, and noted this was an issue on New York from First Street to

Tenth Street. To alleviate this problem, every intersection between Second and Ninth Streets would need to be redone as well as the north/south areas of the street, and would cost approximately \$1.1 to 1.2 million. This area was not listed in the Five Year Street Maintenance Program.

It was noted by Ms. Kite and Mr. Cesar that all these businesses were presently using sandbags to keep water out during heavy rain storms.

Commissioner Sikes asked if the street sweeper could be sent there after a big rain as a temporary fix. Public Works Director Cesar said the sweeper was presently inoperable, but when in operation the New York area was swept twice a month. The sweeper goes out additionally to the whole city after heavy rains. Ms. Kite felt the sweeper would not help since the sidewalk had sunk so far.

(Someone from the audience commented – unintelligible. Mayor Boss told this individual to sign up in order to speak at the next meeting)

Mayor Boss said this should be looked into and thanked Marilyn Kite for her comments.

PUBLIC COMMENT

Sheryl Krueger made the following comments:

She was concerned the pool bubble cover would not be put on this winter. She felt many senior citizens as well as the school swim team used the pool on a regular basis for exercising and if it closed and/or was not covered in the winter, they would be unable to do so. She did not like the suggestion of thermal panels for the pool.

Eugene Downer made the following comments:

Mr. Downer thanked the Mayor and Susan Payne for being action oriented. He was concerned the City was not following through on the Union Pacific Railroad grants, the Acting City Manager was being uncooperative in this process and no one in the City cared. Mayor Boss said he and Commissioner Sikes would look into this.

CITY MANAGER'S REPORT

Acting City Manager Maggie Paluch made the following remarks:

- 1) Ms. Paluch gave a First & Florida project update – construction should begin the end of October to the beginning of November.
- 2) She gave an update on the McKinley Channel project, saying we are in the final phase. There will be a large basin built at the base of the mountains, similar to the one at Marble Canyon, and construction should begin in early 2017. She told the residents in that area to leave the flags alone that are being used to mark utilities.
- 3) The Acting City Manager told everyone the traffic light at Canyon & First Street would be considered by the Commission on a future agenda. It only met one requirement to remain, and the Commissioners would have a chance to discuss if it should remain or not.
- 4) The Zoo primate enclosure was progressing well, and there were two new baby porcupines and two baby rheas. Some Big Give teams had put in volunteer time making improvements at the Zoo, as well as the Breakfast Lions Club who provided funds for these projects. The Zoo would be obtaining two African Antelopes at the end of this month, and the Reptile demonstrations on Sundays were very popular.
- 5) Acting City Manager Paluch noted the horseshoe pits at the Alamo Senior Center(ASC) had been refurbished by a HAFB Big Give team. Also, the Gerald Champion Regional Medical Center (GCRMC) employees had been checking medications and providing herbal supplements, vitamins and minerals to the seniors at the ASC, as well. She thanked everyone for these services.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

None

CONSENT AGENDA

3. Approve the minutes for the July 26, 2016 Regular Meeting. *(Nancy Jacobs, City Clerk)*

4. Approve the statements related to the Executive Sessions held on July 26, July 29 and August 2, 2016. *(Nancy Jacobs, City Clerk)*

5. Consider, and act upon, a waiver of permit fee for the Alamo Senior Center New Year's Party fireworks display to be held on December 30, 2016. *(Margaret Lucero, Senior Center Manager)*

Commissioner Baldwin moved to approve Items 3, 4, & 5 on the consent calendar. Commissioner Martin seconded the motion. Motion carried with a vote of 5-0-0.

NEW BUSINESS

Mayor Boss asked to move Item 9 to the first of New Business in order for Chris Muirhead of Modrall-Sperling in Albuquerque who came to answer any questions, could return to Albuquerque this evening.

9. Consider, and act upon, approval of Resolution 2016-34 relating to the City of Alamogordo Ordinance No. 1521 and Ordinance 1522 authorizing loan agreements and intercept agreements with the New Mexico Finance Authority; establishing the details of the loan agreements and intercept agreements in accordance with City Ordinance 1521 and Ordinance 1522. *(Julianne Hall, Acting Finance Director)* (Roll Call Vote required)

Chris Muirhead recapped the reason for this resolution, and reminded the Commission they would be saving \$1.3 million for the City of Alamogordo.

Commissioner Baldwin moved to approve Resolution 2016-34 relating to the City of Alamogordo Ordinance No. 1521 and Ordinance 1522 authorizing loan agreements and intercept agreements with the New Mexico Finance Authority; establishing the details of the loan agreements and intercept agreements in accordance with City Ordinance 1521 and Ordinance 1522. Commissioner Sikes seconded the motion. Roll call vote was taken. Motion carried with a vote of 5-0-0.

6. Consider, and act upon, selecting a Voting Delegate and Alternate Delegate for the New Mexico Municipal League Annual Conference Business Meeting being held August 31-September 2, 2016 in Hobbs, NM. *(Nancy Jacobs, City Clerk)*

The Commissioners agreed upon selecting Mayor Boss as the Voting Delegate. No other commissioner was able to attend the NMML Annual Conference Business Meeting, so the selection of an Alternate was not necessary.

7. Consider, and act upon, first publication of Ordinance No. 1527 amending Section 11-05-070 of the City of Alamogordo Code of Ordinances regarding Concealing Identity. *(Lauren Truitt, Asst. City Attorney)*

Assistant City Attorney Lauren Truitt explained this amendment would help our police officers in the lawful execution of their duties, and would basically mirror the state statute by clearing up any confusion regarding concealing identity.

Commissioner Baldwin moved to approve first publication of Ordinance No. 1527 amending Section 11-05-070 of the City of Alamogordo Code of Ordinances regarding Concealing Identity. Commissioner Martin seconded the motion. Motion carried with a vote of 5-0-0.

8. Approve Resolution No. 2016-32 authorizing the Mayor to execute the agreement for membership in the Southeastern New Mexico Economic Development District/Council of Governments (SNMEDD/COG). *(Nancy Jacobs, City Clerk)* (Roll Call Vote required)

Commissioner Baldwin moved to approve Resolution No. 2016-32 authorizing the Mayor to execute the agreement for membership in the Southeastern New Mexico Economic Development District/Council of Governments (SNMEDD/COG). Commissioner Sikes seconded the motion. Roll call vote was taken. Motion carried with a vote of 5-0-0.

A-1. Approve Resolution No. 2016-35 amending the Preliminary FY2016-2017 Budget with a total budget of \$127,105,516 which includes \$16,468,760 for the General Fund. (Kathy Gilsdorf, Budget Analyst) (Roll Call Vote required)

Budget Analyst Kathy Gilsdorf explained this resolution was prepared on an emergency basis because the pool at the Rec. Center needed repairs in order to remain in operation. Funds had to be transferred from the General Fund for these repairs. There were two other revisions she added along with this.

Commissioner Baldwin moved to approve Resolution No. 2016-35 amending the Preliminary FY2016-2017 Budget with a total budget of \$127,105,516 which includes \$16,468,760 for the General Fund. Commissioner Sikes seconded the motion. Roll call vote was taken. Motion carried with a vote of 5-0-0.

11. Appointments to Boards and Committees. (Richard Boss, Mayor)

Mayor Boss read the openings and reappointed Blaza Madrid to the Mayor's Committee on Aging. No one was opposed.

10. Approve Resolution No. 2016-33 designating the City Clerk as the Custodian of Records and including the method of destruction for City records as witnessed shredding. (Nancy Jacobs, City Clerk) (Roll Call Vote required)

City Clerk Jacobs explained this resolution designated her as Custodian of Records and stated the new method she would use for destruction of records. Witnessed shredding would save the City and her office both time and money.

Commissioner Baldwin moved to approve Resolution No. 2016-33 designating the City Clerk as the Custodian of Records and including the method of destruction for City records as witnessed shredding. Commissioner Martin seconded the motion. Roll call vote was taken. Motion carried with a vote of 5-0-0.

EXECUTIVE SESSION

12. Adjourn into Executive Session in compliance with Section 10-15-1(H), NMSA 1978 (as amended), to discuss: bargaining strategy preliminary to collective bargaining negotiations (AFSCME & APSOA), and purchase, acquisition or disposal of real property (First & Florida project). (Roll Call Vote required)

Commissioner Baldwin moved to adjourn into Executive Session to discuss bargaining strategy preliminary to collective bargaining negotiations (AFSCME & APSOA), and purchase, acquisition or disposal of real property (First & Florida project) at 7:41p.m. Commissioner Martin seconded the motion. Roll call vote was taken. Motion carried with a vote of 5-0-0.

ADJOURNMENT

Mayor Richard Boss

ATTEST:

City Clerk Nancy E. Jacobs

(Prepared by Nancy Jacobs, City Clerk)

Approved at the Regular Meeting held on August 23, 2016.

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 08/23/2016

Report Date:

Report No: 3.

Submitted By: Nancy Jacobs

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

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Approve the following statements authorizing them to be included in the minutes of August 23, 2016: "The Governing Body of the City of Alamogordo, New Mexico, hereby states that on August 9, 2016, a Closed Executive Session was held and matters discussed in the closed meeting were limited only to: collective bargaining negotiations (APSOA & AFSCME), and purchase, acquisition or disposal of real property (First & Florida project)".

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

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 08/23/2016

Report Date: 8/17/2016

Report No: 4.

Submitted By: Daron Syling

Subject: Consider, and act upon, Resolution No 2016-36 approving a Grant Agreement between the City of Alamogordo and the New Mexico Department of Finance and Administration, Local Government for Special Appropriation Project 16-A2467 in the amount of \$200,000 to purchase and equip police vehicles. (*Daron Syling, Police Chief*) **(Roll Call Vote required)**

Fiscal Impact: 200,000

Amount Budgeted: \$200,000.00

Fund: 024-0000-317.16-16

Additional Fiscal Impact:

Recommendation: Recommending approval of Resolution No. 2016-36. **(Roll Call Vote required)**

Background: The City of Alamogordo applied for and received legislative funding to purchase and equip police vehicles. Subsequently, the City received the grant agreement from the NM Department of Finance and Administration, for approval and signature.

RESOLUTION NO. 2016-36

**A RESOLUTION APPROVING A GRANT AGREEMENT BETWEEN THE
CITY OF ALAMOGORDO AND THE NEW MEXICO DEPARTMENT OF FINANCE AND
ADMINISTRATION, LOCAL GOVERNMENT DIVISION FOR SPECIAL APPROPRIATION
PROJECT (16-A2467) IN THE AMOUNT OF \$200,000 TO PURCHASE AND EQUIPPING OF
VEHICLES FOR THE
ALAMOGORDO POLICE DEPARTMENT.**

WHEREAS, the City of Alamogordo seeks to enter into a Grant Agreement with the State of New Mexico Department of Finance and Administration under Special Appropriation Project 16-A2467; and,

WHEREAS, the Special Appropriation Project 16-A2467 funds total \$200,000; and,

WHEREAS, these funds will be utilized to purchase and equip vehicles for the Police Department in the City of Alamogordo, Otero County; and,

WHEREAS, the purchase and equipping of the vehicles for the police department estimated cost is no more than \$200,000.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF ALAMOGORDO, NEW MEXICO, THAT:

Section 1. The City of Alamogordo is hereby authorized to prepare and submit the Special Appropriation Project (SAP) grant agreement package; and,

Section 2. The City Commission directs and designates the City Manager and Assistant City Manager, or his/her successors as official representatives authorized to sign and request reimbursements and act as a single point of contact concerning all matters related to the grant agreement; and,

Section 3. The City of Alamogordo officials and staff are directed to do any and all acts necessary to carry out the intent of this Resolution.

PASSED APPROVED AND ADOPTED this 23rd of August 2016.

CITY OF ALAMOGORDO, NEW MEXICO
A New Mexico Municipal Corporation

By: _____
Richard A. Boss, Mayor

ATTEST:

APPROVED AS TO FORM:

Nancy E. Jacobs, City Clerk

Lauren Truitt, Assistant City Attorney

**STATE OF NEW MEXICO
DEPARTMENT OF FINANCE AND ADMINISTRATION
FUND 89200 CAPITAL APPROPRIATION PROJECT**

THIS AGREEMENT is made and entered into as of this ____ day of _____, 20____, by and between the Department of Finance and Administration, State of New Mexico, acting through the Local Government Division, Bataan Memorial Building, Room 202, Santa Fe, New Mexico, 87501, hereinafter called the "Department" or abbreviation such as "LGD", and the **City of Alamogordo**, hereinafter called the "Grantee." This Agreement shall be effective as of the date it is executed by the Department.

RECITALS

WHEREAS, in the Laws of 2016, Chapter 81, Section 22, Para. 147 the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

WHEREAS, the Department is granting to Grantee, and the Grantee is accepting the grant of, funds from this appropriation, in accordance with the terms and conditions of this Agreement; and

WHEREAS, pursuant to Sections 9-6-5 and 9-6-5.1 NMSA 1978, the Secretary of the Department of Finance and Administration has the power and the authority to (i) maintain long-range estimates and plans for capital projects and develop standards for measuring the need for, and utility of, proposed projects; (ii) contract for, receive and utilize any grants or other financial assistance made available by the United States government or by any other source, public or private; (iii) provide planning and funding assistance to units of local government, council of government organizations, Indian tribal governments situated within New Mexico, and to nonprofit entities having for their purpose local, regional or community betterment; (iv) incident to any such programs, may enter into contracts and agreements with such units of local government, council of government organizations, Indian tribal governments, nonprofit entities and the federal government; and (v) delegate such authority to the Local Government Division as being necessary and appropriate to such delegation;

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

16-A2467 \$200,000.00 Appropriation Reversion Date: 30-JUN-18
Laws of 2016, Chapter 81, Section 22, Paragraph 147, two hundred thousand dollars (\$200,000) to purchase and equip vehicles for the police department in Alamogordo in Otero county;

The Grantee's total reimbursements shall not exceed the appropriation amount Two Hundred Thousand Dollars (**\$200,000.00**) (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")^[1], if applicable, Zero Dollars (**\$0.00**), which equals Two Hundred Thousand Dollars (**\$200,000.00**) (the "Adjusted Appropriation Amount").

In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited above in this Article I(A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I(A) is referred to collectively throughout the remainder of this Agreement as the "Project Description". The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

ARTICLE II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse^[2] Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee's expenditures were made pursuant to the Grantee's legal procurement 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, hereinafter referred to as "Third Party Obligations"; and
- (iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement;
- (v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:

[1] The AIPP amount is "an amount of money equal to one percent or two hundred thousand dollars (\$200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars (\$100,000)." Section 13-4A-4 NMSA 1978.

[2] "Reimburse" as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

- a. must be approved by the applicable oversight entity (if any) in accordance with law; or
- b. if no oversight entity is required to approve of the transaction, the Department must approve of the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to subparagraph (a) or (b) above, the Department may, in its discretion and unless inconsistent with New Mexico State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

(vi) The Grantee's submittal of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement as follows:

- a. The Grantee shall submit to the Department one copy of all Third Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party but prior to execution by the Grantee.

- b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such expenditures.

- c. The Department may, in its absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is attached to this Agreement as Exhibit 3.

- d. The date the Department sends, by mail or email, the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third Party Obligation and request the Third Party begin work.

B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

C. Project funds shall not be used for purposes other than those specified in the Project Description.

D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES

Whenever written notices, including written decisions, are to be given or received, related to this Agreement, the following provisions shall apply.

The Grantee and the Department hereby designate the persons listed below as their official representative concerning all matters related to this Agreement:

Grantee: City of Alamogordo
Name: Cynde Sagenkahn
Title: Grant Compliance Officer
Address: 1376 E. Ninth Street, Alamogordo, NM, 88310
Email: csagenkahn@ci.alamogordo.nm.us
Telephone: 575-439-4257
FAX: 575-437-4396

Department: DFA/Local Government Division
Name: Ms. Karen Ramage
Title: Project Manager
Address: Bataan Memorial Bldg Rm 202, Santa Fe, New Mexico, 87501
Email: karen.ramage@state.nm.us
Telephone: 505-827-4963
FAX: 505-824-4948

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by facsimile, email, or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five calendar days after mailing, whichever shall first occur. In the case of facsimile transmissions, the notice shall be deemed to have been given and received on the date reflected on the facsimile confirmation indicating a successful transmission of all pages included in the writing. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of email.

ARTICLE IV. REVERSION DATE, TERM, EARLY TERMINATION

A. As referenced in Article I(A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the "Reversion Date." Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on **June 30, 2018**, the Reversion Date, unless Terminated Before Reversion Date ("Early Termination") pursuant to Article V herein.

B. The Project's funds must be "expended" on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to "encumber" the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are "expended" and an "expenditure" has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are **not** "expended" and an "expenditure" has **not** occurred as of the date they are "encumbered" by the Grantee pursuant to a contract or purchase order with a third party.

ARTICLE V. EARLY TERMINATION

A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement

Early Termination includes:

- (i) Termination due to completion of the Project before the Reversion Date; or
- (ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or
- (iii) Termination for violation of the terms of this Agreement; or
- (iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(A).

B. Early Termination Before Reversion Date Due to Non-Appropriation

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, as of the effective date of the law making the non-appropriation. The Department's decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(B).

C. Limitation on Department's Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination

In the event of Early Termination of this Agreement by either party, the Department's sole obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

A. The Department may choose, in its absolute discretion, to direct the Grantee to suspend entering into new and further obligations.

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties upon the date the Grantee receives written notice given by the Department; and
- (ii) The Department is, upon the date the Grantee receives written notice given by the Department, suspending issuance of any new or further Notice of Obligation under this Agreement; and

(iii) The Department may direct the Grantee to implement a corrective action plan in accordance with Article VI(D) herein.

B. In the event of Suspension of this Agreement, the Department's sole obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V herein. If the Suspension is lifted, the Department will consider further requests for Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension

In the event that the Department chooses, in its absolute discretion to direct the Grantee to suspend entering into new or further written obligations with third parties pursuant to Article VI(A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension. Such corrective action plan must be approved by the Department and be signed by the Grantee. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan, is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

ARTICLE VII. AMENDMENT

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

ARTICLE VIII. REPORTS

A. Paper Periodic Reports

In order that the Department may adequately monitor Project activity, the Grantee shall submit to the Department Paper Periodic Reports for the Project. Paper Periodic Reports shall be submitted on a form prescribed by the Department. The Paper Periodic and Paper Final Report form are attached hereto as Exhibit 1.

The Department shall provide the Grantee with a minimum of thirty (30) days' advance written notice of any change to the Periodic Report format or content.

The Paper Periodic Report shall be due monthly on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of a Paper Final Report for the Project. The Department may, in its discretion, change the reporting period from time to time by giving Grantee a minimum of thirty (30) days' advance, written notice of any change to the reporting period; provided, however, that in no event shall the reporting period be less than one month.

B. Paper Final Report

The Grantee shall submit to the Department a Final Report for the Project. The Final Report shall be submitted on a form provided by the Department and contain such information as the Department may require. The Periodic and Final Report form is attached hereto as Exhibit 1. The Department shall provide Grantee with a minimum of thirty (30) days' advance, written notice of any change to the Final Report format or content. The Paper Final Report must be submitted within twenty (20) days after the Project's Reversion Date or within twenty (20) days of the date of Early Termination, which ever first occurs.

C. Paperless Reporting

In addition to the paper reports described in subparagraphs A and B of this Article, the Grantee shall report periodic and final Project activity by entering such Project information as the Department may require directly

into a database maintained by the Department. The Department shall give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report on a paperless basis. The Paperless Report shall be due monthly on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of a Final Report for the Project. The Paperless Final Report along with a Paper Final Report must be submitted within twenty (20) days after the Project's Reversion Date or within twenty (20) days of the date of Early Termination, which ever first occurs.

D. Requests for Additional Information/Project Inspection

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may (i) request such additional information regarding the Project as it deems necessary and (ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project. Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department. Requests made pursuant to this subparagraph D are in addition to and not in lieu of the periodic and final reporting described in subparagraphs A through C of this article VIII.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 2. Payment requests are subject to the following procedures:

(i) The Grantee must submit one original and one copy of each Request for Payment; and

(ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee in the form of a notarized certification by Grantee's designated representative in Article III herein, that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee of services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the Grantee may be reimbursed for unpaid liabilities only if the Department, in its discretion, agrees to do so and in accordance with any special conditions imposed by the Department.

(iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, the Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or such shorter period of time as the Department may prescribe in writing.

B. Deadlines

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

- (i) Immediately as they are received by the Grantee but at a minimum of twenty (20) days from the end of the calendar quarter in which the expenditure was incurred or liability of the Grantee was incurred as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor, if total unreimbursed expenditures or liabilities at calendar quarter end exceed \$25,000; or
- (ii) July 15 of each year for all unreimbursed expenditures incurred during the previous fiscal year; or
- (iii) Twenty (20) days from date of Early Termination; or
- (iv) Twenty (20) days from the Reversion Date.

C. The Grantee's failure to abide by the requirements set forth in Article II herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third Party Obligations. The Department's ability to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department due to Grantee's violation of this Agreement.

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

A. The following general conditions and restrictions are applicable to the Project:

(i) The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the Procurement Code (or local procurement ordinance, where applicable).

(ii) The project must be implemented in accordance with the New Mexico Public Works Minimum Works Act, Section 13-4-10 through 13-4-17 NMSA 1978, if applicable. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 B. NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.

(iii) The Project may only benefit private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico, the so-called "Anti-Donation Clause."

(iv) The Grantee shall not at any time convert any property acquired or developed with the Project's funds to uses other than those specified in the Project Description without the Department's express, advance written approval.

(v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws, rules and regulations the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable

time constitutes grounds for terminating this Agreement.

B. The Grantee hereby represents and warrants the following:

- (i) The Grantee has the legal authority to receive and expend the Project's funds.
- (ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.
- (iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which it is subject.
- (iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.
- (v) The Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment.
- (vi) The Grantee shall abide by New Mexico laws regarding Conflict of Interest and Governmental Conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.
- (vii) No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS

A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.

B. For a period of six (6) years following the Project's completion, the Grantee shall maintain all Project related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records

sufficient to fully account for the amount and disposition of the total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department of Finance and Administration and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

ARTICLE XIII. LIABILITY

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to immunities and limitations of the New Mexico Tort Claims Act.

ARTICLE XIV. SCOPE OF AGREEMENT

This Agreement constitutes the entire and exclusive agreement between the Grantee and DFA concerning the subject matter hereof. The Agreement supersedes any and all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

The Grantee acknowledges and agrees that Grantee shall include a "non-appropriations" clause in all contracts between it and other parties that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

"The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the **City of Alamogordo** may immediately terminate this Agreement by giving Contractor written notice of such termination. The **City of Alamogordo's** decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the **City of Alamogordo**, the Department of Finance and Administration, Local Government Division (DFA/LGD), or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the **City of Alamogordo** or DFA/LGD."

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges and agrees that Grantee shall include the following or a termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

"This contract is funded in whole or in part by funds made available under Department of Finance and Administration, Local Government Division (DFA/LGD) Grant Agreement. Should DFA/LGD early terminate the

grant agreement, the **City of Alamogordo** may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the **City of Alamogordo's** only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date."

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

ARTICLE XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA

A. Throughout the term of this Agreement, Grantee shall:

1. submit all reports of annual audits and agreed upon procedures required by Section 12-6-3(A)-(B) NMSA 1978 by the due dates established in 2.2.2 NMAC, reports of which must be a public record pursuant to Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
3. timely submit all required financial reports to its budgetary oversight agency (if any); and
4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

B. In the event Grantee fails to comply with the requirements of Paragraph A of this Article XVII, the Department may take one or more of the following actions:

1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
2. require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;
3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
4. terminate this Agreement pursuant to Article V(A) of this Agreement.

ARTICLE XVIII. SEVERANCE TAX BOND PROJECT AND GENERAL OBLIGATION BOND PROJECT CLAUSES

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, which is administered by the New Mexico State Board of Finance (BOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole responsibility to determine through BOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a BOF imposed condition does not affect the validity or enforceability of the condition; (iii) the BOF may in the future impose further or different conditions upon the Project; (iv) all BOF conditions are effective without amendment of this Agreement; (v) all applicable BOF conditions must be satisfied before the BOF will release to the Department funds subject to the condition(s); and (vi) the Department's obligation to reimburse Grantee from the Project is contingent upon the then current BOF conditions being satisfied.

B. Grantee acknowledges and agrees that this Agreement is subject to the BOF's Bond Project Disbursements rule, 2.61.6 NMAC, as such may be amended or re-codified.

[THIS SPACE LEFT BLANK INTENTIONALLY]

**STATE OF NEW MEXICO
CAPITAL GRANT PROJECT
PAPER PERIODIC/FINAL REPORT
EXHIBIT 1**

☐ PERIODIC REPORT ☐ FINAL REPORT

Grantee: _____

Project Number: _____ Reporting Period: _____

1. Please provide a detailed status of project referenced above.

A. Third Party Obligations

Purchase Order or Contract # _____

Name of Contractor or Vendor: _____

Amount of Third Party Obligation: _____

Date Executed: _____

Termination Date: _____

B. Project Phase

Bonds Sold ☐ Plan/Design ☐ Bid Documents ☐ Construction ☐
(provide anticipated date of commencement and completion for each phase)

2. Grant Amount adjusted for AIPP if applicable: _____
- Total Amount of all Notices of Obligation to Reimburse: _____
- Total Grant Amount Expended by Grantee to Date: _____
- Grant Balance as of this Date: _____
- Amount of Other Unexpended Funding Sources: _____

☐ **PERIODIC REPORT**

I hereby certify that the aforementioned Capital Grant Project funds are being expended in accordance with all requirements of the Grant Agreement, and in compliance with all other applicable requirements.

☐ **FINAL REPORT**

I hereby certify that the aforementioned Capital Grant Project funds have been completed and funds were expended in accordance with all requirements of the Grant Agreement, and in compliance with all other applicable state/regulatory requirements.

Grantee Representative/Title

Date

**STATE OF NEW MEXICO
CAPITAL GRANT PROJECT
Request for Payment Form
Exhibit 2**

I. Grantee Information

(Make sure information is complete & accurate)

A. Grantee: _____
B. Address: _____
Complete Mailing, including Suite, if applicable

City State Zip
C. Phone No: _____
D. Grant No: _____
E. Project Title: _____
F. Grant Expiration Date: _____

II. Payment Computation

A. Grant Amount: _____
B. AIPP Amount (If Applicable) _____
C. Funds Requested to Date: _____
D. Amount Requested this Payment: _____
E. Grant Balance: \$0.00
F. ☐ GF ☐ GOB ☐ STB (attach wire if 1st draw)
G. Payment Request No. _____

III. Fiscal Year Expenditure Period Ending:

(check one)

(Jan-Jun) ☐

(Jul-Dec) ☐

Fiscal

Year

IV. Certification:

Under penalty of law, I hereby certify to the best of my knowledge and belief, the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti donation" clause.

**Grantee Fiscal Officer
or Fiscal Agent (if applicable)**

Printed Name _____
Date: _____

SWORN TO AND SUBSCRIBED
before me on this _____ day
of _____, 20____

Notary Public _____
My Commission expires _____

Grantee Representative

Printed Name _____
Date: _____

SWORN TO AND SUBSCRIBED
before me on this _____ day
of _____, 20____

Notary Public _____
My Commission expires _____

(Department Use Only)

Vendor Code: _____
Loc No.: _____

Fund No.: _____

Division Fiscal Officer Date

I certify that the Grantee financial and vendor file
information agree with the above submitted information

Division Project Manager Date

I certify that the Grantee records and related appropriation laws
agree with the above submitted information.

**STATE OF NEW MEXICO
CAPITAL GRANT PROJECT
NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
EXHIBIT 3**

DATE: _____

TO: Grantee Representative: _____

FROM: Department Representative: _____

SUBJECT: Notice of Obligation to Reimburse Grantee

Project Number: 16-A2467

As the designated representative of the Department for the Grant Agreement number 16-A2467 entered into between Grantee and the Department, I certify that the Grantee has submitted to the department the following third party obligation executed in writing, by the third party's authorized representative:

Third Party Obligation (includes purchase orders and contract)#: _____

Vendor of Contractor: _____

Third party Obligation amount: _____

Termination Date: _____

I certify that the State is issuing this Notice of Obligation to Reimburse Grantee for permissible purposes within the scope of the project description, subject to all of the terms and conditions of the above referenced Grant Agreement.

Grant Amount adjusted for AIPP if applicable: _____

The Amount of this notice of Obligation to Reimburse: _____

The Total Amount of all Previously Issued Notices of Obligation: _____

The Total Amount of all Notices of Obligation to Reimburse as of this Date: _____

Department Representative: _____

Title: _____

Signature: _____

Date: _____

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 08/23/2016

Report Date: 8/17/2016

Report No: 5.

Submitted By: Nancy Beshaler

Subject: Consider, and act upon, approval of Amendment No.1 to the Engineering Professional Services Agreement with Smith Engineering Company for the McKinley Channel Utility Relocation project. *(Nancy Beshaler, Project Manager)*

Fiscal Impact: \$44,398.38

Amount Budgeted: \$45,075.00

Fund: 056-9403-465.62-35 (EN1609)

Additional Fiscal Impact: Budget revision in process

Recommendation: Approve amendment No. 1 to the Engineering Professional Services Agreement with Smith Engineering Company for the McKinley Channel Utility Relocation project.

Background: The Corps of Engineers McKinley Channel project from First Street to the mountains requires the relocation of utilities along the channel (approximately 2 miles). Smith Engineering Company was contracted to do the design for the utility relocation. The original proposal for design work included \$45,000 for Subsurface Utility Engineering Services (potholing). This was created as a benchmark since it was not known how many potholes would be required to complete the design. As design progressed it was necessary to perform an additional 7 potholes and to perform an additional 216,880 linear feet of mapping and survey to develop the base map and existing conditions. Much of the additional survey / mapping was performed in the area of Washington Park and at the upstream end of the channel east of Scenic Drive. The cost of this additional work is \$40,991, excluding NMGRT.

**FIRST AMENDMENT
TO AGREEMENT FOR
ENGINEERING PROFESSIONAL SERVICES**

THIS AGREEMENT is by and between THE CITY OF ALAMOGORDO ("OWNER") and SMITH ENGINEERING COMPANY ("CONSULTANT").

It is expressly agreed by the parties that this Amendment of _____, 2016 is supplemental to the Agreement of May 9, 2016, to which it is attached, which is made a part by reference, and all terms, conditions, and provisions of the original Agreement, unless specifically modified, are to apply to this Amendment and are made a part of this Amendment as though expressly rewritten, incorporated, and included herein. In the event of any conflict, inconsistency, or incongruity between the provisions of the Amendment and any of the provisions of the original Agreement, the provisions of the Amendment shall in all respects govern and control.

The Agreement shall be modified, altered, and changed only as follows:

Additional Potholing (SUE Engineering) by Cobb Fendley =	\$35,893.00
Additional Surveying by Precision Surveyors =	<u>\$ 5,098.00</u>
Total Increase =	\$40,991.00

IN WITNESS WHEREOF, the parties hereto have made and executed this AGREEMENT AMENDMENT #1.

SMITH ENGINEERING COMPANY

Signature: _____

Title: _____

VICE PRESIDENT

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By: _____

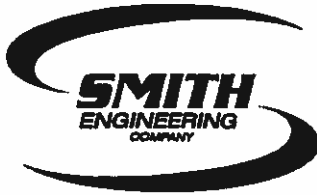
Richard Boss, Mayor

ATTEST:

APPROVED AS TO FORM:

Nancy Jacobs, City Clerk

Lauren Truitt, Assistant City Attorney



Solutions for Today...

Vision for Tomorrow

August 8, 2016

Nancy Beshaler, CFM, Project Manager
City of Alamogordo
1376 E. Ninth. Street
Alamogordo, New Mexico 88310

**RE: Amendment of Engineering Services Contract (Smith Engineering Company)
McKinley Channel Phase 8 Utility Relocation | W912PP-16-R-0023**

Dear Ms. Beshaler,

As per the project meeting on 8-4-16 in your office, this letter is Smith's official request for an amendment to the original engineering services contract.

Our original proposal included \$ 45,000.00 for Subsurface Utility Engineering Services as a Time and Material expense. This was created as a benchmark since originally we didn't know exactly how many potholes and LF of mapping would be required to complete the project. The following is a breakdown of original quantities, additional quantities, and final quantities

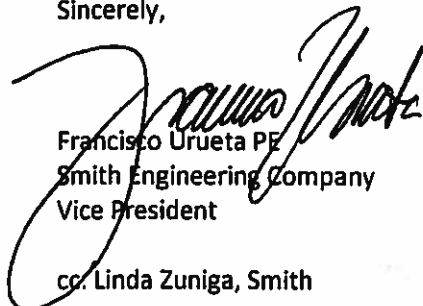
	Original	Additional	Total
SUE Level C/D	60,000 LF	40,000 LF	100,000 LF
SUE Level B	225,120 LF	176,880 LF	402,000 LF
Test holes	11 EA	7 EA	18 EA

In addition, during our project meeting on 6-9-16 at your office you authorized us to perform extra surveying services for all the unmarked re-use lines (Effluent) at the city park.

Based on all the above, we are hereby respectfully requesting an increment in the contract amount for Smith Engineering Company of \$ 40,991. 00.

Let me know if this information will suffice, or if we need to add something else. Thank you very much for your support, and help in this great project for your city. If you have questions please do not hesitate to contact me.

Sincerely,


Francisco Urueta PE
Smith Engineering Company
Vice President
cc: Linda Zuniga, Smith

City of Alamogordo Request for Budget Adjustments

Fund Name: Transportation Fund
Department: Engineering/PW Inspect.
Director: Chris Damell

Item included in department's original budget request: Yes _____ No _____

Type of Expenditure: Recurring _____ Non-Recurring _____

Fiscal Year: 2017

LINE ITEM NO.	Project No.	LINE ITEM DESCRIPTION	ORIGINAL BUDGET AMOUNT	REVISED BUDGET AMOUNT	INCREASE/ (DECREASE)	Un- Encumbered Balance
056-9499-990.67-03	EN0226	Alamo Flood Control	\$5,338,875	\$5,261,875	(\$77,000)	
056-9499-990.62-35	EN0226	Contract Engineering	\$18,191	\$50,191	\$32,000	
056-9403-465.62-35	EN1609	Contract Engineering	\$158,124	\$203,124	\$45,000	
				\$0		
			\$0	\$0		
			\$0	\$0		
			\$0	\$0		
				\$0		
				\$0		
				\$0		
TOTAL REVENUES						
TOTAL EXPENDITURES						

Reasons for Adjustment Request: Set forth reasons the adjustment is required, the factors involved in arriving at costs, and the status of the account from which transfer is made. _____

Move funds into contract engineering line for Marron & Associates agreement to complete documentation required for US Forest Service permit for McKinley Channel Phase 8 (EN0226) and for an amendment to Smith Engineering for additional survey/potholing for McKinley Channel Ph 8 utility relocation (EN1609)

Requested By: Nancy Beshaler

Nancy Beshaler

Date: 08-12-16

Department Director/Manager Approval: _____

[Signature]

Date: 8-12-16

Portion below is for Finance Use Only

- ____ Within Division/Category - Requires Finance Approval.
 ____ Transfer Budget from one Category to another - Requires Finance and Management Approval.
 ____ Any amount effecting the Fund Balance - Requires Finance, Management and Commission Approval.

Approvals

Approved for
availability of funds by
Finance

Date _____

Finance Director

Date _____

City Manager

Date _____

DOC # _____ BATCH # _____

DATE ADJUSTED HTE: _____

REVISION # _____ RESOLUTION # _____

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 08/23/2016

Report Date: 8/17/2016

Report No: 6.

Submitted By: Mikel Ward

Subject: Consider, and act upon, approval of an application for participation in the Fire Protection Fund Grant FY 2017 for the Alamogordo Fire Department. *(Mikel Ward, Fire Chief)*

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact: The total fiscal impact for this application is \$0. However, if we are successful in this grant application, commission will be presented with approval of an award. Approval of the Grant Award will require \$25,000 in matching funds, from current budgeted FY17 funding, and will provide an additional \$100,000 to be used toward Apparatus Replacement/Purchase.

Recommendation: Approve Grant Application

Background: This application is for submission to the Fire Protection Grant Fund which allows all certified New Mexico Fire Departments to apply for up to \$100,000 per year with at least 20% matching contribution.

This grant award amount would provide needed funding for the Fire Department to use toward the purchase of a new firefighting apparatus.

Total Grant Amount is \$100,00 with at least 20% matching contribution of \$25,000. This funding will come from approved FY 2017 Capital Equipment Replacement funds, budgeted for the purchase/replacement of fire department apparatus.

APPLICATION FOR FY17 FIRE PROTECTION GRANT
Applications will be accepted from July 08, 2016 to September 08, 2016

Eligibility

All fire departments currently certified and funded by the New Mexico State Fire Marshal's Office are eligible to participate in the fire protection grant process.

Only one grant application per department may be submitted.

Note: Any fire department that is awarded a grant and consequently loses its qualification to participate in the Fire Protection Funding process shall return the apparatus and/or equipment to the State Fire Marshal for redistribution as per 59A-53 NMSA 1978 and Title 10 Chapter 25 Part 10 of the NMAC.

Maximum Award and Matching Funds

The maximum amount awarded to a single applicant will not exceed \$100,000.00 with a **minimum matching funds commitment from the department of 20%**. Costs exceeding the grant amount shall be the responsibility of the local government. State fire funds may be used for this purpose with proper approval from the New Mexico State Fire Marshal's Office.

Signatures/Commitment of Funds

The fire chief and the fiscal agent for the local government shall sign the application. In addition, the fiscal agent shall sign the Fiscal Agent Commitment Statement indicating a commitment of these funds for the awarded project and a commitment of the 20% matching funds. Applications submitted without both signatures will not be considered.

MINIMUM REQUIREMENTS

NFIRS Reporting

All applicants **shall be** in compliance with the reporting requirements of the New Mexico State Fire Marshal's Office utilizing the National Fire Incident Reporting System (NFIRS) as per 59A-52 NMSA 1978 and Title 10 Chapter 25 Part 10 of the NMAC. Applicants with delinquent NFIRS reports for the period of July 2015 to June 2016 at the time the application period closes will not be considered.

Pump Testing

All rated fire pumps shall undergo annual pump tests to ensure proper function and firefighter safety; therefore, the New Mexico Fire Protection Grant Council is requiring apparatus pump tests be conducted on each apparatus with rated fire pumps and documented in a Pump Test Data Log and verified by a signed and notarized affidavit.

- All annual pump tests shall be in accordance with NFPA 1901 and the Insurance Service Office (ISO) requirements.
- **A Pump Test Data Log** (attached) must be completed and uploaded with the application. The electronic Excel Spreadsheet is available on the Grant website.
- **An Affidavit of Completed Annual Pump Tests** (attached) signed by the Fire Chief and notarized verifying that three years of pump test records exist for each apparatus with a rated fire pump and are on file with the department must be uploaded with the application. A pdf file of the Affidavit is available on the Grant website.

ADDITIONAL INFORMATION

All of the information contained in the application is carefully reviewed and considered. In addition to general information and data provided, thorough and clear narrative responses are critical to helping reviewers understand the needs of the department relative to the request.

The department may request funding for apparatus, PPE, communication equipment or another justified critical need. All apparatus must meet NFPA Standards. Equipment/apparatus specifications are subject to review by the Fire Marshal's Office. The department must have the capability to immediately house apparatus properly. NFPA listed equipment may be included with the purchase of apparatus.

SELECTION CRITERIA

Applications will be placed in consideration categories meeting specific criteria as follows:

Category A

- 1) NFIRS Compliant. **NFIRS Compliant (per 59A-52 NMSA 1978 and Title 10 Chapter 25 Part 10 of the NMAC. Each certified fire department shall complete the reporting requirement by the 10th day of each month following the month for which the report is prepared. (e.g., the report of January is due by February 10th).**
- 2) Pump Test compliant (in accordance with NFPA 1901 and ISO requirements).
- 3) Request is for a Critical Need (clearly explained in the application)
- 4) Never before received a NM Fire Protection Grant

Category B

- 1) NFIRS Compliant. **NFIRS Compliant (per 59A-52 NMSA 1978 and Title 10 Chapter 25 Part 10 of the NMAC. Each certified fire department shall complete the reporting requirement by the 10th day of each month following the month for which the report is prepared. (e.g., the report of January is due by February 10th).**
- 2) Pump Test compliant (in accordance with NFPA 1901 and ISO requirements).
- 3) Request is for a Critical Need (clearly explained in the application)
- 4) Previous NM Fire Protection Grant recipient

Category C

- 1) NFIRS Compliant (per 59A-52 NMSA 1978 and Title 10 Chapter 25 Part 10 of the NMAC. Each certified fire department shall complete the reporting requirement by the 10th day of each month following the month for which the report is prepared. (e.g., the report of January is due by February 10th)
- 2) Pump Test compliant (in accordance with NFPA 1901 and ISO requirements).
- 3) Request is not a Critical need
- 4) Previous recipient

Category D

- 1) Non-compliant (will not be considered for a grant)

CRITICAL NEEDS

- o Fire apparatus/equipment
- o PPE (structural, wildland, SCBA)
- o Communications
- o Maintenance, training, water
- o Need that will clearly will have significant impact on ISO Classification

ACKNOWLEDGEMENT/SIGNATURES

Name of Department/District: Alamogordo	County: Otero	
Name of Fire Chief (please print) Mikel Ward	Signature of Fire Chief	Date
Name/Title of County/Municipal Fiscal Agent (please print)	Signature of Fiscal Agent	Date
Mailed, Emailed, or Faxed applications <u>will not</u> be accepted.		

This application may be downloaded from the following website: <http://www.nmprc.state.nm.us/sfm.htm>

Please answer all questions in this application.
Incomplete applications will not be considered.

GENERAL INFORMATION

Fire Department ID Number (using NFIRS identifier)	35007
Fire Department Name	Alamogordo
Insurance Services Office (ISO) Rating	4
County	Otero City/Municipality
What kind of organization is your fire department?	Combined Career and Volunteer
How many stations are in your organization?	
Main	6
Substations	1
Admin	0
Type of community your organization serves Based on population density	Urban
Mailing Address	
Address	619 Texas Ave.
City	Alamogordo
State	NM
Zip Code	88310
Phone number	(575) 439-4119
Email address	mward@ci.alamogordo.nm.us
Name of Person Completing this application?	Fire Chief Mikel Ward
Are you a fire department member?	Yes
How many career fire fighters do you have?	21
How many volunteer firefighters do you have?	18
If combined, how many uniformed full-time career fire fighters are at the station at all times?	2
How many are FF-I Certified?	21
How many are FF-II Certified?	21
Do your newly recruited Fire Fighters undergo an entry-level physical and receive immunizations? Describe	Starting with this calendar year, we are hoping to have this program completed. The budgeting and funding are in place to manage the program, we are completing the policy and union negotiations at this time.

BUDGET INFORMATION

What is your fire departments operating budget, including personnel costs, for your current fiscal year?(in dollars)	\$2,110,853.00
What is the current Protection Fire Fund distribution?	\$533,658.00
What is the approved total carryover balance, if any, of Protection Fire Funds maintained by the department?	\$193,923.00
What was the purpose of the approval carryover?	Equipment And Apparatus Replacement
What percentage of your annual operating budget is derived from:	
Taxes?	68%
Grants?	0%
State Fire Marshal Funds?	32%
Donations?	0%
Fund Drives?	0%
Fee For Service?	0%

Others?	0%
Please Explain (For 'Others')	0

COMMUNITY INFORMATION

Name of Community Protected? City of Alamogordo	Number of commercial buildings protected in fire district? 2106
Number of homes protected in fire district? 14052	What is the permanent resident population of the community you serve? 30400
Do you have formal automatic aid or mutual aid agreements?: Yes	
List adjacent automatic aid fire districts (with written agreements)	
S.No	Automatic Aide Fire Districts
1	Otero County Fire Departments

RESPONSE HISTORY IN THE LAST YEAR

What is your call volume for the past year? (from last year July 1st to this year June 30th)		1105		
How many responses per category?				
Structure Fire (IT 110-118, 120-123) 24	Hazardous Condition (IT 400-482) 136	Vehicle Fire (IT 130-138) 9	Service Calls (IT 500-571) 96	Vegetation Fire (IT 140-143) 8
Good Intent Calls (IT 600-671) 86	EMS (IT 300-323) 550	False Calls (700-751) 140	Rescue (IT 331-381) 10	Other 46
Call Volume/History Support request?				

WATER AVAILABILITY

Community hydrant system ? Yes	Total capacity of available water storage(in gallons) 215,750,000.00	Water storage tank with fire hydrant @ station No
Describe additional water source(s):		
S.No	Source	Capacity(in gallons)
1	North Reservoir	40000000
2	East Reservoir	100000000
3	South Reservoir	40000000
4	La Luz/Fresnal Canyon	11000000

TRAINING

Average # of training hours per Firefighter per year : 250	
How many training opportunities has this department offered in the last calendar year?	
Training Details	Supporting Document
Agency Safety Training	Agency Safety Training FY16.pdf
Company Training	Company Training FY16.pdf
Drivers Training	Drivers Training FY16.pdf
HazMat Training	HazMat Training FY16.pdf
Live Fire Training	Live Fire Training FY16.pdf
Multi-Company Training	Multi Company Training FY16.pdf

Officer Training	Officer Training FY16.pdf
------------------	---------------------------

APPARATUS

List class A pumper(s)
Are pump test conducted annually on apparatus?
Yes
Total number of seated positions : 32
Copies of most recent pump tests records must be attached (upto 3 years)
Explain if not tested properly: N/A

COMMUNICATION EQUIPMENT

Do you have any of the following?	
Handheld radios	32
Base Stations	7
Mobile radios	25
Do you have any apparatus without a mobile radio?	No
List communication equipment by type	
Describe your communication equipment and capability (type, qty, range) (if more than zero)	How Many?
Motorola APEX 6500 Handheld Radios	22
Motorola XTS 2500 Handheld Radios	10
Motorola XTL 2500 Base Station Radios	7
Motorola XTL 2500 Mobile Radios	25
Do you have interoperability with any of the following agencies?	
Law Enforcement	Yes
Emergency Medical	Yes
Other Fire Departments	Yes
Other (that could not be classified as above)	Yes
Describe (if 'yes' on others)	Border Patrol, Homeland Security, Public Schools, Search and Rescue
Do you have any areas in your jurisdiction which are NOT covered by a repeater?	No
Describe (if yes for above)	

HAZARDS/THREATS

Describe the threat to the community: (i.e., fuel storage bulk plants, railroads, high hazard occupancies, etc.)	
Hazard Type	Hazard Detail
Material Transportation Railway (Union Pacific)	The City of Alamogordo has a major rail line (Union Pacific) running through the center of the city, as well as three sidings in our response area. This rail line is the former "golden state route" and is a major connection route for Union Pacific and Northern Pacific Railroads in transporting cargo from the east coast to the Midwest. This rail line transports significant bulk hazard cargo, with frequent transport of hazardous materials, bulk flammable materials, and flammable liquids and gasses. The City of Alamogordo serves only as a service point to the Union Pacific line; therefore speeds on the line are in excess of 60 MPH frequently as the train passes through our community, posing a significant hazard.
Dangerous/Hazardous Materials Transportation (US HWY 54 & US HWY 70)	The City of Alamogordo is a convergence point for two major highways that transport significant cargo throughout New Mexico. These are US HWYs 54 & 70. These are interstate highways that transport significant commercial truck traffic between I10, I25, and I40. These highways also serve as significant distribution lines for the military installations in the region. These highways frequently traffic hazardous materials and cargo, as well as flammable liquids and gases in bulk quantities.

Bulk Flammable/Combustible Gas Storage	The City of Alamogordo has several bulk propane storage and distribution facilities that hold up to 113,000 gallons of propane. These facilities are used in the distribution process to fill smaller transportation trucks and smaller cylinders. With the majority of the surrounding rural area supplied almost exclusively by propane as a heating and fuels source, these facilities are frequently in use, and pose significant leak and fire hazards.
Bull Flammable/Combustible Gas Storage	The City of Alamogordo has several bulk fuel storage farms located along our southern city limits. These facilities store more than 4 million gallons of gasoline, diesel fuel, aviation gas, and JP8 that are pumped through pipelines and transported to the military installations in our region. A leak or fire in one of these facilities would pose a significant hazard for the City of Alamogordo and the surrounding area. We also currently have mutual aid response agreements in place to aid the county fire departments with spills, fires, or explosions in these facilities.
Airport Transportation Related Incidents	The City of Alamogordo operates one of the region's busiest airports. The Alamogordo/Whitesands Regional Airport is home to more than 100 aircraft, and operates the regional air tanker based for refueling, storage, and staging for the US Forest Service Airtanker fire fighting equipment. This airport is currently undergoing FAA recertification to increase the size, scope, and abilities of the airport. This will increase the air traffic, as well as increase the hazards posed and the requirements for our airport rescue firefighting response.

CURRENT PERSONAL PROTECTIVE EQUIPMENT (PPE)

Are all PPE inspected annually per NFPA 1851?
Yes

1981 STANDARD COMPLIANT PPE

Qty	Age (years)	Condition
-----	-------------	-----------

1997 STANDARD COMPLIANT PPE

Qty	Age (years)	Condition
-----	-------------	-----------

2002 STANDARD COMPLIANT PPE

Qty	Age (years)	Condition
4	13	Fair

2007 STANDARD COMPLIANT PPE

Qty	Age (years)	Condition
12	10	Good
25	2	Good
21	5	Good

Do you have your bottle filling capability? :

Yes

Do you have SCBA cylinder filling capability? :

Yes

Describe SCBA cylinder filling capability :

(2) SCBA breathing air compressor stations with cascade systems and fill stations located in our central station, and southern station. We also have one apparatus equipped with a cascade breathing air system for use on large incidents, and a rehab u

Pressure :
High

1981 STANDARD COMPLIANT SCBA

Qty	Age (years)	Condition
-----	-------------	-----------

1997 STANDARD COMPLIANT SCBA

Qty	Age (years)	Condition
-----	-------------	-----------

2002 STANDARD COMPLIANT SCBA

Qty	Age (years)	Condition
6	13	Good

2007 STANDARD COMPLIANT SCBA

Qty	Age (years)	Condition
9	3	Good
9	1	Good
5	0	Good
21	6	Good
5	4	Good
5	8	Good

EQUIPMENT NEEDS

List in **priority order**, and explain the equipment needs of your department and the total costs of fulfilling the needs.

Priority Order #	Priority Category Requesting From	Equipment Needed	Quantity	Total Cost of Equipment(\$)
1	Apparatus	Class A	1	\$500,000.00
				Total: \$500,000.00

What (specifically) will you purchase if awarded this grant?:

If awarded this grant, the Alamogordo Fire Department will purchase a Class A pumper fire apparatus, built on a custom cab, with a pump capacity of no less than 1000 GPM pump, and water supply carrying capacity of no less than 750 gallons. This fire apparatus will be a new addition apparatus to our fleet, as well as replace an older 1991 KME rear open cab Class A engine used as a primary response truck in one of our fire districts. This will also allow us to move this hazardous vehicle to the reserve status in our equipment inventory. This pumper will be able to seat at a minimum of 5 firefighters, and will be able to carry an assortment of ladders and tools that meet or exceed NFPA requirements for engines.

Will fulfilling this need impact your organization's ISO rating?:

Yes

Please explain:

The award of this grant, we will be able to purchase a new apparatus with a pump capacity able to meet the needed fire flow for the areas of our community which require higher fire flow capacity, and can support our aerial fire apparatus and fire suppression. This engine will also give us the needed reserve pumpers required for our upcoming ISO inspection. Currently our west side fire station is equipped with an old 1991 open rear cab fire engine that needs replaced. This older apparatus has a two-stroke engine, a PTO pump, and isn't ideal for our municipal fire department operations. Award of this grant will ensure that all firefighter responding to fires in this department do so in an enclosed cab, with the staffing necessary, utilizing a pump configuration that will support operations.

GRANT FUNDING JUSTIFICATION

Financial Need: Give us a financial snapshot of your area. Tell us why you need assistance and describe your department/organization's current funding issues.

The Alamogordo Fire Department is a recently created department, created from the separation of a public safety system. The Alamogordo Fire Department is a small department with 21 paid fulltime firefighters covering 6 main fire stations on 24 hour shifts. In addition to our 21 paid firefighters we also have 18 volunteer firefighters who supplement our staffing for major fires, rescues, and response. The Alamogordo Fire Department covers approximately 21 square miles, and provides fire protection for more than 31,000 population. The City of Alamogordo is the county seat, and the largest municipality in the county, and in the immediate area (next largest community is 60 miles away), providing for an increased population during the business day and during peak shopping times and hours. From 1967 to April 2013, fire protection services were provided by the department of public safety. In April, the City of Alamogordo opted to eliminate the public safety system, and return fire protection service to our new department. During the public safety system and currently, most of the funding for equipment replacement and operating costs outside of salaries and benefits has been funded through fire protection grant funding coming from the state, which is minimal. As a result major purchases had to be financed, and our current debt obligations are still covering the expenses of equipment which is on the verge of being taken out of service. This has resulted in much equipment, personnel safety and health, apparatus, and personal protective equipment need which have not been addressed, or have been allowed to become outdated and inoperable. The City of Alamogordo has made modest increases to the overall operating budget of the fire department; however, much of the current funding increases are working toward meeting the significant gap in staffing to eliminate the minimally staffed engine companies we are currently operating in all 6 stations. In addition our financial needs well surpass the current available funding from a tax base of 31,000 people in an impoverished area of the country. In addition, significant portions of our community's GRT funding is dependent on the federally employed population at our attached military installations, and facilities. Government shutdowns this year have caused major reductions in our gross receipts taxes, causing budget cuts in all departments of the city. Further aggravating the issue is an elimination of a "Hold Harmless Tax" at the state level resulting in GRT reductions coming from the state for 20 communities, ours being one of most significantly impacted. This reduction will see GRT reductions coming from the state, further straining our limited budget. Currently the Alamogordo Fire Department has major needs for PPE, Communications Equipment, Apparatus, buildings and structures, staffing, and equipment purchase and replacement. While the City of Alamogordo is committed to finding funding long term, much of these needs are immediate, and must be addressed more rapidly than local funding can be sourced to ensure firefighter safety and adequate fire suppression response.

Request: Provide a brief description of what the request does, how the dollars will be, spent and explain the need.

If awarded this grant, the Alamogordo Fire Department will purchase a Class A pumper fire apparatus, built on a custom cab, with a pump capacity of no less than 1000 GPM pump, and water supply carrying capacity of no less than 750 gallons. This fire apparatus will be a new addition apparatus to our fleet, as well as replace an old 1991 KME rear open cab Class A engine used as a primary response truck in one of our fire districts. This will also allow us to rotate this apparatus to a reserve status, permitting us to have the necessary reserve engines in our equipment inventory completely. This pumper will be able to seat at a minimum of 5 firefighters, and will be able to carry an assortment of ladders and tools that meet or exceed NFPA requirements for engines. The award of this grant, we will be able to purchase a new apparatus with a pump capacity able to meet the needed fire flow for the areas of our community which require higher fire flow capacity, and can support our aerial fire apparatus and fire suppression. Currently our west side fire station is equipped with an old 1991 open rear cab fire engine that needs replaced. This older apparatus has a two-stroke engine, a PTO pump, and isn't ideal for our municipal fire department operations. Award of this grant will ensure that all firefighter responding to fires in this department do so in an enclosed cab, with the staffing necessary, utilizing a pump configuration that will support operations. With the award of this grant, we will purchase this apparatus. We will be fully funding the equipping costs of this apparatus, and have already made appropriate accommodations for housing this apparatus in well maintained, heated fire station, at the main fire station within our community. This will allow this fire apparatus to serve the majority of our population as well as serve the major business districts in town.

Problem: Provide a brief description of the problem your department/district is addressing with this grant application.

If awarded this grant, the Alamogordo Fire Department will be able to purchase a new Class A Pumper apparatus. Currently the Alamogordo Fire

Department operates six (6) main fire stations with six (6) primary response Pumpers. We also have two aerial apparatus, and one tender for fire suppression operations. Our tender is equipped with a 1250 GPM pump, however this vehicle is in poor condition, and is unable to safely navigate all areas where a pumper apparatus must respond. An award of this grant will replace is an older 1991 KME rear open cab engine, with open exposed seating in the rear. In addition only two of our Class A Pumpers allow for adequate seating capacity for response to structural fires with a full complement of firefighters. In many situations only two firefighters are able to travel in the class A Pumper, and two firefighters must follow in other fire apparatus and stage away from the scene. This is adding unnecessary response time, and is reducing our ability to respond with an appropriate complement of staffing. Currently the Alamogordo Fire Department has nearly reached its debt limit, and is paying the amortized costs of two apparatus already. With an average of our fire apparatus at thirteen (15) years, we must also be looking to replace apparatus in the near future, as several are surpassing their life expectancy. In addition several of our current in service engines annual maintenance costs are becoming exorbitant, and in the years to come will no longer be serviceable based on our current budgeted funding, and community funding limitations. With one current apparatus failing to meet current safety requirements, we find ourselves at least one Class A Pumper short of our needs, with no reserve pumper in service. The benefits of this grant will be multiple for our department, as will allow us to purchase this fire apparatus utilizing needed granted funding, thereby allowing our minimal funding to pay for utilities, staffing, and other operational costs. Currently we do not have the financial means to purchase an apparatus, and have a real need to increase our pumping capacity, available fire suppression response vehicles, and seated positions in our fire apparatus. The costs of this apparatus is a median price for apparatus we have quoted. The Alamogordo Fire Department secured multiple quotes from our available vendors, and found that a median price for a Class A Pumper is \$550,000. This costs will allow us to purchase and apparatus that meets our community's needs, without being overly accessorized or having excess costs associated with construction. This \$550,000 will immediately go into service and provide fire protection response for our major downtown population. In addition, we are currently facing another ISO inspection survey. With our current minimal fire flow capacity, we may see and increase in ISO rating. The receipt of this grant will also aid in reducing insurance premiums by aiding us in maintaining or reducing our current ISO status for our business district.

Analysis of Benefits: Provide a brief description of how the department/district this performance will be improved and how this compares to the proposed expenditure.

Awarding this grant to the Alamogordo Fire Department will have an immediate significant improvement in our fire suppression response capabilities. By awarding us this funding to purchase a Class A Pumper apparatus, we will be better able to provide fire suppression and protection services to our east side fire station. The addition of this engine will provide for a Class A Pumper at our main fire station, and replace the engine at our west side fire station, thereby increasing our pump capacity, personnel seating, and fire suppression abilities in one of our most heavily residentially populated areas of our community. This fire apparatus will replace one rear open cab apparatus, and will be heavily relied upon by fire suppression staffing in our community, as it will serve as a primary response engine to all portions of the community. In addition, the east side fire station response district covers several of our public schools, our hospital and university, and portions of our business district. This fire district has numerous large multi-story apartment complexes, that require a higher fire flow than this old 2 stroke PTO engine can produce. This district also currently has approximately 60 – 70 vacant dilapidated structures and homes, for which we are seeing an increase in structure fires resulting from arson and transient living. The purchase of this apparatus will immediately better equip firefighters assigned to this district in their fire suppression responsibilities. If awarded this grant, the Alamogordo Fire Department will be able to immediately see an improvement in services, and equipment. Our newly created fire department is in need of much equipment, staffing, and apparatus replacement and purchase. The award of this grant will go a long way in better equipping and preparing fire department staff to perform fire suppression and response services. Without the award of this grant, we do not believe we will be able to purchase this Class A pumper for our fire station any time soon, and will be less able to meet our upcoming apparatus needs for replacement of our other apparatus. The award of this grant will desperately aid our fire department now, when we are in the greatest need of equipment and apparatus. This award will also serve the majority of our population, one in which increased fire protection services have been strongly demanded.

Community and Your Organization's Relationship: Provide a description of your department/organization's role and relationship within the community and what impact this request will have.

The Alamogordo Fire Department is a division within the Alamogordo City Government. The Alamogordo Fire Department is the primary response entity for all fire, rescue, and hazmat response for the community of Alamogordo. We are the only paid fire protection service in the city and immediate surrounding area. Our department serves a community of more than 30,000 people with twelve (12) public schools, one (1) state education facility, and one (1) university. The City of Alamogordo is also home to the New Mexico Museum of Space History and the National Research Center for Brackish Groundwater Desalinization. The Alamogordo Fire Department is tasked with fire protection for our community as well as supporting our surrounding county volunteer department with fire suppression services through mutual aid agreements. Receipt of this grant will better enable us to perform our fire protection responsibilities for our community in a safe and efficient manner. This grant funding will immediately improve our fire protection response, and will enable firefighters to perform their job duties more efficiently, more reliably, and more safely. This grant funding will ensure that our community is being served by firefighters and equipment that is able to perform when needed, in a safety and efficient manner.

Consequences: Provide a brief description of consequences of not funding this grant request. If your department does not receive the requested grant, what will the department do?

If we are unsuccessful in this grant request we will be unable to purchase this apparatus and make this necessary apparatus replacement. Additionally, we will be forced to take out additional loan debt to purchase the apparatus, or continue to use the one we have until it fails, forcing us to make an emergency purchase, or drastically reduce service levels in the community. The result of this could further exacerbate our capital equipment needs, as the debt will prevent us from purchasing the additional needed apparatus for several years, depending on the fiscal impact caused by our reduced ISO rating. At this time our community does not have the additional resources to make these necessary purchases. With our ISO survey scheduled for later this year, an upcoming FAA recertification, and continued major infrastructure damage caused by the loss of Bonito Lake, and the flooding within the city, is likely that we will be unable to make these purchases, potentially causing an unfavorable ISO evaluation. This may result in a poor ISO PPC classification, which will have further significant impact on the insurance rates in our community as well as the funding for our department. If we are unsuccessful, and our ISO drops, it will further diminish our ability to purchase these items in the future budget cycles, as the city will be forced to come up with funding to offset the reduction in state fire funding. An increased ISO PPC could also have drastic consequences on our economic environment, as we work to market ourselves to businesses for growth and expansion. We are currently neighbored by Las Cruces (ISO 2), El Paso (ISO 1), Artesia (ISO 2), and Roswell (ISO 2), who we must compete with for job and tax generating businesses for our economic development. Our ISO PPC plays a major role in our future success, and this equipment is at the focus of that growth, with current needs exceeding our abilities to fund them.

PROJECT BUDGET SHEET

Priority Order #	Priority Category Requesting From	Equipment Needed	Quantity	Total Cost of Equipment(\$)
1	Apparatus	Class A	1	\$500,000.00
				Total: \$500,000.00

Total amount	\$500,000.00
Less matching amount (minimum 20% of the Total amount)	\$100,000.00
SubTotal	\$400,000.00
Grant amount requested (maximum request \$100,000.00)	\$100,000.00
Department is responsible for the amount in excess of \$100,000.00	\$300,000.00
Total amount the Department is responsible for	\$400,000.00

FISCAL AGENT COMMITMENT STATEMENT

I, as fiscal agent for the _____ department, certify that a minimum of 20% in matching funds are committed to the project for which this application is submitted.

Name of County/Minicipal Fiscal Agent (please print) Title

Signature of County/Minicipal Fiscal Agent Date

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 08/23/2016

Report Date: 8/12/2016

Report No: 7.

Submitted By: Stephen Thies, Lauren
Truitt

Subject: Consider, and act upon, final publication of Ordinance No. 1525 amending Section 18-01-030 of the Code of Ordinances concerning Municipal Court conditional discharge. (*Lauren Truitt, Asst. City Attorney*) **(Roll Call Vote required)**

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Approve Ordinance No. 1525 for final publication. **(Roll Call Vote required)**

Background: The enactment of this Ordinance will allow the Municipal Court Judge to enter a conditional discharge when a person who has not been previously convicted of a felony offense is found guilty of a crime for which a deferred or suspended sentence is authorized, without entering an adjudication of guilt and place the person on probation.

The City Commission approved for first publication on July 26, 2016.

ORDINANCE NO. 1525

**AN ORDINANCE AMENDING SECTION 18-01-030 OF CHAPTER EIGHTEEN OF
THE CITY OF ALAMOGORDO CODE OF ORDINANCES**

WHEREAS, the City Commission of the City of Alamogordo finds that it is in the interest of justice to allow for the availability of conditional discharges in sentencing defendants in municipal court.

BE IT ORDAINED by the City Commission of the City of Alamogordo New Mexico that Chapter Eighteen of the *Code of Ordinances* be amended to include the following:

18-1-030. - Suspension of sentence; conditional discharge; probation.

(a) The municipal court may, upon entry of a plea of guilty or judgment or conviction:

- (1) Suspend in whole or part the execution of sentence; or
- (2) Enter a conditional discharge in accordance with subsection (c) of this Section; or
- (3) Place the defendant on probation for a period not exceeding one year on terms and conditions the court deems best; or any combination of the above.

(b) Suspension of execution of the sentence or probation, or both, shall be granted only when the municipal judge is satisfied it will serve the ends of justice and of the public, and that the defendant's liability for any fine or other punishment imposed is fully discharged upon successful completion of the terms and conditions of probation.

(c) Conditional Discharges

- (1) When a person who has not been previously convicted of a felony offense is found guilty of a crime for which a deferred or suspended sentence is authorized, the court may, without entering an adjudication of guilt, enter a conditional discharge order and place the person on probation.
- (2) A conditional discharge entered by the municipal court shall be granted only if the person has not been previously convicted of a felony offense, if the entry of a deferred or suspended sentence would be authorized for the offense and, if good cause exists for the entry of a conditional discharge.
- (3) A conditional discharge may be made by the municipal court only once with respect to any person during that person's lifetime.
- (4) A conditional discharge may not be entered for any offense of DWI by the municipal court.
- (5) If a conditional discharge is entered by the municipal court, the court shall not collect court costs.

DONE this _____ day of _____, 2016.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By: _____
Richard A. Boss, Mayor

ATTEST:

Nancy E. Jacobs, City Clerk

APPROVED AS TO FORM:

Lauren Truitt, Assistant City Attorney

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 08/23/2016

Report Date: 8/12/2016

Report No: 8.

Submitted By: Stephen Thies, Lauren
Truitt

Subject: Consider, and act upon, final publication of Ordinance No. 1526 amending Section 24-01-020 of the Code of Ordinances pertaining to reckless driving, by strengthening the penalty for such crime. *(Lauren Truitt, Asst. City Attorney)* **(Roll Call Vote required)**

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Approve Ordinance No. 1526 for final publication. **(Roll Call Vote required)**

Background: The crime of Reckless Driving is a serious violation, reserved to punish motorists who drive "carelessly and heedlessly in willful or wanton disregard of the rights or safety of others and without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property."

Enacting this Ordinance will deter the crime of Reckless Driving by strengthening the maximum allowable penalty for such crime. The City Commission approved for first publication on July 26, 2016.

ORDINANCE NO. 1526

AN ORDINANCE AMENDING SECTION 24-01-020 OF CHAPTER TWENTY FOUR OF THE CITY OF ALAMOGORDO CODE OF ORDINANCES

WHEREAS, the City Commission of the City of Alamogordo has previously adopted the provisions of the New Mexico Uniform Traffic Ordinance; and

WHEREAS, the City Commission of the City of Alamogordo finds that the crime of **Reckless Driving** is a serious violation, reserved to punish motorists who drive "carelessly and heedlessly in willful or wanton disregard of the rights or safety of others and without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property;" and

WHEREAS, the City Commission of the City of Alamogordo wishes to deter the crime of Reckless Driving by strengthening the maximum allowable penalty for such crime.

BE IT ORDAINED by the City Commission of the City of Alamogordo New Mexico that Section 24-01-020 of Chapter Twenty Four of the *Code of Ordinances* be amended as follows:

24-01-020. – Same – Amendments.

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

- A. *12-1-2.1 Access Aisle.* "Access Aisle" means a space designed to allow a person with a significant mobility limitation to safely exit and enter a motor vehicle that is immediately adjacent to a designated parking space for persons with significant mobility limitations and that may be common to two such parking spaces of at least sixty inches in width or, if the parking space is designed for van accessibility, ninety-six inches in width, and clearly marked and maintained with blue striping, and after January 1, 2011 the words "NO PARKING" in capital letters, each of which shall be at least one foot high and at least two inches wide, placed at the rear of the access aisle so as to be close to where an adjacent vehicle's rear tires would be placed (66-1-4.1 NMSA 1978).
- B. *12-6-5.5 Limitations on Turning Around.* The driver of any vehicle may turn the vehicle so as to proceed in the opposite direction provided that the movement can be made safely and without interfering with other traffic and further provided that authorized signs disallowing U-turns have not been erected in the area; such turn shall not be made if to do so would violate any other traffic ordinance or statute.
- C. *12-6-12.6 Unlawful Use of License; Driving When Privilege To Do So Has Been Suspended or Revoked*

a. No person shall:

1. display or cause or permit to be displayed or have in his possession any canceled, revoked or suspended driver's license or permit;
2. lend his driver's license or permit to any other person or knowingly permit the use thereof by another;
3. display or represent as one's own any driver's license or permit not issued to him;
4. fail or refuse to surrender to the court upon its lawful demand any driver's license or permit which has been suspended, revoked, or canceled;
5. permit any unlawful use of driver's license or permit issued to him; (66-5-37)
6. drive a motor vehicle on any public street or highway at a time when his privilege to do so is suspended and who knows or should have known that his license was suspended. Upon conviction, the person shall be punished by imprisonment for not less than four days nor more than ninety days or participation for an equivalent period of time in a certified alternative sentencing program, and there may be imposed in addition a fine of not more than five hundred dollars (\$500.00). When a person pays any or all of the cost of participating in a certified alternative sentencing program, the court may apply that payment as a deduction to any fine imposed by the court;
7. drive a motor vehicle on a highway of this state at a time when the person's privilege to do so is revoked and who knows or should have known that the person's license was revoked is guilty of a misdemeanor and shall be charged with a violation of this section. Upon conviction, the person shall be punished, notwithstanding the provisions of Sec. 31-18-13 NMSA 1978, by imprisonment for not less than four days or more than ninety days or by participation for an equivalent period of time in a certified alternative sentencing program, and there may be imposed in addition a fine of not more than \$500. When a person pays any or all of the cost of participating in a certified alternative sentencing program, the court may apply that payment as a deduction to any fine imposed by the court; and
8. notwithstanding any other provision of law for suspension or deferment of execution of a sentence, if the person's privilege to drive was

revoked for driving under the influence of intoxicating liquor or drugs or a violation of the Implied Consent Act, upon conviction shall be punished by imprisonment for not less than seven consecutive days and shall be fined not less than three hundred dollars (\$300.00) and not more than five hundred dollars (\$500.00) and the fine and imprisonment shall not be suspended, deferred or taken under advisement. No other disposition by plea of guilty to any other charge in satisfaction of a charge under this section shall be authorized if the person's privilege to drive was revoked for driving under the influence of intoxicating liquor or drugs or a violation of the Implied Consent Act. (66-5-39.1 NMSA 1978)

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

D. *Section 12-8-5(C)*, which reads as follows:

(C) Wherever a usable path for bicycles has been provided adjacent to a street, bicycle riders shall use such path and shall not use the street.

is hereby deleted. The remaining language of section 12-8-5 (C) shall continue in full force and effect.

E. *Section 12-12-1.3* is amended:

- a. There is imposed upon any person convicted of violating any municipal ordinance the penalty for which carries a potential jail term of any ordinance relating to the operation of a motor vehicle the following mandatory fees:
 - 1. a corrections fee of twenty dollars (\$20.00);
 - 2. a judicial education fee of three dollars (\$3.00);
 - 3. a court automation fee of six dollars (\$6.00).

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

- a. Except as provided in Section 12-12-5, unless a penalty assessment or warning notice is given, whenever a person is arrested for any violation of this

- ordinance or other law relating to motor vehicles punishable as a misdemeanor, the arresting officer, using the uniform traffic citation in paper or electronic form, shall complete the information section and prepare a notice to appear in court, specifying the time and place to appear, have the arrested person sign the agreement to appear as specified, give a copy of the citation to the arrested person and release him from custody.
- b. Whenever a person is arrested for violation of a penalty assessment misdemeanor and elects to pay the penalty assessment, the arresting officer, using the uniform traffic citation in paper or electronic form, shall complete the information section and prepare the penalty assessment notice indicating the amount of the penalty assessment, have the arrested person sign the agreement to pay the amount prescribed, give a copy of the citation along with a business reply envelope addressed to the municipal court with jurisdiction and release him from custody. No officer shall accept custody or payment of any penalty assessment notice, the officer shall issue a notice to appear. (66-8-123 B NMSA 1978)
 - c. The arresting officer may issue a warning notice, but shall fill in the information section of the uniform traffic citation in paper or electronic form and give a copy to the arrested person after requiring his signature on the warning notice as an acknowledgment of receipt. No warning notice issues under this section shall be used as evidence of conviction for purposes of suspension or revocation of license under Section 66-5-30 NMSA 1978.
 - d. In order to secure his release, the arrested person must give his written promise to appear in court, or to pay the penalty assessment prescribed or acknowledge receipt of a warning notice.
 - e. Any officer violating this section is guilty of misconduct in office and is subject to removal. (66-8-123 NMSA 1978)
 - f. An electronic traffic citation, prescribed by Section 12-12-3.1, is an electronic version of the uniform traffic citation. For the purposes of this section, an electronic citation may be completed instead of a uniform traffic citation; provided, however, that where this section requires a copy of a citation to be given to an arrested person, a physical copy of the citation shall be provided whether a uniform traffic citation or an electronic form of the uniform traffic citation was used. An electronic form of the uniform traffic citation may be signed electronically.

G. 12-12-3.1 Electronic Uniform Traffic Citation.

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

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

- a. Every municipal judge shall keep a record of every traffic complaint, uniform traffic citation and other form of traffic charge filed in the judge's court or its traffic violations bureau and every official action and disposition of the charge by that court. The court shall notify the Department if a defendant fails to appear on a charge of violating the Motor Vehicle Code or other law or ordinance relating to motor vehicles.
- b. Within ten days of the later of entry of a final disposition of a conviction for violation of this ordinance or other law or ordinance relating to motor vehicles or the final decision of any higher court that reviews the matter and from which no appeal or review is successfully taken, every municipal judge, including the children's court judges, or the clerk of the court in which the entry of the final disposition occurred shall prepare and forward to the department an abstract of the record containing the name and address of the defendant; the specific section number and common name of the provision of the local law, ordinance or regulation under which the defendant was tried; the plea, finding of the court and disposition of the charge, including fine or jail sentence or both; total costs assessed to the defendant; the date of the hearing; the court's name and address; whether defendant was a first or subsequent offender; and whether the defendant was represented by counsel or waived his right to counsel and, if represented, the name and address of counsel.
- c. The abstract of record prepared and forwarded under Subsection B of this section shall be certified as correct by the person required to prepare it. With the prior approval of the department, the information required in Subsection B of this Section may be transmitted electronically to the department. Report need not be made of any disposition of a charge of illegal parking or standing of a vehicle except when the uniform traffic citation is used.
- d. When the uniform traffic citation is used, the court shall provide the information required in Subsection B of this Section in the manner prescribed

by the director. A copy of each penalty assessment processed shall be forwarded to the division within ten (10) days of completion of local processing for posting to the driver's record. With the prior approval of the director, the required information may be submitted to the division by electronic means in lieu of forwarding copies of the penalty assessments.

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

I. *12-6-18 Texting While Driving.*

- a. A person shall not read or view a text message or manually type on a handheld mobile communication device for any purpose while driving a motor vehicle except to summon medical or other emergency help or unless that device is an amateur radio and the driver holds a valid amateur radio operator license issued by the Federal Communications Commission.
- b. The provisions of this section shall not be construed as authorizing the seizure or forfeiture of a handheld mobile communications device. Unless otherwise provided by law, the handheld mobile communications device used in the violation of the provisions of this section is not subject to search by a law enforcement officer during a traffic stop made pursuant to the provisions of this section.
- c. As used in this section:
 - 1. “*driving*” means being in actual physical control of a motor vehicle on a highway or street and includes being temporarily stopped because of traffic, a traffic light or stop sign or otherwise, but “driving” excludes operating a motor vehicle when the vehicle has pulled over to the side of or off an active roadway and has stopped at a location in which it can remain safely stationary;
 - 2. “*handheld mobile communications device*” means a wireless communications device that is designed to receive and transmit text or image messages, but “handheld mobile communications device” excludes global positioning or navigation systems, devices that are physically or electronically integrated into a motor vehicle and voice-operated or hands-free devices that allow the user to compose, send, or read a text message without the use of a hand expect to activate, deactivate or initiate a feature or function; and
 - 3. “*text message*” means a digital communication transmitted or intended to be transmitted between communication devices and

includes electronic mail, an instant message, a text or image communication and a command or request to an internet site; but "text message" excludes communications through the use of a computer-aided dispatch service by law enforcement or rescue personnel.

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

J. 12-6-12.3 Reckless Driving.

- a. Any person who drives any vehicle carelessly and heedlessly in willful or wanton disregard of the rights or safety of others and without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property is guilty of reckless driving.
- b. Every person convicted of reckless driving shall be punished by imprisonment for not less than five days, or by a fine not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or both.

DONE this _____ day of _____, 2016.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By: _____
Richard A. Boss, Mayor

ATTEST:

Nancy E. Jacobs, City Clerk

APPROVED AS TO FORM:

Lauren Truitt, Assistant City Attorney

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 08/23/2016

Report Date: 8/19/2016

Report No: 9.

Submitted By: Maggie Paluch

Subject: Consider, and act upon, options for pool coverings for the Family Recreation Center pool. (*Maggie Paluch, Acting City Manager*)

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Discuss and decide on a Pool Cover option.

Background: Options for Pool Covers for the Alamogordo Family Recreation Center pool will be discussed. The current pool cover has begun to deteriorate and will not be a safe alternative much longer. City Staff has been researching multiple options in order to maintain a covered pool facility for the citizens of Alamogordo.



Name: Yeadon Fabric Domes, LLC.
Address: 2475 Maplewood Drive, Suite 114, Maplewood, MN 55109
Phone: 1-800-493-2366
Fax: 651-633-2019
Website: www.yeadondomes.com



May 23, 2016

Mr. Jonathon Johnson
City of Alamogordo

RE: Replacement Pool Dome Pricing:

Dear Mr. Johnson:

We are pleased to present the following quotation for a replacement Yeadon Air Supported Structure for your existing pool dome. The following items are included in our proposal. Also shown are optional components and fabric finishes for your consideration.

SIZE: The approximate size of the dome is 182' long X 102' wide X 31' high with a total floor space of 18,564 square feet.

OUTER MEMBRANE: The outer membrane is manufactured in 28/sq. yd., white, high tensile strength, translucent TS 139 acrylic topcoat, vinyl coated polyester. The fabric is fire resistant, meeting the requirements of NFPA 701.

THERMAL/ACOUSTICAL INNER MEMBRANE: The dome contains an inner thermal/acoustical fabric liner, which is welded to the dome's outer membrane. The liner is produced from white, 14oz/sq. yd., high strength, translucent vinyl coated polyester. White is used throughout the dome to provide the brightest interior possible.

SEAMS: All seams are dielectrically welded together to form the dome's profile. This method of fabrication provides an airtight bond that is stronger than the material itself. Yeadon uses no sewn seams on its structures.

SECTIONS: The dome will be manufactured in 2 sections for ease of handling. If more than one section is required, Yeadon will provide 8" aluminum seam clamps, which are used to field connect the sections together. These seam clamps form a strong, airtight and flexible connection. A continuous fabric flap with a VELCRO edge is also provided to conceal and weatherize the seam connection.

ANCHORING SYSTEM: Yeadon will use your existing anchor system. Our dome will come equipped with a rope edge perimeter designed to fit with the existing system.

FABRIC CURTAINS: Yeadon will provide fabric transition curtains that will allow the dome to attach to any existing exit doors, revolving doors, viewing areas, building attachments and mechanical equipment attachments. These curtains include stress relief cable arcs, cables and attaching hardware.

ENGINEERING: Yeadon will provide a set of drawings, calculations and specifications for permit application if needed. These drawings may require a local engineers stamp.

FREIGHT: F. O. B. Jobsite.

PRICING: Our price for all the above components is **\$115,000.00.**

TERMS: 50% deposit due upon signed contract, 30% due upon commencement of manufacturing, 15% due upon notice of shipping and 5% holdback due 30 days after installation. This proposal is good for a period of 30 days.

ITEMS NOT INCLUDED:

- 1) Any costs of permits, taxes or local engineering stamps.
- 2) Any costs of installation, site, court or fence modification and repair, off loading, anchor beam modification, utility modification or repair, electrical conversion or installation or any other job specific work unless otherwise noted above.
- 3) Any cost of removal and disposal of the old structure unless otherwise noted.

OPTIONAL ITEMS: The following can be added to this proposal.

SUPERVISION: A Yeadon supervision representative will be provided to supervise your installation crew during the initial dome installation. This supervision usually takes 3 to 4 days.
Price: \$650.00/10-hour day + T&E.

↳ no!

REVOLVING DOOR: (1) aluminum, 4 leaf revolving door is supplied for the main entrance into the dome. This self-contained door comes complete with full glass paneled doors, rigid frame and sides, sturdy tread-plate base and all attaching hardware.
Price: \$12,500.00

EMERGENCY EXIT DOORS: (3) balanced aluminum emergency exit doors complete with a heavy duty steel frame, viewing panel, panic hardware, exit lights with battery backup, lockable exterior entry hardware, fabric clamping strip, exterior braces and all attaching hardware.
Price: \$14,400.00 (\$4800 each)

TEDLAR: A TEDLAR coating can be applied to the outer membrane. The coating will provide maximum membrane protection from pollution, dirt and UV rays. This option adds 10 years to the warranty making it a 20 year warranty.
Price: \$49,900.00

HANDICAP ACCESSIBLE ENTRANCE MODULE: An entrance module complete with 2 balanced aluminum doors, rigid frame with aluminum wall and roof panels that attaches directly to the revolving door can be added.
Price: \$14,000.00.

POOL TARP: Constructed with a rope hem and designed to be stored inside the dome's channel when the dome is inflated. The tarp is designed to be two feet longer and two feet wider than the actual dimensions of the dome.
Price: \$23,995.00

If you need further information on this proposal, please contact me at 800-4YEADON. Thank you again for the opportunity to propose this dome to you. I look forward to hearing from you soon.

Sincerely,
Steve Flanagan
Stevef@yeadondomes.com
Yeadon Fabric Domes, LLC.
612-802-4146 cell



CONTRACT

Between

YEADON®FABRIC DOMES LLC
575 9TH St. SE Suite 50
Minneapolis, MN 55414
(Contractor)

And
City of Alamogordo
1100 Oregon Ave
Alamogordo, NM 88310
(Owner)

Re: Our Job Number 16227 City of Alamogordo 2016 Take Down

Yeadon® (Contractor) agrees to supply the Take Down of your Yeadon® Air Structure; and (Owner) agrees to purchase including the following:

1. **Supervisors:** Yeadon® will provide one (1) Technician to oversee the Take Down of: membrane, cables, doors and lights. Any additional changes from the scope including repairs will have to either be on a signed change order or will be billed in addition at a Time & Material basis (rate sheet attached). * no prevailing wage or Union labor
2. **Labor & Equipment:** Yeadon® will provide all necessary labor & equipment for the duration of the Take Down.
3. **Owner:** is responsible for the following:
 - a. Gas and electric disconnect.
 - b. Materials needed for moving and storing components including but not limited to: crates, boxes, tape.
4. **Work Orders:** Owner agrees have a site representative available to sign and approve daily work orders at the end of each day. Yeadon work orders detail time on job, problems extras etc.
5. **Daily Hours:** Yeadon Supervisors work ten (10) hour days, some days may be longer at our discretion, all labor and equipment must be available as needed during working hours. Work day begins at 8am unless prior arrangements have been made.

6. **Weather/Cancelation:** Once Yeadon has mobilized to your location from, all expenses accrued due to cancelation or delay by your company or Yeadon due to weather conditions are at cost to the Owner. Cancellations need to be made prior to 6am on the scheduled mobilization date.
7. **Total Contract Price** **\$24,500**
US
8. **Terms:** Net 30 * 2% discount if payment made within Net 10 from date of invoice.
9. **Note:** Late Payments will be subject to 1.5% per month interest charges.

Total Square Footage Area Existing Facility (187'x108')	20,196.0	LIBART Enclosure System *\$125/Per Sq. Ft.	\$	2,524,500.00
		NMGRT 8.00%	\$	201,960.00
		Estimated Cost	\$	2,726,460.00

Total Square Footage Area Existing Facility (187'x108')	20,196.0	Metal Building \$40/Per Sq. Ft.	\$	807,840.00
		NMGRT 8.00%	\$	64,627.20
		Estimated Cost	\$	872,467.20

Total Square Footage Area New Facility (80'X104')	8,320.0	LIBART Enclosure System *\$125/Per Sq. Ft.	\$	1,040,000.00
New Swimming Pool 51'x82'	4,182.0	Swimming Pool **\$180.00/Per Sq. Ft.	\$	752,760.00
Pool Decking	4,138.0	Pool Deck **\$10.00/Per Sq. Ft.	\$	41,380.00
		Sub-Total Cost	\$	1,834,140.00
		NMGRT 8.00%	\$	146,731.20
		Estimate Cost	\$	1,980,871.20

Total Square Footage Area New Facility (80'X104')	8,320.0	Metal Building \$30/Per Sq. Ft.	\$	249,600.00
New Swimming Pool 51'x82'	4,182.0	Swimming Pool **\$180.00/Per Sq. Ft.	\$	752,760.00
Pool Decking	4,138.0	Pool Deck **\$10.00/Per Sq. Ft.	\$	41,380.00
		Sub-Total Cost	\$	1,043,740.00
		NMGRT 8.00%	\$	83,499.20
		Estimate Cost	\$	1,127,239.20

* this cost per square foot was provided by LIBART

**this cost is from USA Swimming

Note: estimated cost does not include any electrical or mechanical systems.



High Performance Building Solutions

Tensioned Membrane Structures Available Immediately From Inventory





High Performance Building Solutions
Tensioned Membrane Structures Available Immediately From Inventory

Pool Enclosures



PROJECT OVERVIEW



» Ooltewah Swim Center - Ooltewah, TN



In early 2004, the birth of Ooltewah Swim Center (OSC) by owner Wendy Roberts provided the growing community of Ooltewah, located outside of Chattanooga, Tennessee, with a desperately-needed neighborhood pool. Ooltewah Swim Center has provided residents of Hamilton County with countless summer memories and served as a location for surrounding swim teams.

However, winters proved to be difficult for these swim teams and OSC members. They had to practice in an inflatable dome cover known as "The Bubble." For over 7 years, "The Bubble" somewhat protected the swimmers from the cold but contained massive amounts of fog and little room for the coaches to maneuver. In addition, high winds and unexpected air leaks would interrupt service of "The Bubble", which also required round-the-clock monitoring to avoid accidents.

The need for an enclosure around the pool was significant. The Ooltewah Project started in late January 2012 when Wendy contacted Project Manager Jeff Manger at Libart North America to discuss a permanent solution for OSC. Ultimately, a solution was presented from Libart in the form of a Free-Standing V7 Model measuring in at 70' wide x 110' long, making it the largest of its kind in North America! Construction of "The Dome" began in the fall of that same year.

Ever since completion of "The Dome" in February 2013, swimmers are able to enjoy the warm air and clear waters at Ooltewah Swim Center all year long. Even during the coldest days in southeast Tennessee, "The Dome" protects swimmers, coaches, parents, and children from the unforgiving weather.

» Kinetic Architectural System



Solutions:

- **Design:** Evolution Freestanding, 70 degree sidewalls with Gable End Walls
- **Retraction:** R2 Retraction
- **Operation:** Motorized
- **Glazing:** Roof Panels and Sidewall Glazing is 16 mm Multi-Wall Translucent Polycarbonate. Gable End Walls feature a combination of 4mm Monolithic Clear Transparent Polycarbonate and 10mm Clear Twin Wall Translucent Glazing.
- **Frame:** Titan Frame (190mm - 7-1/2" Thick)

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 08/23/2016

Report Date: 8/19/2016

Report No: 10.

Submitted By: Brian Cesar

Subject: Consider, and act upon, award of Public Works Bid No. 2016-002 to CSW Contractors, Inc., related to the Rehab Effluent Storage Ponds - Desert Lakes Golf Course, in an amount not to exceed \$505,139.25, including tax. (*Brian Cesar, Public Works Director*)

Fiscal Impact: \$505,139.25

Amount Budgeted: \$600,000.00

Fund: 081-9399-990.68-99 (PW1509) and 081-9399-990.68-99 (PW1602)

Additional Fiscal Impact:

Recommendation: Approve the award.

Background:

The work will consist of the relining of a series of existing golf course ponds using 60 MIL HDPE liner along with installation of 4" thick base course on the pond bottoms, installation of concrete slab collars on pond inlet and outlet pipes, pond removals, miscellaneous rock and vegetation overgrowth removal, excavation and reshaping earthwork, disposals, and other related appurtenances. The project was advertised on July 3, 2016. Bids were opened on August 4, 2016 at 2:00 p.m. with three (3) responsive bidders: CSW Contractors, Inc.; Renegade Construction, LLC; and Mesa Verde Enterprises, Inc.

Please refer to the attached bid tabulation.

This project is funded entirely by two state grants, 14-1659-STB and 15-0524-STB.

BID TABULATION
REHAB EFFLUENT STORAGE PONDS - DESERT LAKES GOLF COURSE
PUBLIC WORKS BID NO. 2016-002
AUGUST 4, 2016

BASE BID - BID LOT 1				Engineer's Opinion of Probable Construction Cost		CSW Contractors, Inc.		Renegade Construction, LLC		Mesa Verde Enterprises, Inc.	
ITEM NO.	QTY	UNIT	DESCRIPTION	UNIT PRICE	BID AMOUNT	UNIT PRICE	BID AMOUNT	UNIT PRICE	BID AMOUNT	UNIT PRICE	BID AMOUNT
1	1	LS	Mobilization/Demobilization	\$12,000.00	\$12,000.00	\$6,440.83	\$6,440.83	\$7,268.06	\$7,268.06	\$176,685.00	\$176,685.00
2	1	LS	Pond P1 Earthwork, Grading, & Subgrade Prep	\$4,500.00	\$4,500.00	\$18,958.10	\$18,958.10	\$11,954.07	\$11,954.07	\$47,136.13	\$47,136.13
3	1525	SY	Pond P1 4-Inch Gravel Base, Complete	\$4.00	\$6,100.00	\$4.48	\$6,832.00	\$7.57	\$11,544.25	\$7.35	\$11,208.75
4	18400	SF	Pond P1 HDPE Liner, complete	\$1.38	\$25,392.00	\$1.46	\$26,864.00	\$1.42	\$26,128.00	\$0.90	\$16,560.00
5	5	CY	Pond P1 Reinforced Concrete, Complete	\$660.00	\$3,300.00	\$930.55	\$4,652.75	\$1,070.50	\$5,352.50	\$600.00	\$3,000.00
6	1	LS	Pond P2 Earthwork, Grading, & Subgrade Prep	\$9,000.00	\$9,000.00	\$32,441.30	\$32,441.30	\$22,858.11	\$22,858.11	\$87,538.52	\$87,538.52
7	3,020	SY	Pond P2 4-Inch Gravel Base, Complete	\$4.00	\$12,080.00	\$5.33	\$16,096.60	\$7.57	\$22,861.40	\$7.35	\$22,197.00
8	35170	SF	Pond P2 HDPE Liner, Complete	\$1.05	\$36,928.50	\$1.04	\$36,576.80	\$1.02	\$35,873.40	\$0.90	\$31,653.00
9	5	CY	Pond P2 Reinforced Concrete, Complete	\$660.00	\$3,300.00	\$930.55	\$4,652.75	\$1,070.50	\$5,352.50	\$600.00	\$3,000.00
BID LOT 1 NMGRT (8%)					\$112,600.50		\$153,515.13		\$149,192.29		\$398,978.40
TOTAL BID LOT 1					\$121,608.54		\$165,796.34		\$161,127.67		\$430,896.67

BASE BID - BID LOT 2				Engineer's Opinion of Probable Construction Cost		CSW Contractors, Inc.		Renegade Construction, LLC		Mesa Verde Enterprises, Inc.	
ITEM NO.	QTY	UNIT	DESCRIPTION	UNIT PRICE	BID AMOUNT	UNIT PRICE	BID AMOUNT	UNIT PRICE	BID AMOUNT	UNIT PRICE	BID AMOUNT
10	1	LS	Mobilization/Demobilization	\$12,000.00	\$12,000.00	\$6,440.83	\$6,440.83	\$7,268.06	\$7,268.06	\$11,082.94	\$11,082.94
11	1	LS	Pond P11 Earthwork, Grading, & Subgrade Prep	\$11,500.00	\$11,500.00	\$41,895.40	\$41,895.40	\$34,245.15	\$34,245.15	\$99,121.98	\$99,121.98
12	4620	SY	Pond P11 4-Inch Gravel Base, Complete	\$4.00	\$18,480.00	\$4.48	\$20,697.60	\$7.57	\$34,973.40	\$7.39	\$34,141.80
13	51800	SF	Pond P11 HDPE Liner, complete	\$0.95	\$49,210.00	\$0.89	\$46,102.00	\$0.84	\$43,512.00	\$0.77	\$39,886.00
14	5	CY	Pond P11 Reinforced Concrete, Complete	\$660.00	\$3,300.00	\$930.55	\$4,652.75	\$1,070.50	\$5,352.50	\$787.66	\$3,938.30
15	1	LS	Pond P3 Earthwork, Grading, & Subgrade Prep	\$13,000.00	\$13,000.00	\$48,214.00	\$48,214.00	\$39,581.26	\$39,581.26	\$116,360.58	\$116,360.58
16	5,900	SY	Pond P3 4-Inch Gravel Base, Complete	\$4.00	\$23,600.00	\$4.48	\$26,432.00	\$7.57	\$44,663.00	\$6.79	\$40,061.00
17	59650	SF	Pond P3 HDPE Liner, Complete	\$0.95	\$56,667.50	\$0.85	\$50,702.50	\$0.77	\$45,930.50	\$0.79	\$47,123.50
18	5	CY	Pond P3 Reinforced Concrete, Complete	\$660.00	\$3,300.00	\$930.55	\$4,652.75	\$1,070.50	\$5,352.50	\$787.66	\$3,938.30
BID LOT 2 NMGRT (8%)					\$191,057.50		\$249,789.83		\$260,878.37		\$395,654.40
					\$15,284.60		\$19,983.19		\$20,870.27		\$31,652.35
TOTAL BID LOT 2					\$206,342.10		\$269,773.02		\$281,748.64		\$427,306.75

ADDITIVE ALTERNATE NO. 1				Engineer's Opinion of Probable Construction Cost		CSW Contractors, Inc.		Renegade Construction, LLC		Mesa Verde Enterprises, Inc.	
ITEM NO.	QTY	UNIT	DESCRIPTION	UNIT PRICE	BID AMOUNT	UNIT PRICE	BID AMOUNT	UNIT PRICE	BID AMOUNT	UNIT PRICE	BID AMOUNT
19	1	LS	Mobilization/Demobilization	\$6,500.00	\$6,500.00	\$6,440.83	\$6,440.83	\$7,268.05	\$7,268.05	\$11,019.95	\$11,019.95
20	1	LS	Pond P4 Earthwork, Grading, & Subgrade Prep	\$4,500.00	\$4,500.00	\$16,660.29	\$16,660.29	\$12,948.61	\$12,948.61	\$53,044.05	\$53,044.05
21	2000	SY	Pond P4 4-Inch Gravel Base, Complete	\$4.00	\$8,000.00	\$4.48	\$8,960.00	\$7.57	\$15,140.00	\$8.46	\$16,920.00
22	19930	SF	Pond P4 HDPE Liner, Complete	\$1.37	\$27,304.10	\$1.39	\$27,702.70	\$1.37	\$27,304.10	\$1.32	\$26,307.60
23	5	CY	Pond P4 Reinforced Concrete, Complete	\$660.00	\$3,300.00	\$930.55	\$4,652.75	\$1,070.50	\$5,352.50	\$1,566.37	\$7,831.85
ADD. ALT. NO. 1 NMGRT (8%)					\$49,604.10		\$64,416.57		\$68,013.26		\$115,123.45
					\$3,968.33		\$5,153.33		\$5,441.06		\$9,209.88
TOTAL ADD. ALT. NO. 1					\$53,572.43		\$69,569.90		\$73,454.32		\$124,333.33

GRAND TOTAL - BID LOTS 1, 2, AND ADD. ALT. WITHOUT TAX					\$353,262.10		\$467,721.53		\$478,083.92		\$909,756.25
GRAND TOTAL - BID LOTS 1, 2, AND ADD. ALT. WITH TAX					\$381,523.07		\$505,139.25		\$516,330.63		\$982,536.75

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 08/23/2016

Report Date: 8/17/2016

Report No: 11.

Submitted By: Mark Threadgill

Subject: Consider, and act upon, a request by George Sandoval II, related to a leak adjustment request for 504 E. First St. (Margo's Mexican Food). *(Mark Threadgill, Customer Service Manager)*

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact: \$3,100.76 proposed adjustment based on Leak Abatement Policy

Recommendation:

Staff recommends approval of a leak abatement in the amount of \$3,100.76 for 504 E. First St.

Background: The customer suffered a leak on the his side of the meter. The leak was repaired and the customer requested leak abatement under City policy. The request meets all the requirements of the Leak Abatement Policy, however, the calculated adjustment amount of \$3,100.76 exceeds the maximum amount of \$2,500.00 that can be approved by staff.

**CITY OF ALAMOGORDO
UTILITY BILLING DEPARTMENT
LEAK ADJUSTMENT WORK SHEET**

Date: June 27, 2016

Customer #	Location #	Name	Service Address	Cycle/Route
35767	9394	Sandoval II, George	504 E First St	03-50

Billing Date: 06/14/16

Actual Billed Consumption: 89,010

Billing Period: 04/22 - 05/22/16

Bill Amount: \$6,595.25

\$6,595.25

Average Consumption: 9,112

Difference Billed-Average 79898
Difference Billed @ Tier 4 \$4,234.59

Average Bill: \$253.64

Total Difference \$4,234.59

\$253.64

Credit Memo #

Total Average \$253.64
Total Billed over Average \$4,234.59
Total \$4,488.23

Difference of Average and Actual
Must Exceed \$125.00
\$6,341.61

Meets Qualifications ☒

Does not meet qualifications ☐

Total Billed \$6,595.25
Minus Adjustment \$4,488.23
Water \$2,107.02
Sewer \$846.09
Tax on Adjusted 147.66
Total Adjusted \$3,100.76

This customer is requesting relief on his/her water bill for the month of June 2016
Any help will be greatly appreciated.
If you have any questions, please call Nichole Sierra @ ext 4261

Internal Control Analyst

Approve _____ Disapprove _____

Prepared by: sm

UT470107

CITY OF ALAMOGORDO, NEW MEXICO

6/27/16
09:54:25

Charge Summary

Customer ID
Location ID
Cycle/route
Bill date
Due date
Type option
5=Display
Svc

Code	Description	Amount
CC	CONVENIENCE CTR FEE	2.00
SW	SEWER	940.40
WA	WATER	6595.25
	TAXES	376.88
	Total Actual Charges	7914.53

es

es : 7914.53
amt: 7625.03Opt Type Ty
— WA REEst Cmt
ter Number Cd Cd
534855Opt Svc
— GT
— CC
— SW
— SW
— WA
— WAENTER=Exit F8=Print F10=Reprint Bill
F14=Send as EMAIL

Bottom

Rate Group S/W
AL/I/C
AL/I/C
AL/I/C
AL/I/C
AL/I/C
AL/I/C

F3=Exit F6=Date F9=Summary F10=Budget charges F11=Consumption F12=Cancel

(This 4
cons average 9112)
water average 253.64

0.*

7,711.+
5,698.+
7,485.+
7,310.+
6,946.+
7,049.+
7,084.+
6,820.+
7,385.+
18,491.+
14,429.+
12,934.+

012

109,342.*+

109,342.÷

12.=

9,112.*+

940.40

sewer average 94.31

846.09

UT470107

CITY OF ALAMOGORDO, NEW MEXICO
Account History - Consumption and Actual Charges6/27/16
09:54:30

Customer ID: 35767 Name: SANDOVAL II, GEORGE A
 Location ID: 9394 Addr: 504 E FIRST ST
 Cycle/route : 03 50 Bill type : CYCLE BILL
 Bill date : 6/14/16 Prev balance: 289.50- Charges : 7914.53
 Due date : 6/29/16 Adj/Pmts : .00 Bill amt: 7625.03
 Type options, press Enter.

5=Display

Opt	Svc	Reading	Actual	Demand	Consumption	Days	Meter	Number	Est	Cmt
	Type	Type	Date	Consumption					Cd	Cd
-	WA	REG	5/22/16	89010.00	.00	30	11534855			

Opt	Svc	Comp	Description	Billed	Consumption	Amount	Rate	Group	S/W
-	GT		GOV GROSS RECPTS TAX	.00	376.88	AL/I/C			
-	CC		CONVENIENCE CTR FEE	.00	2.00	AL/I/C			
-	SW	BASE	BASE RATE	.00	19.15	AL/I/C			
-	SW	CONS	CONSUMPTION CHARGES	80109.00	921.25	AL/I/C			
-	WA	BASE	BASE RATE	.00	47.95	AL/I/C			
-	WA	CON1	TIER 1	4500.00	65.25	AL/I/C			+

F3=Exit F6=Date F9=Summary F10=Budget charges F11=Consumption F12=Cancel

UT470107

CITY OF ALAMOGORDO, NEW MEXICO
Account History - Consumption and Actual Charges6/27/16
09:54:30

Customer ID: 35767 Name: SANDOVAL II, GEORGE A
 Location ID: 9394 Addr: 504 E FIRST ST
 Cycle/route : 03 50 Bill type : CYCLE BILL
 Bill date : 6/14/16 Prev balance: 289.50- Charges : 7914.53
 Due date : 6/29/16 Adj/Pmts : .00 Bill amt: 7625.03
 Type options, press Enter.

5=Display

Opt	Svc	Reading	Actual	Demand	Consumption	Days	Meter	Number	Est	Cmt
Opt	Type	Type	Date	Consumption	Consumption	Days	Number	Cd	Cd	
-	WA	REG	5/22/16	89010.00	.00	30	11534855			

Opt	Svc	Comp	Description	Billed	Consumption	Amount	Rate	Group	S/W
-	WA	CON2	TIER 2	3000.00	70.50	AL/I/C			
-	WA	CON3	TIER 3	1000.00	36.50	AL/I/C			
-	WA	CON4	TIER 4	1000.00	53.00	AL/I/C			
-	WA	CON5	TIER 5	79510.00	6321.05	AL/I/C			
-	WA	CAP	CAPITAL SURCHARGE 81	.00	1.00	AL/I/C			

F3=Exit F6=Date F9=Summary F10=Budget charges F11=Consumption F12=Cancel

MAY 24 2016

City of Alamogordo
Utility Billing Division

Leak Abatement Request

Date: 5/24/16

I, George Sandoval Jr, account number 35767-9394 have
had a water leak at 504 E 1st Street.
Description/Cause of Leak: Leak @ meter

The leak has been repaired and I am requesting an adjustment on my water bill. I have
provided proof of repair; either an invoice from a plumber or receipts for parts that were
purchased and used to repair the leak.

I also understand that in order to qualify for an adjustment the water charges on the bill in
question must be at least \$125.00 over the average water charges on the monthly bill.

George Sandoval Jr
Customer's Name (print)

[Signature]
Customer's Signature

525 434 0689
Phone Number

✓

LANE PLUMBING CO., INC.
P.O. BOX 634 (575) 437-2811
1229 OREGON AVENUE
ALAMOGORDO, NM 88311-0634
NM LIC # 52204

WORK ORDER

102 28187

DATE: 5-17-16

TIME: 9:18

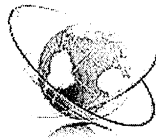
PAYMENT METHOD ☐ CASH ☐ CHECK ☐ CARD ☒ CHARGE

NAME: Margos Mexican Food/ George
WORK ADDRESS: 504 1st Street
HOME PHONE: 434-0689
OTHER PHONE:
BILL TO:
BILLING ADDRESS / EMAIL:
HOME PHONE:
OTHER PHONE:
WORK ORDERED: Leak at meter

☒ CALL FIRST # TO CALL:
☐ PICK UP KEY TIME REQUESTED:
QUANT. DESCRIPTION OF MATERIAL USED PRICE AMOUNT
1 3/4 pex Fe. 5.38
1 3/4 pex coop 1.98
3 3/4 Fing 2.10
2ft PIPE 2.00
MAT ORDERED FROM: ETA:
DATE HOURS EMPLOYEE RATE AMOUNT MISC ADHESIVES, OIL, ECT. \$1.00
15 Jol @ 105.00
TOTAL MATERIALS 12.46
TOTAL LABOR 105.00
SUB-TOTAL 117.46
TAX 9.40
TOTAL LABOR TOTAL AMOUNT DUE 126.86
Check # _____ Cash _____ Follow-Up: ☐ Y ☐ N
C.C. # _____ Exp. _____ ☐ M.C. ☐ Visa ☐ Discover

ACCOUNTS DUE AND PAYABLE UPON RECEIPT OF
STATEMENT AND BECOME DELINQUENT 30 DAYS
THEREAFTER. 1 1/2% PER MONTH OR 18% PER
ANNUM CHARGED ON PAST DUE ACCOUNTS.
BY YOUR OR YOUR AGENTS SIGNATURE OF
ACCEPTANCE OF WORK YOU AGREE TO THE
PAYMENT TERMS STATED ON THE WORK ORDER.

WORK ACCEPTED BY



Alamogordo, NM

Reading ▼

- ☐ All Cycle
- ☐ Cycle 01
- ☐ Cycle 02
- ☐ Cycle 03
- ☐ Route 10
- ☐ Route 20
- ☐ Route 30
- ☐ Route 40
- ☒ Route 50
- ☐ Route 60
- ☐ Route 70
- ☐ Cycle 04
- ☐ Cycle 05
- ☐ Cycle 06
- ☐ Cycle 07
- ☐ Cycle 08
- ☐ Cycle 09
- ☐ Cycle 10
- ☐ Cycle 11
- ☐ Cycle 12
- ☐ Cycle 13

Reading Report Reading Detail Profile Graph Graph Options

Account#: 035767009394WA00CF
Name: SANDOVAL II, GEORGE
Meter ID: 11534855
MIU SN: 2033009
Address: 504 E FIRST ST

Utility: Alamogordo, NM
Cycle: 03
Route: 50
Sequence: 019010
City, State: Alamogordo, NM
Period: 04/09/16 - 05/23/16

Peak consumption of 15829 cubic feet occurred during the day of 05/17/16

Current Read: 392036 Read Time: 05/23/16 12:00:00 AM
Graph Date: 07/05/16 02:57 PM

Align To Billing

Begin Date

04/09/2016 00:00

End Date

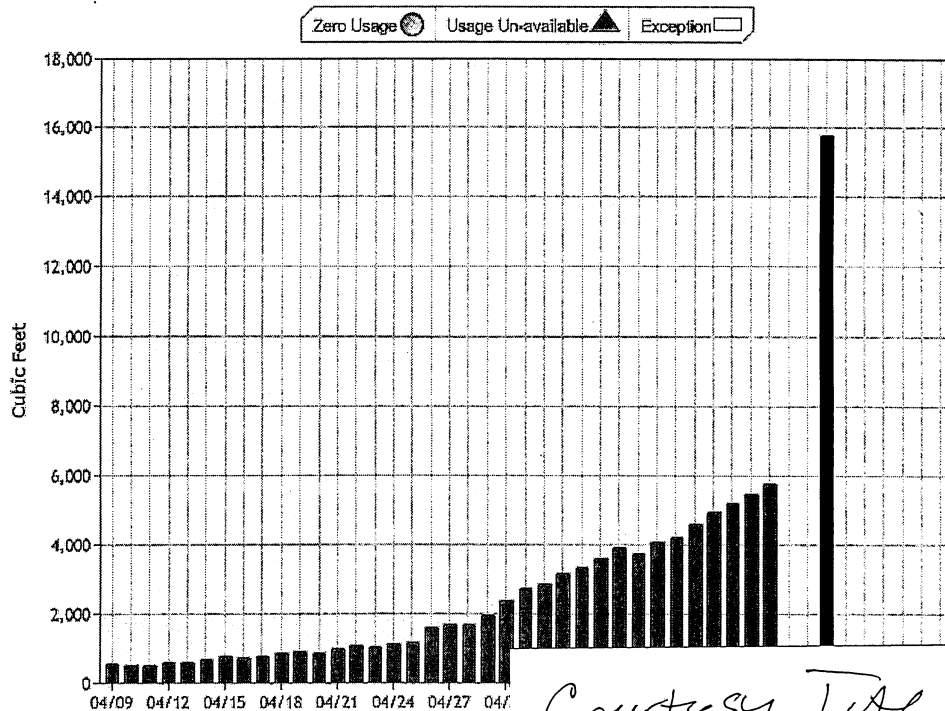
05/23/2016 01:00

Agg. Level Daily ▼

Refresh Graph



Now Displaying: 04/09/16 00:00 - 05/23/16 01:00



Courtesy TAC
5/16/16

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 08/23/2016

Report Date: 8/17/2016

Report No: 12.

Submitted By: Mark Threadgill

Subject: Consider, and act upon, a request by the City of Alamogordo related to a leak adjustment request for 3102 N. Florida Ave. (*Mark Threadgill, Customer Service Manager*)

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact: \$8,572.22 Proposed Adjustment based on Leak Abatement Policy

Recommendation: Staff recommends approval of leak abatement in the amount of \$8,572.22 for 3102 N. Florida Ave.

Background:

The customer suffered a leak on the interior of the building within the walls. The customer repaired the leak and asked for a leak abatement under City policy. The request meets all of the requirements of the Leak Abatement Policy, however, the calculated adjustment amount of \$8,572.22 exceeds the maximum amount. \$2,500.00, that can be approved by staff.

**CITY OF ALAMOGORDO
UTILITY BILLING DEPARTMENT
LEAK ADJUSTMENT WORK SHEET**

Date: June 28, 2016

Customer #	Location #	Name	Service Address	Cycle/Route
108543	7916	City of Alamogordo	3102 N Florida Ave	09/20

Billing Date: 06/22/16

Actual Billed Consumption: 116,890

Billing Period: 05/04 - 06/07/16

Bill Amount: \$9,029.09

\$9,029.09

Average Consumption: 1,500

Difference Billed-Average 115390
Difference Billed @ Tier 1 \$1,673.16

Average Bill: \$40.10

Total Difference \$1,673.16

\$40.10

Credit Memo #

Total Average \$40.10
Total Billed over Average \$1,673.16
Total \$1,713.26

Difference of Average and Actual
Must Exceed \$125.00
\$8,988.99

Total Billed \$9,029.09
Minus Adjustment \$1,713.26
Water \$7,315.84
Sewer \$1,196.55
Tax on Adjusted 59.83
Total Adjusted \$8,572.22

Meets Qualifications X

Does not meet qualifications _____

This customer is requesting relief on his/her water bill for the month of June 2016.
Any help will be greatly appreciated.
If you have any questions, please call Nichole Sierra @ ext 4261

Approve _____ Disapprove _____

Internal Control Analyst

Prepared by: sm

UT470107

CITY OF ALAMOGORDO, NEW MEXICO

6/27/16
11:21:50

Customer ID
Location ID
Cycle/route
Bill date
Due date
Type option
5=Display
Svc

Opt Type Ty
— CA RE
— CA SE

Opt Svc
— CA
— CA
— CS
— CS

Charge Summary

Code	Description	Amount
CA	WATER - CITY ACCTS	9029.09
CS	CITY ACCOUNT SEWER	1225.68
	TAXES	61.28
	Total Actual Charges	10316.05

ENTER=Exit F8=Print F10=Reprint Bill Bottom
F14=Send as EMAIL

es

es : 10316.05
amt: 10316.05

Est Cmt
ter Number Cd Cd
567692
567692

Rate Group S/W
AL/I/M
AL/I/M
AL/I/M
AL/I/M

$$1500 \times 1.45 = 21.75$$

17.35

1.00

 40.10

$$1500 \times 90\% \times 1.15 = 15.53$$

13.60

29.13

- 1225.68

 1196.55

UT470107

CITY OF ALAMOGORDO, NEW MEXICO
Account History - Consumption and Actual Charges

6/27/16
11:21:50

Customer ID: 108543 Name: CITY OF ALAMOGORDO
 Location ID: 7916 Addr: 3102 N FLORIDA AVE
 Cycle/route : 09 20 Bill type : CYCLE BILL
 Bill date : 6/22/16 Prev balance: .00 Charges : 10316.05
 Due date : 7/07/16 Adj/Pmts : .00 Bill amt: 10316.05
 Type options, press Enter.

5=Display

Opt	Svc	Reading	Actual	Demand	Days	Meter	Number	Est	Cmt
	Type	Date	Consumption	Consumption				Cd	Cd
—	CA	REG	6/07/16	116890.00	.00	34	00567692		
—	CA	SET	5/04/16	.00	.00	0	00567692		

Opt	Svc	Comp	Description	Billed	Consumption	Amount	Rate	Group	S/W
—	GT		GOV GROSS RECPTS TAX		.00	61.28	AL/I/M		
—	CA	BASE	BASE RATE		116890.00	19.66	AL/I/M		
—	CA	CON1	TIER 1		1700.00	24.65	AL/I/M		
—	CA	CON2	TIER 2		1700.00	39.95	AL/I/M		
—	CA	CON3	TIER 3		1133.33	41.37	AL/I/M		
—	CA	CON4	TIER 4		1133.33	60.07	AL/I/M		+

F3=Exit F6=Date F9=Summary F10=Budget charges F11=Consumption F12=Cancel

UT470107

CITY OF ALAMOGORDO, NEW MEXICO
Account History - Consumption and Actual Charges6/27/16
11:21:50

Customer ID: 108543 Name: CITY OF ALAMOGORDO
 Location ID: 7916 Addr: 3102 N FLORIDA AVE
 Cycle/route : 09 20 Bill type : CYCLE BILL
 Bill date : 6/22/16 Prev balance: .00 Charges : 10316.05
 Due date : 7/07/16 Adj/Pmts : .00 Bill amt: 10316.05
 Type options, press Enter.

5=Display

Opt	Svc	Reading	Actual	Demand	Days	Meter Number	Est Cmt
Opt	Type	Type	Date	Consumption	Consumption	Days	Cd Cd
—	CA	REG	6/07/16	116890.00	.00	34	00567692
—	CA	SET	5/04/16	.00	.00	0	00567692

Opt	Svc	Comp	Description	Billed	Consumption	Amount	Rate	Group	S/W
—	CA	CON5	TIER 5		111223.34	8842.26	AL/I/M		
—	CA	CAP	CAPITAL SURCHARGE 81		.00	1.13	AL/I/M		
—	CS	BASE	BASE RATE		.00	15.87	AL/I/M		
—	CS	CONS	CONSUMPTION CHARGES		105201.00	1209.81	AL/I/M		

F3=Exit F6=Date F9=Summary F10=Budget charges F11=Consumption F12=Cancel

UT300I01

CITY OF ALAMOGORDO, NEW MEXICO
Customer/Location Consumption History Inquiry6/27/16
11:22:04

Customer ID: 108543 Name: CITY OF ALAMOGORDO
Location ID: 7916 Addr: 3102 N FLORIDA AVE
Cycle/Route: 09 20 Amount due: \$10,316.05
Initiation date: 5/03/16 Pending: \$.00
Termination date: 0/00/00 Customer status: A Customer/Location status: A
Type options, press Enter.

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

Opt	Reading	Actual	Actual	CF
Svc Type	Date	Consumption	Demand	Reading
CA REG	6/07/16	116890.00	.00	116923.00
CA SET	5/04/16	.00	.00	33.00

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

less than 3 months
average 1500 CF

MEMORANDUM

TO: Nichole Sierra, Utility Billing Supervisor
FROM: Mark Threadgill, Customer Service Manager
DATE: May 3, 2016

SUBJECT: Acct Status - Leak Abatement - 3102 N Florida Ave.

Please transfer account for 3102 N. Florida (Previous account # 86493-7916) to City of Alamogordo charging line item ~~#50-0000-419.47-60~~ 011-2400-419.47-60

Also prepare a leak abatement for the above referenced address. Facilities work order attached to document repair.

*changed location
to city services
(municipal rate)
108543 - 7916
initiation date
5/3/16*

*Initial read
33*

09/20

EMAIL NAME

FW JL

FORWARDED ORIGINAL

WF 01/19/24

Facility Maintenance / Work Order

*** Circle One ***

Elect. Maint. (EM)	Comm. Maint. (CM)	Heating & Cooling (HC)	Plumb. Maint. (PM)	Carp. Maint. (CA)	Pool Maint. (PO)
--------------------------	-------------------------	------------------------------	--------------------------	-------------------------	------------------------

Called Emailed BY: Jim McClair DATE 1/19 /2016

Department Requesting Work Fire

Department Number (Labor) 011-4104-4820 -4424

Building or Location LaPlacita

Work Requested: water coming out of wall

water turned off

Work Performed: Ispeped off broke water line & dried out walls

Employee	Date	Time
<u>Croton</u>	<u>1/19</u>	<u>1 1/4</u>
<u>I</u>	<u>1/21</u>	<u>1/2</u>
<u>I</u>	<u>1/25</u>	<u>~</u>
<u>I</u>	<u>1/28</u>	<u>~</u>
<u>I</u>	<u>1/29</u>	<u>1 1/2</u>
<u>Joe</u>	<u>~</u>	<u>~</u>
<u>Croton</u>	<u>2/3</u>	<u>1 1/2</u>

Remember to put the names and time of others who may have helped you in completing this work order.

Zimbra

mthreadgill@ci.alamogordo.nm.us

Re: 3102 N Florida Ave

From : Roger Schoolcraft
<rschoolcraft@ci.alamogordo.nm.us>

Fri, Mar 11, 2016 08:50 AM

Subject : Re: 3102 N Florida Ave

To : Mikel Ward <mward@ci.alamogordo.nm.us>

Cc : Mark Threadgill
<mthreadgill@ci.alamogordo.nm.us>, LeeAnn
Nichols <lnichols@ci.alamogordo.nm.us>

Good Morning,
We are using the north wing of the building for Long Term evidence storage. I believe all the water connections on the north wing were all capped during the renovation. Larry might be able to answer the water question alot better than I can.

Thanks,
Chief Schoolcraft

From: "Mikel Ward" <mward@ci.alamogordo.nm.us>
To: "Mark Threadgill" <mthreadgill@ci.alamogordo.nm.us>
Cc: "Roger Schoolcraft" <rschoolcraft@ci.alamogordo.nm.us>, "LeeAnn Nichols" <lnichols@ci.alamogordo.nm.us>
Sent: Friday, March 11, 2016 8:16:20 AM
Subject: Re: 3102 N Florida Ave

Good Morning,
The Fire Department is planning usage of the building and property portions that have been allocated to our department, however, we are not currently using the building. Roger will know more about the PD usage, but I do know last month Larry Gardner handled a significant water break at that building. Not sure what the result of that was.
Thank you,

Mikel Ward
Fire Chief
Alamogordo Fire Department

From: "Mark Threadgill" <mthreadgill@ci.alamogordo.nm.us>
To: "Mikel Ward" <mward@ci.alamogordo.nm.us>, "Roger Schoolcraft" <rschoolcraft@ci.alamogordo.nm.us>
Cc: "LeeAnn Nichols" <lnichols@ci.alamogordo.nm.us>
Sent: Friday, March 11, 2016 8:10:22 AM
Subject: 3102 N Florida Ave

Chiefs

I understand that both departments are currently using the building at 3102 N Florida Ave (old reintegration center) - there is water being used at the building and I need to know to which department do I charge the consumption.

Thanks

--

Mark Threadgill
Customer Service Manager
City of Alamogordo
575-439-4288
mthreadgill@ci.alamogordo.nm.us

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 08/23/2016

Report Date: 8/17/2016

Report No: 13.

Submitted By: Mark Threadgill

Subject: Consider, and act upon, edits and corrections to the City of Alamogordo Leak Abatement Policy. *(Mark Threadgill, Customer Service Manager)*

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Staff recommends approval of the Leak Abatement Policy dated August 23, 2016 as revised.

Background:

City Commission last approved revisions to the Leak Abatement Policy in November 2015. At that time, two separate policies were combined to create the current policy. It went unnoticed that the methodology used to calculate adjustments for “extraordinary circumstances” (primarily city caused leaks) was not fair to the customer. As currently worded any adjustment for a city caused “leak” would result in the customer incurring some of the costs of the leak. Staff has suggested language in Section 2(a) of the policy to correct this error.

Additionally, staff has submitted several changes to clarify sections of the policy. All changes are highlighted in the attached revised draft.

CITY OF ALAMOGORDO FINANCE DEPARTMENT



DRAFT

LEAK ABATEMENT

City Manager Approval:

Finance Dir. Approval:

Section: CUSTOMER SERVICE

Document No.

Last Update:

Deleted text New text

Purpose: To provide a fair and equitable manner in addressing water consumption charges due to customer water leaks or extraordinary circumstances.

Policy: It is the policy of the City of Alamogordo to grant relief from high water bills due to undetected water leaks or ~~water leaks~~ charges caused by extraordinary circumstances when the applicant for relief meets eligibility requirements.

Persons Affected: Customers of the City of Alamogordo water utility.

Procedures:

A) Determining eligibility:

1) Leak Abatement

- a) The monthly water bill in question must exceed \$125 over customer's average water charges
- b) The applicant must furnish proof that;
 - i. The leak or break was beyond his/her control
 - ii. That he/she did not and could not have reasonably detected the problem earlier, and
 - iii. That the customer took immediate action to correct the problem as soon as he/she became aware of it. If customer received notification from City of a potential leak the date of the notification shall be considered date customer became aware of leak; and
- c) The applicant must prove that repairs have been completed satisfactorily.

2) Extraordinary Circumstances

- a) Consumption caused by faulty City supplies or parts: (i.e.; risers, curb stops, backflow preventers, meter and/or associated components)
- b) Staff determines the consumption was caused by construction or maintenance by City crews: (i.e.; air in lines, break on customer's service line during maintenance).
- c) Unexplainable consumption

B) Calculations

1) Leak Abatement

- a) To determine leak abatement credit, the average consumption will be estimated by using consumption for the previous twelve months. Any

consumption over the average shall be calculated by using last years average Tier. If customer averaged Tier 2, IE; then his customer's consumption over the average consumption will be calculated using Tier 2 Rates. If the applicant has had service at the address for less than one year, then by determining the average consumption for the period of service of at least three months. If the customer has had less than three months of service, 1500-cubic feet will be used to calculate abatement.

- b) The City of Alamogordo will allow only one customer side leak per calendar year to be adjusted. If leak affects more than one billing period, a maximum of two consecutive months may be adjusted.

2) Extraordinary Circumstances

- a) The City of Alamogordo will adjust Utility Charges for amounts over the average under extraordinary circumstances utilizing the same calculation(s) defined for Leak Abatement through the abatement of monthly charge amounts in excess of the average monthly charge for the previous twelve (12) months.

C) Determinations

- 1) The City Manager or Finance Director shall have the authority to determine eligibility for any adjustment under these guidelines and shall grant any adjustment as set forth in the policy up to \$2,500.00. Any amount over \$2,500.00 must be approveded by the City Commission.

History: Approved by City Commission December 15, 2009

Revised and Approved by City Commission November 17, 2015

Revised and Approved by City Commission August 23, 2016

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 08/23/2016

Report Date: 8/17/2016

Report No: 14.

Submitted By: Mark Threadgill

Subject: Consider, and act upon, the Low Flow Toilet Policy. *(Mark Threadgill, Customer Service Manager)*

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact: Depends on the number of rebate requests per fiscal year.

Recommendation: Staff recommends approval of the LOW FLOW TOILET REBATE POLICY dated August 23, 2016.

Background:

A Low Flow Toilet Program is basically a water conservation program which provides an incentive to the customer for replacing old “high flow” toilets with newer “low flow” toilets. In Alamogordo the incentive is \$6.00 credit per month per toilet for 12 months – or \$72.00 per toilet.

The City has had a Low Flow Toilet Program since November 2001. The program started as a four month pilot program with a limit of 200 residential toilet replacements. In April 2002 Commission, in adopting Ordinance 1148, extended the program through Dec. 31, 2002, or 600 residential toilets, whichever occurred first. In February 2003 the Commission extended the program indefinitely retroactive to January 1, 2003 and included commercial properties with a cap of 200 toilets per year. It is this Commission action on which the program has operated the past 13 years.

Unfortunately, through research done by Utility Billing, we have been unable to locate any policy and/or procedure for the operation of the program. A review of the Commission agenda packets where the program was discussed did not produce any written policy or procedure. It does appear however, that at least in 2002, the program was run by the “Code Administration Division”. At that time, it was indicated that the application, paid invoices, verification and proper disposal of old toilet would be handled through Code Administration – a division which no longer exists.

At some point in the past, administration of the program passed to Utility Billing without benefit of written policies or procedures. The program runs through “institutional memory”.

As it stands now, a customer merely fills out a program form, supplies a receipt indicating the purchase/installation of a low flow toilet and a "toilet disposal" form from the Convenience Center and the customer receives \$72.00 (\$6.00 per month X 12 months) in water bill credit from Utility Billing.

The lack of any formal policies, procedures or guidelines recently became evident when a local motel operator applied for a Low Flow Toilet Rebate in the amount of \$2,016 for the replacement of 28 toilets (low flow to lower flow) – the operator had previously received a rebate for 28 toilets (high flow to low flow). When we denied his application he was upset and requested copies of the policies concerning the Low Flow Toilet Program – which of course, we could not produce. I was able to explain to him Commission's direction on the program based on minutes from past Commission meetings.

Staff has prepared a draft LOW-FLOW TOILET REBATE POLICY for review and approval. The policy, with one exception, adheres to the practices followed by the City since the inception of the program. Staff is recommending one significant change – that is the credit of a one-time rebate of \$72.00 to the utility account holder's bill instead of twelve monthly credits of \$6.00. The latter is an administrative burden as the Utility Billing System is not conducive to automating this sort of credit and staff is required to keep a manual record of the on-going credit(s).

CITY OF ALAMOGORDO FINANCE DEPARTMENT		
 DRAFT LOW-FLOW TOILET REBATE POLICY	City Manager Approval:	
	Commission Approval:	
Section: CUSTOMER SERVICE	Document No.	Last Update:

PURPOSE: To provide a conservation incentive to City of Alamogordo Water Utility customers.

PERSONS AFFECTED: City of Alamogordo Water Utility customers that replace high-flow toilets (3 gallons or more per flush) with low-flow toilets (1.6 gallons or less per flush)

POLICY: The City of Alamogordo shall provide a one time rebate of seventy-two dollars (\$72.00) per low-flow toilet purchased and installed to replace an existing high-flow toilet. The rebate of \$72.00 shall be applied as a one-time credit to the active water account of the applicant.

For single family residential water account rebate shall be limited to a maximum of 2 replacement toilets.

For commercial water accounts (restaurant, apartment, trailer park, hotel, motel, etc.) rebate shall be limited to a one time application for up to the total number of units served by the water account as verified by the City.

It is the intent of this policy that each water account location is eligible for and receives only one rebate.

The City Manager shall establish such procedures as are necessary to implement this policy. The City Manager may suspend this program when, in his/her judgment, it is in the best interest of the City.

DEFINITION

High-flow toilet – toilet which uses 3 gallons or more per flush, typically manufactured and installed prior to 1994.

Low-flow toilet – also known as high efficiency toilet, uses 1.6 gallons or less per flush, typically manufactured and installed after 1994.

HISTORY

Pilot Program approved November 2001, Program extended indefinitely February 2003 – capped rebates to 600 residential and 200 commercial toilets.

Policy created and approved by City Commission August 23, 2016

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 08/23/2016

Report Date: 8/17/2016

Report No: 15.

Submitted By: Maggie Paluch

Subject: Consider, and act upon, Resolution No. 2016-37 adopting an Infrastructure Capital Improvement Plan (ICIP) and identifying the top five (5) recommended projects for Fiscal Years 2018-2022. (*Maggie Palach, Acting City Manager*) **(Roll Call Vote required)**

Fiscal Impact:

Amount Budgeted:

Fund:

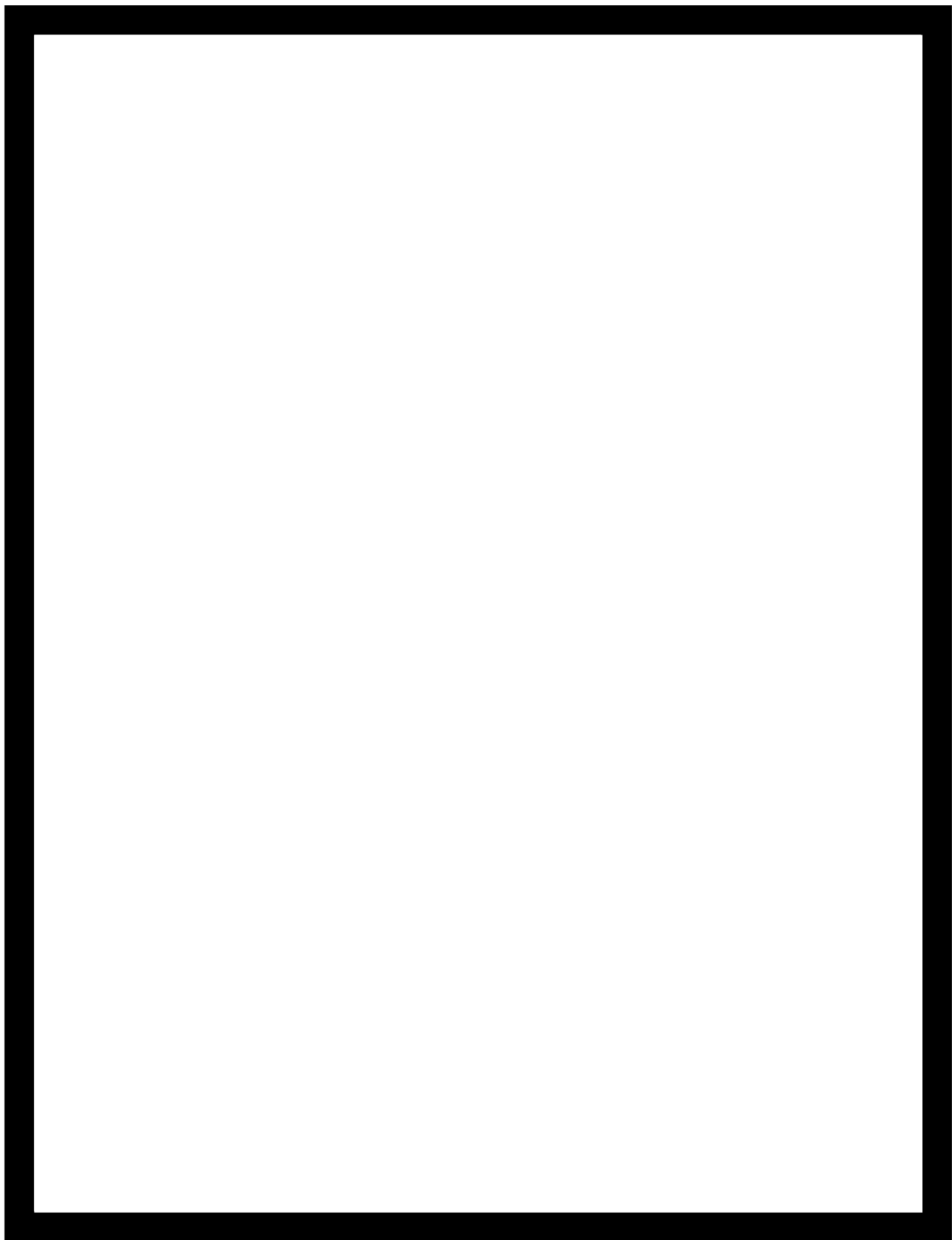
Additional Fiscal Impact:

Recommendation: Approve the Resolution. **(Roll Call Vote required)**

Background: In January of each year the City provides our legislature with a prioritized list of Capital Improvement Projects for possible legislative funding. As a result, the Office of the City Manager and staff initiated the annual ICIP process by requesting City departments to submit feasible projects for consideration. In addition, the City conducted a public meeting at the City of Alamogordo Library on August 15, 2016 at 6:00 p.m. for public input.

Staff advises that the City Commission approve the ICIP project list as recommended and that the top five ICIP projects be presented for the January 2017 Legislative Capital Outlay Request for public funding. The top five projects recommended by City staff are:

- 1) New Firefighter Pumper Apparatus for Fire District 5 - \$625,000 (Sponsored by Fire Chief Mikel Ward)
- 2) Police Department Vehicles & Equipment - \$250,000 (Sponsored by Police Chief Daron Syling)
- 3) Renovate Library Restrooms - \$100,000 (Sponsored by Customer Services Director Veronica Ortega)
- 4) Park Playground Shades - \$240,000 (Sponsored by Customer Services Director Veronica Ortega)
- 5) Facilities for ADA Compliance - \$300,000 (Sponsored by Acting City Manager Maggie Paluch)



RESOLUTION NO. 2016-37

A RESOLUTION ADOPTING AN INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (ICIP) AND IDENTIFYING THE TOP FIVE (5) RECOMMENDED PROJECTS FOR FISCAL YEAR: 2018 – 2022

WHEREAS, the City of Alamogordo, New Mexico, a municipal corporation, recognizes the financing of public capital projects has become a major concern in the State of New Mexico, and nationally; and,

WHEREAS, in times of scarce resources, it is necessary to find new financing mechanisms and maximize the use of existing resources; and

WHEREAS, systematic capital improvements planning is an effective tool for communities to define their development needs, establish priorities and pursue concrete actions and strategies to achieve necessary project development; and,

WHEREAS, this process contributes to local and regional efforts in project identification and selection to achieve necessary project development; and

WHEREAS, this process contributes to the local and regional efforts in project identification and selection in short and long-range capital planning efforts.

NOW THEREFORE, BE IT RESOLVED by the governing body of the City of Alamogordo, New Mexico:

Section 1. The City of Alamogordo has adopted the attached Infrastructure Capital Improvements Plan for FY2018-FY2022; and,

Section 2. The City of Alamogordo has identified the top five (5) recommendations for Capital Outlay projects for the Infrastructure Capital Improvements Plan for FY2018-2022, and;

Section 3. It is intended that the Plan be a working document and that it be the first of many steps towards improving rational, long-range capital planning and budgeting for New Mexico's infrastructure.

PASSED APPROVED AND ADOPTED this 23rd of August, 2016.

CITY OF ALAMOGORDO, NEW MEXICO
A New Mexico Municipal Corporation

Richard A Boss, Mayor

ATTEST:

APPROVED AS TO FORM:

Nancy Jacobs, City Clerk

Lauren Truitt, Assistant City Attorney

FY 2018 through FY 2022 LOCAL INFRASTRUCTURE CAPITAL IMPROVEMENTS PLAN

PROJECT SUMMARY (ICIP)



Number	Department	Priority	Project Title	Category	Fund Sources	Funded to Date	2018	2019	2020	2021	2022	Project Grand Total
1	Alamogordo Fire Department	2018-01	Purchase New Firefighter Pumper Apparatus for Fire District #5	Fire	CAPITAL OUTLAY NMFA LOAN LOCAL FUNDS	\$ -	\$ 625,000	\$ -	\$ -	\$ -		\$ 625,000
2	Alamogordo Police Department	2018-02	Police Department Vehicles & Equipment	Public Safety Vehicles	CAPITAL OUTLAY	\$ 200,000	\$ 250,000	\$ 150,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 900,000
3	Community Services	2018-03	Library	Cltural Facailities	CAPITAL OUTLAY LOCAL FUND	\$ -	\$ 100,000	\$ -	\$ -	\$ -	\$ -	\$ 100,000
4	Community services	2018-04	Playground Shade Structure	Public Parks (local)	CAPITAL OUTLAY LOCAL FUND		\$ 240,000					\$ 240,000
5	Engineering	2018-05	Facilities for ADA Compliance	Other	LOCAL FUNDS CAPITAL OUTLAY CDBG GRANT	\$ -	\$ 300,000	\$ -	\$ -	\$ -	\$ -	\$ 300,000
6	Community Services	2018-06	Multi-Purpose Recreational Trail	Public Parks (local)	CAPITAL OUTLAY LOCAL FUND	\$ -	\$ 100,000	\$ -	\$ -	\$ -	\$ -	\$ 100,000
7	Alamogordo Fire Department	2018-07	Construct Burn Building for Fire Fighting Training Center	Fire	CAPITAL OUTLAY OTHER STATE GRANTS NMFA LOAN LOCAL FUNDS	\$ -	\$ 25,000	\$ 325,000	\$ 25,000	\$ -		\$ 375,000
8	Engineering	2018-08	Dr. Martin Luther King Jr Drive West-Hamilton Road to Hwy 70	Highways/Roads/Bridges	LEGISLATIVE GRANT NMDOT GRANT FEDERAL GRANT LOCAL FUNDS CAPITAL OUTLAY	\$ -	\$ 380,000	\$ 670,000	\$ 1,000,000	\$ 5,000,000	\$ 4,050,000	\$ 11,100,000
9	Engineering	2018-09	Abbott Ditch Improvements	Water Supply	LOCAL FUNDS LOCAL BOND NMED GRANT CAPITAL OUTLAY NMED LOAN	808,112	195,000	-	-	-	-	1,003,112
10	Engineering/ Community Service	2018-10	Blight Eradication	Other	COMMUNITY DEVELOPMENT BLOCK GRANT LEGISLATIVE GRANT FEDERAL GRANT	-	450,000	100,000	-	-	-	550,000
11	Engineering	2018-11	Washington Avenue Reconstruction - Tenth Street to Indian Wells Road	Highways/Roads/Bridges	LOCAL FUNDS CAPITAL OUTLAY NMDOT GRANT LEGISLATIVE GRANT	-	110,000	1,250,000	1,250,000	-	-	2,610,000
12	Alamogordo Fire Department	2018-12	ARFF Truck for Fire Station #3	Fire	CAPITAL OUTLAY OTHER STATE GRANTS NMFA LOAN LOCAL FUNDS	\$ -	\$ 1,200,000	\$ -	\$ -	\$ -	\$ -	\$ 1,200,000
13	Alamogordo Fire Department	2018-13	Construct New Fire Station for Whitesands Airport & Fire District 2	Fire	CAPITAL OUTLAY OTHER STATE GRANTS NMFA LOAN LOCAL FUNDS	-	1,600,000	-	-	-	-	1,600,000
14	Alamogordo Fire Department	2018-14	Fire Station #7 Improvements	Fire	CAPITAL OUTLAY NMFA LOAN LOCAL FUNDS	7,319	490,000	-	-	-	-	497,319
15	Alamogordo Fire Department	2018-15	Construct New Fire Station #8 fir District 6 Mesa Villag Area	Fire	CAPITAL OUTLAY NMFA LOAN	-	160,000	1,800,000	40,000	-		2,000,000
16	Alamogordo Fire Department	2018-16	ARFF Training Facility at White Sands Regional Airport	Fire	CAPITAL OUTLAY OTHER STATE GRANTS NMFA LOAN LOCAL FUND	-	75,000	1,000,000	725,000	-		1,800,000

FY 2018 through FY 2022 LOCAL INFRASTRUCTURE CAPITAL IMPROVEMENTS PLAN

PROJECT SUMMARY (ICIP)

DRAFT

Number	Department	Priority	Project Title	Category	Fund Sources	Funded to Date	2018	2019	2020	2021	2022	Project Grand Total
17	Public Works	2018-17	City Hall HVAC Replacement	Admin/Service Facilities	LOCAL FUNDS LOCAL BONDS	\$ -	\$ 100,000	\$ 100,000	\$ 100,000	\$ -	\$ -	\$ 300,000
18	Public Works	2018-18	City Hall Exterior Rehab	Admin/Service Facilities	LOCAL FUNDS LOCAL BONDS	\$ -	\$ 125,000	\$ -	\$ -	\$ -	\$ -	\$ 125,000
19	Public Works	2018-19	Snake Tank Transmission Line	Water Supply	LOCAL FUNDS LOCAL BOND NMED GRANT CAPITAL OUTLAY NMED LOAN	1,200,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	11,200,000
20	Public Works	2018-20	Fresnal Canyon Pipeline Replacement, Diversion 5 to Snow Smith Springs	Water Supply	LOCAL FUNDS LOCAL BOND NMED GRANT CAPITAL OUTLAY NMED LOAN	-	675,000	-	-	-	-	675,000
21	Public Works	2018-21	Griggs Field Detention Basin/ Storm Drain	Storm/Surface Water Control	LOCAL FUNDS LOCAL BOND NMED GRANT CAPITAL OUTLAY NMED LOAN	\$ 804,500	\$ 3,000,000	\$ 2,000,000	\$ -	\$ -	\$ -	\$ 5,804,500
22	Public Works	2018-22	Scenic Drive Extension - White Sands Boulevard to Charlie T. Lee Memorial Relief Route	Highways/Roads/Bridges	LEGISLATIVE GRANT NMDOT GRANT FEDERAL GRANT LOCAL FUNDS CAPITAL OUTLAY	\$ -	\$ 4,200,000	\$ -	\$ -	\$ -	\$ -	\$ 4,200,000
23	Public Works	2018-23	Callahan Water Storage Rehab	Water Supply	Local Funds Local Bond NMED Grant Capital Outlay NMED Loan	-	864,000	-	-	-	-	864,000
24	Public Works	2018-24	Foothills Water Storage Rehab	Water Supply	Local Funds Local Bond NMED Grant Capital Outlay NMED Loan	-	1,052,300	-	-	-	-	1,052,300
25	Public Works	2018-25	Lower Alamo Water Storage Rehab	Water Supply	Local Funds Local Bond NMED Grant Capital Outlay NMED Loan	-	810,600	-	-	-	-	810,600
26	Public Works	2018-26	Ocotillo Water Storage Rehab	Water Supply	Local Funds Local Bond NMED Grant Capital Outlay NMED Loan	-	56,800	-	-	-	-	\$ 56,800
27	Public Works	2018-27	Upper Heights Water Storage Rehab	Water Supply	Local Funds Local Bond NMED Grant Capital Outlay NMED Loan	-	816,400	-	-	-	-	\$ 816,400
28	Public Works	2018-28	Griggs Field Park GSR	Wastewater	Local Funds Local Bond NMED Grant Capital Outlay NMED Loan	-	897,317	-	-	-	-	\$ 897,317
29	Public Works	2018-29	18th Street GSR	Wastewater	Local Funds Local Bond NMED Grant Capital Outlay NMED Loan	-	1,491,516	-	-	-	-	\$ 1,491,516
30	Public Works	2018-30	University Park GSR	Wastewater	Local Funds Local Bond NMED Grant Capital Outlay NMED Loan	-	839,127	-	-	-	-	\$ 839,127

FY 2018 through FY 2022 LOCAL INFRASTRUCTURE CAPITAL IMPROVEMENTS PLAN

PROJECT SUMMARY (ICIP)

DRAFT

Number	Department	Priority	Project Title	Category	Fund Sources	Funded to Date	2018	2019	2020	2021	2022	Project Grand Total
31	Public Works	2018-31	LaVelle Reclaimed/ Portable Flush Modification	Wastewater	Local Funds Local Bond NMED Grant Capital Outlay NMED Loan	-	54,000	-	-	-	-	54,000
32	Public Works	2018-32	10th Street Reservoir Exterior	Water Supply	Local Funds Local Bond NMED Grant Capital Outlay NMED Loan	-	208,600	-	-	-	-	208,600
33	Public Works	2018-33	Parks/Golf Course SCADA installation	Wastewater	Local Funds Local Bond NMED Grant Capital Outlay NMED Loan	-	956,000	-	-	-	-	956,000
34	Finance	2018-34	GIS Information & Services	Adm./Service Facilities (Local)	CAPITAL OUTLAY, LOCAL FUNDING	-	50,000	50,000	-	-	-	100,000
35	Community Services	2018-35	Runway Strengthening & Design	Airports	CAPITAL OUTLAY FEDERAL GRANT	-	8,000,000	-	-	-	-	8,000,000
36	Community Services	2018-36	Wildlife Hazard Assessment	Airports	CAPITAL OUTLAY FEDERAL GRANT	-	90,000	-	-	-	-	90,000
40	PHA	2018-37	Replacement of Windows at Alta Vista & Plaza Hacienda	Housing-Related Cap Infra	FEDERAL GRANT	-	827,000					827,000
41	PHA	2018-38	Upgrade Housing Unit Plumbing at Plaza Hacienda	Housing-Related Cap Infra	FEDERAL GRANT	-	50,000	50,000	50,000			150,000
42	Engineering	2019-01	South Florida Avenue Extension - Desert Lakes Road to Dr. Martin Luther King Jr. Drive	Highways/Roads/Bridges	NMDOT GRANT CAPITAL OUTLAY LOCAL FUND FEDERAL GRANT LEGISLATIVE GRANT	\$ -	\$ -	\$ 290,000	\$ 520,000	\$ 1,000,000	\$ 3,000,000	\$ 4,810,000
43	Engineering	2019-02	First Street - White Sands Boulevard to UPRR	Highways/Roads/Bridges	LOCAL FUNDS CAPITAL OUTLAY NMDOT GRANT LEGISLATIVE GRANT FEDERAL GRANT	-	-	60,000	95,000	2,000,000	-	2,155,000
44	Alamogordo Police Dept	2019-03	Animal Control Vehicles	Public Safety Vehicles	CAPITAL OUTLAY	\$ -		\$ 55,000	\$ -	\$ -	\$ -	\$ 55,000
45	Community Services	2019-04	Runway 3-21 Lighting Rehabilitation	Airports	CAPITAL OUTLAY FEDERAL GRANT			945,000				945,000
37	Community Services	2019-05	ASC Exercise Facility Roof Replacement	Senior Center	OTHER (NMALTSO)	-	-	18,880	-	-	-	18,880
38	Community Services	2019-06	Kitchen Flooring Replacement	Senior Center	OTHER (NMALTSO)	-	-	22,600	-	-	-	22,600
39	Community Services	2019-07	Bus ASC	Senior Center	OTHER (NMALTSO)	-	-	82,000			-	82,000
46	PHA	2019-08	Remove & Replace Sidewalks, Curbs & Gutters at Alta Vista	Housing-Related Cap Infra	FEDERAL GRANT	-	-	300,000				300,000
47	PHA	2019-09	Design & Develop Laundry Facility at Plaza Hacienda	Housing-Related Cap Infra	FEDERAL GRANT	-	-	120,000				120,000
48	PHA	2019-10	Replacement of Storm Doors at Alta Vista & Plaza Hacienda	Housing-Related Cap Infra	FEDERAL GRANT	-	-	25,000				25,000

FY 2018 through FY 2022 LOCAL INFRASTRUCTURE CAPITAL IMPROVEMENTS PLAN

PROJECT SUMMARY (ICIP)

DRAFT

Number	Department	Priority	Project Title	Category	Fund Sources	Funded to Date	2018	2019	2020	2021	2022	Project Grand Total
49	PHA	2019-11	Repair Spalling at Alta Vista	Housing-Related Cap Infra	FEDERAL GRANT	-	-	25,000				25,000
50	Community Services	2020-01	Expand Large Aircraft Parking & Taxiway Apron Construct	Airports	CAPITAL OUTLAY FEDERAL GRANT				900,000			900,000
51	PHA	2020-02	Upgrade HVAC Systems at Alta Vista	Housing-Related Cap Infra	FEDERAL GRANT	-	-	-	300,000			300,000
52	PHA	2020-03	Design & Remodel Kitchens at Plaza Hacienda	Housing-Related Cap Infra	FEDERAL GRANT	-	-	-	300,000			300,000
53	Community Services	2021-01	Construct South Side Perimeter Drainage Improvements Phase IV	Airports	CAPITAL OUTLAY FEDERAL GRANT	-	-	-	-	360,000		360,000
54	Community Services	2022-01	Construct New Civic Center	Cultural Facilities	CAPITAL OUTLAY FEDERAL GRANT	-	-	-	-	-	10,000,000	10,000,000
				Grand Total		3,019,931	33,463,660	11,438,480	7,405,000	10,460,000	19,150,000	84,937,071
												84,937,071

The City conducted a public meeting at the City of Alamogordo Library on August 15, 2016 at 6:00 p.m. for public input.

Six citizens showed up at the public meeting on August 15.

Directors Meeting August 10, 2016 the recommendations for the top five (5) projects were presented for the January 2018 Legislative Capital Outlay Request for possible funding:

1. Purchase of a new Firefighter Pumper - \$625,000 – Sponsored by Mikel Ward
2. Police Department Vehicles & Equipment - \$250,000 - Sponsored by Chief Daron Syling
3. Library Bathroom Renovation - \$100,000 - Sponsored by Veronica Ortega
4. Park Playground Shade - \$240,000 - Sponsored by Veronica Ortega
5. Facilities for ADA Compliance - \$300,000 - Sponsored by Maggie Paluch

Rec. 8/15/2016

Zimbra

njacobs@ci.alamogordo.nm.us

Alamogordo's 2018-2022 Infrastructure Capital Improvement Project Plan

From : Cindy Brace/ Dale Emmert
<dale.cin@gmail.com>

Mon, Aug 15, 2016 01:07 PM

Subject : Alamogordo's 2018-2022 Infrastructure Capital
Improvement Project Plan

To : njacobs@ci.alamogordo.nm.us

Dear Ms. Jacobs,

I would like to submit a letter in regards Alamogordo's 2018-2022 Infrastructure Capital Improvement Project Plan. It is my understanding that the city is considering

several options for the pool at the Family Recreation Center on Oregon Avenue.

One of the options for the pool is to have a solar cover on the pool only. I feel that this option would not be very viable particularly during the cooler months (October-March). The outside temperature can be cool especially in the mornings when many do lap swim. The cool/cold walk from the locker room to the heated pool might discourage people from using the facilities.

Another option I believe the city is considering is something similar to one which currently exists, a bubble which would be set up and taken down at 6 month intervals. Such a structure is an affordable option, but several weeks are lost of pool use during those weeks when set up/take down occur. Each time the bubble is put in place or removed, there is wear and tear to the bubble itself and the track system which is integral component of the system. The city had to replace the pool surround and groves for the track in recent years. The pool was supposed to be shut down for sixty days. The sixty day time line actually turned into six months. During that time no one was able to use the pool facilities. I'm sure that some pool users did not return after that lengthy closure.

I believe a better long term solution/option would be to have a permanent structure having a retractable roof. During rain or inclement weather, the roof could be closed and the pool/aquatic center could continue to be used. During the summer months, a retractable roof could allow swimmers the opportunity to swim in the great outdoors.

Thank you for your consideration.

Cynthia Brace
dale.cin@gmail.com

Rec 8/18/2016

City of Alamogordo
2018-2022 ICIP (Infrastructure Capital Improvement Plan)
PUBLIC MEETING COMMENT FORM

The local ICIP is a plan that establishes priorities for anticipated capital projects. The plan covers a five (5) year period that is developed and submitted to the state each year.

Name: Cliff Hudson
Street Address: 302 Desert Sun Court
City/State/Zip: Alamogordo, NM 88310
Phone Number: 575.446.9337
E-mail Address: cliff.hudson@etvamerica.com

1. Please tell us what your top five projects are from the list (spreadsheet) provided

- 1) Alamogordo Fire Dept. #1 (#1 on list)
- 2) Alamogordo Police Dept. #1 (#2 on list)
- 3) Engineering Facilities for ADA Compliance (#5 on list)
- 4) Community Services Library (Restrooms) (#3 on list)
- 5)a Community Services Playground Shades (#4 on list)
- 5)b Finance GTS Info Services (#34 on list)

2. What other projects would you like to be considered for ICIP within the next five years?

Digital Infrastructure that could support City of Alamogordo operations but also possibly through a public-private partnership expand to business development. This is a limiting factor in technical and research business growth.

3. Other comments:

Overall, it's a well thought out plan representing a cross-section of needs across the City. For the future it would be nice to see previous investments that have now come to fruition. It would help connect the citizens to the process.

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 08/23/2016

Report Date: 8/17/2016

Report No: 16.

Submitted By: Nancy Jacobs

Subject: Appointments to Boards and Committees. (*Richard Boss, Mayor*)

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Appoint to the Parks and Recreation Board

Background:

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

Alamogordo Disability Council. One (1) vacancy. Staff Liaison - Edward Balderrama
(Openings due to the expiring term of Rita Martinez) No nominations received.

Community Development Advisory Committee. Four (4) vacancies. Staff Liaison - Stella Rael
(Opening due to the expiring term of Bruce Knee and Tony Alger, and the resignation of Eddie Kemp and Arthur Alterson) No nominations received.

Housing Authority Advisory Board. Two (2) vacancies. Staff Liaison - Evelyn Huff
(Opening due to the expiring term of Kandace Daugherty and the resignation of Angela Mauldin) No nominations received.

Mayors Committee on Aging. Three (3) vacancies. Staff Liaison – Britney Courtier
(Openings due to the resignation of Dawn Lewis, David Day and Josephine Chavez)
No nominations received.

Parks and Recreation Board. One (1) vacancy. Staff Liaison - Veronica Ortega
(Opening due to the resignation of Michael Elliott)

The following individual is interested in being appointed:

Paul G. Sanchez - if appointed, this will be his first term.

Promotion Board. One (1) tourism related vacancy. Staff Liaison - Jan Waffull (*Opening due to the resignation of Kathleen Beall*) No nominations received.

Public Library Board. One (1) vacancy. Staff Liaison – Melissa Garcia (*Opening due to the expiring term of Joann Reynolds*) No nominations received.

Senior Volunteer Programs Advisory Council. Three (3) vacancies. Staff Liaison - Julie Baker (*Openings due to the resignations of Laura L Blackmon, William Whitley and Thomas Rich V.*) No nominations received.

PARKS AND RECREATION BOARD

RECEIVED

AUG 15 2016

CITY CLERK

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

Name: PAUL G. SANCHEZ
Home Phone: Work Phone:
Cell Phone: 575-491-9439 Fax No:
e-mail address: SANCHEZ.HOME@HOTMAIL.COM
Physical Address: 701 7th St, 88310
Is the above address within City limits? Yes ☒ No ☐
Mailing Address: SAME
Present Employer: USAF RETIRED Job Title:

Board/Committee you wish to serve on:

First choice: PARKS + RECREATION COMMITTEE
Second choice:

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

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

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

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

Experience and education relating to the Board/Committee: 26 yr RETIRED
USAF MSgt. I'VE SERVED ON NUMEROUS BOARDS AND
COMMITTEES BOTH IN AND OUT OF THE USAF TO INCLUDE
MAYOR GALEA'S WHITE SANDS BLVD BEAUTIFICATION COMMITTEE
A FULL RESUME IS AVAILABLE ON REQUEST

Please indicate your interest in serving on a City Board/ Committee: I HAVE A
2 1/2 yr OLD GRANDDAUGHTER THAT WILL GROW UP IN
ALAMOGORDO. SHE PLAYS IN MANY OF OUR PARKS AND
RECREATION FACILITIES. I WOULD LOVE TO BE PART
OF MAINTAINING AND IMPROVING THAT

Please return completed application to:

City Clerk's Office
1376 E. Ninth Street
Alamogordo, NM 88310
PHONE: (505)439-4205
FAX: (505)439-4396

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 08/23/2016

Report Date: 8/16/2016

Report No: 17.

Submitted By: Mikel Ward

Subject: Consider, and act upon, providing direction to staff regarding amending the Alamogordo Code of Ordinances Chapter 14, Garbage, Trash, and Refuse, to restructure the requirements for the removal of Abandoned, Wrecked, Dismantled or Inoperative Motor Vehicles. (*Mikel Ward, Fire Chief*)

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Abandoned, Wrecked, Dismantled or Inoperative Motor Vehicles - Staff recommends that commission provide input regarding the proposed changes, and approve permitting staff to proceed with gaining public input and presenting these ordinance amendments at a future meeting.

Background: The City of Alamogordo Code of Ordinances Chapter 14 "Garbage, trash and refuse" provides specific requirements for the identification, storage, and removal of dismantled, partially dismantled, or inoperable vehicle or motor vehicle or parts thereof. As the ordinance is currently written, the citizens of Alamogordo have difficulty maintaining compliance with the ordinance, and code enforcement staff has considerable difficulty enforcing the ordinance. Staff desires to amend the ordinance to ensure the provisions are such that compliance is more achievable, and enforcement is able to be accomplished, in our desire to improve and maintain the cleanliness, safety, and health of the City of Alamogordo.

Staff originally presented recommendations to amend this section of the Code of Ordinances in July and August 2014. This was included in the proposed ordinance 1468, along with several other recommended changes and additions to the code of ordinances. Commission considered this item on July 22, 2014, and August 12, 2013, at which time commission moved to totally dispose of the ordinance and directed staff to work to rewrite the ordinance and bring it back to the commission at a future date.

At this time staff has reviewed and redrafted our proposed changes, removing the other items that were addressed when originally presented. Staff desires to gain the commissions input and direction regarding staff recommended changes. Following which, with the commissions approval to proceed, staff desires to present these recommended changes to the public and gain input from the public regarding their desired changes. Staff will incorporate the public input, staff recommendations, and commission direction into a final document to be approved at a future meeting.

23 August 2016 Commission Meeting

Inoperable Vehicles

Goals:

- ☐ Beautification of City, improving safety and health.
- ☐ Improving the Marketability of our Major Economic Development areas through improved appearance, and code compliance.
- ☐ Fair & Equitable Enforcement of codes throughout all areas of the City of Alamogordo.

- ☐ Consider, and act upon, providing direction to staff regarding amending the Alamogordo Code of Ordinances Chapter 14, Garbage, Trash, and Refuse, to restructure the requirements for the removal of Abandoned, Wrecked, Dismantled or Inoperative Motor Vehicles.

Inoperable Vehicles in Neighborhood Backyards



Provisions of New Ordinance

- ☐ Provides a wider definition of the term motor vehicle.
- ☐ New sections for antique and special interest vehicles.
- ☐ Provides better method for enforcement on vacant or abandoned property within the city.
- ☐ Addresses not only inoperable vehicles but the storage of vehicle parts.
- ☐ Provides for an easier to understand process with Code and PD sharing a similar process.

Added Definitions that you will see in the new changes

- | | |
|-------------------------------|------------------------------|
| • Abandoned - | • Special Interest Vehicle - |
| • Antique Auto - | • Private property -- |
| • Impound - | • Public Property -- |
| • Owner - | • Special Interest -- |
| • Owner of vehicle - | • Wrecked - |
| • Owner of private property - | |

Current Issues for Code Enforcement

- Currently the permissible time for a permit is only 60 days, which has created difficulties in enforcement as many are unable to repair or remove vehicles within the 60 day time period. Currently permits are available only to registered owners, with a hardship, who are able to display the vehicle license plate.
- There are no provisions to provide opportunities for hobbyist automotive rebuilding or restoration.
- Currently permits do not include storage requirements for safety and health. (i.e., Fluids leaking, unsecured doors and windows, mosquito habitats, vehicle precariously positioned on blocks or logs)

Current Code of Ordinances with change # 2

- 14-01-140 Generally-Outdoor Automotive Storage- Abandoned, wrecked, dismantled or inoperative motor vehicles.

Current Issues for Code Enforcement cont.

- Currently definitions do not include clear language for Abandoned Vehicles, Owner, Owner of private property, Private Property, and Public Property.
- Definition of "dismantled or partially dismantled vehicle" is not clear. Currently the definitions are very broad.
- Definition of "Motor Vehicle" doesn't clearly include commercial motor vehicles, truck-tractors, trailers and semitrailers, heavy equipment.
- Currently enforcing the removal of some vehicles, heavy equipment, and race cars, which may not be registered, is required.
- Need expanded definition of "not visible from adjoining or surrounding property or from the street or streets or public ways."

Current Code of Ordinances with change # 3

- (a) Definitions. As used in this section: The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Current Code of Ordinances with changes # 1

- Chapter 14 COA Code of Ordinances "Garbage, trash and refuse and nuisances.

Current Code of Ordinances with change # 3 cont.

- "Abandoned" means any motor vehicle that does not display a current license plate or valid police sticker as defined in section 12-12-18(F)(2) of the Uniform Traffic Ordinance and is left unattended on public property for a period exceeding 72 consecutive hours, or is left unattended on private property for a period exceeding fifteen (15) days.
- "Antique auto" means a passenger car or truck that was manufactured in 1925 or before, or a passenger car or truck that is at least thirty-five years old.

Current Code of Ordinances with change # 3 cont.

- "Dismantled or partially dismantled vehicle" means any motor vehicle from which some part or parts which are ordinarily a component thereof have been removed or are missing rendering the vehicle inoperable.
- "Impound" shall mean the towing and storage of a motor vehicle as authorized in this section.

Commercial Vehicles in Neighborhoods



Current Code of Ordinances with change # 3 cont.

- "Inoperable motor vehicle" means any motor vehicle which by reason of dismantling, disrepair or other cause is incapable of being propelled by its own power and/or any motor vehicle which does not have lawfully affixed thereto an unexpired license plate or plates.

Current Code of Ordinances with change # 3 cont.

- "Owner of a vehicle" shall mean the registered owner or owners of a vehicle as recorded with the state department of motor vehicles or similar agency of a state outside New Mexico. Where written notice to the owner is required by this section, such notice shall be given to each registered owner.

Current Code of Ordinances with change # 3 cont.

- "Motor vehicle" means any wheeled vehicle which is self-propelled and designed to travel along the ground and shall include, but not be limited to automobiles, commercial motor vehicles, truck-tractors, trailers and semitrailers, heavy equipment, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, recreational vehicles and trailers.

Current Code of Ordinances with change # 3 cont.

- "Owner of private property" shall mean the record holder of legal title as shown by the official records of the County of Otero unless there exists a contract purchaser of record, in which case it means the contract purchaser.
- "Private property" means any real property within the city that is privately owned and that is not public property, as defined in this section.

Current Code of Ordinances with change # 3 cont.

- "Public property" means any street or alleyway or right-of-way or parkway or highway, which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, and also means other publicly owned property or facility.
- "Special interest vehicle" means a motor vehicle of any age that has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.

Current Code of Ordinances with change # 4 cont.

- the city for a period of time in excess of 72 hours or upon any private property within the city for a period of time in excess of fifteen (15) days. The presence of an abandoned or wrecked or dismantled or inoperative or partially dismantled vehicle or parts thereof (except such parts that have been reconstructed or converted for practical use) on public property or private property is declared a public nuisance which may be abated in accordance with this article. This section shall not apply to government property and/or:

Current Code of Ordinances with change # 3 cont.

- "Wrecked" means any motor vehicle that is disabled or in a state of ruin or dilapidation which renders it inoperable.

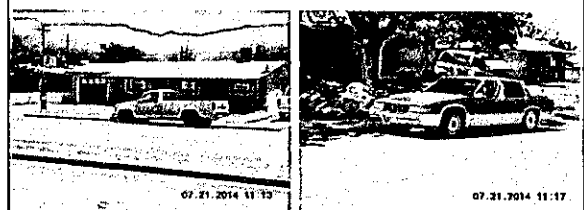
Inoperable Vehicles on Private Property in Landscaped Areas



Current Code of Ordinances with change # 4

- (b) Declared nuisance. The presence of a dismantled, partially dismantled, or inoperable vehicle or motor vehicle or parts thereof on any street, occupied or unoccupied land within the city limits in violation of the terms of this section is a public nuisance. No person shall park, store, leave or permit the parking, storing, or leaving of any motor vehicle of any kind which is in an abandoned or wrecked or dismantled or inoperative or partially dismantled condition, whether attended or not, upon any public property within

Inoperable Vehicles on Public Property



Current Code of Ordinances with change # 4 cont.

- ~~(c) Prohibited acts. It is unlawful for any person, firm or corporation to store on, or permit to be stored on, or allow to remain on any public or private property or street or highway within the city limits a dismantled, partially dismantled or inoperable motor vehicle or any parts of a motor vehicle unless such vehicle is in an enclosed building or on property which is enclosed with a fence or wall and such vehicle is not visible from adjoining or surrounding property or from the street or streets or public ways.~~

Current Code of Ordinances with change # 4 cont.

- (3) Any vehicles including operable heavy equipment, or race cars that do not normally require registration, so long as they are property stored on a licensed, registered trailer.
- (4) Any person who has obtained a permit for restoration of a motor vehicle pursuant to subsection 14-01-140(d).

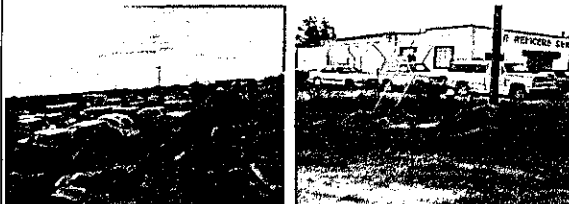
Current Code of Ordinances with change # 4 cont.

- (1) Any vehicle or vehicles on the premises of a duly licensed business in zones where such activity is within the contemplated purposes of such duly licensed business under the provisions of the zoning ordinance of the city; or
- (2) Any vehicle or vehicle part that is completely enclosed within a building or surrounded by a solid or opaque fence or wall, in a lawful manner where it is not visible from the street or other public or private property.

Vehicles Currently Required to be Removed if not stored inside or on a licensed trailer



Inoperable Vehicles on Whitesands



Current Code of Ordinances with change # 5

- (c) On private property covering an inoperable motor vehicle with a cover that is custom-tailored or custom-fitted to the particular model of the vehicle being covered will abate the nuisance. The vehicle cover shall be made of a canvas of closely woven, coarse cloth of hemp, cotton or linen that is both water and mildew resistant and shall be maintained free of any tears or holes.

Inoperable Vehicles with Covers

Properly Fitting



Improperly Fitting and Type



Current Code of Ordinances with change # 5 cont.

- Placing the inoperable motor vehicle behind trees or shrubbery does not abate the public nuisance. The code enforcement department is authorized to abate such nuisances under the terms and conditions hereinafter provided.

Vehicle covers acceptable, meeting the following requirements:

- Custom tailored or custom fitted to the vehicle
- Canvas, cotton or linen; water and mildew resistant; maintained free of tears and holes.
- Cover the vehicle completely except tires and secured with a tie-down device.
- All four tires shall be mounted; properly inflated and on the ground.

Current Code of Ordinances with change # 6

- (d) Exceptions. Permits for restoration of motor vehicles. An owner or tenant, upon payment of a fee of \$60.00, may store, permit to be stored or allow to remain upon his premises any dismantled, partially dismantled, or inoperable ~~motor vehicle antique auto or special interest vehicle~~ or parts thereof, for a period not to exceed 18 months sixty (60) days upon receipt of a permit from the city clerk if such ~~motor vehicle is registered in his name.~~

Current Code of Ordinances with change # 5 cont.

- To abate the nuisance, the vehicle shall be completely covered, with the exception of the vehicle tires, and the cover shall be secured by a tie-down device. Tires shall be mounted on the vehicle and shall be properly inflated. All four tires must be on the ground. It is the vehicle owner's responsibility to ensure that the vehicle remains completely covered.

Inoperable Vehicles Hobbyist /Antiques



Hobbyist Inoperable Vehicles Stored in Rear Yard



Current Code of Ordinances with change # 6 cont.

- (e) Permit. Upon application by the registered owner of a motor vehicle covered by this section, and upon the proof of hardship, the city clerk is hereby authorized to issue the permit provided by this section and shall require the payment of sixty dollars (\$60.00) for each permit issued.

Current Code of Ordinances with change # 6 cont.

- The vehicle and parts shall be stored in a neat and orderly fashion, free from leaks or fluid spills, and shall be completely secured (doors lock and windows close completely) or covered. The vehicle and parts shall remain covered unless work is currently in progress on the vehicle or part. Vehicle and parts shall be stored in the rear yard of property. If there is no means of vehicular access to the rear of the property, the vehicle and parts may be stored in the front of the property in the driveway area only. No parts or vehicles shall be stored in the landscaped areas.

Permit for Restoration summary

- Fee remains the same - \$60
 - Changes from 60 days to 18 months
 - Intended for antique auto or special interest vehicles and parts thereof, as well as for hobbyists
 - No more than 2 permits per location; not more than one permit per registered vehicle owner; vehicle owner must be resident of location.
 - Permit can be revoked for failure to maintain permit requirements after 15 day notice.
- "Requirements"
- Vehicle and parts stored in neat and orderly fashion; completely secured or covered.
 - Vehicle parts shall remain covered unless work is currently in progress.
 - Vehicle and parts shall be stored in rear yard.
 - If no access to rear yard, then in driveway area only - not to be stored in landscaped area.

Current Code of Ordinances with change # 6 cont.

- Not more than two (2) permits per location may be issued and outstanding at any one time. Not more than one permit per registered vehicle owner may be issued, and such owner must be an occupant of the location listed on the permit. The permit(s) shall remain available for inspection upon request.
- The restoration permit may be revoked for failure to maintain permit requirements after one 15 day notice has been issued for such violation.

Current Code of Ordinances with change # 7

- (e) Notice to remove.
- 1. Whenever it comes to the attention of the police department that any nuisance, as defined in subsection 14-01-140(b), exists on public property within the city, notice in writing shall be served to the owner of the vehicle or his agent, notifying them of the existence of the nuisance and requesting its removal in the time specified in this article.

Current Code of Ordinances with change # 7 cont.



- 2. Whenever it comes to the attention of code enforcement that any nuisance, as defined in subsection 14-01-140(b), exists on private property within the city, notice in writing shall be served to the owner or his agent or occupant of the property, notifying them of the existence of the nuisance and requesting its removal in the time specified in this article.

Current Code of Ordinances with change # 8 cont.



- (f) Responsibility for removal. Upon proper notice and opportunity to be heard, the owner of the abandoned or wrecked or dismantled or inoperative vehicle and the owner or occupant of the private property on which the vehicle is located, either or all of them, shall be responsible for its removal. If the abandoned or wrecked or dismantled or inoperative vehicle is located on public property, the owner of the vehicle or his agent shall be responsible for its removal.

Current Code of Ordinances with change # 8



- ~~f) Removal of vehicles.~~ Upon the later of the expiration of a permit referenced in sub-section (d) or notification of the violation, the department of public safety may, after giving written notice to both the person responsible for the property and the vehicle's last known owner, order the vehicle towed from the premises.

Current Code of Ordinances with change # 8 cont.



- If removal and disposition is performed by the city, the owner or occupant of the private property where the vehicle is located shall be liable for expenses incurred or, if circumstances are such, the owner of the vehicle left on public property.

Current Code of Ordinances with change # 8 cont.



- ~~The notice of towing shall inform an interested party that they may request a hearing before the city manager or his designee to show cause why the vehicle is not in violation of the ordinance. Requests for hearing must be filed in writing with the city manager within ten (10) calendar days of the notice of towing. If a hearing is requested, the requesting party shall be given written notice by first class mail of the hearing at least ten (10) calendar days before the hearing.~~

Current Code of Ordinances with change # 9



- (g) Notice procedure. Under this article, code enforcement shall give a 30-day notice of removal to the owner or occupant of the private property where it is located. If the nuisance involves a vehicle on public property, notice shall be given to the owner of the vehicle or his agent by the police department, at least 7 days before the time of compliance, which shall be set forth in the notice.

Current Code of Ordinances with change # 9 cont.

- It shall constitute sufficient notice when a copy of such is posted in a conspicuous place upon the private property on which the vehicle is located or a copy of the notice is posted on the vehicle which is parked on the public property and duplicate copies are sent by registered mail to the owner of the vehicle left on public property or his agent or to the owner or occupant of the private property at his last known address.

Current Code of Ordinances with change # 11

- (i) Request for hearing. Under this article, the persons to whom the notices are directed or their duly authorized agents may file a written request for hearing before the city manager within the 30-day period of compliance prescribed in subsection 14-01-140(g) if the nuisance involves a vehicle on private property, or within the 7-day period of compliance prescribed in subsection 14-01-140(g) if the nuisance involves a vehicle on public property, for the purpose of defending the charges by the city.

Current Code of Ordinances with change # 9 cont.

- If notice cannot be given pursuant to this section, notice shall be given by publication once in a newspaper of general circulation in the community as soon as practicable after reasonable and diligent efforts to give notice as provided in this section proves fruitless.

Current Code of Ordinances with change # 12

- (i) Procedure for hearing. The hearing requested pursuant to subsection 14-01-140(i) shall be held as soon as practicable after the filing of the request, and the persons to whom the notices are directed shall be advised of the time and place of the hearing at least three days in advance thereof.

Current Code of Ordinances with change # 10

- (h) Contents of notice. The notice issued pursuant to this article shall contain the request for removal within the time specified in this article, and the notice shall advise that upon failure to comply with the notice to remove the city or its designee, which may include a wrecker service, shall undertake such removal with the cost of removal to be levied against the vehicle.

Current Code of Ordinances with change # 13

- (k) Removal of motor vehicle from property. If the violation described in the notice has not been remedied within the time period of compliance specified in this article, or if a notice requesting hearing is timely filed, a hearing is had and the existence of the violation is affirmed by the city manager, the city shall have the right to remove the motor vehicle from the premises. It shall be a petty misdemeanor for any person to interfere with, hinder, or refuse to allow such person to enter upon the private property or public property for the purpose of removing a vehicle under this article.

Current Code of Ordinances with change # 14



- (l) Notice of removal. Within 48 hours of the removal of such vehicle as provided in subsection 14-01-140(k), the city shall give notice to the registered owner of the vehicle, if known, and also to the owner or occupant of the private property, if applicable, from which the vehicle was removed, that the vehicle has been impounded and stored for violation of this article. The notice shall give the location where the vehicle is stored and the costs incurred by the city for removal.

Staff Recommendations



Staff recommends that commission provide input regarding the proposed changes, and approve permitting staff to proceed with gaining public input and presenting these ordinance amendments at a future meeting.

Current Code of Ordinances with change # 15



- (m) Insofar as the provisions of this chapter are inconsistent with the provisions of section 12-12-18(F)(2) of the Uniform Traffic Ordinance, this chapter is controlling.

Staff Proposed Input/Revision Process



- ✓ Code Enforcement Staff review ordinance, prepare recommendations.
- Present recommendations to Commission, gain Commission input.
 - Hold two public hearings in September/October to meet with and gain public input.
 - Present recommendations, with public and commission input/direction, to commission for approval or modification.

ORDINANCE NO. 1468**AN ORDINANCE AMENDING CHAPTER 14, GARBAGE, TRASH AND REFUSE, TO ALLOW FOR THE REMOVAL OF ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE MOTOR VEHICLES.**

BE IT THEREFORE ORDAINED BY THE CITY COMMISSION OF THE CITY OF ALAMOGORDO NEW MEXICO THAT THE *ALAMOGORDO CODE OF ORDINANCES* BE AMENDED TO READ AS FOLLOWS:

ARTICLE I

That Chapter 14 of the *Code of Ordinances* of the City of Alamogordo, New Mexico is hereby amended to read as follows:

Chapter 14 - Garbage, trash and refuse **and nuisances**

ARTICLE II

That Section 14-01-140 of the *Code of Ordinances* of the City of Alamogordo, New Mexico is hereby amended to read as follows:

14-01-140. - Generally—Outdoor automotive storage. Abandoned, wrecked, dismantled or inoperative motor vehicles

(a) **Definitions.** ~~As used in this section:~~ The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned means any motor vehicle that does not display a current license plate or valid police sticker as defined in section 12-12-18(F)(2) of the Uniform Traffic Ordinance and is left unattended on public property for a period exceeding 72 consecutive hours, or is left unattended on private property for a period exceeding fifteen (15) days.

Antique auto means a passenger car or truck that was manufactured in 1925 or before, or a passenger car or truck that is at least thirty-five years old.

Dismantled or partially dismantled vehicle means any motor vehicle from which some part or parts which are ordinarily a component thereof have been removed or are missing rendering the vehicle inoperable.

"Impound" shall mean the towing and storage of a motor vehicle as authorized in this section.

Inoperable motor vehicle means any motor vehicle which by reason of dismantling, disrepair or other cause is incapable of being propelled by its own power and/or any motor vehicle which does not have lawfully affixed thereto an unexpired license plate or plates.

Motor vehicle means any wheeled vehicle which is self-propelled and designed to travel along the ground and shall include, but not be limited to automobiles, commercial motor vehicles, truck-tractors, trailers and semitrailers, heavy equipment, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, recreational vehicles and trailers.

"Owner" of a vehicle shall mean the registered owner or owners of a vehicle as recorded with the state department of motor vehicles or similar agency of a state outside New Mexico. Where written notice to the owner is required by this section, such notice shall be given to each registered owner.

"Owner of private property" shall mean the record holder of legal title as shown by the official records of the County of Otero unless there exists a contract purchaser of record, in which case it means the contract purchaser.

Private property means any real property within the city that is privately owned and that is not public property, as defined in this section.

Public property means any street or alleyway or right-of-way or parkway or highway, which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, and also means other publicly owned property or facility.

Special interest vehicle means a motor vehicle of any age that has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.

Wrecked means any motor vehicle that is disabled or in a state of ruin or dilapidation which renders it inoperable.

(b) **Declared nuisance.** ~~The presence of a dismantled, partially dismantled, or inoperable vehicle or motor vehicle or parts thereof on any street, occupied or unoccupied land within the city limits in violation of the terms of this section is a public nuisance.~~ No person shall park, store, leave or permit the parking, storing, or leaving of any motor vehicle of any kind which is in an abandoned or wrecked or dismantled or inoperative or partially dismantled condition, whether attended or not, upon any public property within the city for a period of time in excess of 72 hours or upon any private property within the city for a period of time in excess of fifteen (15) days. The presence

of an abandoned or wrecked or dismantled or inoperative or partially dismantled vehicle or parts thereof (except such parts that have been reconstructed or converted for practical use) on public property or private property is declared a public nuisance which may be abated in accordance with this article. This section shall not apply to government property and/or:

~~(c) Prohibited acts. It is unlawful for any person, firm or corporation to store on, or permit to be stored or placed on, or allow to remain on any public or private property or street or highway within the city limits a dismantled, partially dismantled or inoperable motor vehicle or any parts of a motor vehicle unless such vehicle is in an enclosed building or on property which is enclosed with a fence or wall and such vehicle is not visible from adjoining or surrounding property or from the street or streets or public ways. This section shall not apply to~~

~~(1) Any vehicle or vehicles on the premises of a duly licensed business in zones where such activity is within the contemplated purposes of such duly licensed business under the provisions of the zoning ordinance of the city; or~~

~~(2) Any vehicle or vehicle part that is completely enclosed within a building or surrounded by a solid or opaque fence or wall, in a lawful manner where it is not visible from the street or other public or private property.~~

~~(3) Any vehicles including operable heavy equipment, or race cars that do not normally require registration, so long as they are property stored on a licensed, registered trailer.~~

~~(4) Any person who has obtained a permit for restoration of a motor vehicle pursuant to subsection 14-01-140(d).~~

~~(c) On private property covering an inoperable motor vehicle with a cover that is custom-tailored or custom-fitted to the particular model of the vehicle being covered will abate the nuisance. The vehicle cover shall be made of a canvas of closely woven, coarse cloth of hemp, cotton or linen that is both water and mildew resistant and shall be maintained free of any tears or holes. To abate the nuisance, the vehicle shall be completely covered, with the exception of the vehicle tires, and the cover shall be secured by a tie-down device. Tires shall be mounted on the vehicle and shall be properly inflated. All four tires must be on the ground. It is the vehicle owner's responsibility to ensure that the vehicle remains completely covered. Placing the inoperable motor vehicle behind trees or shrubbery does not abate the public nuisance. The code enforcement department is authorized to abate such nuisances under the terms and conditions hereinafter provided.~~

~~(d) Exceptions. **Permits for restoration of motor vehicles.** An owner or tenant, upon payment of a fee of \$60.00, may store, permit to be stored or allow to remain upon his premises any dismantled, partially dismantled, or inoperable motor vehicle antique auto or special interest vehicle or parts thereof, for a period not to exceed 18 months sixty (60) days upon receipt of a permit from the city clerk if such motor vehicle is registered in his name.~~

The vehicle and parts shall be stored in a neat and orderly fashion, free from leaks or fluid spills, and shall be completely secured (doors lock and windows close completely) or covered. The vehicle and parts shall remain covered unless work is currently in progress on the vehicle or part. Vehicle and parts shall be stored in the rear yard of property. If there is no means of vehicular access to the rear of the property, the vehicle and parts may be stored in the front of the property in the driveway area only. No parts or vehicles shall be stored in the landscaped areas.

Not more than two (2) permits per location may be issued and outstanding at any one time. Not more than one permit per registered vehicle owner may be issued, and such owner must be an occupant of the location listed on the permit. The permit(s) shall remain available for inspection upon request.

The restoration permit may be revoked for failure to maintain permit requirements after one 15 day notice has been issued for such violation.

~~(e) Permit. Upon application by the registered owner of a motor vehicle covered by this section, and upon the proof of hardship, the city clerk is hereby authorized to issue the permit provided by this section and shall require the payment of sixty dollars (\$60.00) for each permit issued.~~

(e) Notice to remove.

1. Whenever it comes to the attention of the police department that any nuisance, as defined in subsection 14-01-140(b), exists on public property within the city, notice in writing shall be served to the owner of the vehicle or his agent, notifying them of the existence of the nuisance and requesting its removal in the time specified in this article.

2. Whenever it comes to the attention of code enforcement that any nuisance, as defined in subsection 14-01-140(b), exists on private property within the city, notice in writing shall be served to the owner or his agent; or occupant of the property, notifying them of the existence of the nuisance and requesting its removal in the time specified in this article.

~~(f) Removal of vehicles. Upon the later of the expiration of a permit referenced in sub-section (d) or notification of the violation, the department of public safety may, after giving written notice to both the person responsible for the property and the vehicle's last known owner, order the vehicle towed from the premises.~~

~~The notice of towing shall inform an interested party that they may request a hearing before the city manager or his designee to show cause why the vehicle is not in violation of the ordinance. Requests for hearing must be filed in writing with the city manager within ten (10) calendar days of the notice of towing. If a hearing is requested,~~

~~the requesting party shall be given written notice by first class mail of the hearing at least ten (10) calendar days before the hearing.~~

(f) **Responsibility for removal.** Upon proper notice and opportunity to be heard, the owner of the abandoned or wrecked or dismantled or inoperative vehicle and the owner or occupant of the private property on which the vehicle is located, either or all of them, shall be responsible for its removal. If the abandoned or wrecked or dismantled or inoperative vehicle is located on public property, the owner of the vehicle or his agent shall be responsible for its removal. If removal and disposition is performed by the city, the owner or occupant of the private property where the vehicle is located shall be liable for expenses incurred or, if circumstances are such, the owner of the vehicle left on public property.

(g) **Notice procedure.** Under this article, code enforcement shall give a 30-day notice of removal to the owner or occupant of the private property where it is located. If the nuisance involves a vehicle on public property, notice shall be given to the owner of the vehicle or his agent by the police department, at least 7 days before the time of compliance, which shall be set forth in the notice. It shall constitute sufficient notice when a copy of such is posted in a conspicuous place upon the private property on which the vehicle is located or a copy of the notice is posted on the vehicle which is parked on the public property and duplicate copies are sent by registered mail to the owner of the vehicle left on public property or his agent or to the owner or occupant of the private property at his last known address. If notice cannot be given pursuant to this section, notice shall be given by publication once in a newspaper of general circulation in the community as soon as practicable after reasonable and diligent efforts to give notice as provided in this section proves fruitless.

(h) **Contents of notice.** The notice issued pursuant to this article shall contain the request for removal within the time specified in this article, and the notice shall advise that upon failure to comply with the notice to remove the city or its designee, which may include a wrecker service, shall undertake such removal with the cost of removal to be levied against the vehicle.

(i) **Request for hearing.** Under this article, the persons to whom the notices are directed or their duly authorized agents may file a written request for hearing before the city manager within the 30-day period of compliance prescribed in subsection 14-01-140(g) if the nuisance involves a vehicle on private property, or within the 7-day period of compliance prescribed in subsection 14-01-140(g) if the nuisance involves a vehicle on public property, for the purpose of defending the charges by the city.

(j) **Procedure for hearing.** The hearing requested pursuant to subsection 14-01-140(i) shall be held as soon as practicable after the filing of the request, and the persons to whom the notices are directed shall be advised of the time and place of the hearing at least three days in advance thereof.

(k) **Removal of motor vehicle from property.** If the violation described in the notice has not been remedied within the time period of compliance specified in this article, or if a notice requesting hearing is timely filed, a hearing is had and the existence of the violation is affirmed by the city manager, the city shall have the right to remove the motor vehicle from the premises. It shall be a petty misdemeanor for any person to interfere with, hinder, or refuse to allow such person to enter upon the private property or public property for the purpose of removing a vehicle under this article.

(l) **Notice of removal.** Within 48 hours of the removal of such vehicle as provided in subsection 14-01-140(k), the city shall give notice to the registered owner of the vehicle, if known, and also to the owner or occupant of the private property, if applicable, from which the vehicle was removed, that the vehicle has been impounded and stored for violation of this article. The notice shall give the location where the vehicle is stored and the costs incurred by the city for removal.

(m) Insofar as the provisions of this chapter are inconsistent with the provisions of section 12-12-18(F)(2) of the Uniform Traffic Ordinance, this chapter is controlling.

ARTICLE III

Effective Date. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

PASSED, APPROVED AND ADOPTED, this _____ day of _____, 2016.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By: _____
Richard Boss, Mayor

ATTEST:

Nancy Jacobs, City Clerk

APPROVED AS TO FORM:

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: August 12, 2014

Report Date: July 30, 2014

Report No: 14

Submitted By: Renee Cantin
City Clerk

Approved For Agenda: 

Subject: Consider, and act upon, the final publication of Ordinance No. 1468 amending the Alamogordo Code of Ordinances to add a new section in Chapter 24 concerning vehicle forfeiture.

Fiscal Impact: N/A
Amount Available: N/A
Fund: N/A

Recommendation: Approve the ordinance for final publication [Roll call vote required]

Background: At the Regular Meeting of July 22nd, 2014, the City Commission approved the Ordinance for first publication. A summary of the Ordinance was published in the *Alamogordo Daily News* on Sunday, July 27th, 2014. If approved for final adoption, the summary will be published a second time on Sunday, August 17th, 2014 and will be effective August 22nd, 2014.

The following information was provided by Stephen Thies, City Attorney at the time it was brought for first publication: Attached you will find a rather lengthy ordinance dealing with a number of issues involving motor vehicles. The ordinance can be broken down into three segments. The first segment addresses junk or abandoned vehicles on both public and private property. The amendment provides that if a wrecked or abandoned vehicle is found on either private or public property and remains on the property in excess of 72 hours, notice will be to remove the vehicle. If the vehicle is located on private property the notice will be given to the occupant of the property. If the vehicle is found on public property, notice will be provided to the registered owner and posted on the vehicle. When the wrecked or abandoned vehicle is located on private property, it must be moved within 30 days. A wrecked or abandoned vehicle located on public property must be moved within 7 days. Unless a hearing is requested within the relevant time periods, the police department shall arrange to have the vehicle towed. After the vehicle has been towed, notice will then sent within 48 hours to the registered owner of the vehicle and the occupant of the property when the vehicle is removed from private property.

Reviewed By:

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

August 12, 2014

The second segment authorizes the city to seize a vehicle when the operator is arrested for driving while intoxicated, found to be operating a vehicle when their license is revoked or denied as a result of a DWI, or found to be operating a vehicle in violation of a conditional license that required the use of an ignition interlock device. The ordinance is modeled after ordinances adopted by several other New Mexico municipalities.

The third segment of the ordinance creates an official city impound lot. Vehicle subject to forfeiture and any vehicle removed from private property or towed from public property will be brought to the city impound lot. The owner of the vehicle will be required to pay the tow charges and a \$25.00 per day storage fee in order for the owner to regain possession of the vehicle. In the case of a wrecked or abandoned vehicle, if the owner of the vehicle fails to retrieve the vehicle within 10 days after the 48 hour notice is sent, the city can publish notice that the vehicle will be sold. An owner has 20 days in which to retrieve the vehicle after publication. After that 20 day period expires, the city will then hold the vehicle for another 14 if it is registered in New Mexico or 40 days if the vehicle registered in some other state before selling the vehicle. The proceeds will be first applied to the towing and storage costs.

Reviewed By:

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

August 12, 2014

New Material

~~Deleted Material~~

ORDINANCE NO. 1468

AN ORDINANCE AMENDING CHAPTER 14, GARBAGE, TRASH AND REFUSE, TO ALLOW FOR THE REMOVAL OF ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE MOTOR VEHICLES, AND AMENDING CHAPTER 24, TRAFFIC, TO ALLOW FOR THE IMPOUNDING AND FORFEITURE OF VEHICLES

BE IT THEREFORE ORDAINED BY THE CITY COMMISSION OF THE CITY OF ALAMOGORDO NEW MEXICO THAT THE ALAMOGORDO CODE OF ORDINANCES BE AMENDED TO READ AS FOLLOWS:

ARTICLE I

That Chapter 14 of the *Code of Ordinances* of the City of Alamogordo, New Mexico is hereby amended to read as follows:

Chapter 14 - Garbage, trash and refuse and nuisances

ARTICLE II

That Section 14-01-140 of the *Code of Ordinances* of the City of Alamogordo, New Mexico is hereby amended to read as follows:

14-01-140. - Generally—Outdoor automotive storage. Abandoned, wrecked, dismantled or inoperative motor vehicles

(a) **Definitions.** As used in this section: The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned means any motor vehicle that does not display a current license plate or valid police sticker as defined in section 12-12-18(F)(2) of the Uniform Traffic Ordinance and is left unattended on public property for a period exceeding 72 consecutive hours, or is left unattended on private property for a period exceeding fifteen (15) days.

Antique auto means a passenger car or truck that was manufactured in 1925 or before, or a passenger car or truck that is at least thirty-five years old.

Dismantled or partially dismantled vehicle means any motor vehicle from which some part or parts which are ordinarily a component thereof have been removed or are missing rendering the vehicle inoperable.

August 12, 2014

New Material

Deleted Material

"Impound" shall mean the towing and storage of a motor vehicle as authorized in this section.

Inoperable motor vehicle means any motor vehicle which by reason of dismantling, disrepair or other cause is incapable of being propelled by its own power and/or any motor vehicle which does not have lawfully affixed thereto an unexpired license plate or plates.

Motor vehicle means any wheeled vehicle which is self-propelled and designed to travel along the ground and shall include, but not be limited to automobiles, commercial motor vehicles, truck-tractors, trailers and semitrailers, heavy equipment, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, recreational vehicles and trailers.

"Owner" of a vehicle shall mean the registered owner or owners of a vehicle as recorded with the state department of motor vehicles or similar agency of a state outside New Mexico. Where written notice to the owner is required by this section, such notice shall be given to each registered owner.

"Owner of private property" shall mean the record holder of legal title as shown by the official records of the County of Otero unless there exists a contract purchaser of record, in which case it means the contract purchaser.

"Private property" means any real property within the city that is privately owned and that is not public property, as defined in this section.

"Public property" means any street or alleyway or right-of-way or parkway or highway, which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, and also means other publicly owned property or facility.

"Special interest vehicle" means a motor vehicle of any age that has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.

"Wrecked" means any motor vehicle that is disabled or in a state of ruin or dilapidation which renders it inoperable.

(b) **Declared nuisance.** The presence of a dismantled, partially dismantled, or inoperable vehicle or motor vehicle or parts thereof on any street, occupied or unoccupied land within the city limits in violation of the terms of this section is a public nuisance. No person shall park, store, leave or permit the parking, storing, or leaving of any motor vehicle of any kind which is in an abandoned or wrecked or dismantled or inoperative or partially dismantled condition, whether attended or not, upon any public property within the city for a period of time in excess of 72 hours or upon any private property within the city for a period of time in excess of fifteen (15) days. The presence

August 12, 2014

New Material

Deleted Material

of an abandoned or wrecked or dismantled or inoperative or partially dismantled vehicle or parts thereof (except such parts that have been reconstructed or converted for practical use) on public property or private property is declared a public nuisance which may be abated in accordance with this article. This section shall not apply to:

~~(c) Prohibited acts. It is unlawful for any person, firm or corporation to store on, or permit to be stored or placed on, or allow to remain on any public or private property or street or highway within the city limits a dismantled, partially dismantled or inoperable motor vehicle or any parts of a motor vehicle unless such vehicle is in an enclosed building or on property which is enclosed with a fence or wall and such vehicle is not visible from adjoining or surrounding property or from the street or streets or public ways. This section shall not apply to~~

(1) Any vehicle or vehicles on the premises of a duly licensed business in zones where such activity is within the contemplated purposes of such duly licensed business under the provisions of the zoning ordinance of the city; or

(2) Any vehicle or vehicle part that is completely enclosed within a building or surrounded by a solid or opaque fence or wall, in a lawful manner where it is not visible from the street or other public or private property;

(3) Any vehicles including operable heavy equipment, or race cars that do not normally require registration, so long as they are properly stored on a licensed, registered trailer;

(4) Any person who has obtained a permit for restoration of a motor vehicle pursuant to subsection 14-01-140(d).

(c) On private property covering an inoperable motor vehicle with a cover that is custom-tailored or custom-fitted to the particular model of the vehicle being covered will abate the nuisance. The vehicle cover shall be made of a canvas of closely woven, coarse cloth of hemp, cotton or linen that is both water and mildew resistant and shall be maintained free of any tears or holes. To abate the nuisance, the vehicle shall be completely covered, with the exception of the vehicle tires, and the cover shall be secured by a tie-down device. Tires shall be mounted on the vehicle and shall be properly inflated. All four tires must be on the ground. It is the vehicle owner's responsibility to ensure that the vehicle remains completely covered. Placing the inoperable motor vehicle behind trees or shrubbery does not abate the public nuisance. The code enforcement department is authorized to abate such nuisances under the terms and conditions hereinafter provided.

(d) Exceptions. Permits for restoration of motor vehicles An owner or tenant, upon payment of a fee of \$60.00, may store, permit to be stored or allow to remain upon his premises any dismantled, partially dismantled, or inoperable motor vehicle antique auto or special interest vehicle or parts thereof, for a period not to exceed 18 months ~~sixty (60) days~~ upon receipt of a permit from the city clerk if such motor vehicle is registered in his name.

The vehicle and parts shall be stored in a neat and orderly fashion, free from leaks or fluid spills, and shall be completely secured (doors lock and

August 12, 2014

New Material

Deleted Material

windows close completely) or covered. The vehicle and parts shall remain covered unless work is currently in progress on the vehicle or part. Vehicle and parts shall be stored in the rear yard of property. If there is no means of vehicular access to the rear of the property, the vehicle and parts may be stored in the front of the property in the driveway area only. No parts or vehicles shall be stored in the landscaped areas.

Not more than two (2) permits per location may be issued and outstanding at any one time. Not more than one permit per registered vehicle owner may be issued, and such owner must be an occupant of the location listed on the permit. The permit(s) shall remain available for inspection upon request.

The restoration permit may be revoked for failure to maintain permit requirements after one 15 day notice has been issued for such violation.

~~(e) Permit. Upon application by the registered owner of a motor vehicle covered by this section, and upon the proof of hardship, the city clerk is hereby authorized to issue the permit provided by this section and shall require the payment of sixty dollars (\$60.00) for each permit issued.~~

(e) Notice to remove

1. Whenever it comes to the attention of the police department that any nuisance, as defined in subsection 14-01-140(b), exists on public property within the city, notice in writing shall be served to the owner of the vehicle or his agent, notifying them of the existence of the nuisance and requesting its removal in the time specified in this article.

2. Whenever it comes to the attention of code enforcement that any nuisance, as defined in subsection 14-01-140(b), exists on private property within the city, notice in writing shall be served to the owner or his agent; or occupant of the property, notifying them of the existence of the nuisance and requesting its removal in the time specified in this article.

~~(f) Removal of vehicles. Upon the later of the expiration of a permit referenced in sub-section (d) or notification of the violation, the department of public safety may, after giving written notice to both the person responsible for the property and the vehicle's last known owner, order the vehicle towed from the premises.~~

~~The notice of towing shall inform an interested party that they may request a hearing before the city manager or his designee to show cause why the vehicle is not in violation of the ordinance. Requests for hearing must be filed in writing with the city manager within ten (10) calendar days of the notice of towing. If a hearing is requested, the requesting party shall be given written notice by first class mail of the hearing at least ten (10) calendar days before the hearing.~~

August 12, 2014

New Material

Deleted Material

(f) **Responsibility for removal.** Upon proper notice and opportunity to be heard, the owner of the abandoned or wrecked or dismantled or inoperative vehicle and the owner or occupant of the private property on which the vehicle is located, either or all of them, shall be responsible for its removal. If the abandoned or wrecked or dismantled or inoperative vehicle is located on public property, the owner of the vehicle or his agent shall be responsible for its removal. If removal and disposition is performed by the city, the owner or occupant of the private property where the vehicle is located shall be liable for expenses incurred or, if circumstances are such, the owner of the vehicle left on public property.

(g) **Notice procedure.** Under this article, code enforcement shall give a 30-day notice of removal to the owner or occupant of the private property where it is located. If the nuisance involves a vehicle on public property, notice shall be given to the owner of the vehicle or his agent by the police department, at least 7 days before the time of compliance, which shall be set forth in the notice. It shall constitute sufficient notice when a copy of such is posted in a conspicuous place upon the private property on which the vehicle is located or a copy of the notice is posted on the vehicle which is parked on the public property and duplicate copies are sent by registered mail to the owner of the vehicle left on public property or his agent or to the owner or occupant of the private property at his last known address. If notice cannot be given pursuant to this section, notice shall be given by publication once in a newspaper of general circulation in the community as soon as practicable after reasonable and diligent efforts to give notice as provided in this section proves fruitless.

(h) **Contents of notice.** The notice issued pursuant to this article shall contain the request for removal within the time specified in this article, and the notice shall advise that upon failure to comply with the notice to remove the city or its designee, which may include a wrecker service, shall undertake such removal with the cost of removal to be levied against the vehicle.

(i) **Request for hearing.** Under this article, the persons to whom the notices are directed or their duly authorized agents may file a written request for hearing before the city manager within the 30-day period of compliance prescribed in subsection 14-01-140(g) if the nuisance involves a vehicle on private property, or within the 7-day period of compliance prescribed in subsection 14-01-140(g) if the nuisance involves a vehicle on public property, for the purpose of defending the charges by the city.

(j) **Procedure for hearing.** The hearing requested pursuant to subsection 14-01-140(i) shall be held as soon as practicable after the filing of the request, and the persons to whom the notices are directed shall be advised of the time and place of the hearing at least three days in advance thereof.

(k) **Removal of motor vehicle from property.** If the violation described in the notice has not been remedied within the time period of compliance specified in this article, or if a notice requesting hearing is timely filed, a hearing is had and the existence of the violation is affirmed by the city manager, the city shall have the right to

August 12, 2014

New Material

~~Deleted Material~~

remove the motor vehicle from the premises. It shall be a petty misdemeanor for any person to interfere with, hinder, or refuse to allow such person to enter upon the private property or public property for the purpose of removing a vehicle under this article.

(l) **Notice of removal.** Within 48 hours of the removal of such vehicle as provided in subsection 14-01-140(k), the city shall give notice to the registered owner of the vehicle, if known, and also to the owner or occupant of the private property, if applicable, from which the vehicle was removed, that the vehicle has been impounded and stored for violation of this article. The notice shall give the location where the vehicle is stored and the costs incurred by the city for removal.

(m) Insofar as the provisions of this chapter are inconsistent with the provisions of section 12-12-18(F)(2) of the Uniform Traffic Ordinance, this chapter is controlling.

ARTICLE III

That the title of Chapter 24 of the *Alamogordo Code of Ordinances* is amended to read as follows:

Chapter 24 - Traffic, vehicle forfeiture and impounding of vehicles

ARTICLE IV

That the *Alamogordo Code of Ordinances*, Chapter 24, Traffic, is amended to add the following new Article 24-02, Vehicle Forfeiture, to read as follows:

24-02 Vehicle Forfeiture.

24-02-010. Purpose.

The purpose of this article is to protect the health, safety and welfare of the citizens of the City of Alamogordo by reducing the risk of harm to the public posed by individuals driving under the influence of alcohol or drugs through the forfeiture of motor vehicles whose operators are driving under the influence in violation of the law or have violated ignition interlock restrictions.

24-02-020. Vehicle Nuisance.

A motor vehicle is hereby declared to be a public nuisance if it is:

- A. Operated by a person who is arrested for a driving under the influence of drugs or alcohol (hereinafter "DWI") offense; or
- B. Operated by a person whose license is currently revoked or denied as a result of a DWI arrest or conviction prohibiting them from driving, and/or

August 12, 2014

New Material

~~Deleted Material~~

whose license is conditioned upon the use of an ignition interlock device, and the terms and conditions of these restrictions are violated.

24-02-030. Vehicles Subject to Forfeiture.

Except as otherwise provided herein, any motor vehicle which has been declared a public nuisance as defined in this article shall be subject to civil temporary seizure or permanent forfeiture proceedings as set forth in this article.

24-02-040. Seizure; Forfeiture Proceeding.

- A. Motor vehicles subject to forfeiture under this section may be seized by any police officer of the city upon an order issued by the district court.
- B. Seizure without such order may be made if seizure is incident to an arrest of the driver of the vehicle either for driving while intoxicated or for driving while his or her license is suspended or revoked as a result of a DWI arrest or conviction.
- C. A vehicle temporarily seized under this section shall not be subject to replevin, but is deemed to be in the custody of the police department seizing it subject only to the orders and decrees of the district court. The police department may take custody of the vehicle and remove it to appropriate and official locations within the district court's jurisdiction for disposition in accordance with this section. The police department shall establish reasonable towing and storage fees for vehicles temporarily seized in accordance with this section.
- D. At the time of seizure, the police department shall serve a copy of the notice of forfeiture upon the operator of the vehicle. A copy of the notice of forfeiture shall be mailed postage prepaid to the lawfully registered owner as verified by the New Mexico motor vehicle division on the next city business day following the arrest. The notice shall include the following:
 - (1) The license plate number, make, type and color of the vehicle;
 - (2) The location from which the vehicle was temporarily seized;
 - (3) A statement that the vehicle has been taken into custody and stored;
 - (4) The reason for temporary seizure;
 - (5) A name, phone number and title of the city employee from whom the owner can obtain further information;
 - (6) A statement that daily storage charges shall be assessed in addition to a towing charge;
 - (7) A statement that the owner has the right to contest the validity of the impoundment by requesting a hearing in writing within fifteen (15) city business days of the date of mailing of the notice of forfeiture; and
 - (8) A copy of this section.

- E. The owner may request that a hearing be scheduled before a hearing officer, appointed by the city manager or request an alternative as set forth in subsection 24-02-050. The hearing shall be held within fifteen (15) city business days of receipt of the request unless the hearing is continued with agreement of the parties. The hearing shall be informal and not bound by the technical rules of evidence. The hearing officer shall only determine whether the police officer had probable cause to arrest the operator of the vehicle and probable cause to seize the vehicle pursuant to this section. The hearing officer shall mail or deliver written notice of this or her decision to the owner within two (2) city business days of the hearing.
- F. If the hearing officer finds that the police officer did not have probable cause to arrest the operator and seize the vehicle, the vehicle shall be released. The hearing officer shall provide a written certificate of release to the owner of the vehicle. Upon receipt of the owner's copy of such certificate, the city shall release the vehicle to its owner or the owner's agent and storage fees shall be waived. If the owner fails to present such certificate to the city employee having custody of the vehicle within seventy-two (72) hours of its receipt, excluding non-city business days, the owner shall assume liability for all subsequent storage charges. The certificate shall advise the owner of such requirement. Any vehicle not recovered by the owner within thirty (30) calendar days after being notified by the city that such vehicles has been released by the city shall be deemed abandoned and disposed of in accordance with the notice provisions of Section 29-1-14 NMSA 1978.
- G. If the hearing officer determines that there was probable cause to arrest the operator of the vehicle and that the vehicle was properly seized, the city shall promptly file a verified petition in district court to abate the public nuisance and forfeit the vehicle pursuant to Section 30-8-8 NMSA 1978.
- H. Any person who, pursuant to the records of the motor vehicle division of the state taxation and revenue department, has an ownership or security interest in the vehicle subject to forfeiture with notice of the verified complaint in district court.
- I. When property is forfeiture pursuant to a district court judgment, the police department shall sell the motor vehicle, and the proceeds shall be used to carry out the purpose and intent of this section. Any proceeds that exceed the costs of administering this section shall be used for DWI enforcement, prevention and education. Any proceeds from the sale of abandoned vehicles pursuant to this section shall be used to carry out the purpose and intent of this section. However, the police department and the fire department each may keep up to six vehicles at a time for official police department purposes as set forth in department policies approved by the city manager.
- J. Any owner of a forfeited vehicle shall not be permitted to purchase the vehicle when offered for sale by the city.
- K. At any time subsequent to seizure and prior to the entry of a district court judgment, the owner of a motor vehicle seized under this ordinance may retrieve personal property (other than the motor vehicle) from the motor vehicle. The police department shall allow an owner to retrieve personal

property within seventy-two (72) hours, excluding non-city business days, of contacting the police department.

24-02-050. Alternatives to Forfeiture.

- A. The following procedures shall apply if the owner of the vehicle was not the operator of the vehicle subject to the forfeiture:
 - (1) There shall be no forfeiture if the operator had no prior DWI history.
 - (2) Upon the first seizure of the vehicle, if the owner demonstrates by notarized affidavit that the owner of the vehicle had no prior knowledge of the operator's DWI history, no action shall be taken against the vehicle. The affidavit shall remain on file with the city.
 - (3) Upon the second seizure of the same vehicle, if the owner demonstrates by notarized affidavit that the owner of the vehicle had no prior knowledge of the operator's DWI history, the vehicle shall be immobilized for a period of thirty (30) calendar days and shall not be forfeited.
 - (4) Upon the third seizure of the same vehicle, the vehicle shall be subject to the forfeiture under this section if the operator is arrested for DWI or for driving on a license revoked or denied as a result of an arrest or conviction for DWI.
- B. The following procedures shall apply to an owner who is properly licensed but is arrested for driving while intoxicated:
 - (1) An owner who has never been convicted of DWI may elect in lieu of forfeiture to have installed at the owner's expense an ignition interlock device approved by the New Mexico Department of Transportation Traffic Safety Bureau and/or to have the vehicle immobilized for the period of time during which the charges are pending, and, if convicted, for as long as thereafter required by the court.
 - (2) An owner whose arrest for DWI does not result in a conviction for DWI shall not have his or her vehicle forfeited.
 - (3) If the records of the activity of the ignition interlock device prior to adjudication of the DWI charge show alcohol use by any operator, regardless whether it is the owner whose use was originally to be a nuisance, the vehicle shall be returned to the police department within twenty-four (24) hours of notification to the owner by the police department, to be impounded until the DWI charge is resolved, and the police department may assess additional towing and storage charges. If the owner fails to return the vehicle within twenty-four (24) hours after notification of an ignition interlock violation, the owner shall be deemed to have abandoned all alternatives to forfeiture and the vehicle shall be subject to forfeiture proceedings.
- C. The following procedures shall apply to an owner who is not properly licensed but is arrested for driving on a license revoked or denied as a result of a DWI

arrest or conviction, and is not also arrested at the same time for a second or subsequent DWI:

- (1) An owner who, according to the records of the New Mexico motor vehicle division at the time of arrest, had completed the period of revocation imposed by the motor vehicle and was eligible to have his or her license reinstated with or without an ignition interlock, may elect in lieu of forfeiture to obtain a valid license (which may contain an ignition interlock restriction) within thirty (30) calendar days of arrest and within that time pay towing, storage and administrative fees set by the police department to have the motor vehicle returned to the owner.
- (2) If the owner needs to install an ignition interlock in the motor vehicle to obtain an ignition interlock license:
 - (a) The ignition interlock shall be installed at the police department impound lot;
 - (b) The owner shall sign an agreement with the police department allowing the owner to remove the motor vehicle from the lot for the purpose of obtaining the ignition interlock license within twenty-four (24) hours of removal of the motor vehicle, which agreement shall confess forfeiture of the motor vehicle upon any default by the owner of any terms of the agreement. The agreement shall provide, in addition to any other reasonable provisions, that:
 - (i) The owner shall report within twenty-four (24) hours of removal whether the owner has obtained the required interlock license;
 - (ii) If the interlock license has not been obtained, the owner shall have the remainder of the thirty (30) days to attempt to get the interlock license;
 - (iii) If it is not possible to obtain the interlock license, the vehicle shall be subject to forfeiture and may be seized by the police department if not returned within twenty-four (24) hours of removal; and
 - (iv) If the records of the activity of the ignition interlock device during the period of time required by the Motor Vehicle Division show alcohol use by any operator, regardless whether it is the owner whose use was originally declared to be a nuisance, the vehicle shall be returned to the police department within twenty-four (24) hours of notification to the owner by the police department, to be immobilized for a period of sixty (60) days for the first incident of alcohol use, and the police department may assess additional towing, storage and immobilization charges. If the owner fails to return the vehicle within twenty-four (24) hours after notification of an ignition interlock violation, or if there is a second incident of alcohol use, the owner shall be deemed to have abandoned all alternatives to forfeiture and the vehicle shall be subject to forfeiture proceedings.

August 12, 2014

New Material

~~Deleted Material~~

- (3) An owner who has previously had his or her motor vehicle returned under this section shall be ineligible to have that or any motor vehicle returned under this section.
- D. Immobilization may be accomplished by an immobilization device (boot) at the owner's designated location within the city limits, or by impoundment at a secure facility, in accordance with procedures established by the police department.
- E. The operator or owner shall pay towing and storage fees and all fees associated with the immobilization or interlock device.
- F. If a vehicle is determined by the police department to be so seriously damaged that it cannot be driven without extensive repairs and if the vehicle is not impounded as evidence, the police department may have the vehicle towed to a private towing company lot. The owner of the vehicle may recover the vehicle by a payment of \$270 to the police department and payment of any towing and storage charges to the private towing company. In the alternative, the owner may convey his or her interest in the vehicle to the police department and the owner shall not be charged any fees. If an owner does not choose either of these two options within thirty (30) days of impoundment, the vehicle shall be deemed impounded and shall be disposed of by the police department.

24-02-060. Property Interest Not Subject to Forfeiture

- A. Notwithstanding the provisions above, any forfeiture shall be subject to the interest of:
- (1) Any owner or co-owner of the vehicle not listed or named on the title or registration with the operator who cause the vehicle to become a nuisance, who did not have knowledge of, nor consented to, the use of the vehicle by the operator who caused the vehicle to become a nuisance, provided that upon establishment of a prima facie case of lack of knowledge or consent by the owner or co-owner, the burden of proving knowledge and consent shall be upon the city.
- (2) Any secured party, to the extent of the security interest, if the secured party establishes the security interest was acquired in good faith with no knowledge or reason to believe that the vehicle would be used by the operator of the vehicle declared to be a public nuisance as set forth in this section.
- B. If the secured interest is greater than the value of the vehicle, title shall be transferred to the secured party upon approval of the district court. Any secured party acquiring an interest after the vehicle is in the custody of the police department shall have the burden of intervening in the forfeiture proceeding to protect such interest. Any interest in the vehicle shall be properly filed with the New Mexico motor vehicle division in accordance with Sections 66-3-201 and 66-3-202 NMSA 1978 before the date of incident leading to the seizure.

24-02-070. Severability

August 12, 2014

New Material

~~Deleted Material~~

If any section, paragraph, clause or provision of this ordinance shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such section, clause or provision shall not affect any other part of this ordinance.

ARTICLE V

That the *Alamogordo Code of Ordinances*, Chapter 24, Traffic, is amended to add the following new Article 24-03 to read as follows:

24-03 Removal and Impounding of Vehicles

24-03-010. Definitions.

The following defined terms shall be applicable to this article, and in addition to any other terms defined elsewhere in this article.

Impound Lot shall mean the storage facility(ies) designated by the City of Alamogordo by resolution which provides for the secure storage of impounded vehicles seized pursuant to the Alamogordo Municipal Code or any other laws of the State of New Mexico.

Lien holder shall mean a bona fide lien holder whose security interest in the vehicle has been perfected in the manner prescribed by law prior to the impoundment of the vehicle.

Motor Vehicle Code means Articles 1 through 8 of Chapter 66 NMSA 1978 [except 66-7-102.1 NMSA 1978], as amended, supplemented, modified, reenacted and/or recodified, from time to time.

Motor vehicle is any wheeled vehicle which is self-propelled and designed to travel along the ground and shall include, but not be limited to automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, recreational vehicles and trailers.

Owner shall mean any person which is the actual owner or holder of legal title to any vehicle; the agent for any such actual owner or holder; the custodian of a vehicle; and/or the lessee of any vehicle.

Person shall mean any natural person, firm, partnership, association, corporation, trust or other entity.

24-03-020. Official impound lot designated.

The City shall designate by resolution an official impound lot or impound lots for all vehicles impounded under the provisions of this article. Any vehicle impounded pursuant to this article will be stored at the impound lot with the exception of those vehicles impounded by Alamogordo Police Department for a criminal investigation.

August 12, 2014

New Material

~~Deleted Material~~

24-03-030. Removal of vehicles.

Whenever any vehicle shall be impounded or towed pursuant to the Uniform Traffic Ordinance, Alamogordo Municipal Code section 14-01-140, any other laws of the State of New Mexico or City ordinance, now or hereafter in effect, such vehicles shall be removed, by or at the direction of the Alamogordo Police Department, to the impound lot. All vehicles that are seized pursuant to the authority of Chapter 24-02 the Alamogordo Municipal Code, or other laws of the State of New Mexico or ordinances of the City, shall be removed, by or at the direction of the Police Department, to the impound lot.

24-03-040. Recovery by owner.

Before an owner shall be permitted to remove an impounded vehicle from the impound lot, the owner shall pay to the actual charges incurred by the City in removing such vehicle to the impound lot and storage charges, all of which storage charges shall be determined in accordance with the provisions of section 24-03-050 of this article.

24-03-050. Amount of storage charges.

The fee for impounding a vehicle shall be equal to the fee charged by the towing services who tows the vehicle. The storage cost of the impounded vehicle shall be \$25.00 a day for each motor vehicle stored in the impound lot. Any part of a day shall count as a whole day.

24-03-060. Payment of charges; liability to other penalties.

The payment of the towing fee and storage charges shall not operate to relieve the owner of such vehicle from liability for any fine or penalty imposed for any civil or criminal violation of any law or ordinance on account of which the vehicle is impounded, and provided further that the payment of such charges shall be final and conclusive and shall constitute a waiver of any right to recover the monies paid.

24-03-070. Towing and Storage Lien.

The City shall have a lien on the motor vehicle for the towing fees and storage charges, may retain possession of the vehicle until the fees and charges are paid, and may have the vehicle sold at public auction to satisfy the lien. The lien that attaches to the vehicle shall be in accordance with Article 3, Liens on Personal Property, of Chapter 66 NMSA 1978, and may be foreclosed in the manner provided in section 48-3-13, NMSA 1978.

24-03-080. Lienholders.

A lienholder asserting its right to possession of an impounded vehicle pursuant to its conditional sales agreement may obtain immediate release of such vehicle by paying the applicable towing fees and storage charges provided in subsection (b) of this

August 12, 2014

New Material

~~Deleted Material~~

section and submitting a photocopy of the conditional sales agreement and title certificate, an affidavit stating that the purchaser is in default of the agreement and an indemnification certificate executed by an authorized agent of the lienholder.

Article VI

Effective Date. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

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

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By: _____
Susie Galea, Mayor

ATTEST:

Reneé L. Cantin, City Clerk

APPROVED AS TO FORM:

Stephen P. Thies, City Attorney

First publication:
Final publication:
Effective date:

14. **Approve the final publication of Ordinance No. 1468 amending the Alamogordo Code of Ordinances to add a new section in Chapter 24 concerning vehicle forfeiture. [Roll call vote required]** *(Stephen Thies, City Attorney)*

Commissioner Hernandez stated that when the commission first voted on this item two weeks ago, he had several concerns. He supported it in order to get to this point and hopefully get citizens out here to voice their concerns. He has several issues with the ordinance as written and cannot support it as such.

Mayor Pro-Tem Rentschler moved to table the item and ask the city to remove the section on private property and impound lot and mention of towing and then bring it back to the commission. Commissioner Straface seconded the motion.

Commissioner Sikes asked for clarification. She asked if they meant only the towing from private property, and Mayor Pro-Tem Rentschler said he meant the private property section, wholly. He said we currently have an ordinance that covers that and there really is no reason for us to go over it again. To remove the private property section is inherent to what we need to do here, as well as the impound lot and the other justification we have for towing, or whatever, that involves additional city employees or city funding.

Commissioner Sikes asked to make a comment before voting. She appreciated everyone who came this evening and thought it was a real eye opener to see how much attention an ordinance that had a very simple original intent could get. She knew she had explained the original intent of the ordinance at the last meeting, and that was to be able to condense the time to remove property from public right-of-ways that annoyed people; for example, a car that might have been abandoned in front of a house because somebody was arrested for DWI, or a stolen vehicle parked in front of a house on public property, but we want it removed more quickly than our ordinance allowed. So, that was the original intent. She wanted to applaud and give accolades to our Code Enforcement Dept. because they worked extremely hard on trying to improve Alamogordo, basically. We get a lot of pressure from both sides, people who want to beautify Alamogordo as well as those who like Alamogordo the way it looks. We get a lot of people who say it is only the newcomers who want it improved, it's only the people who move here, look around and don't like the way it looks. But the people who've been here for years kind of like the way Alamogordo looks and don't want it to grow. Commissioner Sikes said she could not tell them how many times she had heard that. In the meantime, she appreciated the fact we can't support the ordinance the way it is now because people like Amy Barela and John Paul Barela brought to our attention the fact that we were essentially competing with private business. We do not want to do that and it was never our intent to do that. She wanted to make sure everybody understood the original intent was to condense some time; the Code Enforcement Dept. simply wanted to do a few things that would more than likely improve the way Alamogordo looked. This is an example for those of you who may not have read the entire ordinance, currently if someone is a hobbyist and wants to work on a vehicle in their driveway, they pay \$60 and they have two months to complete the project. Code Enforcement allowed you to pay the same \$60 but gave you 18 months to complete the project. A lot of the ordinance was actually making it a little easier on the citizens of Alamogordo. The Code Enforcement Department really wants everyone to understand that they are not out there trying to be punitive. They are simply trying to clean up the city. They get a lot of complaints that they don't do things in a uniform fashion, but weeds don't necessarily grow in a uniform fashion so she wanted to be on record that they looked at the ordinance and were simply trying to do something to make their jobs more efficient. Understand, we are going to send it back with the direction that we don't want to interfere with private property rights when they are private property rights we want to protect. She wanted them to understand, too, that she has private property rights as do all of you. If you are looking across the street at a pile of junk in your neighbor's driveway, you have property rights. You want to keep up the standard of your neighborhood, you want things to look good, and you have rights, too; not just the person with 18 junk vehicles in their driveway. We all have private property rights and we all want to maintain a standard for our neighborhood, and we all want to make sure our property values are maintained. So, as we send it back to staff we want to make sure that those things are taken into consideration, that we are

condensing the time frame for removal of vehicles that people don't want in front of their homes if they are on public right-of-way, and we certainly under no circumstances want to compete with the private businesses. The last thing Alamogordo needs is fewer jobs and businesses to go out of business. She thanked everyone who participated in helping the commission learn.

Mayor Galea said she appreciated the motion where we are removing an essential with this tabled item, the impound lot and the city towing not to compete with any other businesses in the city. She wanted to discuss the private property section. It is not to impede on any private property owners, but to go along with what Commissioner Sikes says to allow everyone property rights. Right now there are over 1,016 houses for sale in Otero County, which she learned today in the Business Impact/Government Relations class hosted by the Chamber of Commerce this morning. Last month only 24 houses sold in the City of Alamogordo, most of them new houses in a new development. It is challenging in this environment in which many are working to sell their homes, to sell a home next to someone who wants to accumulate a junk yard because it is their private property and they have a right to do it. Certainly everyone has the right to their own private property so that their property can be sold. The Mayor didn't think it was fair to anyone to live next to someone that accumulates junk. Of course, one man's trash is another man's treasure, she understood that; beauty is in the eye of the beholder. She would not be in favor of removing the private property section because she saw it as a benefit for those who have private property. Those who are hobbyists have an extended amount of time, up to 18 months, to tear apart a car and put it back together, and it provides greater opportunities for those on private property to remodel their vehicles. It creates greater flexibility for those who are auto hobbyists.

Commissioner Hernandez asked why the fee was \$60 to rebuild your own vehicle. For him, that would probably impede on people coming in to fill out a request. The problem he had on a vehicle vs. weeds for instance, was that where he lived there was a combination of both and it was a common problem. If he goes to pull a permit or not pull a permit, they are going to tag me right away and it will be taken care of instantaneously. For weeds, he's still waiting six months later for the guy across the alley for everything to go through the process of getting him to cut his weeds. How is that fair when all I have to do is buy a \$60 dollar permit? Can we issue \$60 permits for weeds, too, so I can grow weeds in my yard?

Mayor Galea thought that was a very good point. She asked Commissioner Hernandez if he would think it most fair that there be no fee for a permit to be able to abide by the ordinance. Commissioner Hernandez said that or a minimal fee, because these guys are driving by anyway checking weeds and everything else. They know addresses and whether they have a permit or not so there should be a minimal charge, but not \$60. In 18 months, and he didn't know how many had rebuilt a car, but the last one he did took him six years to do it right. He could do it half-assed in a couple of days, but to do it right took him six years.

Mayor Galea said the ordinance did allow for renewal of the permit, and Commissioner Hernandez said he didn't have a problem with that, but he did with \$60 to renew the permit. What if I forget and I come home and my car is gone. Mayor Galea agreed that \$60 did seem like a very large amount of money.

Commissioner Hernandez said that another problem he had with this section of the ordinance is he counted his cars this weekend, and he has nine titled, insured and registered vehicles. There is no way I can drive them or do drive them, and that's why it is lucky he has a garage to keep them in. If I didn't have the garage to keep them in, he would be in violation of the private property rights on the ordinance. He said he did not disagree with it and he wanted to clean up the community and he appreciated what Staff had done, but there were some problems with it.

Mayor Galea said the ordinance allowed for those that do not have garage space, to keep the cars in their back yard and in the front in a limited space with a proper covering. Commissioner Hernandez asked her if she had heard what he said – nine cars. Car covers for a corvette are not inexpensive and the wind blows here in New Mexico. The car cover dances around on the car and takes off the

paint. He didn't care if it was the best car cover in the world, that is what will happen. He said he did not agree with this because he was a car guy and it's tough.

Commissioner Turnbull wanted us to start from scratch because she felt there was a lot of overreach, and too much coming into my property, their property.

Mayor Pro-Tem Rentschler asked the city attorney if we didn't already have an ordinance that covered junk cars on private property. City Attorney Thies said you are looking at the ordinance that addresses junk cars on property. He went on to say the ordinance that currently deals with junk cars on private property is the ordinance that is before you. There have just been some changes made to it that provides additional definitions to streamline the process for removing the vehicle.

Mayor Pro-Tem Rentschler said this is a modification of our current process, correct? City Attorney Thies told him that was correct. The ordinance that deals with junk property has been amended. If you go through the first portion of this particular ordinance, the highlighted text is the new text of provisions that have been added. The current ordinance does allow the city when they find a junk vehicle on private property to cite an individual. Currently, we do not have a mechanism to remove the vehicle. That particular provision was included because about a year and a half ago we had a situation where the city was receiving numerous phone calls on a foreclosed house. They could not find the owner of the vehicle that was sitting in front of the house. An option at that time, there wasn't anyone to cite and we had to leave it there because we could not tow it off the property. That's why this particular provision was included where we could go on the property and tow it away if the owner of the property could not remove the vehicle. Otherwise, currently, we do prohibit junk vehicles from being stored on property. If it is brought to the attention of Code Enforcement, they will give the individual notice to remove the vehicle. If they do not remove the vehicle, they will be cited and it will go to Municipal Court. Speaking with the judge and the process he handles, if the person will come in and depending on whether they plead guilty or not, or if found guilty, they will be given approximately 30 days to remove the vehicle. They will be given a form verified by Code Enforcement that the vehicle has been removed. If it is removed within that time period, he will waive the fine and only impose the surcharges.

Mayor Pro-Tem Rentschler said she just told me we have a remedy. City Attorney Thies said we will cite them into Municipal Court, yes. That is the current remedy we utilize. This first section of the ordinance only adds the provision that allows us to remove the vehicle. Mayor Pro-Tem Rentschler said what he could tell him about that was long before he had even considered being a city commissioner, he gave up a '65 Chevrolet Malibu that one of you guys has in your lot somewhere and he wants it back. He said he did it because he got cited and didn't have any place to put the car, and he gave it to one of the impound lots out here. It worked in his case and he couldn't imagine it not working in anybody's case, and what we have now works and he thought the citations and fines were enough. He said he had gone before the city magistrate twice with that vehicle before he got vicious with me, so he did what he had to do because he didn't have time. He still wished he had that car and felt what we have now works and he didn't see a reason to really go after it. The things we are talking about are public right-of-way and he'd tighten that up to 72 hours public right-of-way. If someone gets a DWI in front of your house and leaves their vehicle there, just like the State Police or Sheriff we should put the orange sticker on it and 72 hours later it will be gone; that's when it is towable. That's something we need to do. If you have someone whose car breaks down in front of your house, what can you do? You can call DPS and they'll come put a sticker on it for 72 hours, and he thought that reasonable. When it comes to private property, we need to really, really tread very carefully, and he didn't believe we need more than we already have.

Mayor Galea said that on the same topic as the Malibu, she thought the point was well taken that we do have something in place that works; that you can be cited and face a magistrate judge and lose your car. Under the new ordinance, there is an opportunity the Malibu could have stayed had you applied for a permit at a lesser fee than \$60 for 18 months and restored the car. If it wasn't restored in 18 months you could reapply for the permit. She thought it was something that allowed for more freedom on private property rights when you are working to restore a vehicle you love.

Mayor Pro-Tem Rentschler said the truth is he has a '67 Chevrolet Impala that he's had for 30 years and it still doesn't run, but he might get to it one of these days.

Commissioner Straface commented the motion was to table this to give Staff a chance to look at it based on the testimony heard tonight and our feelings, and come back with a revised ordinance. Is that correct?

Mayor Galea said no, the motion and the second is in addition to tabling this item until it can be reapproved, is to also remove the all private property rights section from the ordinance, and to also remove the impound lot and mention of city towing.

Mayor Pro-Tem Rentschler remarked he would say the new private property rights since this is an existing ordinance.

Commissioner Straface said he wasn't clear on that when he seconded it, and would like to withdraw his second based on what you just said. Mayor Galea stated Commissioner Straface has withdrawn his second.

Mayor Galea said she had a motion by Mayor Pro-Tem Rentschler to table this item and also remove new private property rights section as well as the impound lot and city towing mentioned in the ordinance. She asked for a second.

Commissioner Hernandez made a second motion to totally dispose of this ordinance and work with Staff to bring back another ordinance at a future time. Commissioner Turnbull seconded the motion.

Commissioner Sikes asked for clarification and point of order. She thought we have to do something with the first motion, and Mayor Galea said it died for lack of a second.

Commissioner Sikes said with regard to discussion as far as directing Staff, she had one more comment. She appreciated what Commissioner Hernandez had just said and really did think we all learned a lot, which is essentially what this process is for. Bring an ordinance forward, discuss it, have a public meeting and then discuss it further before we pass it. What we are going to do now is direct Staff to re-write an ordinance, but she wanted Staff to keep in mind when re-writing the ordinance the portion where somebody actually came and spoke to us about the DWI part of it, those who have to get breathalyzer equipment. An analogy was made that we are all probably a couple of steps away from being connected or disconnected from people who may have made a mistake and had a DWI. Now they have to be penalized by paying a price for a breathalyzer. She had another analogy of people connected by one or two steps from someone who died, got maimed or had their life ruined because of somebody who was driving under the influence of alcohol. It doesn't leave me, and she didn't know about anyone else, a lot of room for sympathy. If we want to get people in this room to testify about that, all we have to do is make people aware of the fact that we are attempting to be sympathetic to a \$58 dollar price for a breathalyzer. She was sorry, but couldn't work up a lot of sympathy for that. She hoped Staff would take that into consideration.

Commissioner Straface said what was missing in the discussion he had heard was that we now have ordinances that allow us to cite things that need to be moved, but we don't have a mechanism by which we can accomplish that. That needs to be included in this, and what is not acceptable was we are going to enter into the towing business ourselves and a private lot. There has to be some mechanism by which we can involve citizens and say yes, we've cited, the appropriate time is gone and now we need to have the car removed. That system needs to be included in the ordinance.

City Attorney Thies asked for clarification. The second segment of this ordinance, the DWI forfeiture, when the ordinance is redrafted, is that to be included or not in the redraft of the ordinance? The ordinance is in three sections; the first deals with junk vehicles, abandoned vehicles on public and

private property; the second section deals with DWI forfeitures; and the third section deals with the establishment of impound lots. He is asking for direction when he brings back a redrafted ordinance. Should it include a provision, a section about DWI forfeitures?

Commissioner Baldwin suggested that with the complexity of this actual ordinance, it seems like there is a lot of information on a lot of different things. He suggested splitting it into two ordinances or three separate ordinances.

City Attorney Thies responded the reason it was put all together was because they do tie somewhat. If we start seeking to forfeit vehicles for DWI, we have to have someplace to take them where we are not having to pay storage costs, because if the court would order the return of the vehicle, it goes to a private lot. We would then have to pay that private lot for the storage fees, and that is why this impound lot was included in this ordinance; to avoid that potential cost when vehicles are ordered to be returned. It all ties together. It is conceptual that if we stripped the impound lot provision out, naturally the impound lot doesn't mandate that it be a city-run lot, it just says the city will designate a city impound lot; it could be privately run. We could always strip it out and work out something with the private lot owners where we can deal with the potential fees if the vehicle is ordered to be returned. We can kick that around and bring something back.

Commissioner Hernandez said along with what the City Attorney Thies is saying, could we go into contract with the towing companies with the knowledge that they may not receive payment for storage of that vehicle if the court so deems it. He didn't know if that was possible or how he wanted to do that, but that would take us directly out of competition and give them the option. Whether they get paid or not is going to be up to the court.

Mayor Galea said the city is already doing that with the Police Department when a salvage is needed at an accident site or other site. What the city does is on a rotating basis contact the licensed salvage companies.

Commissioner Hernandez said a second thing was that it sounds like staff is wanting to bring it back in two weeks, and he didn't know if that was the necessary rule for this. He wondered if each commissioner could email them your problems and issues you have with the ordinance, and then let them re-jiggle and fine-tune it and send it back to us.

Commissioner Baldwin said not just our issues with it, but it was his understanding a lot of private owners, too. Their issues need to be taken into consideration as well, and Commissioner Hernandez agreed.

Mayor Galea said as she understands it, we would like to see this come back in about a month's time, that should be enough to work out the challenges with this. She understood it would be best if it was in two places. Section 1 and Section 2 both apply to Section 3, with Section 1 dealing with private property. There wouldn't have to be a dismantler's license and that would be different than salvage. DUI would have a part of salvage in that same ordinance of that section of salvage. She understood it could easily be two ordinances instead of one.

Commissioner Straface believes with the information Staff has, they should come back with what their ideas are how they would solve these issues, and allow them to do their work.

City Manager Stahle didn't want them to expect it in two weeks or even 30 days. We are going to have to take this seriously and try to get it right; maybe give you some options when we bring it back. We'll have a discussion about it before we ever start advertising for an ordinance.

Mayor Galea asked him when he would advertise that this ordinance would be back on the City Commission agenda so members of the public would know about it ahead of time. City Manager Stahle said it would be on the agenda which is published. We won't advertise the ordinance until after you have had the conversation, and we could invite the folks who made comments tonight to that

and make them aware. That's how he would prefer to work it, so that everybody who does have an interest in this is aware of what we are up to.

Motion carried with a vote of 7-0-0.

Commissioner Hernandez told the audience he was very good at passing out emails, so if they would send him email addresses he would make sure they get it when this comes out.

- 15. Approve the final publication of Ordinance No. 1472 creating new Article 7-05 in the Code of Ordinances concerning Pigeon Nuisance and Abatement. [Roll call vote required] (Stephen Thies, City Attorney)**

Mayor Galea told the commission she had removed this item for further discussion. She commented she agreed that in many places and concentrated areas throughout the City of Alamogordo there may be incidences of a nuisance with pigeons, but she did not see evidence it was a city-wide issue. She did not feel this ordinance was enforceable the way it is written. She did not think those with bird feeders in their yards that had pigeons feeding by chance could be cited. This is the only problem she had with the ordinance, and thought if there was a pigeon nuisance it could be addressed by the commission in an ordinance when there is a complaint. She felt there was an opportunity for trapping.

Mayor Pro-Tem Rentschler said there were people who intentionally feed pigeons and this is where the ordinance is directed. If someone like my neighbors across the alley are feeding sparrows and some of the bird seed falls, we won't go after them because they accidentally fed a pigeon. We all accidentally feed pigeons when we eat at one of the outdoor hamburger joints and drop a french fry. He thought it could be delivered with some common sense and the very reason for this is so you have the opportunity when those people are spotted doing it to go say this is a warning and you will be cited next time we see you doing it. He didn't think it would go a lot further than that, but it would at least get the people who are intentionally doing it by buying pounds of bird feed and scattering it around.

Mayor Galea said she did look for facts and figures and had contacted the Fish and Wildlife Service out of Las Cruces who serve Alamogordo through a contract with Otero County. Otero County opted not to renew that contract so they were not able to provide a report to us in regards to any data showing pigeons as a nuisance city-wide. She could not support it for that reason.

Commissioner Hernandez remarked he understood what she was saying but felt our staff had enough discretion to decide whether birds are being fed from a bird feeder or somebody is feeding pigeons. He noted three places that are very visible where the guys do it at the same time all the time. One is at Aspen and Washington right behind the apartments where a guy feeds the pigeons right there. Right across from the House of Prayer there is a guy who feeds the pigeons right there. Another is Wal Mart where somebody goes and dumps probably three to four loaves of bread to feed the pigeons. Those three right there are totally enforceable and if you live in my neighborhood you understand it is a nuisance.

Mayor Galea said she understood and knew when there are those particular instances that complaints can be filed with Code Enforcement and they can take action, but she didn't think it was a city-wide nuisance.

Commissioner Straface commented that he had voted no when this came around for the first reading. When he looks at 7-05-030 in the ordinance it really does define the unlawful acts, and it exempts out bird feeders, etc. He would support it now with the understanding of what is in the ordinance, and it really is directed to those people intentionally feeding pigeons and causing that nuisance. It gives room for our staff to be able to make those judgments.

Commissioner Hernandez moved to approve the final publication of Ordinance No. 1472 creating new Article 7-05 in the Code of Ordinances concerning Pigeon Nuisance and

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 08/23/2016

Report Date: 8/16/2016

Report No: 18.

Submitted By: Nancy Jacobs

Subject: Recess into Executive Session in compliance with Section 10-15-1(H), NMSA 1978 (as amended), to discuss: collective bargaining negotiations (AFSCME, APSOA & non-represented employees), limited personnel matters (City Manager candidates), and purchase, acquisition or disposal of real property (First & Florida project) . **(Roll Call Vote required)**

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation:

Background: