



Alamogordo City Commission

NOTICE OF MEETING

Regular Meeting Agenda

November 1, 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
Lauren Truitt City Attorney
Rachel Hughs City Clerk

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

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

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

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

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

CALL TO ORDER & ROLL CALL

Announce the presence of a Quorum.

INVOCATION & PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

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.

1. Approve the minutes for the September 27, 2016 Regular meeting. *(Rachel Hughs, City Clerk)*
2. Approve the statements related to the Executive Session held on September 27, 2016. *(Rachel Hughs, City Clerk)*
3. Consider , and act upon, award IFB No. 2016-09 to multiple vendors, in the amount not to exceed \$173,883.78 related to Miscellaneous Foods, Dairy Products & Items for the Alamogordo Senior Center Nutrition Program. (Veronica Ortega, Community Services Director)
4. Consider and act upon, final adoption of Ordinance No. 1529 amending Chapter 24 of the *Code of Ordinances* to include Off-Highway Motor Vehicles. **(Roll Call Required)**

ITEMS REMOVED FROM CONSENT AGENDA

NEW BUSINESS

5. Hold a public hearing, and act upon a request for a map amendment to the official zoning map of the City of Alamogordo to rezone the property located at 1806 9th Street from-C1 – Neighborhood Business to R3 – Two Family Dwelling. (Stella Rael, Planning and Zoning Administrator)
6. Hold a public hearing, and act upon a variance to reduce the property rear setback from having a depth of not less than thirty (30) feet or twenty (20) percent of the depth of the entire lot, whichever amount is smaller, to five (5') feet. (Stella Rael; Planning and Zoning Administrator)
7. Consider, and act upon, the sale of equipment purchased for the Street Maintenance Department. (Brian Cesar, Public Works Director)
8. Consider, and act upon, the sale of equipment purchased for the Street Maintenance Department. (Brian Cesar, Public Works Director)
9. Consider, and act upon, Change Order No. 2, RFQ 2014-05, to Bohannon Huston, Inc. related to the engineering and design services for the Bonito Lake Restoration project, in an amount not to exceed \$168,514.75, including tax. (Brian Cesar, Public Works Director)

EXECUTIVE SESSION (Roll Call Vote Required)

10. Recess into Executive Session in compliance with Section 10-15-1(H), NMSA 1978 (as amended), to discuss: limited personnel matters and pending litigation. **(Roll Call Vote required)**

RECONVENE INTO OPEN SESSION

11. Action, if any, related to Limited Personnel Matters.

ADJOURNMENT

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 11/01/2016

Report Date: 10/25/2016

Report No: 1.

Submitted By: Rachel Hughs

Subject: Approve the minutes for the September 27, 2016 Regular meeting. *(Rachel Hughs, City Clerk)*

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Approve the minutes.

Background: This is required by the Open Meetings Act.

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., COMMISSION CHAMBERS
SEPTEMBER 27, 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, INTERIM 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 Deputy City Clerk. Deputy Clerk Hughs announced there was a quorum present. Invocation was given by Pastor Dustin Wilhite and the Pledge of Allegiance and Pledge to the New Mexico Flag were led by Commissioner Martin.

APPROVAL OF AGENDA

City Clerk Jacobs asked to remove Items 13 & 14, Public Works Brain Cesar could not attend the meeting.

Mayor Pro-Tem Hernandez moved to approve the agenda as amended. Commissioner Baldwin seconded the motion. Motion carried with a vote of 7-0-0.

Mayor Boss presented City Clerk Jacobs with a plaque in appreciation of her service and dedication to the City.

PRESENTATIONS

1. Presentation by a representative of the White Sands Balloon Invitational Committee related to the waiver of park/electrical fees by the City for any future Balloon Invitational events at the Balloon Park. (*Bill Butler, Balloon Committee member*)

Bill Butler spoke on behalf of the Balloon Committee; he thanked Erik Marion and Joe Malone for their help during the Balloon Invitational. He was pleased to announce this was the 25th Anniversary of Lighter than Air in Alamogordo. He said 43 balloons attended the Balloon Invitational of which 40 were from out of town and paid \$6,000 in hotel rooms and \$3,400 in propane gas. He said in the past they had a verbal agreement with Matt McNeile, the agreement was as long as it was a balloon event, they could use the park and there would not be any problems. He asked the Commission to refund the fees they paid this year to use the Balloon Park and asked for their support and wanted the fees waived for future balloon events. He said the Chamber of Commerce was could no longer put them under their umbrella for insurance and asked if the City would consider becoming their umbrella insurance for balloon events.

Mayor Boss asked Mr. Butler if he was asking for the City to waive the \$54.50 and waive it from now on. Mr. Butler answered, yes please and the umbrella insurance. Mayor Boss asked how this would affect their insurance, he said the balloon organization would cover the cost.

Acting City Manager Paluch asked him if they had a list of what the Chamber of Commerce was doing for them under the umbrella organization, he did not have the paperwork with him. She said the City of Alamogordo would look into a lease agreement with them. Her recommendation to the Commission was they could not refund the fees, but they could having something in writing to waive the fees in the future. She suggested every year the balloon organization come before the Commission to ask to waive the fee, unless there was a contract to waive the fees.

Commissioner Baldwin said there had to be some way they could make organizations entities of the City of Alamogordo so they could get around the anti-donation clause. He volunteered to be part of a committee that would put this together.

Acting City Manager Paluch said she and Community Service Director Ronnie Ortega had been working on a sponsorship agreement and thought Commissioner Baldwin had a great idea.

Commissioner Payne asked why they couldn't refund the fees for this year. Acting City Manager Paluch said the City had not refunded fees before and she wanted to keep continuity. Commissioner Martin liked Commissioner Baldwin's idea. Commissioner Baldwin said they would work with the balloon organization.

PUBLIC COMMENT

Paul Sanchez commented on the following:

Mr. Sanchez was concerned about the upcoming Art Walk meeting and asked why the Farmer's Market was removed from utilizing Alameda Park. He advised the Commission to draw a line when waiving fees to organizations.

CITY MANAGER'S REPORT

Acting City Manager Maggie Paluch made the following remarks:

- 1) She spoke on the Kids Kingdom fire and said the community remembrance tiles were still in tact and would incorporate them into the new park. She said the investigation from the insurance was still ongoing and does not know the insurance payout yet, but would keep the Commission and public informed. The structure type of the new park to replace Kids Kingdom was at this time not known but would bring proposals to the Commission.
- 2) She announced the Assistant Director for the New Mexico Economic Development Main Street Program would be here 3 p.m. tomorrow in the Commission Chambers to present the purpose of the program and how they could partnership with our city.
- 3) She said two of the New Mexico EDA capital outlay projects were frozen, \$600,000 for the reclaim storage ponds at the Golf Course and \$ 4 million for the plan design in construct of the Desalinization Treatment facility.
- 4) She said the Blueline Benefit for Officer Corvinus would be on September 30th from 6-9 p.m. at the Alameda Zoo. She said all the money received from the event would go to Officer Corvinus's family.
- 5) She announced Clerk Nancy Jacobs last day would be Friday. She thanked her for her service and dedication and that she would be missed greatly.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Commissioner Baldwin made the following comments:

Commissioner Baldwin told City Clerk Jacobs regarding her retirement to run like the wind.

CONSENT AGENDA

3. Approve the minutes for the August 23, 2016 and September 13, 2016 Regular Meetings, and September 19, 2016 Special Meeting. *(Nancy Jacobs, City Clerk)*
4. Approve the statements related to the Executive Session held on September 13, 2016. *(Nancy Jacobs, City Clerk)*
5. Consider, and act upon, Resolution 2016-38 accepting the Assistance to Firefighter Operations and Safety Grant Award from the US Department of Homeland Security - Federal

Emergency Management Agency, in the amount of \$69,000, including a local match of \$6,272 (*Mikel Ward, Fire Chief*). (Roll Call Vote required)

7. Consider, and act upon, four agreements with Otero County for Transportation, Meals on Wheels/La Luz, RSVP Services and Alamogordo Library Services for County residents. (*Veronica Ortega, Community Services Director*)

8. Consider, and act upon, a bid award of IFB 2016-07 Hot Mix, to AggTec LLC to be utilized by various departments. (*Barbara Pyeatt, Chief Procurement Officer*)

Commissioner Baldwin asked to remove Item #6 from the Consent Calendar.

Mayor Pro-Tem Hernandez moved to approve items 3, 4, 5, 7 & 8 of the consent calendar.

Commissioner Sikes seconded the motion.

Roll call was taken for item No. 5.

Motion carried with a vote of 7-0-0.

ITEMS REMOVED FROM CONSENT AGENDA

6. Consider, and act upon, Resolution 2016-41 for an agreement with Department of Finance and Administration to accept Capital Appropriation for the Family Recreation Center Locker Room Renovation. (*Veronica Ortega, Community Services Director*) (Roll Call Vote required)

Commissioner Baldwin said the ICIP money was frozen and stated this was from that money. Community Services Director Ortega said this was awarded in 2016 and they received clarification from DHF the project was still ongoing. Commissioner Baldwin said one of the reasons the money was taken was because the projects were taking so long to complete and asked Community Services Director Ortega what the completion date was for this project. She said it would be addressed in the next item.

Commissioner Baldwin moved to approve.

Commissioner Martin seconded the motion.

Roll call vote was taken.

Motion carried with a vote of 7-0-0.

UNFINISHED BUSINESS

9. Direction to Staff regarding Bubble options for the Family Recreation Center pool. (*Maggie Paluch, Acting City Manager*)

Acting City Manager Paluch said staff researched the bubble options and found they have run into a snag because of the new standards required by the state beginning August 1st for air quality regarding enclosed pools. The humidity was an issue and in order for the bubble to be put up they would need to purchase a huge dehumidifier and they didn't know if it was possible to pass state requirements. She asked the Commission for direction.

Facility Maintenance Manager Garner said the problem they had on August 1st New Mexico Environment Department adopted codes from the National Aquatic Health Code and adopted some standards with it. Part of the standard was the quality of the air and the humidity that lives inside a bubble structure. In order to meet their qualifications, they were looking at 55 percent pull out of the humidity that was inside the bubble. He stated the problem was the inside of the bubble was like a parasail, they have an air handler that blows air in constantly that was twice the atmospheric pressure as it was outside and this was what held the bubble up. He said you have two separate pools, a summer pool and a winter pool. The summer pool reacts to different elements with the environment, the way the sun reacts with the water. Winter was the opposite; it had its own environment where you had to match

temperatures with air and the water in the pool. He said the old standards were you needed to move a certain amount of air and the qualifying act was to recirculate or change the water every six hours. The air was the same thing, when you have it enclosed you have to change the air as well. He said the New Mexico Environment Department would not allow the bubble to go up if they had to meet the standards and because this was a new structure, they were requiring an engineer stamped set of drawings stating they would remove 55 percent of air. The problem with the dehumidifier was it would require a 30 ton unit which requires a lot of power. They would still have to replace the revolving doors so they wouldn't lose pressure. The wall on the east side was corroding and before moving forward they needed clarification on what direction to go.

Assistant City Manager Paluch clarified the bubble initially was the least expensive option but unfortunately the new standards of the dehumidifier and the cost to run it was an expensive reoccurring cost.

Mayor Boss stated it was not just the dehumidifier; they also had to keep a certain temperature and they had another unit fighting the dehumidifier and the air bubble.

Larry Garner said the air handler also heats the air and dehumidifies but they still had to match the temperature of the water otherwise they would create fog banks when the heater fails. They were still looking at power sources. Mayor Boss asked him if it was estimated \$450 a day to run it. He answered it was possible and it would have to run 24/7.

Mayor Pro-Tem Hernandez clarified they had to blow air to keep the bubble up and if they did a permanent structure they would no longer need to keep the air moving. They would only have to maintain the temperature. Facility Maintenance Manager Garner said that was correct.

Commissioner Baldwin asked how many months the old bubble was up during the year. Community Services Director Ortega answered from April to October. Commissioner Baldwin asked if they had ever had trouble with air borne pathogens or mold. She answered there had been complaints regarding the air quality control in the bubble but because they were grandfathered in they did the best they could. Her recommendation was to allow staff to go out on a Request for Qualifications (RFQ) on an engineering firm as they do not have staff expertise to determine what would be best.

Commissioner Baldwin thanked staff for becoming experts on huge dehumidifiers and thanked the state for regulating them out of a viable option.

Assistant City Manager Paluch thought they should consider a permanent structure, possibly a metal building if they were going to fix the wall and do it as one project. She said it was up to the Commission if they wanted to continue pursuing the bubble idea or they should just bypass that to speed up the process to put a permanent structure.

Mayor Boss stated there was a great deal of uncertainty with the bubble and meet the quality standards. He said the bubble was kind of off the table. Mayor Pro-Tem Hernandez asked if the current structure was fully sprinkled right now. Facility Maintenance Manager Garner answered there was a fire alarm system but it was not a sprinkler. Mayor Pro-Tem Hernandez said that would be his concern if they ever decided to up the size of it, they would have to add a sprinkler adding an additional cost.

Assistant City Manager Paluch said he was correct if they add anything to the structure, it would have to come up to code. She said Community Services Director Ortega and Facility Maintenance Manager Garner worked hard on pulling together a project list on some other items that needed to be done at the Rec Center. She stated the Commission's wishes at the last meeting was any additional funding that they had in reserve from the bond would go toward upgrades at the Rec Center.

Commissioner Sikes asked if they were up to code on the sprinklers at the rec center. Community Services Director Ortega said it was grandfathered in and anytime you do upgrades you had to bring it up to code through Construction Industries Division. Commissioner Sikes asked since they were

renovating the locker rooms, did that mean they were going to sprinkle the locker rooms. Community Services Director Ortega said she was not sure.

Community Services Director Ortega stated whether a bubble or permanent structure from start to finish, they were looking at eight months but in that eight months they were renovating the locker rooms so they didn't have to close multiple times.

Assistant City Manager Paluch announced the pool will be closed this winter and would refund memberships for the time it was closed. She asked for direction, if staff would go out for engineering services for a permanent structure or would they like to bring this item back for further discussion. Commissioner Martin thought the bubble was out and Commissioner Baldwin said it was safe to say the bubble's been burst. Mayor Boss stated they should proceed on. Acting City Manager Paluch thanked the Commission and said they would get it out as soon as possible.

Public comment:

Dale Lindley from the Park and Rec Board was concerned about closing the pool and said the Parks and Rec Committee always thought there needed to be a permanent structure. He didn't know where the numbers came from regarding the metal building at \$30 per square feet. He said the Committee felt they needed a metal building. He said there was a local company that does this type of work and asked why they were going outside the City to find someone.

Mayor Boss said although they had a local preference they had to put it out to bid. He said they could speak with Purcell and get some ideas. Assistant City Manager Paluch said they can't actively seek out specific agencies to get specs per the procurement policies. Mr. Lindley asked if they could just get advice from the company she answered it would take them out of the running. Acting City Manager Paluch stated this building would have to be engineered and have an RFP done to get the drawings completed and stamped by an engineer that was certified by CID. She said they would then go out for a metal structure bid and Purcell was more than welcome to bid on the project. Mr. Lindley said his frustration was they were going to close the pool for eight months. Mr. Lindley mentioned the joint usage agreement with the schools and the hefty fee the schools pay.

Public comment:

Jerry Lott from the Park and Rec Board asked if there would be three bids. Acting City Manager Paluch answered they were doing an RFP for an engineer and RFP for someone to build the structure. He asked Mayor Pro-Tem Hernandez if he said it would only take two months to have a structure put up and he answered no sir, they were waiting two months before moving in to a building that was being remodeled because of fire code violations. Mr. Lott said he was in favor of a permanent structure and stated this project needs to be expedited. If there was going to be a committee He wanted someone from the Park and Rec Board to sit on a Committee.

Mayor Boss thought to include someone from the board was a reasonable request and they were moving forward. He asked if the Blind School had a pool. Assistant City Manager Paluch said they did have one but they were not a corporation with the Blind School. He asked if they could ask the Blind School and she said they could. Mr. Lott stated they may run into difficulties with the Blind School.

Paul Sanchez asked what dates the pool would be closed. Assistant City Manager Paluch answered November 6th and sure when they would reopen. He said the Commission should have been looking at this earlier and asked them to look into other issues ahead of time. He wondered where the money for the bubble was coming from. Mayor Boss told Mr. Sanchez this was from a refinance bond. Mr. Sanchez disputed that every time refinance a bond was done without the permission of the people.

Direction to City staff was to go out for engineering services.

10. Consider, and act upon, funding for the NM Aviation Aerospace Career Expo on October 6, 2016. (Maggie Paluch, Acting City Manager)

Assistant City Manager Paluch spoke on the busing services for the children to the career expo and mentioned the total cost was \$5,321 but it didn't include a buses for Special Ed students. She said the school was estimating it would around \$2,000.

Special Events Manager Wafful spoke on events for the year and the expenses. She said there were 29 events not counting other special events. They have an unencumbered balance of \$70,856 divided by the 29 events was \$2,064 for each event; that would be subtracting \$11,000 which was lower than the original request. She said most likely they would have to cut back on Military Appreciation Day which was at the end of the year. She said after looking at the expenses they could do that for this event.

Commissioner Payne asked Special Events Manager Wafful if they could do this for the \$11,000. She answered they would be cutting it very close for \$11,000. Jan Wafful said the amount of the events included supplies and inventory. Commissioner Payne asked if this would bus 2,000 kids from the City. Assistant City Manager Paluch answered yes.

Mayor Boss mentioned they should support this if it does not jeopardize programs for Holloman Air Force. Commissioner Baldwin agreed with Mayor Boss to support this but not to take away from the normal programs and asked if this money was coming from the lodger's tax. Special Events Manager Wafful answered yes. Commissioner Baldwin asked if there was any money from the budget they could use for this. Assistant City Manager Paluch said the only way to do this was to get it from Fund Balance and do a budget revision. Special Events Manager Wafful said her goal was to add new events because they had lost some events. Commissioner Baldwin felt he would be willing to proceed with the \$8,000, with the idea they would work as hard they can to put back into these events at the end of the year. Commissioner Baldwin asked if they could have this as a reoccurring event.

Mayor Boss asked Assistant City Manager Paluch if they could do this as presentation of invoices. She said she preferred accurate invoices for auditors. Commissioner Baldwin asked what department they would be working with and Special Events Manager Wafful said it would be her. Assistant City Manager Paluch recommendation was to vote on the \$8,500 and organize with the school department to have an accurate cost. Commissioner Turnbull asked if the schools were helping with this and Special Events Manager Wafful answered if it was not in the school budgets they would not help.

Representative Yvette Herrell agreed with Commissioner Baldwin to have a partnership with the school for this event.

Commissioner Payne moved to approve up to \$8,500 for the career expo.

Commissioner Payne moved to approve.

Commissioner Turnbull seconded the motion.

Motion carried with a vote of 7-0-0.

2. Presentation by Michael Shyne concerning the annual salary for the City of Alamogordo City Manager. (Michael Shyne, presenter)

Mr. Shyne spoke on how vital a city manager was and how they benefited from their expertise. He stated it was embarrassing how many positions were open in the City. He asked the Commission to raise the City of Alamogordo manager salary to \$200,000. He asked what the salary range was last time. Acting City Manager Paluch answered \$100,000 to \$165,000. He asked them to pay \$60,000 more to a city manager position. He also thought the City should pay \$30,000 more for an engineer and city attorney. He said this was the one time they needed to spend more money.

NEW BUSINESS

11. Consider, and act upon, Resolution 2016-39 approving the lease of the Housing Authority Learning Center located at 1614 Abuelito to the Otero Hunger Coalition. (Evelyn Huff, Housing Authority Manager) (Roll Call Vote required)

Housing Authority Manager Huff spoke on the Otero Hunger Coalition and asked the City to approve leasing the building on 1614 Abuelito to the Coalition. The vacant building was previously a learning center, senior center and a drug elimination program.

Lynette Wedig gave history on the Otero Hunger Coalition and mentioned they serve six meals a week. She said the homelessness was tricky because they didn't have a shelter in Otero County. She stated if they had an office with a physical address they could apply for grants. Ms. Wedig said they need funding because right now they were operating from their homes.

Commissioner Payne asked if they were going to serve meals out of that location. Housing Authority Manager Huff answered the lease specify that. Ms. Wedig said they would have an emergency food pantry. Commissioner Martin asked if by the Environmental Department would be inspecting the food bank. Ms. Wedig said yes. Commissioner Payne stated Love Inc had a food pantry and wondered why food justified waiving \$12,000 a year in rent. Commissioner Payne was curious about the homelessness and Ms. Wedig said first they had to have a physical location before they could help with homelessness. Commissioner Payne asked Ms. Wedig if the facility would be manned at all times and she said yes.

Commissioner Sikes stated she had been working loosely with Otero Hunger Coalition and said the City does not provide services to the hungry and the homeless. She thought the organization was phenomenal and thanked them for sacrificing themselves to provide these services. She asked Ms. Wedig to introduce some of the Otero Hunger Coalition members and she did.

Commissioner Payne stated this put her in an awkward position. She said they were well aware of the situation and they were looking in to it. Her concern in waiving \$12,000 was they needed to put their money where their mouth was and get something done about this. She wanted the assurance that it will get done.

Commissioner Martin said she had seen in the lease that the City was responsible for maintaining the property at the City's expense and any alterations by the Otero Hunger Coalition, the City would give the organization credits for the improvements. She felt the City was taking on the expense to retro fit the building to fit an organization. She asked if the facility can handle refrigerators and freezers and Housing Authority Manager Huff answered they believed it could but if not, it would be the responsibility of the Coalition to pay for that work then it would be credited back to the Coalition. Commissioner Martin said the City would be paying for it. Commissioner Sikes confirmed the Coalition would be paying the electric bill and Housing Authority Manager Huff said yes.

Commissioner Payne abstained.

Mayor Pro-Tem Hernandez moved to approve.

Commissioner Sikes seconded the motion.

Roll call vote was taken.

Motion carried with a vote of 5-1-1. Commissioner Martin voted nay.

12. Consider, and act upon, Mesa Village Unit 3 final plat for The Heritage Group, LLC [Case # S-2016-0008A) located within the Mesa Village Subdivision. (Stella Rael, Planning and Zoning Administrator)

Planning and Zoning Administrator Rael presented a proposed final plat for phase three of the Mesa Village Subdivision. She gave some history and stated 2005 a master plan was presented to the Commission where it was approved for a subdivision. She said the parcels were subdivided into phases of which phase one and two had been completed. She recommended approval of the final phase, with

the condition the developer and the City reach an agreement and the required sub-dividers contract be finalized. She said the developer would also be required to complete and submit a detailed engineer's estimate of infrastructure, cost and payment of the fees paid prior to the release of the approved plat for reporting.

Commissioner Payne asked how big the park was. Mayor Boss stated the park was a separate issue and Planning and Zoning Administrator Rael agreed. Commissioner Payne said she was asked by a constituent to inquire about it and said he told her this should have went to Planning and Zoning before bringing it to the Commission. Planning and Zoning Administrator Rael stated it was brought to Planning and Zoning in the July meeting and after researching there was a revised ordinance from 2004 that indicated it not need to go to Planning and Zoning. She however did take it to the board to keep them informed.

Commissioner Martin abstained from voting.

Commissioner Baldwin moved to approve.

Mayor Pro-Tem Hernandez seconded the motion.

Motion carried with a vote of 6-0-1.

15. Consider, and act upon, an appeal by Robert Gutierrez of the repair of his sewer service line located at 1314 Hendrix. (*Mikel Ward, Fire Chief*)

Fire Chief Ward spoke on a sewer line frailer located at 1314 Hendrix and stated public works opened the street at the location and determined it was the responsibility of the property owner, Robert Gutierrez as it had failed on his side. He said they gave Mr. Gutierrez 30 days to correct the violation and in which he filed an appeal.

Mr. Gutierrez sated in 2009 he notified the City of a major water leak that was on the City's side. He said because they did not come to fix it for three days the leak found a void in the ground and caused it to settle. He believed this was how all this came to be.

Commissioner Turnbull asked Fire Chief Ward if it was a possibility that a water leak could cause this. He answered he was not an expert in this field but said yes it could happen. He said Public Works provided the Fire Department with the work ticket showing there was a water leak and curb connection were repaired on November 2, 2009.

Commissioner Payne asked if this occurred in 2009 and when had he been cited. Fire Chief Ward said Public Works bought it to their attention in August 2nd of this year to provide a notice of violation. She asked Mr. Gutierrez if he notified them in 2009 and Mr. Gutierrez said it was three weeks before the City went to look at the leak and through the years it must have gotten worse as the ground had dropped a foot. Mayor Boss asked him if it was three days or three weeks and he answered it was three weeks before the City came out there but it was three days that the water disappeared so he thought they had fixed the leak.

Assistant City Manager Paluch stated Public Works Director Cesar's recommendation was for Public Works work with Mr. Gutierrez to solve the issue. Commissioner Sikes asked what the cost would be. She answered she didn't have that information and Mr. Gutierrez didn't know either.

Mayor Pro-Tem Hernandez said if his sewer line had not been replaced at this point it would be clay tile and said over the years it would crack. Mayor Pro-Tem Hernandez said he stood firm on it was the home owners responsibility from the mainline to the house but this issue was different because the water leak was in the City side. Commissioner Martin agreed with Mayor Pro-Tem Hernandez.

Acting City Manager Paluch told Mr. Gutierrez Public Works Director Cesar would be in contact with him.

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

Mayor Boss read the openings and reappointed Victoria Eastman to the Cemetery Board. No one was opposed.

WORK SESSION

17. Discussion related to City Park maintenance and effluent water use. (*Veronica Ortega, Community Services Director & Brian Cesar, Public Works Director*)

Acting City Manager Paluch said Public Works Director Cesar will not be presenting his portion of the work session but if there were questions on effluent water they would address it at a later date.

Community Services Director Ortega and Parks Supervisor Eric Marion gave information on the Parks Department maintenance and challenges. He said there were over 400 acers of property at 35 different locations of which 185 acers were irrigated with the effluent system. He stated current staffing consisted of 21 full time employees with two frozen positions, one unfilled and 12 seasonal positions of which four are frozen and seven unfilled. He spoke on the difficulty of keeping positions filled, aging equipment and irrigating. (see agenda book for Power Point)

Acting City Manager Paluch said what they needed was more storage for the water system. Parks Supervisor Eric Marion stated they had four water shut downs of three days or more where they ran the ponds dry to refill them to send us water. Commissioner Payne recognized how hot it was outside and how little parks staff gets paid and said she appreciated them.

EXECUTIVE SESSION (Roll Call Vote Required)

18. Adjourn into Executive Session in compliance with Section 10-15-1(H), NMSA 1978 (as amended), to discuss: limited personnel matters (PSAP staffing and Acting City Manager direction). (Roll Call Vote required)

Mayor Pro-Tem Hernandez moved to adjourn into Executive Session to discuss limited personnel matters (PSAP staffing and Acting City Manager direction) at 9:12 p.m.

Commissioner Baldwin seconded the motion.

Roll call vote was taken.

Motion carried with a vote of 7-0-0.

ADJOURNMENT

Mayor Richard Boss

ATTEST:

City Clerk Rachel Hughs

(Prepared by Rachel Hughs, City Clerk)

Approved at the Regular Meeting held on November 1, 2016.

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 11/01/2016

Report Date: 10/25/2016

Report No: 2.

Submitted By: Rachel Hughs

Subject: Approve the statements related to the Executive Session held on September 27, 2016. *(Rachel Hughs, City Clerk)*

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Approve the following statements authorizing them to be included in the minutes of November 1, 2016: "The Governing Body of the City of Alamogordo, New Mexico, hereby states that on September 27, 2016, a Closed Executive Session was held and matters discussed in the closed meeting were limited only to: XXXXXXXXXXXX"

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

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 11/01/2016

Report Date: 10/14/2016

Report No: 3.

Submitted By: Veronica Ortega

Subject: Consider , and act upon, award IFB No. 2016-09 to multiple vendors, in the amount not to exceed \$173,883.78 related to Miscellaneous Foods, Dairy Products & Items for the Alamogordo Senior Center Nutrition Program. (Veronica Ortega, Community Services Director)

Fiscal Impact:

\$173,883.78

Amount Budgeted: \$31,896.26

\$32,767.77

Fund: 071-8024-445-3260

071-8023-445-3260

Additional Fiscal Impact: \$173,883.78

Recommendation: Award Brady Industries five (5) items for an estimated total \$733.16. Award Sysco Eighty (80) items for an estimated total \$44,294.03. Award Shamrock Foods One-Hundred & Fifty-Four (154) items for an estimated total \$128,856.59.

(Bid amount estimated total of \$173,883.78 is based on bid quantities)

Background: IFB No. 2016-09 was advertised September 11, 2016 and opened October 11, 2016.

The IFB was sent out to (8) Eight prospective bidders with three (3) responsive bids received. This IFB is awarded on an "item by item" basis to the low bidder meeting specifications and requirements. Award will be fixed price, estimated quantity for a six (6) month period commencing October 31, 2016 through April 30, 2017.

Fiscal impact will be no more than budget. Total estimated bid of \$173,883.78 is based on maximum bid quantities. Orders are placed as items are needed, and will not exceed amount budgeted.

					Sysco		Shamrock		Brady Industries	
					Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
1	20	cs	6 - #10/per cs	Apples-sliced-solid pk-in water	33.03	660.60	39.62	792.40		
2	20	cs	6 - #10/per cs	Applesauce, unsweetened	30.39	607.80	25.05	501.00		
3	72	cs	6 - #10/per cs	Apricot-Halves-in light syrup	62.86	4525.92	47.38	3411.36		
4	45	cs	6 - #5/per cs	honey	92.88	4179.60	83.86	3773.70		
5	6	cs	6 - #10/per cs	Cranberry Sauce - whole	47.48	284.88	45.69	274.14		
6	6	cs	10 #/per cs	Coconut-shredded	21.07	126.42	23.97	143.82		
7	30	cs	6 - #10/per cs	Mixed Fruit - in light syrup	41.98	1259.40	32.07	962.10		
8	10	cs	6 - #10/per cs	Oranges-Mandarin-in water	29.24	292.40	23.12	231.20		
9	72	cs	6 - #10/per cs	Pears-diced-in light syrup	43.57	3137.04	41.16	2963.52		
10	20	cs	1 gal btl	tabasco hot sauce	64.19	1283.80	150.66	3013.20		
11	24	cs	6 - #10/per cs	Pineapple-tidbits-light syrup	33.09	794.16	29.57	709.68		
12	9	cs	6 - #10/per cs	Plums-Purple-heavy syrup	35.63	320.67	35.55	319.95		
13	4	cs	24 - 1 #/per cs	Raisins-seedless	39.62	158.48	51.17	204.68		
14	72	cs	6 - #10/per cs	Tropical-Fruit-in light syrup	44.08	3173.76	44.35	3193.20		
15	5	cs	2 - 32 oz/per cs	Juice - Lemon	27.09	135.45	35.89	179.45		
16	5	cs	2 - 46 oz/per cs	Juice - Pineapple	22.87	114.35	37.78	188.90		
17	6	cs	6 - #10/per cs	Pie - Filling - Apple	47.03	282.18	37.64	225.84		
18	20	cs	2-gal/per cs	blu cheese dressing	55.53	1110.60	28.80	576.00		
19	6	cs	6 - #10/per cs	Pie - Filling - Peach	58.34	350.04	58.81	352.86		
20	20	cs	2-gal/per cs	honey mustard	54.21	542.10	19.02	380.40		
21	750	#	50#/per bag	Beans - Pinto-Dry-Triple Cleaned	25.17	18877.50	28.62	429.30		
22	15	cs	2/gal/per cs	A-1 sauce	75.60	1134.00	78.77	1181.55		
23	6	cs	6 - #10/per cs	Beans - Ranch - Style - in sauce	29.55	177.30	33.47	200.82		

					Sysco		Shamrock		Brady Industries	
					Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
24	20	cs	250/cs	2 gallon zip lock bag	34.63	692.60	20.81	416.20		
25	15	cs	6 - #10/per cs	Beets-Sliced-in juice	24.45	366.75	25.32	379.80		
26	30	btl	30oz	maple cinnamon	NB	NB	9.45	283.50		
27	15	bg	25#	butter beans	NB	NB	23.53	352.95		
28	15	cs	6 - #10/per cs	Peas - Blackeyed, no snaps	26.55	398.25	26.80	402.00		
29	5	cs	6 - #10/per cs	Peppers - Jalapeno - Sliced	21.36	106.80	23.12	115.60		
30	6	cs	6 - #10/per cs	Potato-Instant Granules- Complete	46.76	280.56	45.54	273.24		
31	27	cs	6 - #10/per cs	Potato - Sweet - cut - in syrup	37.46	1011.42	40.44	1091.88		
32	50	cs	4/1gal/per cs	grease cutter plus	46.15	2307.50	119.12	5956.00		
33	5	cs	6 - #10/per cs	Tomato - Ketchup	21.36	106.80	28.19	140.95		
34	4	cs	6 - #10/per cs	Tomato - Pizza - Sauce	26.19	104.76	25.10	100.40		
35	4	cs	6 - #10/per cs	Tomato - Spaghetti - Sauce	23.39	93.56	36.70	146.80		
36	15	cs	#	corn beef	4.27	64.05	3.24	48.60		
37	15	cs	6 - #10/per cs	Tomato - Stewed	27.78	416.70	31.32	469.80		
38	10	cs	48 - 6 oz/per cs	Juice - Tomato - low-sodium	NB	NB	21.14	211.40		
39	10	cs	48 - 6 oz/per cs	Juice - V8 - low-sodium	22.80	228.00	26.26	262.60		
40	70	cs	144 per/cs	eggs boiled	30.48	2133.60	12.64	884.80		
41	5	cs	6 - 5#/boxes	Cake-Spice	59.39	296.95	67.11	335.55		
42	10	cs	20-loaves/per cs	whole wheat sliced bread	27.56	468.52	25.82	258.20		
43	5	cs	6 - 5#/boxes	Cake-Yellow	23.09	115.45	72.14	360.70		
44	6	cs	3 - 24 oz./per cs	Gravy - Beef - low-sodium	27.96	223.68	31.82	190.92		
45	6	cs	3 - 24 oz./per cs	Gravy - Chicken - low-sodium	33.34	266.72	27.56	165.36		
46	6	cs	3 - 24 oz./per cs	Gravy - Turkey - low-sodium	38.53	308.24	28.23	169.38		
47	6	cs	3 - 24 oz./per cs	Gravy - White - low-sodium	18.16	108.96	19.58	117.48		
48	5	cs	6 - 5#/boxes	Mix-Biscuit	26.95	80.85	32.62	163.10		

					Sysco		Shamrock		Brady Industries	
					Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
49	5	cs	6 - 5#/boxes	Mix Potato - Augratin	50.56	505.60	48.55	242.75		
50	5	cs	6 - 5#/boxes	Mix-Stuffing-Uncle-Ben's or equal-large-bag	54.87	438.96	44.21	221.05		
51	5	sk	50 # sack	Flour-Whole-Wheat	10.53	52.65	17.42	87.10		
52	25	sk	50 # sack	Flour-White-All-Purpose	10.32	258.00	10.55	263.75		
53	10	sk	25 # sack	Cornmeal-Yellow	9.16	91.60	9.57	95.70		
54	6	36oz	25 # sack	Rice-Long-Grain-Wild	34.04	204.24	35.40	212.40		
55	10	sk	25# sack	Rice-Parboiled	10.17	101.70	10.93	109.30		
56	2	cont	5 #/cont	Baking - Powder	50.36	16.79	6.92	13.84		
57	5	cs	24 - 1#/box	Cornstarch	15.53	77.65	16.32	81.60		
58	3	cs	20 - 1#/box	Yeast	2.42	7.26	52.44	157.32		
59	10	cs	500 - 2 ct/ case	Crackers - Saltines	14.21	142.10	15.11	151.10		
60	10	cs	6 - 1 #/ case	Base - Beef - low-sodium	47.28	472.80	36.38	363.80		
61	10	cs	6 - 1 #/ case	Base - Chicken - Low-sodium	45.28	452.80	36.10	361.00		
62	10	cs	6 - 1 #/ case	Base - Turkey - Low-sodium	NB	NB	48.07	480.70		
63	10	cs	12 - 50 oz/case	Soup-Cream-of-Chicken	35.64	1247.40	43.10	1508.50		
64	10	cs	12 - 50 oz/case	Soup-Cream-of-Mushroom	35.27	881.75	42.72	1068.00		
65	5	cs	12 - 50 oz/case	Soup-Cream-of-Tomato	26.59	398.85	32.16	482.40		
66	5	cs	24-20 oz/case	Coffee Creamer - canister	37.54	375.40	35.20	352.00		
67	5	cs	200 ct/case	PC - Ranch - Dressing	5.77	28.85	20.65	103.25		
68	5	cs	200 ct/case	PC - French - Dressing	16.35	163.50	11.79	58.95		
69	5	cs	200 ct/case	PC - Italian - Dressing	17.12	171.20	32.67	163.35		
70	5	cs	200 ct/case	PC - Thousand - Island - Dressing	29.59	59.18	11.39	56.95		
71	40	cnt	26oz	ancho seasoning	NB	NB	15.57	622.80		
72	5	cs	200 ct/case	PC - Assorted - Jellies	5.49	54.90	12.57	125.70		
73	5	cs	2/1250/ case	PC - Sweet-n-Low-Packets	14.98	93.63	13.73	68.65		
74	15	cs	600 ct/case	PC - Promise-Margarine-or-equal	17.89	268.35	20.41	306.15		
75	5	cs	100 ct/case	PC - Peanut Butter - Packets	20.58	102.90	39.23	392.30		
76	5	cs	100 ct/case	PC - Cheddar Cheese - Packets	39.23	470.76	42.27	507.24		
77	20	cs	30 - 1 #/case	Margarine - Solids	17.65	353.00	18.31	366.20		
78	4	cs	3/1gallon	Liquid Butter	28.69	114.76	29.97	119.88		
79	6	cs	35#/case	PV - Liquid -Shortening	21.69	130.14	21.04	126.24		
80	20	cs	6ct/case	Vegelele -Pan Spray - Can	16.14	322.80	16.54	330.80		
81	5	cs	24-20 oz/case	Sugar - Granulated - cannister	NB	NB	37.24	558.60		
82	10	sk	50 #/sack	Sugar - Granulated	25.43	254.30	22.01	220.10		
83	5	cs	12 - 2 #/case	Sugar - Brown	24.54	368.10	26.76	267.60		
84	5	cs	4 - 1 gal/case	LowFat -Coleslaw-Dressing	33.67	168.35	28.43	142.15		

					Sysco		Shamrock		Brady Industries	
					Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
85	10	cs	6/#10 can	Tomatoe Paste	33.17	331.70	34.13	341.30		
86	10	cs	6/#10 can	Salsa/Picante Sauce	47.87	718.05	33.13	331.30		
87	5	cs	4 - 1 gal/case	LowFat - Mayonaise	31.72	158.60	23.51	117.55		
88	5	cs	18 - 3.2 oz/case	Ranch - Dressing - Mix	23.33	116.65	21.35	106.75		
89	2	cs	6 - #10/case	Mustard - Yellow - Prepared	10.42	20.84	18.86	37.72		
90	2	cs	4 - 1 gal/case	Vinegar - Distilled - White	13.05	26.10	6.21	12.42		
91	2	cs	4 - 1 gal/case	Relish - Pickle	24.73	49.46	24.64	49.28		
92	2	cs	4 - 1 gal/case	Relish - Sweet	27.92	55.84	27.31	54.62		
93	5	cs	6 - #10/case	Pudding - Chocolate - RTE	29.41	147.05	29.48	147.40		
94	5	cs	6 - #10/case	Pudding - Lemon - RTE	29.67	148.35	37.18	185.90		
95	5	cs	12 - 24 oz/case	Gelatin - Citrus	27.76	138.80	26.61	133.05		
96	5	cs	12 - 24 oz/case	Gelatin - Reds	27.76	138.80	26.61	133.05		
97	10	cs	20 #/case	Pasta - Egg-Noodles - medium	15.64	312.80	16.44	164.40		
98	10	cs	20 #/case	Pasta - Elbow-Macaroni	11.22	112.20	13.15	164.10		
99	10	cs	20 #/case	Pasta - Lasagna-Noodles	15.84	2740.32	12.98	129.80		
100	10	cs	20 #/case	Pasta - Spaghetti	12.13	121.30	21.88	218.80		
101	10	cs	20 #/case	Pasta - Tri-Colored - Noodle	14.21	284.20	13.48	134.80		
102	10	cs	10 - dozen/case	Tortilla - Yellow - Corn - 6"	19.38	38.76	27.43	137.15		
103	5	cs	12 - dozen/case	Tortilla - Whole - Wheat - 6"	11.26	56.30	26.78	401.70		
104	5	cs	96 ct/case	Cereal - Cherrios-Honey-Wheat	36.49	547.35	26.78	401.70		
105	5	cs	96 ct/case	Cereal - Frosted-Flakes	35.74	536.10	26.78	401.70		
106	5	cs	96 ct/case	Cereal - Golden-Grahams	35.86	537.90	26.78	401.70		
107	5	cs	48 ct/case	Cereal - Instant-Oatmeal - Packets	7.75	77.50	9.90	99.00		
108	2	cs	24 #/case	Cereal - Oatmeal - Quick - Cook	28.38	28.38	37.56	75.12		
109	25	cont	10#	whole peeled garlic cloves	67.11	872.43	57.09	713.63		
110	1	cont	16 oz ea.	Spice - Extract - Almond	14.09	14.09	6.82	6.82		
111	1	cont	16 oz ea.	Spice - Extract - Lemon	11.31	11.31	21.08	21.08		
112	1	cont	16 oz ea.	Spice - Extract - Vanilla	27.11	27.11	4.87	4.87		
113	5	cont	3 # cont	Spice - Flakes - Onion	36.86	184.30	7.31	36.55		
114	15	bag	25#bag	bread crumbs panko	17.53	262.95	17.98	269.70		
115	5	cont	3 # cont	Spice - Granulated - Garlic	50.94	101.88	45.00	225.00		
116	1	cont	16 oz ea.	Spice - Ground - Cinnamon	9.34	9.34	8.02	8.02		
117	25	cs	12/1#boxes	cornflake crumbs	33.85	846.25	36.77	919.25		
118	1	cont	16 oz ea.	Spice - Ground - Cumin	9.74	9.74	10.93	10.93		
119	25	cs	12/doz per-cs	flour tortilla 12 inch	22.41	560.25	23.32	583.00		
120	1	cont	16 oz ea.	Spice - Powder - Chile	19.29	3.86	8.92	8.92		
121	45	cs	120ct	buns burger 3-4 inch	28.42	1278.90	22.18	998.10		

					Sysco		Shamrock		Brady Industries	
					Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
122	10	cont	16 oz ea.	Spice - Powder - Onion	6.91	69.10	6.96	69.60		
123	1	sk	25 #	Spice - Salt - Plain	5.46	5.46	7.06	7.06		
124	1	cs	4 - 1 gal/case	Spice - Sauce - BBQ (like cattlemens)	44.67	44.67	31.76	31.76		
125	6	cs	6 - #10/case	Spice - Sauce - Cheese - Nacho	33.06	198.36	36.20	217.20		
126	10	cont	5oz	spice chives	42.00	420.00	28.93	289.30		
127	1	cs	4 - 1 gal/case	Spice - Sauce - Soy	30.97	30.97	35.44	35.44		
128	20	cont	20oz	Spice - Seasoning-lime pepper	NB	NB	15.50	310.00		
129	1	cs	4 - 1 gal/case	Spice - Sauce - Teriyaki	41.18	41.18	44.03	44.03		
130	1	cs	4 - 1 gal/case	Spice - Sauce - Worcestershire	27.82	27.82	29.99	29.99		
131	5	cont	16 oz	Spice - Seasoning - Big & Bold Mont.	NB	NB	11.71	58.55		
132	5	cont	16 oz	Spice - Seasoning - Italian Blend	17.42	87.10	8.00	40.00		
133	1	cont	16 oz	Spice - Seasoning - Mrs. Dash	15.18	15.18	47.50	47.50		
134	15	cont	26oz	Spice - Seasoning smokey mesquite	38.84	582.60	15.59	233.85		
135	20	cont	20oz	Spice - Seasoning - north woods chicken	NB	NB	8.20	164.00		
136	2	cs	48 ct/case	Disposable - Shaker - Salt	14.72	29.44	15.70	31.40		
137	2	cs	48 ct/case	Disposable - Shaker - Black - Pepper	43.83	87.66	61.36	122.72		
138	10	cs	12 - 2.5 #/case	Frozen-Veg-Broccoli-Cuts	27.27	272.70	25.41	254.10		
139	15	cs	12 - 2.5 #/case	Frozen-Veg-Broccoli-Normandy	36.77	551.55	30.36	455.40		
140	15	cs	12 - 2.5 #/case	Frozen-Veg-Brussel-Sprouts	32.58	488.70	27.67	415.05		
141	15	cs	12 - 2.5 #/case	Frozen-Veg-Capri-Mix	24.46	366.90	23.06	345.90		
142	15	cs	12 - 2 #/case	Frozen-Veg-Carrots-Baby	22.75	341.25	21.85	327.75		
143	15	cs	12 - 2 #/case	Frozen-Veg-Cauliflower	26.48	397.20	26.02	390.30		
144	15	cs	12 - 2.5 #/case	Frozen-Veg-Corn-Chuckwagon	25.12	376.80	24.15	362.25		
145	15	cs	12 - 2.5 #/case	Frozen-Veg-Corn-Whole-Kernal	27.97	419.55	23.16	347.40		
146	15	cs	12 - 2 #/case	Frozen-Veg-Green-Beans-Cut	23.52	352.80	24.15	362.25		
147	15	cs	5 - 5 #/case	Frozen-Veg-Green-Chile-Chopped-Mild-Roasted (like young guns)	21.79	326.85	23.00	345.00		
148	15	cs	12 - 2.5 #/case	Frozen-Veg-Italian-Mix	25.91	388.65	24.02	360.30		
149	5	cs	12 - 2.5 #/case	Frozen-Veg-Stir-Fry-Mix	33.61	168.05	26.65	133.25		
150	15	cs	12 - 2.5 #/case	Frozen-Veg-Mixed-Vegetables	27.82	417.30	24.27	364.05		
151	6	cs	12 - 2.5#/case	Frozen - Veg-Breaded-Onion Rings	72.27	433.62	47.31	283.86		
152	15	cs	12 - 2.5 #/case	Frozen-Veg-Peas and Carrots	39.27	589.05	22.99	344.85		
153	15	cs	6 - 5 #/case	Frozen-Veg-Potato-French-Fries	18.51	277.65	17.51	262.65		
154	15	cs	6 - 5 #/case	Frozen-Veg-Potato-Tater-Tots	30.96	464.40	27.33	409.95		
155	15	cs	5 - 5 #/case	Frozen-Veg-Potato-Sweet-Potato-Fries	25.32	633.00	25.23	378.45		
156	15	cs	6 - .5 gal/c	Frozen-Veg-Red-Chile-Sauce-Mild	20.75	311.25	19.41	291.15		
157	15	cs	12 - 2.5 #/case	Frozen-Veg-Scandinavian-Mix	24.74	371.10	34.68	520.20		
158	15	cs	12 - 3 #/case	Frozen-Veg-Spinach-Chopped	31.87	478.05	30.55	458.25		

					Sysco		Shamrock		Brady Industries	
					Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
159	15	cs	12 - 2.5 #/case	Frozen-Veg-Squash-Yellow	37.18	557.70	38.83	582.45		
160	15	cs	2 - 5 #/case	Frozen-Bread-Hush-Puppies	16.64	249.60	19.03	285.45		
161	15	cs	12-2.5#/case	Frozen-Veg-California Blend	24.07	361.05	23.06	345.90		
162	20	cs	8-4#/case	Frozen-Sauce Alfredo	68.83	1376.60	68.53	1370.60		
163	20	cs	256/case	Frz-Cookie Oatmeal Raisin	68.45	1369.00	22.88	457.60		
164	20	cs	256/case	Frz-Cookie Chocolate Chip	68.45	1369.00	22.88	457.60		
165	5	cs	20# / case	Frozen-Fruit-Strawberries-Whole	15.76	157.60	54.55	272.75		
166	15	cs	6 ct/case	PreBaked - Pie - Pumpkin	32.74	491.10	36.32	544.80		
167	10	cs	12 - 16 oz/cs	Topping - On Top - Vanilla - like Rich's	48.42	484.20	34.87	348.70		
168	15	cs	5 doz. Large/case	Eggs - Large - Raw	8.48	127.20	11.64	174.60		
169	48	cs	40 - 4 oz/case	Beef-Raw-Breaded-Chicken-Fried-Steak	29.13	1398.24	31.68	1520.64		
170	36	cs	40 - 4 oz/case	Beef-Cooked-Salisbury-Steak	32.57	1172.52	34.49	1241.64		
171	12	cs	80 #/case	Beef- Lean -Ground- 85%	1.87	149.60	2.08	83.20		
172	2	cs	40 - 4 oz/case	Beef- Lean -Liver-Sliced- 4 oz. slices	29.93	59.86	21.47	42.94		
173	15	cs	40 #/case	Beef- Lean -Stew-Meat- 3/4" cut	46.61	5593.20	38.55	1156.50		
174	1800	#	#	Beef- Lean -Boneless-Inside Round	2.80	2800.00	2.68	2680.00		
175	2	cs	40 - 4 oz/case	Beef- Lean -Hamburger-Patties- all-beef-4-1	56.11	56.11	27.80	55.60		
176	40	cs	4 - 1 #/case	Beef-Franks-4-1	26.74	427.84	24.73	989.20		
177	16	cs	10 #/case	Beef - raw - strips - for fajita - seasoned	99.35	794.80	82.49	1319.84		
178	1400	#	24 ct - cs	Chicken- Boneless -Chicken-Breast- 4 oz. portion	40.09	4690.53	36.70	51380.00		
179	60	cs	10 #/case	Chicken-Cooked-Diced	31.65	1899.00	31.86	1911.60		
180	18	cs	10 #/case	Chicken - raw-pulled-white/dark	32.80	590.40	33.92	610.56		
181	16	cs	10 #/case	Chicken - all meat - Nugget	20.48	327.68	19.69	315.04		
182	2	cs	50 - 3 oz/case	Chicken-Raw-Breaded - Tenders/Strips	32.40	64.80	22.14	44.28		
183	16	cs	10 #/case	Chicken - strips - raw-for fajita - seasoned	34.52	379.72	54.82	877.12		
184	6	cs	4 - bags/case	Eggs-Boil-in-Bag-Liquid-Egg	50.32	1006.40	51.90	1557.00		
185	6	cs	5 - 66.5 oz/case	Fish-Canned-Tuna	64.82	972.30	57.33	859.95		
186	30	cs	10 #/case	Fish-Catfish-Nuggets-Breaded	29.47	884.10	22.57	677.10		
187	15	cs	10 #/case	Fish-Shrimp-Breaded- NOT -popcorn	51.82	777.30	38.99	584.85		
188	10	cs	10 #/case	Fish-Sticks	44.63	223.15	25.07	250.70		
189	16	cs	10 #/case	Fish-Tapia-Unbreaded-IQF- 4 oz portions	29.56	739.00	24.04	601.00		
190	3	cs	40 - 4 oz/case	Pork-Chops-Lean- bone-in-4oz portions	34.99	1049.70	35.42	1062.60		
191	6	cs	8 - 10 #/case	Pork- Boneless-Pork-Loin-Roast-NOT Tied	1.99	1094.50	1.95	48.75		
192	24	cs	10 #/case	Pork- Lean -Stew-Meat- 3/4" cut	20.54	492.96	3.56	85.44		
193	75	#	#	Pork- LowSodium -Bacon	90.26	225.65	39.41	197.05		
194	150	#	#	Pork- LowSodium -Buffet Ham	3.22	483.00	1.83	274.50		
195	10	#	50-3 oz.	Pork-Raw-Sausage-Patties-like Jimmy Dean	24.78	247.80	16.20	16.20		

					Sysco		Shamrock		Brady Industries	
					Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
196	120	#	40 - 4 oz	Pork-Boneless-Riblet	39.81	4777.20	37.07	630.19		
197	100	#	80-1oz	pork sausage links like jimmy dean	22.93	229.30	14.80	177.60		
198	600	#	#	Turkey-Roast-Raw-in foil/bag	3.60	2160.00	2.96	1776.00		
199	6	cs	#	Cheese-American - sliced	46.01	34.51	45.76	686.40		
200	15	cs	40 #/case	Cheese - Cheddar	2.10	42.00	44.20	44.20		
201	7	cs	6 #/case	Cheese - Mozzarella - Shredded	2.23	44.60	2.20	2.20		
202	2	cs	10 #/case	Cheese - Parmesan - Grated	34.95	524.25	37.67	565.05		
203	25,000		1/2 Pint	1% LowFat -Pasteurized-Homo-Milk	15.98	7990.00	16.12	580.32		
204	12,000		1/2 Pint	Fat-Free-Skim-Milk	15.57	3736.80	16.00	274.24		
205	200		1/2 gal	2% LowFat -Pasteurized-Homo-Milk	20.75	477.25	4.88	488.00		
206	72		1/2 gal	Buttermilk	19.35	232.20	5.45	272.50		
207	50		5 # Tub	Sour Cream	22.93	286.63	22.35	268.20		
208	25		100 ct	SourCream - 1 oz. Portions	10.01	250.25	16.99	424.75		
209	50		5 # Tub	LowFat - Cottage - Cheese	17.67	441.75	52.91	440.74		
210	10,000		1/2 pint	low fat chocolate milk	16.22	3244.00	16.10	2299.89		
211	50		5 # Tub	LowFat - Yogurt - all Flavors	NB	NB	31.54	328.02		
212	144		Dozen	Ice-Cream-Cups- 4 oz. Portions-C-S-V	20.69	744.84	8.76	630.72		
213	144		Dozen	Sherbet-Cup- 4 oz. Portions	13.33	479.88	7.55	543.60		
214	4	cs	40 - 25/case	Styro - Cup - 8 oz.	17.23	68.92	18.58	74.32	17.50	70.00
215	50	cs	20 - 25/case	Styro - Food-Container - 8 oz.	31.35	783.75	34.78	1739.00		
216	50	cs	5 - 100/case	Food Cont.-Lid (compatible)	17.36	434.00	18.91	945.50		
217	50	cs	20 - 125/case	Plastic-Food-Container - 4 oz.	61.29	3064.50	47.01	2350.50		
218	50	cs	20 - 125/case	Food Cont.-Lid (compatible)	69.85	3492.50	31.59	1579.50		
219	4	cs	20-125/case	Plastic-Food-Container - 2 oz.	37.94	151.76	27.97	111.88		
220	4	cs	20-125/case	Food Cont.-Lid (compatible)	37.94	151.76	23.41	93.64		
221	6	cs	50 ct/case	Plastic - Embossed - Apron	38.38	38.38	13.32	79.92		
222	4	cs	12 X 3 M/case	Plastic - 12" - Food Wrap	16.87	67.48	10.55	42.20		
223	3	cs	250/case	Plastic - Freezer - Bags - 1 gallon	34.63	103.89	15.33	45.99		
224	3	cs	3 - 250/case	Plastic - Freezer - Bags - 1 Quart	30.31	136.40	15.33	45.99		

[illegible]

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 11/01/2016

Report Date: 10/27/2016

Report No: 4.

Submitted By: Lauren Truitt

Subject: Consider and act upon, final adoption of Ordinance No. 1529 amending Chapter 24 of the *Code of Ordinances* to include Off-Highway Motor Vehicles. **(Roll Call Required)**

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Approve Ordinance No. 1529 for final publication. **(Roll Call Required)**

Background: The New Mexico Legislature amended the Off-Highway Motor Vehicle Act during the 2016 Legislative Session. This ordinance will adopt the amendments to Section 66-3-1001, NMSA 1978.

Attached is Section 66-3-1011 NMSA 1978, Operation on Streets or Highways- Prohibited Areas, Section 66-3-1001.1, Definitions, and Title 18, Ch 15, Part 3 NMAC.

ORDINANCE NO. 1529

**AN ORDINANCE AMENDING CHAPTER 24
OF THE CODE OF ORDINANCES**

WHEREAS, the New Mexico Legislature amended the Off-Highway Motor Vehicle Act ("Act") (Sections 66-3-1001, NMSA 1978) during the 2016 Legislative Session permitting the operation of off-highway motor vehicles on paved roads; and

WHEREAS, the Act, as amended, authorizes a municipality to establish separate speed limits and operating restrictions for off-highway vehicles where they are authorized to operate on paved streets or highways; and

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

**CHAPTER TWENTY FOUR
TRAFFIC**

24-01-030. – 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 issued under this section shall be used as evidence of conviction for purposes of suspension or revocation of license under Section 66-5-30 NMSA 1978.
 - d. In order to secure his release, the arrested person must give his written promise to appear in court, or to pay the penalty assessment prescribed or acknowledge receipt of a warning notice.
 - e. Any officer violating this section is guilty of misconduct in office and is subject to removal. (66-8-123 NMSA 1978)
 - f. An electronic traffic citation, prescribed by Section 12-12-3.1, is an electronic version of the uniform traffic citation. For the purposes of this section, an electronic citation may be completed instead of a uniform traffic citation; provided, however, that where this section requires a copy of a citation to be given to an arrested person, a physical copy of the citation shall be provided whether a uniform traffic citation or an electronic form of the uniform traffic citation was used. An electronic form of the uniform traffic citation may be signed electronically.

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 electronic 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.

K. *12-7-9 Off-Highway Motor Vehicles*

As used in this Article, the following definitions shall apply:

A. “*Off-highway motor vehicle*” means a motor vehicle designed by the manufacturer for operation exclusively off the highway or road and includes:

- 1. “*all-terrain vehicle*”, which means a motor vehicle fifty inches or less in width, having an unladen dry weight of one thousand pounds or less, traveling on three or more low-pressure tires and having a seat designed to be straddled by the operator and handlebar-type steering control;
- 2. “*off-highway motorcycle*”, which means a motor vehicle traveling on not more than two tires and having a seat designed to be straddled by the operator and that has handlebar-type steering control;
- 3. “*recreational off-highway vehicle*”, which means a motor vehicle designed for travel on four or more non-highway tires, for recreational use by one or more persons, and having:
 - (a) a steering wheel for steering control;
 - (b) non-straddle seating;

- (c) maximum speed capability greater than thirty-five miles per hour;
 - (d) gross vehicle weight rating no greater than one thousand seven hundred fifty pounds;
 - (e) less than eighty inches in overall width, exclusive of accessories;
 - (f) engine displacement of less than one thousand cubic centimeters; and
 - (g) identification by means of a seventeen-character vehicle identification number; or
4. By rule of the New Mexico Department of Game and Fish, any other vehicles that may enter the market and fit the general profile of vehicles operated off the highway for recreational purposes.

I. 12-7-9.2 Operation of off-highway motor vehicles on streets or highways – prohibited areas.

- A. A person shall not operate an off-highway motor vehicle on any:
- 1. limited access highway or freeway at any time;
 - 2. paved street or highway except as provided in Subsections B. or C. of this section;
 - 3. walking trails; or
 - 4. city parks.
- B. Off-highway motor vehicles may cross streets or highways, except limited access highways or freeways, if the crossings are made after coming to a complete stop prior to entering the roadway. Off-highway motor vehicles shall yield the right of way to oncoming traffic and shall begin a crossing only when it can be executed safely and then cross in the most direct manner as close to a perpendicular as possible.
- C. An off-highway vehicle may be operated on a paved street or highway owned and controlled by the City of Alamogordo if:

1. the vehicle has one or more headlights and one or more taillights that comply with the Off-Highway Motor Vehicle Act;
2. the vehicle has brakes, mirrors, and mufflers;
3. the operator has a valid driver's license, instruction permit, or provisional license and an off-highway motor vehicle safety permit;
4. the operator is insured in compliance with the provisions of the Mandatory Financial Responsibility Act, Sec. 66-5-201 through 66-5-248, NMSA 1978; and
5. the operator of the vehicle is wearing eye protection and a safety helmet that comply with the Off-Highway Motor Vehicle Act.

D. Any person operating an off-highway motor vehicle within the city limits shall obey all traffic laws, rules, and regulations, including the speed limit as posted and vehicle equipment requirements under Section 12-7-9.9 of the New Mexico Uniform Traffic Ordinance.

DONE this _____ day of _____, 2016.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By: _____
Richard Boss, Mayor

ATTEST:

Rachel Hughs, City Clerk

APPROVED AS TO FORM:

Lauren E. A. Truitt, City Attorney

66-3-1001. Short title. (1985)

[Sections 66-3-1001](#) through [66-3-1016](#) [and [66-3-1017](#) through [66-3-1020](#)] NMSA 1978 may be cited as the "Off-Highway Motor Vehicle Act".

History: 1953 Comp., § 64-3-1001, enacted by Laws 1978, ch. 35, § 197; 1985, ch. 189, § 1.

66-3-1001.1. Definitions. (2009)

As used in the Off-Highway Motor Vehicle Act:

- A. "board" means the off-highway motor vehicle advisory board;
- B. "department" means the department of game and fish;
- C. "division" means the motor vehicle division of the taxation and revenue department;
- D. "fund" means the trail safety fund;
- E. "off-highway motor vehicle" means a motor vehicle designed by the manufacturer for operation exclusively off the highway or road and includes:
 - (1) "all-terrain vehicle", which means a motor vehicle fifty inches or less in width, having an unladen dry weight of one thousand pounds or less, traveling on three or more low-pressure tires and having a seat designed to be straddled by the operator and handlebar-type steering control;
 - (2) "off-highway motorcycle", which means a motor vehicle traveling on not more than two tires and having a seat designed to be straddled by the operator and that has handlebar-type steering control;
 - (3) "snowmobile", which means a motor vehicle designed for travel on snow or ice and steered and supported in whole or in part by skis, belts, cleats, runners or low-pressure tires;
 - (4) "recreational off-highway vehicle", which means a motor vehicle designed for travel on four or more non-highway tires, for recreational use by one or more persons, and having:
 - (a) a steering wheel for steering control;
 - (b) non-straddle seating;
 - (c) maximum speed capability greater than thirty-five miles per hour;
 - (d) gross vehicle weight rating no greater than one thousand seven hundred fifty pounds;
 - (e) less than eighty inches in overall width, exclusive of accessories;
 - (f) engine displacement of less than one thousand cubic centimeters; and
 - (g) identification by means of a seventeen-character vehicle identification number; or
 - (5) by rule of the department, any other vehicles that may enter the market that fit the general profile of vehicles operated off the highway for recreational purposes;
- F. "staging area" means a parking lot, trailhead or other location to or from which an off-highway motor vehicle is transported so that it may be placed into operation or removed from operation; and
- G. "unpaved public roadway" means a dirt graveled street or road that is constructed, signed and maintained for regular passenger-car use by the general public.

History: Laws 2005, ch. 325, § 1; 2009, ch. 53, § 1.

66-3-1002. Repealed. (1990)

66-3-1003. Off-highway motor vehicles; registration. (2005)

Unless exempted from the provisions of the Off-Highway Motor Vehicle Act, a person shall not operate an off-highway motor vehicle unless the off-highway motor vehicle has been registered in accordance with Chapter [66](#), Article [3](#) NMSA 1978. The owner shall affix the validating sticker as provided in Chapter [66](#), Article [3](#) NMSA 1978.

History: 1953 Comp., § 64-3-1003, enacted by Laws 1978, ch. 35, § 199; 1985, ch. 189, § 3; 1987, ch. 17, § 1; 2005, ch. 325, § 2.

66-3-1004. Registration certificate and nonresident permit fees; renewal; distribution of fees. (2009)

Fees shall be collected and distributed as follows:

- A. the fees for registering an off-highway motor vehicle are:
 - (1) seventeen dollars (\$17.00) for each off-highway motor vehicle, of which five dollars (\$5.00) is appropriated to the division to defray the cost of making and issuing registration certificates, validating stickers and nonresident permits for off-highway motor vehicles. The remaining twelve dollars (\$12.00) shall be deposited in the motor vehicle suspense fund for distribution pursuant to Section [66-6-23](#) NMSA 1978; and
 - (2) an amount determined by rule of the department not to exceed forty dollars (\$40.00) for an off-highway user fee for each off-highway motor vehicle, which shall be distributed to the fund;
- B. upon a change of ownership, the new owner shall make application and pay registration fees of:
 - (1) seventeen dollars (\$17.00) in the same manner as provided by rules of the division for original registration; and
 - (2) an amount determined by rule of the department not to exceed forty dollars (\$40.00) for an off-highway user fee for each off-highway motor vehicle, which shall be distributed to the fund;
- C. except for an off-highway vehicle that is currently in compliance with another state's off-highway vehicle registration, user fee or similar law or rule demonstrated by certificate of registration, permit or similar evidence, the fees for a nonresident permit of an off-highway motor vehicle are either:
 - (1) seventeen dollars (\$17.00), of which five dollars (\$5.00) is appropriated to the division to defray the cost of making and issuing registration certificates, validating stickers and nonresident permits for off-highway motor vehicles. The remaining twelve dollars (\$12.00) shall be deposited in the motor vehicle suspense fund for distribution pursuant to Section 66-6-23 NMSA 1978, and an amount determined by rule of the department not to exceed forty dollars (\$40.00) for each off-highway motor vehicle, which shall be distributed to the fund; or
 - (2) seventeen dollars (\$17.00) for a ninety-day permit, of which five dollars (\$5.00) is appropriated to the division to defray the cost of making and issuing registration certificates, validating stickers and nonresident permits for off-highway motor vehicles. The remaining twelve dollars (\$12.00) shall be deposited in the motor vehicle suspense fund for distribution pursuant to Section 66-6-23 NMSA 1978;
- D. except as provided in Paragraph (2) of Subsection C of this section, each nonresident permit shall be:
 - (1) good for two years after the month in which the off-highway motor vehicle nonresident permit is issued; and
 - (2) renewed every two years;
- E. the off-highway user fee for each off-highway motor vehicle shall be paid upon obtaining and renewing each registration certificate or nonresident permit;
- F. duplicate registration certificates and nonresident permits shall be issued upon payment of a seven-dollar-fifty-cent (\$7.50) fee, which is appropriated to the division to defray the cost of making and issuing duplicate registration certificates and nonresident permits for off-highway motor vehicles;
- G. a fee of one dollar (\$1.00) on registration certificates and nonresident permits shall be collected for the litter control and beautification fund; and
- H. the department, in conjunction with other agencies and departments, may establish and maintain sites to collect fees and issue permits for residents and nonresidents.

History: 1953 Comp., § 64-3-1004, enacted by Laws 1978, ch. 35, § 200; 1985, ch. 189, § 4; 1987, ch. 17, § 2; 2005, ch. 325, § 3; 2007, ch. 319, § 36; 2009, ch. 53, § 2.

66-3-1004. Registration certificate and nonresident permit fees; renewal; distribution of fees. (2009)

Fees shall be collected and distributed as follows:

- A. the fees for registering an off-highway motor vehicle are:
 - (1) seventeen dollars (\$17.00) for each off-highway motor vehicle, of which five dollars (\$5.00) is appropriated to the division to defray the cost of making and issuing registration certificates, validating stickers and nonresident permits for off-highway motor vehicles. The remaining twelve dollars (\$12.00) shall be deposited in the motor vehicle suspense fund for distribution pursuant to Section [66-6-23](#) NMSA 1978; and
 - (2) an amount determined by rule of the department not to exceed forty dollars (\$40.00) for an off-highway user fee for each off-highway motor vehicle, which shall be distributed to the fund;
- B. upon a change of ownership, the new owner shall make application and pay registration fees of:
 - (1) seventeen dollars (\$17.00) in the same manner as provided by rules of the division for original registration; and
 - (2) an amount determined by rule of the department not to exceed forty dollars (\$40.00) for an off-highway user fee for each off-highway motor vehicle, which shall be distributed to the fund;
- C. except for an off-highway vehicle that is currently in compliance with another state's off-highway vehicle registration, user fee or similar law or rule demonstrated by certificate of registration, permit or similar evidence, the fees for a nonresident permit of an off-highway motor vehicle are either:
 - (1) seventeen dollars (\$17.00), of which five dollars (\$5.00) is appropriated to the division to defray the cost of making and issuing registration certificates, validating stickers and nonresident permits for off-highway motor vehicles. The remaining twelve dollars (\$12.00) shall be deposited in the motor vehicle suspense fund for distribution pursuant to Section 66-6-23 NMSA 1978, and an amount determined by rule of the department not to exceed forty dollars (\$40.00) for each off-highway motor vehicle, which shall be distributed to the fund; or
 - (2) seventeen dollars (\$17.00) for a ninety-day permit, of which five dollars (\$5.00) is appropriated to the division to defray the cost of making and issuing registration certificates, validating stickers and nonresident permits for off-highway motor vehicles. The remaining twelve dollars (\$12.00) shall be deposited in the motor vehicle suspense fund for distribution pursuant to Section 66-6-23 NMSA 1978;
- D. except as provided in Paragraph (2) of Subsection C of this section, each nonresident permit shall be:
 - (1) good for two years after the month in which the off-highway motor vehicle nonresident permit is issued; and
 - (2) renewed every two years;
- E. the off-highway user fee for each off-highway motor vehicle shall be paid upon obtaining and renewing each registration certificate or nonresident permit;
- F. duplicate registration certificates and nonresident permits shall be issued upon payment of a seven-dollar-fifty-cent (\$7.50) fee, which is appropriated to the division to defray the cost of making and issuing duplicate registration certificates and nonresident permits for off-highway motor vehicles;
- G. a fee of one dollar (\$1.00) on registration certificates and nonresident permits shall be collected for the litter control and beautification fund; and
- H. the department, in conjunction with other agencies and departments, may establish and maintain sites to collect fees and issue permits for residents and nonresidents.

History: 1953 Comp., § 64-3-1004, enacted by Laws 1978, ch. 35, § 200; 1985, ch. 189, § 4; 1987, ch. 17, § 2; 2005, ch. 325, § 3; 2007, ch. 319, § 36; 2009, ch. 53, § 2.

66-3-1004. Registration certificate and nonresident permit fees; renewal; distribution of fees. (2009)

Fees shall be collected and distributed as follows:

- A. the fees for registering an off-highway motor vehicle are:
 - (1) seventeen dollars (\$17.00) for each off-highway motor vehicle, of which five dollars (\$5.00) is appropriated to the division to defray the cost of making and issuing registration certificates, validating stickers and nonresident permits for off-highway motor vehicles. The remaining twelve dollars (\$12.00) shall be deposited in the motor vehicle suspense fund for distribution pursuant to Section [66-6-23](#) NMSA 1978; and
 - (2) an amount determined by rule of the department not to exceed forty dollars (\$40.00) for an off-highway user fee for each off-highway motor vehicle, which shall be distributed to the fund;
- B. upon a change of ownership, the new owner shall make application and pay registration fees of:
 - (1) seventeen dollars (\$17.00) in the same manner as provided by rules of the division for original registration; and
 - (2) an amount determined by rule of the department not to exceed forty dollars (\$40.00) for an off-highway user fee for each off-highway motor vehicle, which shall be distributed to the fund;
- C. except for an off-highway vehicle that is currently in compliance with another state's off-highway vehicle registration, user fee or similar law or rule demonstrated by certificate of registration, permit or similar evidence, the fees for a nonresident permit of an off-highway motor vehicle are either:
 - (1) seventeen dollars (\$17.00), of which five dollars (\$5.00) is appropriated to the division to defray the cost of making and issuing registration certificates, validating stickers and nonresident permits for off-highway motor vehicles. The remaining twelve dollars (\$12.00) shall be deposited in the motor vehicle suspense fund for distribution pursuant to Section [66-6-23](#) NMSA 1978, and an amount determined by rule of the department not to exceed forty dollars (\$40.00) for each off-highway motor vehicle, which shall be distributed to the fund; or
 - (2) seventeen dollars (\$17.00) for a ninety-day permit, of which five dollars (\$5.00) is appropriated to the division to defray the cost of making and issuing registration certificates, validating stickers and nonresident permits for off-highway motor vehicles. The remaining twelve dollars (\$12.00) shall be deposited in the motor vehicle suspense fund for distribution pursuant to Section [66-6-23](#) NMSA 1978;
- D. except as provided in Paragraph (2) of Subsection C of this section, each nonresident permit shall be:
 - (1) good for two years after the month in which the off-highway motor vehicle nonresident permit is issued; and
 - (2) renewed every two years;
- E. the off-highway user fee for each off-highway motor vehicle shall be paid upon obtaining and renewing each registration certificate or nonresident permit;
- F. duplicate registration certificates and nonresident permits shall be issued upon payment of a seven-dollar-fifty-cent (\$7.50) fee, which is appropriated to the division to defray the cost of making and issuing duplicate registration certificates and nonresident permits for off-highway motor vehicles;
- G. a fee of one dollar (\$1.00) on registration certificates and nonresident permits shall be collected for the litter control and beautification fund; and
- H. the department, in conjunction with other agencies and departments, may establish and maintain sites to collect fees and issue permits for residents and nonresidents.

History: 1953 Comp., § 64-3-1004, enacted by Laws 1978, ch. 35, § 200; 1985, ch. 189, § 4; 1987, ch. 17, § 2; 2005, ch. 325, § 3; 2007, ch. 319, § 36; 2009, ch. 53, § 2.

66-3-1004.1. Repealed. (2009)

66-3-1005. Exemptions. (2005)

The provisions of the Off-Highway Motor Vehicle Act shall not apply to persons who operate off-highway motor vehicles on privately held lands or to off-highway motor vehicles that are:

- A. owned and operated by an agency or department of the United States, this state or a political subdivision of this state;
- B. operated exclusively on lands privately held; provided that the appropriate tax or fee has been paid in lieu of the motor vehicle registration fees;
- C. owned by nonresidents and used in this state only for organized and endorsed competition purposes; provided that the use is not on a rental basis;
- D. brought into this state by manufacturers or distributors for wholesale purposes and not used for demonstrations;
- E. in the possession of dealers as stock-in-trade and not used for demonstration purposes;
- F. farm tractors, as defined in Section [66-1-4.6](#) NMSA 1978, special mobile equipment, as defined in Section [66-1-4.16](#) NMSA 1978, or off-highway motor vehicles being used for agricultural operations; or
- G. used exclusively on private closed courses, whether owned by the rider or another person; provided that, if applicable, the excise tax and registration fees have been paid and are current.

History: 1953 Comp., § 64-3-1005, enacted by Laws 1978, ch. 35, § 201; 1985, ch. 189, § 5; 2005, ch. 325, § 5.

66-3-1006. Grounds for refusing registration or certificate of title. (2005)

The division may refuse registration or issuance of a certificate of title or any transfer of a registration certificate if:

- A. the division has reasonable grounds to believe that the application contains any false or fraudulent statement or that the applicant has failed to furnish the required information or reasonable additional information requested by the division or that the applicant is not entitled to the issuance of a certificate of title or registration certificate of the off-highway motor vehicle under the Motor Vehicle Code [[66-1-1](#) NMSA 1978] or laws of this state;
- B. the division has reasonable grounds to believe that the off-highway motor vehicle is stolen or embezzled or that the granting of a registration certificate or the issuance of a certificate of title would constitute a fraud against the rightful owner or other person having a valid lien upon the off-highway motor vehicle;
- C. the division has reasonable grounds to believe that a nonresident applicant is not entitled to registration issuance under the laws of the nonresident applicant's state of residence;
- D. the required fees have not been paid; or
- E. the motor vehicle excise tax has not been paid pursuant to Chapter [7](#), Article [14](#) NMSA 1978.

History: 1953 Comp., § 64-3-1006, enacted by Laws 1978, ch. 35, § 202; 1985, ch. 189, § 6; 2005, ch. 325, § 6.

66-3-1007. Evidentiary value of certificate of title. (2005)

A certificate of title issued by the division for an off-highway motor vehicle shall be received as prima facie evidence of the ownership of the off-highway motor vehicle named in the certificate and as prima facie evidence of all liens and encumbrances against the off-highway motor vehicle appearing on the certificate.

History: 1953 Comp., § 64-3-1007, enacted by Laws 1978, ch. 35, § 203; 1985, ch. 189, § 7; 2005, ch. 325, § 7.

66-3-1008. Validating stickers to be furnished by division. (2005)

The division, upon registering an off-highway motor vehicle, shall issue to the owner validating stickers as provided in Section [66-3-14](#) NMSA 1978.

History: 1953 Comp., § 64-3-1008, enacted by Laws 1978, ch. 35, § 204; 1985, ch. 189, § 8; 2005, ch. 325, § 8.

66-3-1009. Repealed. (1991)

66-3-1010. Licensing. (1985)

Drivers of off-highway motor vehicles are not required to be licensed.

History: 1953 Comp., § 64-3-1010, enacted by Laws 1978, ch. 35, § 206; 1985, ch. 189, § 10.

66-3-1010.1. Off-highway motor vehicle safety training organization; approval and certification. (2009)

- A. An off-highway motor vehicle safety training organization that offers and conducts an off-highway motor vehicle safety training course shall be approved and certified by the department. Applicants for approval and certification shall submit an application to the department for consideration.
- B. The department may approve and certify an organization that meets the minimum criteria established by the department for an off-highway motor vehicle safety training organization. Each approval and certification shall be renewed annually.

History: Laws 2005, ch. 325, § 9; 2009, ch. 53, § 3.

66-3-1010.2. Off-highway motor vehicle safety permit; requirements; issuance. (2009)

A person under the age of eighteen shall be required to successfully complete an off-highway motor vehicle safety training course for which the person shall have parental permission. The course shall be conducted by an off-highway motor vehicle safety training organization that is approved and certified by the department. Upon successful completion of the course, the person shall receive an off-highway motor vehicle safety permit issued by the organization.

History: Laws 2005, ch. 325, § 10; Laws 2009, ch. 53, § 4.

66-3-1010.3. Operation and equipment; safety requirements. (2009)

- A. A person shall not operate an off-highway motor vehicle:
 - (1) in a careless, reckless or negligent manner so as to endanger the person or property of another;
 - (2) while under the influence of intoxicating liquor or drugs as provided by Section [66-8-102](#) NMSA 1978;
 - (3) while in pursuit of and with intent to hunt or take a species of animal or bird protected by law unless otherwise authorized by the state game commission;
 - (4) in pursuit of or harassment of livestock in any manner that negatively affects the livestock's condition;
 - (5) on or within an earthen tank or other structure meant to water livestock or wildlife, unless the off-highway motor vehicle is on a route designated by the landowner or land management agency as an off-highway motor vehicle route;

- (6) in a manner that has a direct negative effect on or interferes with persons engaged in agricultural practices;
 - (7) in excess of ten miles per hour within two hundred feet of a business, animal shelter, horseback rider, bicyclist, pedestrian, livestock or occupied dwelling, unless the person operates the vehicle on a closed course or track;
 - (8) unless in possession of the person's registration certificate or nonresident permit;
 - (9) unless the vehicle is equipped with a spark arrester approved by the United States forest service; provided that a snowmobile is exempt from this provision;
 - (10) when conditions such as darkness limit visibility to five hundred feet or less, unless the vehicle is equipped with:
 - (a) one or more headlights of sufficient candlepower to light objects at a distance of one hundred fifty feet; and
 - (b) at least one taillight of sufficient intensity to exhibit a red or amber light at a distance of two hundred feet under normal atmospheric conditions;
 - (11) that produces noise that exceeds ninety-six decibels when measured using test procedures established by the society of automotive engineers pursuant to standard J-1287; or
 - (12) where off-highway motor vehicle traffic is prohibited under local, state or federal rules or regulations.
- B. A person under the age of eighteen shall not operate an off-highway motor vehicle:
- (1) or ride upon an off-highway motor vehicle without wearing eye protection and a safety helmet that is securely fastened in a normal manner as headgear and that meets the standards established by the department;
 - (2) without an off-highway motor vehicle safety permit; or
 - (3) while carrying a passenger.
- C. A person under the age of eighteen but at least ten years of age shall not operate an off-highway motor vehicle unless the person is visually supervised at all times by a parent, legal guardian or a person over the age of eighteen who has a valid driver's license. This subsection shall not apply to a person who is at least:
- (1) thirteen years of age and has a valid motorcycle license and off-highway motor vehicle safety permit; or
 - (2) fifteen years of age and has a valid driver's license, instructional permit or provisional license and off-highway motor vehicle safety permit.
- D. A person under the age of ten shall not operate an off-highway motor vehicle unless:
- (1) the all-terrain vehicle or recreational off-highway vehicle is an age-appropriate size-fit vehicle established by rule of the department; and
 - (2) the person is visually supervised at all times by a parent, legal guardian or instructor of a safety training course certified by the department.
- E. An off-highway motor vehicle shall not be sold or offered for sale if the vehicle produces noise that exceeds ninety-six decibels when measured using test procedures established by the society of automotive engineers pursuant to standard J-1287. This subsection shall not apply to an off-highway motor vehicle that is sold or offered for sale only for organized competition.

History: Laws 2005, ch. 325, § 11; 2009, ch. 53, § 5.

66-3-1010.4. Safety helmet; civil liability. (2005)

Failure by a passenger or driver to use a safety helmet while on an off-highway motor vehicle shall not in any instance constitute fault or negligence and shall not limit or apportion damages.

History: Laws 2005, ch. 325, § 12.

66-3-1010.5. Requirements of dealers to distribute safety information. (2009)

A dealer selling off-highway motor vehicles shall distribute information provided by the department to off-highway motor vehicle purchasers on state laws, environmental and cultural considerations, customs, safety requirements, training programs, operating characteristics and potential risk of injury associated with off-highway motor vehicles.

History: Laws 2005, ch. 325, § 13; 2009, ch. 53, § 6.

66-3-1011. Operation on streets or highways; prohibited areas. (2016)

- A. A person shall not operate an off-highway motor vehicle on any:
 - (1) limited access highway or freeway at any time; or
 - (2) paved street or highway except as provided in Subsection B, C or D of this section.
- B. Off-highway motor vehicles may cross streets or highways, except limited access highways or freeways, if the crossings are made after coming to a complete stop prior to entering the roadway. Off-highway motor vehicles shall yield the right of way to oncoming traffic and shall begin a crossing only when it can be executed safely and then cross in the most direct manner as close to a perpendicular angle as possible.
- C. If authorized by ordinance or resolution of a local authority or the state transportation commission, a recreational off-highway vehicle or an all-terrain vehicle may be operated on a paved street or highway owned and controlled by the authorizing entity if:
 - (1) the vehicle has one or more headlights and one or more taillights that comply with the Off-Highway Motor Vehicle Act;
 - (2) the vehicle has brakes, mirrors and mufflers;
 - (3) the operator has a valid driver's license, instruction permit or provisional license and an off-highway motor vehicle safety permit;
 - (4) the operator is insured in compliance with the provisions of the Mandatory Financial Responsibility Act [[66-5-201](#) through [66-5-239](#) NMSA 1978]; and
 - (5) the operator of the vehicle is wearing eye protection and a safety helmet that comply with the Off-Highway Motor Vehicle Act.
- D. By ordinance or resolution, a local authority or state transportation commission may establish separate speed limits and operating restrictions for off-highway vehicles where they are authorized to operate on paved streets or highways pursuant to Subsection C of this section.
- E. A person shall not operate an off-highway motor vehicle on state game commission-owned, -controlled or -administered land except as specifically allowed pursuant to Chapter [17](#), Article [6](#) NMSA 1978.
- F. A person shall not operate an off-highway motor vehicle on land owned, controlled or administered by the state parks division of the energy, minerals and natural resources department, pursuant to Chapter [16](#), Article [2](#) NMSA 1978, except in areas designated by and permitted by rules adopted by the secretary of energy, minerals and natural resources.
- G. Unless authorized, a person shall not:
 - (1) remove, deface or destroy any official sign installed by a state, federal, local or private land management agency; or
 - (2) install any off-highway motor vehicle-related sign.

History: 1953 Comp., § 64-42-11, enacted by Laws 1975, ch. 240, § 11; recompiled as 1953 Comp., § 64-3-1011, by Laws 1978, ch. 35, § 207; 1985, ch. 189, § 11; 2005, ch. 325, § 14; 2009, ch. 53, § 7; 2016, ch. 91, § 1.

66-3-1012. Driving of off-highway motor vehicles adjacent to highway. (2005)

- A. Off-highway motor vehicles issued a validating sticker or nonresident permit may be driven adjacent to a highway, yielding to all vehicles entering or exiting the highway, in a manner so as not to interfere with traffic upon the highway, only for the purpose of gaining access to or returning from areas designed for the operation of off-highway motor vehicles by the shortest

possible route and when no other route is available or when the area adjacent to a highway is being used as a staging area. Such use must occur between the highway and fencing that separates the highway from private or public lands.

- B. When snow conditions permit, an off-highway motor vehicle may be operated on the right-hand side of a highway, parallel, but not closer than ten feet, to the inside of the plow bank.

History: 1953 Comp., § 64-3-1012, enacted by Laws 1978, ch. 35, § 208; 1985, ch. 189, § 12; 2005, ch. 325, § 15.

66-3-1013. Liability; local registration prohibited. (2005)

- A. A landowner shall not be held liable for damages arising out of off-highway motor vehicle-related accidents or injuries occurring on the landowner's lands in which the landowner is not directly involved unless the entry on the lands is subject to payment of a fee.
- B. It is unlawful to operate an off-highway motor vehicle on private lands or roads except with the express permission of the landowner or leaseholder of the lands.

History: 1953 Comp., § 64-42-13, enacted by Laws 1975, ch. 240, § 13; recompiled as 1953 Comp., § 64-3-1013, by Laws 1978, ch. 35, § 209; 1985, ch. 189, § 13; 2005, ch. 325, § 16.

66-3-1014. Accidents and accident reports. (2005)

The driver of an off-highway motor vehicle involved in an accident resulting in injuries to or the death of a person or resulting in damage to public or private property to the extent of five hundred dollars (\$500) or more shall immediately notify a law enforcement agency of the accident and the facts relating to the accident. If the driver is under the age of eighteen, the driver's parent or legal guardian shall immediately notify a law enforcement agency of the accident and the facts relating to the accident.

History: 1953 Comp., § 64-42-14, enacted by Laws 1975, ch. 240, § 14; recompiled as 1953 Comp., § 64-3-1014, by Laws 1978, ch. 35, § 210; 1985, ch. 189, § 14; 2005, ch. 325, § 17.

66-3-1015. Enforcement. (2009)

A wildlife conservation officer, state police officer or peace officer of this state or any of its political subdivisions, upon displaying the officer's badge of office, has the authority to enforce the provisions of the Off-Highway Motor Vehicle Act and may:

- A. require an off-highway motor vehicle operator to produce:
 - (1) the registration certificate or nonresident permit;
 - (2) proof of successful completion of an off-highway motor vehicle training course conducted by an off-highway safety training organization approved and certified by the department, when required by Section [66-3-1010.2](#) NMSA 1978; and
 - (3) the personal identification of the operator; and
- B. issue citations for violations of the provisions of the Off-Highway Motor Vehicle Act.

History: 1953 Comp., § 64-3-1015, enacted by Laws 1978, ch. 35, § 211; 1985, ch. 189, § 15; 2005, ch. 325, § 18; 2009, ch. 53, § 8.

66-3-1016. Repealed. (2009)

66-3-1017. Off-highway motor vehicle advisory board created; members; compensation. (2009)

- A. The "off-highway motor vehicle advisory board" is created to advise the department on matters related to administration of the Off-Highway Motor Vehicle Act. The board shall consist of the following seven members appointed by the governor:
 - (1) one landowner living near a national forest or bureau of land management property that is used extensively for recreational off-highway vehicle activity;

- (2) one producer or one grazing permittee on public lands from the farming or livestock industry;
 - (3) one person from the off-highway motor vehicle industry;
 - (4) one off-highway motor vehicle user;
 - (5) one hunter or angler;
 - (6) one quiet recreationalist, such as a hiker, backpacker, birdwatcher, equestrian, mountain biker, rock climber or archaeological enthusiast; and
 - (7) one member with expertise in injury prevention or treatment.
 - B. The board shall select a chair and a vice chair.
 - C. The board shall meet at the call of the chair but not less than twice annually.
 - D. Members shall be appointed to staggered terms of two years each; provided that no more than four terms expire in any one year. The board members shall select by lot four members to serve initial terms of three years each. A vacancy shall be filled by appointment of the governor for the remainder of the unexpired term. Members of the board shall be entitled to reimbursement pursuant to the Per Diem and Mileage Act [[10-8-1](#) NMSA 1978].
- History: Laws 2005, ch. 325, § 19; 2009, ch. 53, § 9.

66-3-1018. Department; powers and duties. (2009)

- A. The department shall cooperate with appropriate federal agencies, public and private organizations and corporations and local government units to implement the provisions of the Off-Highway Motor Vehicle Act.
- B. The department:
 - (1) shall accept and evaluate all applications for approval and certification of an off-highway motor vehicle safety training organization and approve and certify those that meet the minimum criteria;
 - (2) shall notify the division of the off-highway motor vehicle safety training organizations that have received approval and certification;
 - (3) shall establish and revise as appropriate minimum criteria to approve and certify an off-highway motor vehicle safety training organization. The criteria shall include requirements for curriculum and materials for:
 - (a) training instructors to teach off-highway motor vehicle safety;
 - (b) training the public about off-highway motor vehicle safety and age-appropriate size-fit use of off-highway motor vehicles; and
 - (c) teaching responsible use of off-highway motor vehicles with respect to environmental considerations, private property restrictions, agricultural and rural lifestyles and cultural considerations, off-highway motor vehicle operating laws and prohibitions against operating off-highway motor vehicles under the influence of alcohol or drugs;
 - (4) shall implement a state off-highway motor vehicle safety training and certification program;
 - (5) shall adopt and promulgate rules regarding the:
 - (a) age-appropriate size-fit use of all-terrain vehicles or recreational off-highway motor vehicles;
 - (b) acceptance or accreditation of instruction or safety courses provided by other states; and
 - (c) standards covering the specifications of eye protection and safety helmets;
 - (6) may recommend, with public participation and input, off-highway motor vehicle park, facility and trail locations to the state, county, tribal or local governing body or private entity that owns or administers the land upon which the park, facility or trail is located. The department shall establish criteria to recommend locations that include consideration of off-highway motor vehicle operating laws and effects on:
 - (a) wildlife and the environment;
 - (b) adjacent state, county, federal, tribal and private property;
 - (c) other recreational and nonrecreational uses on the same or adjacent lands; and

- (d) archaeological, cultural and historic resources and customs;
- (7) shall recommend restoration or, if deemed necessary, closure of off-highway motor vehicle tracks or trails to the state, county, tribal or local governing body or private entity that owns or administers the land upon which the tracks or trails are located if they pose significant or irreversible environmental damage, a danger to users or a public nuisance as determined by the department. The department shall consider the construction of alternative tracks or trails as part of the closure process;
- (8) shall accept and evaluate all applications for grants from the fund for implementation of the provisions of the Off-Highway Motor Vehicle Act. The department shall establish criteria for grants from the fund that include consideration of the:
 - (a) applicant's financial and legal status;
 - (b) applicant's management plan, including specific measures to avoid or minimize environmental damage to public and private lands and danger to users and spectators;
 - (c) operating budget for the park, trail, facility or staging area;
 - (d) availability of matching funds; and
 - (e) public participation and input;
- (9) shall certify tour guides;
- (10) shall prepare a management plan that accomplishes the purposes of the Off-Highway Motor Vehicle Act in a cost-effective manner and relies on existing agencies' available funding with specific qualifications for program implementation, which shall include joint powers agreements with the department of public safety and other law enforcement agencies for law enforcement and other agencies as appropriate for carrying out the provisions of the Off-Highway Motor Vehicle Act;
- (11) shall develop and implement an overall enforcement strategy for the entire state that includes:
 - (a) cooperation with federal, state and local law enforcement agencies to provide training and educational materials related to off-highway motor vehicle use;
 - (b) coordination efforts related to off-highway motor vehicle use with participating law enforcement agencies;
 - (c) developing strategies for addressing and minimizing impacts on farmers and ranchers in rural agricultural areas, on hunters and anglers and on non-motorized recreationalists by off-highway motor vehicle use; and
 - (d) using law enforcement DUI-type "blitzes" in heavily used areas, staging areas or other problem areas;
- (12) shall develop and implement an overall educational strategy for the entire state that:
 - (a) incorporates materials developed by the United States department of agriculture forest service program that teaches trail etiquette and respect for natural resources;
 - (b) includes the development of New Mexico-specific written, video or other educational materials and educational programs that address the impact of off-highway motor vehicles on traditional living culture, agricultural land and private property; and
 - (c) includes the development and maintenance of a web site containing rules and regulations, safety information and educational material relating to resource protection and the impact of off-highway motor vehicles on traditional living culture, agricultural land and historical sites;
- (13) shall develop an overall strategy for phased implementation of an information system to track information, such as use patterns, injury data, ecological data, natural resource data and data relating to the impact of off-highway motor vehicles on traditional living culture and on agricultural land. The strategy shall include:
 - (a) identification and implementation of appropriate data collecting mechanisms, such as a toll-free number or a web-based data collecting process; and

- (b) development of an information system program capable of interfacing with existing government and private databases or other information systems;
- (14) may implement noise enforcement by the testing of sound levels of off-highway motor vehicles at the time of registration and equip law enforcement officers with sound meters for field testing of sound levels;
- (15) may contract with government or quasi-government agencies to conduct analysis of the impact of off-highway motor vehicle use on forests, rangeland and other natural resources and use the data obtained to make recommendations to the appropriate land management agency;
- (16) shall review the definition of "off-highway motor vehicle" as needed to include new classes of off-highway motor vehicles as they become available in the marketplace;
- (17) shall, in cooperation with the division, determine the size, composition, attachment mechanism, letter or number height and other properties of off-highway motor vehicle identification. This identification may be a traditional license plate, stick-on lettering as used for boat identification or another form of identification that is visible and readable;
- (18) shall present its semiannual plans and progress to the advisory board for the board's input and response; and
- (19) may collaborate with the appropriate land agencies to develop criteria for signage relating to off-road motor vehicle use, including the size, visibility, graphics and frequency of signage.

History: Laws 2005, ch. 325, § 20; 2009, ch. 53, § 10.

66-3-1019. Fund created; disposition. (2009)

- A. The "trail safety fund" is created in the state treasury. The fund is a nonreverting fund and consists of revenues from off-highway motor vehicle registration and user fees, grants and donations. No more than thirty percent of the fund may be used for administrative overhead, and at least fifty percent shall be devoted to law enforcement and education. Income from investment of the fund shall be credited to the fund. The fund shall be administered by the department, and money in the fund is appropriated to the department to carry out the purposes of the Off-Highway Motor Vehicle Act. Expenditures from the fund shall be by warrant of the secretary of finance and administration upon vouchers signed by the director of the department of game and fish or the director's authorized representative.
- B. The department shall make annual distributions from the fund for the following purposes:
 - (1) administrative;
 - (2) law enforcement;
 - (3) education and training;
 - (4) information system development and management;
 - (5) resource monitoring and protection and trail building, maintenance and restoration; and
 - (6) implementation of other provisions of the Off-Highway Motor Vehicle Act.

History: Laws 2005, ch. 325, § 21; 2009, ch. 53, § 11.

66-3-1020. Penalties. (2009)

- A. A person who violates the provisions of the Off-Highway Motor Vehicle Act is guilty of a penalty assessment misdemeanor. A parent, guardian or custodian who causes or knowingly permits a child under the age of eighteen years to operate an off-highway motor vehicle in violation of the provisions of the Off-Highway Motor Vehicle Act is in violation of that act and subject to the same penalty as the child operating the off-highway motor vehicle in violation of that act.

- B. As used in the Off-Highway Motor Vehicle Act, "penalty assessment misdemeanor" means violation of any provision of the Off-Highway Motor Vehicle Act for which a violator may be subject to the following:

CLASS 1 VIOLATIONS	SECTION VIOLATED	PENALTY ASSESSMENT
failure to possess a registration certificate or nonresident permit	66-3-1010.3	\$10.00
violations involving headlights or taillights	66-3-1010.3	10.00
failure to possess an off-highway motor vehicle safety permit	66-3-1010.3	10.00
selling a vehicle that produces noise in excess of ninety-six decibels	66-3-1010.3	10.00
any violation of the Off-Highway Motor Vehicle Act not otherwise specifically defined elsewhere in this section	66-3-1010.3	10.00
CLASS 2 VIOLATIONS	SECTION VIOLATED	PENALTY ASSESSMENT
failure to complete a required off-highway motor vehicle safety training course	66-3-1010.2	\$50.00
operating a vehicle in excess of ten miles per hour within two hundred feet of a business, animal shelter, horseback rider, bicyclist, pedestrian, livestock or occupied dwelling	66-3-1010.3	50.00
a person under the age of eighteen but at least fifteen years of age who operates an off-highway motor vehicle in violation of the supervision requirements of the Off-Highway Motor Vehicle Act	66-3-1010.3	50.00
operating an off-highway motor vehicle that produces noise that exceeds ninety-six decibels	66-3-1010.3	50.00
unauthorized installation, removal, destruction or defacing of a motor vehicle sign	66-3-1011	50.00
CLASS 3 VIOLATIONS	SECTION VIOLATED	PENALTY ASSESSMENT
operating a vehicle that is not equipped with an approved spark arrester	66-3-1010.3	\$100.00
operating an off-highway motor vehicle while in pursuit of and with intent to hunt or take a species of animal or bird protected by law, unless otherwise authorized by the state game commission	66-3-1010.3	100.00

operating an off-highway motor vehicle in pursuit of or harassment of livestock in any manner that negatively affects the livestock's condition	66-3-1010.3	100.00
operating an off-highway motor vehicle on or within an earthen tank or other structure meant to water livestock or wildlife	66-3-1010.3	100.00
operating a motor vehicle in a manner that has a direct negative effect on or interferes with persons engaged in agricultural practices	66-3-1010.3	100.00
a person under the age of eighteen operating an off-highway motor vehicle without wearing eye protection and a safety helmet	66-3-1010.3	100.00
a person under the age of eighteen operating an off-highway motor vehicle while carrying a passenger	66-3-1010.3	100.00
a person under the age of fifteen but at least ten years of age who operates an off-highway motor vehicle in violation of the supervision requirements of the Off-Highway Motor Vehicle Act	66-3-1010.3	100.00
a person under the age of ten operating an all-terrain vehicle or recreational off-highway motor vehicle that is not an age-appropriate size-fit or who operates an off-highway motor vehicle in violation of the supervision requirements of this section	66-3-1010.3	100.00

CLASS 4 VIOLATIONS	SECTION VIOLATED	PENALTY ASSESSMENT
operating an off-highway motor vehicle in a careless, reckless or negligent manner so as to endanger the person or property of another	66-3-1010.3	\$200.00
operating an off-highway motor vehicle on any road or area closed to off-highway motor vehicle traffic under local, state or federal regulations	66-3-1010.3	200.00
operating an off-highway motor vehicle on a limited-access highway or freeway	66-3-1011	200.00

- C. The penalty for second, third and subsequent violations within a three-year time period shall be increased as follows:
- (1) a second violation in a class 1 penalty category involving failure to possess a registration certificate or nonresident permit shall be increased to a class 2 penalty category;
 - (2) any class 2 or class 3 violation for a second or greater infraction within a three-year period shall be increased to the next-highest penalty assessment category; and

(3) each subsequent violation in a class 4 penalty category will result in an additional penalty of two hundred dollars (\$200).

- D. Multiple violations for the same incident shall be treated as a single event and shall not result in graduated penalties.
- E. The term "penalty assessment misdemeanor" does not include a violation that has caused or contributed to the cause of an accident resulting in injury or death to a person.
- F. When an alleged violator of a penalty assessment misdemeanor elects to accept a notice to appear in lieu of a notice of penalty assessment, a fine imposed upon later conviction shall not exceed the penalty assessment established for the particular penalty assessment misdemeanor, and probation imposed upon a suspended or deferred sentence shall not exceed ninety days.

History: Laws 2005, ch. 325, § 22; 2009, ch. 53, § 12.

66-3-1021. Legislative oversight. (2009)

In addition to reporting to the legislative finance committee pursuant to the performance review and budgeting process, the department shall report to the appropriate interim committee appointed by the New Mexico legislative council on the status of implementation of the Off-Highway Motor Vehicle Act. The department shall report to the appropriate committee of the legislature on the status of existing and proposed rules and relevant enforcement issues.

History: Laws 2009, ch. 53, § 13.

TITLE 18 TRANSPORTATION AND HIGHWAYS
CHAPTER 15 OFF-HIGHWAY MOTOR VEHICLE SAFETY
PART 3 OFF-HIGHWAY MOTOR VEHICLE SAFETY STANDARDS

18.15.3.1 ISSUING AGENCY: New Mexico Department of Game and Fish.
 [18.15.3.1 NMAC - Rp, 18.15.3.1 NMAC, 5-28-10]

18.15.3.2 SCOPE: This rule prescribes safety standards, registration, and safety permit requirements for all persons seeking to operate an off-highway motor vehicle and applies to all persons seeking to operate an off-highway motor vehicle safety training organization, or serve as an off-highway motor vehicle instructor or guide in New Mexico.
 [18.15.3.2 NMAC - Rp, 18.15.3.2 NMAC, 5-28-10]

18.15.3.3 STATUTORY AUTHORITY: NMSA 1978, Sections 66-3-1001 through 66-3-1020.
 [18.15.3.3 NMAC - Rp, 18.15.3.3 NMAC, 5-28-10]

18.15.3.4 DURATION: Permanent.
 [18.15.3.4 NMAC - Rp, 18.15.3.4 NMAC, 5-28-10]

18.15.3.5 EFFECTIVE DATE: May 28, 2010, unless a later date is cited at the end of a section.
 [18.15.3.5 NMAC - Rp, 18.15.3.5 NMAC, 5-28-10]

18.15.3.6 OBJECTIVE: The purpose of this rule is to provide minimum and uniform standards for the registration, permitting and safe operation of off-highway motor vehicles and for the certification of off-highway motor vehicle safety training organizations, instructors and guides, and matters incident thereto.
 [18.15.3.6 NMAC - Rp, 18.15.3.6 NMAC, 5-28-10]

18.15.3.7 DEFINITIONS:

- A. "ASI" means the ATV safety institute, a division of the specialty vehicle institute of America.
- B. "Board" means the off-highway motor vehicle advisory board.
- C. "Certificate" means one of the following documents issued by the department on a non-exclusive basis

authorizing a person to:

- (1) "safety training permit": operate an off-highway motor vehicle if under 18 years of age or;
- (2) "instructor certificate": serve as an off-highway motor vehicle safety training organization, a lead instructor, guide

or junior instructor.

- D. "CPSC" means the consumer product safety commission.
- E. "Department" means the New Mexico department of game and fish.
- F. "Designee" means a person authorized to perform certain specified duties on behalf of the department.
- G. "Director" means the director of the New Mexico department of game and fish.
- H. "Division" means the motor vehicle division of the New Mexico taxation and revenue department.
- I. "Enrolled" means that a student has attended the first day of a scheduled safety training course and will continue

until the course is completed.

J. "Extension site" means a location other than the main off-highway motor vehicle safety training organization's training site where a certified organization offers OHV safety training courses.

K. "Guide" means a person who is certified as a lead instructor by the department and who guides or directs an off-highway vehicle organized tour.

L. "Implied Consent Act" means Sections 66-8-105 through 66-8-112, NMSA 1978.

M. "Junior instructor" means a person over the age of eighteen (18) but less than twenty-one (21) years of age certified by the department pursuant to the instructor qualifications and standards criteria of these rules as meeting the minimum qualifications to teach and evaluate a student in a department certified off-highway motor vehicle safety training course under the direct supervision of a lead instructor.

N. "Lead instructor" means a person at least twenty-one (21) years of age certified by the department pursuant to the instructor qualifications and standards criteria of these rules as meeting the minimum qualifications to teach and evaluate a student in a department certified off-highway motor vehicle safety training course.

O. "Moral turpitude" means behavior that gravely violates the accepted moral standards of the community.

P. "MSF" means the motorcycle safety foundation.

Q. "Off-highway motor vehicle" means a motor vehicle designed by the manufacturer for operation exclusively off the highway or road as defined in statute or as designated by the director.

R. "Off-highway motor vehicle safety training organization" (also referred to in these rules as "OHV safety training organization" or "organization") means a business, certified by the department as qualified to provide safety training.

- S. **"Person"** means an individual, firm, partnership, association, corporation, limited liability company, or other legal entity.
- T. **"Proctored exam"** means an exam monitored by a lead instructor or a junior instructor under the direct supervision of a lead instructor.
- U. **"Revocation or revoked"** means the involuntary permanent termination of a certificate by the board for cause.
- V. **"Staging area"** means a parking lot, trailhead or other location to or from which an off-highway motor vehicle is transported so that it may be placed into operation or removed from operation.
- W. **"Student"** means a person who has enrolled in an OHV safety training course certified by the board.
- X. **"Suspended or suspension"** means the involuntary permanent termination of a certificate by the board for cause.
- Y. **"Trail etiquette"** means the correct and appropriate interaction between all types of trail users; respect for and adherence to rules and laws governing use on public and private land; respect for the environment and avoidance of causing any adverse impacts to the environment; not littering and making sure campfires are extinguished.
- [18.15.3.7 NMAC - Rp, 18.15.3.7 NMAC, 5-28-10]

18.15.3.8 OPERATION REQUIREMENTS:

- A. **License not required:** Drivers of off-highway motor vehicles are not required to be licensed.
- B. **Prohibitions:** A person shall not operate an off-highway motor vehicle:
- (1) in a careless, reckless or negligent manner so as to endanger the person or property of another;
 - (2) while under the influence of intoxicating liquor or drugs as provided by Section 66-8-102 NMSA 1978;
 - (3) while in pursuit of and with intent to hunt or take a species of animal or bird protected by law unless otherwise authorized by the state game commission;
 - (4) in pursuit of or harassment of livestock in any manner that negatively affects the livestock's condition;
 - (5) on or within an earthen tank or other structure meant to water livestock or wildlife, unless the off-highway motor vehicle is on a route designated by the landowner or land management agency as an off-highway motor vehicle route;
 - (6) in a manner that has a direct negative effect on or interferes with persons engaged in agricultural practices;
 - (7) in excess of ten miles per hour within two hundred feet of a business, animal shelter, horseback rider, bicyclist, pedestrian, livestock or occupied dwelling, unless the person operates the vehicle on a closed course or track;
 - (8) unless in possession of the person's registration certificate or nonresident permit and the registration decal is attached to the off-highway vehicle as outlined in 18.15.3.12 NMAC;
 - (9) unless the vehicle with an internal combustion engine is equipped with a spark arrester approved by the United States forest service; provided that a snowmobile is exempt from this provision;
 - (10) when conditions such as darkness limit visibility to five hundred feet (500) or less, unless the vehicle is equipped with:
 - (a) one or more headlights of sufficient candlepower to light objects at a distance of one hundred-fifty feet (150); and
 - (b) at least one taillight of sufficient intensity to exhibit a red or amber light at a distance of two hundred feet (200') under normal atmospheric conditions;
 - (11) that produces noise that exceeds ninety-six (96) decibels when measured using test procedures established by the society of automotive engineers pursuant to standard J-1287;
 - (12) where off-highway motor vehicle traffic is prohibited under local, state, or federal rules or regulations.
- C. **Requirements for minors:** A person under the age of eighteen (18) shall not operate an off-highway motor vehicle:
- (1) or ride upon an off-highway motor vehicle without wearing eye protection and a safety helmet that is securely fastened in a normal manner as headgear that meets the standards established by the department in these rules;
 - (2) without an off-highway motor vehicle safety permit; or
 - (3) while carrying a passenger.
- D. **Visual supervision:** A person under the age of eighteen (18) but at least ten (10) years of age shall not operate an off-highway motor vehicle unless the person is visually supervised at all times by a parent, legal guardian or a person over the age of eighteen (18) who has a valid driver's license. This rule does not apply to a person who is at least:
- (1) thirteen (13) years of age and has a valid motorcycle license and off-highway motor vehicle safety permit; or
 - (2) fifteen (15) years of age and has a valid driver's license, instructional permit or provisional license and off-highway motor vehicle safety permit.
- E. **Minors under 10 years of age:** A person under the age of ten (10) shall not operate an off-highway motor vehicle unless:
- (1) the all-terrain vehicle is an age-appropriate size-fit vehicle established by rule of the department; and
 - (2) the person is visually supervised at all times by a parent, legal guardian or instructor of a safety training course certified by the department.
- F. **Organized tour exception:** The requirements of Subsections D and E of this section do not apply to a person who is part of an organized tour under the guidance or direction of a guide certified by the department under these rules.
- G. **Noise standard:** An off-highway motor vehicle may not be sold or offered for sale if the vehicle produces noise that exceeds ninety-six (96) decibels when measured using test procedures established by the society of automotive engineers

pursuant to standard J-1287. This subsection shall not apply to an off-highway motor vehicle that is sold or offered for sale only for organized competition.

H. Prohibited areas of operation. A person shall not operate an off-highway motor vehicle on any:

- (1) limited access highway or freeway at any time; or
- (2) any paved street or highway except as provided in Subsection B of Section 66-3-1011 NMSA 1978.

I. Public lands restrictions. A person shall not operate an off-highway motor vehicle on state game commission owned, controlled, or administered land or on land owned, controlled, or administered by the state parks division of the energy, minerals and natural resources department except in compliance with Subsections C and D of Section 66-3-1011 NMSA 1978.

J. Public highway restrictions: Off-highway motor vehicles may only be driven adjacent to a highway for the purpose of gaining access to or returning from areas designed for the operation of off-highway vehicles by the shortest possible route and when no other route is available or when the area adjacent to a highway is being used as a staging area. Such use must occur between the highway and fencing that separates the highway from private or public lands, and the operator of the off-highway motor vehicle shall yield to all vehicles entering or exiting the highway, in a manner that does not interfere with highway traffic. When snow conditions permit, an off-highway motor vehicle may be operated on the right-hand side of a highway, parallel, but not closer than ten feet (10) to the inside of the plow bank.

K. Accidents and accident reports: The driver of an off-highway motor vehicle involved in an accident resulting in injuries to or the death of a person or resulting in damage to public or private property to the extent of five hundred dollars (\$500) or more shall immediately notify a law enforcement agency of the accident and the facts relating to the accident. If the driver is under the age of eighteen, the driver's parent or legal guardian shall immediately notify a law enforcement agency of the accident and the facts relating to the accident.

[18.15.3.8 NMAC - Rp, 18.15.3.8 NMAC, 5-28-10; A, 12-30-11]

18.15.3.9 EQUIPMENT REQUIREMENTS:

A. Safety helmets: All off-highway motor vehicle operators and passengers under the age of eighteen (18) shall wear safety helmets that comply with the safety standards of Title 49 Transportation, Chapter V - National Highway Traffic Safety Administration, Department of Transportation, Part 571-Federal Motor Vehicle Safety Standards, Subpart B-Federal Motor Vehicle Safety Standards, Standard No. 218, Motorcycle helmets of the Code of Federal Regulations (49CFR571.218). A helmet exhibiting the symbol DOT in conformance with 49CFR571.218 shall constitute prima facie evidence of compliance with this standard.

B. Eye protection: Unless the off-highway motor vehicle has a protective windscreen, all off-highway motor vehicle operators and passengers under the age of eighteen (18) must wear eye protection that meets or exceeds the Vehicle Equipment Safety Standards Regulations VESC-8 (Minimum Requirements for Motorcycles, Eye Protection Section 11-1306(e) or the American National Standards Institute (ANSI) Standard Z87.1 and more generally known as safety glasses or safety goggles. Additionally, the protective eyewear must be free of scratches, give a clear view to both sides and be fastened securely.

C. Age appropriate size-fit: Standards governing the relationship between the engine displacement level (in cubic centimeters, or cc.) of an all-terrain vehicle (ATV) and the minimum age an operator must attain before he may operate an ATV with higher than minimum engine displacement levels, combined with objective measurements of how a rider physically fits on an ATV and can operate basic equipment features, are called "age appropriate size-fit" standards.

(1) No person under six (6) years of age shall operate an all-terrain vehicle on public land.

(2) Operators under the age of ten (10) shall not operate an ATV with an engine size greater than 100cc and shall comply with the physical fit standards set forth below in Subsection D of this section.

(3) Operators from ages ten (10) through fifteen (15) shall not operate an ATV with an engine size greater than 250cc and shall comply with the physical fit standards set forth below in Subsection D of this section.

(4) Notwithstanding Paragraph (3) of this subsection, operators who are fourteen (14) or fifteen (15) years of age and who possess a valid driver's license may operate an ATV with an engine size not greater than 450 cc.

(5) Operators at least sixteen (16) years of age may operate an ATV with an engine size greater than 250cc.

D. Physical fit standards: Unless the relationship between an operator and the ATV being operated complies with the following standards, there is a violation of the age appropriate size-fit standards of these rules, regardless of whether the operator is in compliance with the engine size standards of Subsection C immediately preceding.

(1) Clearance between ATV seat and inseam while standing up on foot pegs: The intent for requiring a clearance is two-fold: the first is to permit the rider to stand up and absorb shocks through the legs while traversing rough terrain; the second is to minimize the possibility of the rider being struck by the seat and catapulted over the handle bars. Three to six inches should be a minimum clearance. The maximum will be controlled by the reference point below.

(2) Upper legs: The upper portion of the leg, roughly from the top of the knee to the hip (or the lap if sitting in a chair) should be approximately horizontal. A little above or below the horizontal is not a violation of this standard, but gross departures (knees significantly below or above the hips) shall warrant further inquiry. Knees that are significantly above the hips and which contact the handlebars in both directions when they are turned constitute a violation of this standard.

(3) Foot length: With the heel of the right shoe locked against the footpeg or in the proper position on the running board, the toe should be able to depress the foot brake with a simple downward rotation of the foot. Contact with engine or exhaust protrusions should be examined. The rider should be able to operate the brakes consistently without hesitation. The same principle applies to the left side of the ATV where the gearshift is located.

(4) **Grip reach:** With the rider in the normal seated position (not leaning forward) and the hands on the handlebars, the elbows should have a distinct angle between the upper arm and the forearm. If the elbows are straight out, the rider has no ability to turn the handlebars. If the elbows are less than right angles, the rider is too large for the ATV and steering is difficult possibly throwing the rider off balance.

(5) **Throttle reach:** With the right hand in the normal operating position, the thumb must easily operate the throttle. The rider must be able to turn the handlebars to both the extreme left and extreme right position without any interference with easy operation.

(6) **Brake reach:** With the hands in the normal operating position and the fingers straight out, the first joint (from the tip) of the middle finger should extend beyond the brake lever. If not, the hand is too small to effectively grasp the lever in an emergency. The thumb must also reach the engine stop switch. The rider should be able to squeeze the brake lever comfortably and repeatedly.

[18.15.3.9 NMAC - Rp, 18.15.3.9 NMAC, 5-28-10]

18.15.3.10 MINIMUM CRITERIA FOR APPROVAL AND CERTIFICATION OF OFF-HIGHWAY MOTOR VEHICLE SAFETY TRAINING ORGANIZATIONS AND INSTRUCTORS/GUIDES:

A. ASI standard adopted. The department shall approve and certify all motor vehicle safety training organizations for ATV's whose applications establish that they will:

(1) utilize ASI's instructional materials, e-course, or a materially equivalent curriculum; and

(2) comply with the inclusion of New Mexico specific curriculum with respect to environmental considerations, private property restrictions, agricultural and rural lifestyles and cultural considerations, laws and prohibitions against operating off-highway motor vehicles under the influence of alcohol or drugs.

B. MSF standard adopted. The department shall approve and certify all motor vehicle safety training organization for off-highway motorcycles whose applications establish that they will:

(1) utilize the MSF "dirt bike school" instructional materials, e-course, or a materially equivalent on-line curriculum;

and

(2) comply with the inclusion of New Mexico specific curriculum with respect to environmental considerations, private property restrictions, agricultural and rural lifestyles and cultural considerations, laws and prohibitions against operating off-highway motor vehicles under the influence of alcohol or drugs.

C. Snowmobile standard. [Reserved]

D. Out of state safety permits. A current off-highway motor vehicle safety permit issued by another state to a person under the age of eighteen (18), or an ASI, MSF or equivalent certificate as determined by the department evidencing completion of an OHV safety training course, shall satisfy the requirement for completion of an off-highway motor vehicle safety training course before operating an off-highway motor vehicle in New Mexico. New Mexico residents under the age of eighteen (18) must successfully complete an off-highway motor vehicle safety course that complies with these rules.

E. Grandfathered safety permits. Safety certificates issued prior to January 1, 2007, by ASI, MSF, 4-H or equivalent certificates as determined by the department evidencing completion of an OHV safety training course, shall satisfy the requirement for completion of an off-highway motor vehicle safety training course before operating an off-highway motor vehicle in New Mexico.

[18.15.3.10 NMAC - Rp, 18.15.3.10 NMAC, 5-28-10]

18.15.3.11 ON-LINE SAFETY TRAINING:

A. Hours requirement. An OHV safety training program shall provide at least 4 hours of curriculum on safe and responsible off-highway vehicle operation. Upon successful completion of the curriculum and final exam, a safety permit will be issue. A student must correctly answer at least seventy percent (70%) of the questions to pass the final exam and receive a permit.

B. Curriculum requirement: Only the curriculum, chapter review material and final examination questions approved by the department may be used. An on-line safety training curriculum must include lessons about:

(1) safety awareness.

(2) New Mexico operations requirements as required by 18.15.3.8 NMAC of these rules;

(3) safety equipment requirements as required by 18.15.3.9 of these rules;

(4) age-appropriate size-fit use of off-highway motor vehicles as outlined by Subsection C and D of 18.15.3.8 NMAC of these rules;

(5) responsible use of off-highway motor vehicles with respect to environmental considerations, private property restrictions, agricultural and rural lifestyles and cultural considerations, and restrictions against operating off-highway motor vehicles under the influence of alcohol or drugs;

(6) respecting ATV's: safety awareness; preparation to ride; controls and equipment checks; starting procedures; posture, starting out, shifting gears, braking and parking; turning; quick stops and swerving; riding strategies; riding over obstacles; riding on hills; and safe riding practices; and

(7) trail etiquette: how to deal with fences, land use ethic.

C. Other requirement: A safety training organization shall provide the department with a monthly (or as requested) report of students who successfully completed the on-line safety training course. The information should include the students first and last name, middle initial, date of birth, last four of social security number, and students home telephone number, date training was

completed, the students final grade and total time for completion of the training course. This information shall remain confidential by the safety training organization and the department and for sole purpose of record keeping.

[18.15.3.11 NMAC - N, 5-28-10]

18.15.3.12 DISPLAY OF IDENTIFICATION PLATES:

A. All off-highway motor vehicles: shall display an identification decal or plate assigned to the vehicle for which it is issued by the division, or a suitable decal as issued by the department for validation purposes, which shall contain the year and month for which it expires, except those exempted under this rule or 66-3-1005 NMSA 1978.

B. Identification plate or decal: shall at all times be securely fastened to the vehicle for which it is issued, and shall be mounted or affixed in a position clearly visible, shall be maintained in a condition so as to be clearly legible, and displayed only for the period for which it is valid. Nothing shall be used to block, dim, or cover any portion of the plate or decal. All identification devices or decals issued on or after January 1, 2012 shall be displayed as follows:

(1) Motorcycles shall display decal horizontally on the left fork leg of the motorcycle, and shall be visible from the left side of the motorcycle.

(2) ATVs shall display decal horizontally on the left rear quadrant on permanent plastic or metal frame and visible from the left side of the all-terrain vehicle.

(3) UTV/ROV shall display decal horizontally on the left front quarter panel of a recreational off-highway vehicle.

(4) Snowmobiles shall display decal horizontally on the left tunnel on the back of snowmobile.

C. Exceptions: No off-highway vehicle shall deviate from this display requirement except as described below:

(1) unless displaying a valid license plate, temporary registration, or dealer demonstration permit, and the plate, temporary registration, or dealer permit is visible from the rear of the vehicle;

(2) non-residents who have a valid off-highway vehicle permit displayed on their off-highway vehicle that is currently in compliance with another state's off-highway vehicle registration, user fee or similar law or rule demonstrated by certificate of registration, permit or similar evidence.

D. Replacement fee: The division shall charge seven dollars and fifty cents (\$7.50) transition fee to replace a previously issued license plate for a decal when requested by the registered owner of an off-highway motor vehicle. The previously issued license plate will be surrendered upon reissue of a decal, and the decal will be valid for the remaining term of the registration.
[18.15.3.12 NMAC - N, 12-30-11]

HISTORY OF 18.15.3 NMAC:

History of Repealed Material:

18.15.3 NMAC, Off-Highway Motor Vehicle Safety Standards, filed December 14, 2006 by the Off-Highway Motor Vehicle Safety Board - Repealed effective May 28, 2010 and replaced by 18.15.3 NMAC, Off-Highway Motor Vehicle Safety Standards, effective May 28, 2010, filed by Department of Game and Fish.

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 11/01/2016

Report Date: 10/17/2016

Report No: 5.

Submitted By: Stella Rael

Subject: Hold a public hearing, and act upon a request for a map amendment to the official zoning map of the City of Alamogordo to rezone the property located at 1806 9th Street from-C1 – Neighborhood Business to R3 – Two Family Dwelling. (Stella Rael, Planning and Zoning Administrator)

Fiscal Impact: None

Amount Budgeted: \$0.00

Fund: N/A

Additional Fiscal Impact:

Recommendation: Planning and Zoning Commission recommended approval of the requested map amendment by a vote of 4-0-0 at their October 6, 2016 regular meeting.

Staff Recommends approval.

Background: Background: The applicants are requesting a map amendment to the official zoning map of the City of Alamogordo to rezone the property located at 1806 9th Street from C1 – Neighborhood Business to R3 – Two Family Dwelling.

The Alamogordo Daily News published notice of this hearing on September 18, 2016. Staff mailed Twenty nine (29) letters by certified/return receipt mail to all property owners of record within two hundred (200) feet from the property excluding public right-of-way, of the property for which the rezoning is sought. As of this writing, staff has received two letters returned as undeliverable and no written responses to this notice. Staff Recommends approval.

ORDINANCE No. 1530

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF ALAMOGORDO, CHANGING THE CLASSIFICATION OF A CERTAIN PROPERTY COMMONLY KNOWN AS 1806 NINTH STREET FROM THEIR PRESENT DESIGNATION AND ZONING DISTRICT OF C-1 NEIGHBORHOOD BUSINESS TO R-3 TWO FAMILY DWELLING, WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF ALAMOGORDO, OTERO COUNTY, NEW MEXICO.

WHEREAS, Phillip and Adelinda Efird (hereinafter referred to as "the Owners") are the owners of certain real property commonly known as 1806 Ninth Street and legally described below (herein after referred to as "the Property") located within the corporate boundaries of the City of Alamogordo, New Mexico, (hereinafter referred to as "the City"); and

WHEREAS, an application has been filed in the Owner's names under Case No. **Z-2016-0004(A)** to change the zoning of the Property, and

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

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

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

College Addition, Block 35, Lots 11 and 12

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

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

**CITY OF ALAMOGORDO, NEW MEXICO a
New Mexico municipal corporation**

By: _____
Richard Boss, Mayor

ATTEST:

Rachel Hughs, City Clerk

APPROVED AS TO FORM:

Lauren Truitt, Assistant City Attorney

Record of Decision
City of Alamogordo
A New Mexico Municipal Corporation

Case#: **Z-2016-0004(A)**

For the Subject Property as follows:

Commonly Known As: **1806 Ninth Street**

Uniform Property Code & Parcel Code: **01N-4-056-094-422-217**

Legal Description: **COLLEGE ADDITION, BLOCK 35, LOTS 11 AND 12**

The Alamogordo Planning & Zoning Commission considered this item on **October 6, 2016** and recommended the following action to the Alamogordo City Commission by a vote of 4-0-0

Approve the rezoning of the property detailed above for Case # **Z-2016-0004(A)**.

.....
The Alamogordo City Commission issued the following decision on **November 1, 2016**, by a vote of _____

Approve as recommended for first publication Ordinance # 1530

.....
The Alamogordo City Commission issued the following decision on **November 1, 2016** , by a vote of _____

Approve as recommended for final publication Ordinance #1530 .

Attest:

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

Rachel Hughs, City Clerk

Richard Boss, Mayor



City of Alamogordo

City Commission



Rezoning Request Case:
Z-2016-0004(A)

Stella Rael, PNZ Administrator
November 1, 2016

Zoning Request Case: Z-2016-0004(A)



Request:

The applicants are requesting a map amendment to the official zoning map of the City of Alamogordo to rezone the property located at 1806 9th Street from-C1 - Neighborhood Business to R3 - Two Family Dwelling.

Owner(s)/Applicant:

Phillip B. and Adelinda Efird

Zoning Request Case: Z-2016-0004(A)



Section 29-01-020 - Amendments and Changes

Petition for amendment. From time to time, the city, after public notice and hearing, may amend the zoning regulations and established districts. Amendment may be initiated by motion of the city commission; by petition of the owners of the property to be affected; or by petition of one (1) or more agents, designated in an acknowledged power of attorney, or owner or owners of the property affected. Every such proposed amendment shall be considered by the planning and zoning commission before being considered by the city commission.

Zoning Request Case: Z-2016-0004(A)



Aerial
Photo



Zoning Request Case: Z-2016-0004(A)



Zoning Request Case: Z-2016-0004(A)



Findings of Fact

- 1. The property is located at 1806 9th Street, within the C-1 Neighborhood Business District; more specifically identified as Tax Parcel # 01-03787
- 2. The request is for a map amendment to rezone the property to R-3 (Two Family Dwelling).
- 3. The application was filed on August 31, 2016
- 4. The legal notice was published on September 18, 2016
- 5. Twenty nine (29) letters were mailed by certified/return receipt mail to all property owners of record within two hundred (200) feet from the property excluding public right-of-way, of the property for which the rezoning is sought.
- 6. As of October 14, 2016 there were four letters returned undeliverable and two phone calls were received from property owners within the two hundred radius stating that they had no objection to the proposed zoning.
- 7. Planning and Zoning Commission recommended approval by a vote of 4-0-0, at the regularly scheduled meeting of October 6, 2016.

Zoning Request Case: Z-2016-0004(A)



Staff Recommends:

To accept the finding of facts as presented and approve Zone Request Case: Z-2016-0004(A).

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 11/01/2016

Report Date: 10/17/2016

Report No: 6.

Submitted By: Stella Rael

Subject: Hold a public hearing, and act upon a variance to reduce the property rear setback from having a depth of not less than thirty (30) feet or twenty (20) percent of the depth of the entire lot, whichever amount is smaller, to five (5') feet. (Stella Rael; Planning and Zoning Administrator)

Fiscal Impact: None

Amount Budgeted: \$0.00

Fund: N/A

Additional Fiscal Impact:

Recommendation: Planning and Zoning Commission recommended approval of the requested variance by a vote of 4-0-0 at their October 6, 2016 regular meeting.

Background: Property owner requests a variance to Alamogordo municipal code 29-03-200 to allow a five (5') rear setback. The variance will allow a 25'x100' addition to the existing Fellowship Hall. The Alamogordo Daily News published notice of this hearing on September 18, 2016. Staff mailed 34 notices to surrounding property owners. As of this writing, staff has received two letters returned as undeliverable and no written responses to this notice.



City of Alamogordo **CITY COMMISSION**

VARIANCE REQUEST

CASE: V-2016-0002(A)



Stella Rael, PNZ Administrator
November 1, 2016

Ruben Segura, City Planner
August 6, 2015

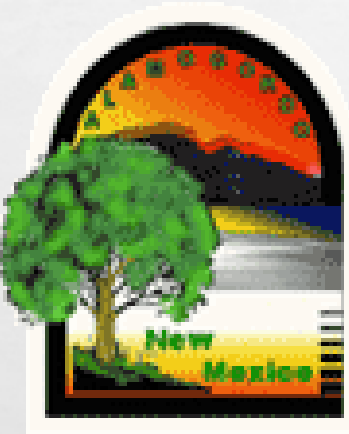
VARIANCE REQUEST CASE: V-2016-0002(A)

OWNER(S)/APPLICANT:

NEW HOPE BAPTIST CHURCH
800 9TH. STREET
ALAMOGORDO, NM 88310

REQUEST:

PROPERTY OWNER REQUESTS A VARIANCE TO ALAMOGORDO MUNICIPAL CODE §29-03-200 TO ALLOW A FIVE (5') REAR SETBACK. THE VARIANCE WILL ALLOW A 25'X 100' ADDITION TO THE EXISTING FELLOWSHIP HALL.



The New Mexico State Seal is located in the top left corner. It features a green tree on the left, a yellow sun with rays in the center, and a blue sky with white clouds on the right. The words "New Mexico" are written in green at the bottom.

VARIANCE REQUEST CASE: V-2016-0002(A)

Section 29-03-040 –Rear Yards

There shall be a rear yard having a depth of not less than thirty (30) feet or twenty (20) percent of the depth of the entire lot, whichever amount is smaller, the rear yard being defined as the minimum horizontal distance between the rear lot line and the rear of the main building or any projection thereof other than steps or unenclosed balconies.

VARIANCE REQUEST CASE: V-2016-0002(A)

• **AERIAL**





VARIANCE REQUEST CASE: V-2016-0002(A)

Section 29-01-070 – Variances

- a. **Definition.** A variance is a dispensation permitted by the City of Alamogordo of the dimensional regulations of the "Code of Ordinances of the City of Alamogordo, New Mexico," where:
1. Such action will not be materially detrimental to the public interest; and,
 2. Such action will not grant a discriminatory benefit to the land owner and/or harm neighboring properties; and,
 3. Such action, owing to conditions peculiar to the property or the neighborhood and not the result of actions or the situation of the applicant, a literal enforcement of the Code of Ordinances of the City of Alamogordo, New Mexico, and not in conflict with any other adopted code, would result in practical difficulties or unnecessary hardship.



Zoning

VARIANCE REQUEST CASE: V-2016-0002(A)



VARIANCE REQUEST CASE: V-2016-0002(A)





VARIANCE REQUEST CASE: V-2016-0002(A)

Findings of Facts:

1. The property is located at 800 9th Street and is within an R3 (Two Family Dwelling) zone; more specifically identified as Tax Parcel # 01-09392.

The request is for a relief of Section 29-03-040 of the City of Alamogordo Municipal Code to reduce the rear setback from not less than thirty (30) feet or twenty (20) percent of the depth of the entire lot, whichever amount is smaller, to a five (5') rear setback. The variance will allow a 25'x 100' addition to the existing Fellowship Hall.

2. The application was filed on July 19, 2016.

3. The adjoining property owners were notified on, September 16, 2016.

4. The legal notice was run on September 18, 2016

5. Thirty four (34) letters were mailed by first class mail to all property owners of record within two hundred (200) feet, excluding public right-of-way, of the property for which the variance is sought.

6. One letter was returned undeliverable.

7. On October 6, 2016 the Planning and Zoning Commission recommended approval of the requested variance to the City Commission.



VARIANCE REQUEST CASE: V-2016-0002(A)

●STAFF RECOMMENDATION:

STAFF RECOMMENDS THE APPROVAL OF V-2016-0002(A) TO ALLOW A FIVE (5) FOOT REAR YARD SETBACK AT 800 9TH STREET.

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 11/01/2016

Report Date: 10/25/2016

Report No: 7.

Submitted By:

Subject: Consider, and act upon, the sale of equipment purchased for the Street Maintenance Department.
(Brian Cesar, Public Works Director)

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Approve the sale.

Background: In 2012, a small (Cushman-size) Kelly Cresswell WV50C-AL paint striper was purchased for the Street Maintenance Department at a cost of \$58,565 (plus freight). The item has never been used by the Department. City street markings are applied using either 3M tape or thermoplastic due to the higher longevity of those products, as opposed to paint. An appraised value of the paint striper from Kelly Cresswell is between \$30,000 and \$50,000. The City has received an offer to purchase this piece of equipment from AM-PM Parking Lot Service in Ohio in the amount of \$30,000.



KELLY-CRESWELL

1221 Groop Road
Springfield, Ohio 45504

Phone (937) 325-3978

Fax (937) 325-7067

E-mail: sales@kellycreswell.com

Web: www.kellycreswell.com

Manufactures Of Pavement Marking Equipment Since 1937

4/4/2016

To whom it may concern,

Kelly-Creswell is the original manufacturer of a 2012 WV50C-AL Airless Miniliner Striper for the City of Alamogordo, NM, and we were asked to give a fair selling price for their unit. The City of Alamogordo, NM purchased the unit around Sept./Oct. of 2012 and the purchase price was \$58,565.00 (excluding any freight charges). We do understand that the unit has never been used.

After reviewing the setup of the unit, and taking into consideration that there is no warranty on either the chassis or the striping components, and being that the unit has sit for that period of time there may be some o-rings or gaskets leaking. We, here at Kelly-Creswell, feel confident that a good selling price for this unit would be between \$30,000.00 - \$35,000.00.

If you have any questions, please feel free to give us a call 937-325-3978.

Thank you

Don Hollon

PW Streets Equipment Inventory Listing

Asset Identifier	Asset Tag No.	Asset Description	Serial ID	Model ID	Purchase Cost	Sub Acct.	Asset Class
000000000000032	00000385	COMPRESSOR/INGER-1270 1995	257900		11,942.00	164ST	COMP
0000000000001769	00000536	LOADER/CATAPILLAR-1365 1994	55K008-230		41,414.00		METR
0000000000000310	00000575	SPREADER/SALT/WARREN	SC9973		4,593.00		CMAE
0000000000000028	00001042	FORD/F-150 PU-1337 1997	1FTDF1762VLA83002		15,185.00		METR
0000000000000219	00004215	LASER BEACON/LASER ALIGNMENT	N/A		1,800.00		CMAE
0000000000000892	00004258	VOLVO/TRANSPORT TRUCK-1399 199	4VGSDBJH4XN520073		87,642.00		MOTE
0000000000001171	00004831	TRAILER/BIG TEX-1423,2000 TILT	16VFX1629Y1326491		3,900.00		TRAI
0000000000001176	00006046	FORD/F-350 PU-1454 2002	1FTSW30S42EC28390		22,487.00		METR
0000000000001318	00006126	SPREADER/TAILGATE,W/RECEIVER H	NONE		1,178.98		TOWE
0000000000001392	00008014	TRAILER/BIG TEX-1477 2004	16VPX162841303833		3,398.00		TRAI
0000000000001393	00008015	DOZER/JOHN DEERE-1478 MODEL 45	3499797		4,000.00		MOTE
0000000000001409	00008036	SAW/CHAIN,CONCRETE	343392216		1,000.00		GENC
0000000000001420	00008046	LIFTER/BARRIER-KENCO CORP KL 1	SFL159121703A6		3,650.00		CMAE
0000000000001421	00008048	STRIPER/GRACO LINE LAZER III 2	BA288		5,175.00		CMAE
0000000000001915	00008170	TRUCK/STERLING W/POTHOLE PATCH	49HAADB75DV61814		139,341.00		LTTR
0000000000003389	00008402	FORD/F-350 PU-1544 2008	1FDWW36RX8EC31661	F350	34,048.00		HVTR
0000000000003390	00008404	ROUTER/WITH CLUTCH 25HP CRAFCO	200	84014	8,950.00		MOTE
0000000000003392	00008406	TRUCK CONVEYOR SYSTEM ATTACH.	BG08839129	1800 G	8,624.15		LIFT
0000000000003384	00008415	FORD/F-250 PU-1552 2008	1FTSW20528EE06150	F250	20,476.00		HVTR
0000000000003385	00008416	FORD/F-250 PU-1553 2008	1FTSW20548EE06151	F250	20,476.00		HVTR
0000000000003391	00008423	CRACKSEAL MACHINE/1551 TRAILER	IC9SA122381418093	SS250D	43,437.00		MOTE
0000000000003509	00008429	BACKHOE/JOHN DEERE 410J-1560	TO410JX172690	410J-E	81,675.00		MOTE
0000000000003512	00008430	TRAILER/BIG TEX 12EQ/18-1562	16VEX18SX91331502	12EQ-18 BLACK	4,995.00		TRAI
0000000000003826	00008511	STRIPER/LINE LAZER IV 200 HS	1346	W/2ND GUN KIT	6,466.00		CMAE
0000000000003954	00010044	STREET SWEEPER/-1639 2012	4GTM7F1B48F700174	JT7F042	191,431.20		MOTE
0000000000003968	00010057	STRIPER/KELLY CRESSWELL-1644	84070000166	1229	62,565.00		CMAE
0000000000004254	00010142	TRAILER, EAGER BEAVER 2016	112SE2466GL080534	50 TON	58,420.00		TRAI
0000000000004281	10154	FORD/F-350 PU-1723 2016	1FD8X3H63GEB43736	F-350	42,837.00		HVTR
					1,517,400.23		
0000000000004073		LIGHTED STREET NAME SIGNS			109,276.00	166ST	SIGN

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 11/01/2016

Report Date: 10/25/2016

Report No: 8.

Submitted By:

Subject: Consider, and act upon, the sale of equipment purchased for the Street Maintenance Department.
(Brian Cesar, Public Works Director)

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Approve the sale.

Background: In 2008, a Crafcro Supershot250 crack seal machine with pavement cutter/router was purchased for the Street Maintenance Department at a cost of \$43,437. These items have been used for a total of 79 hours over 8 years. The department has determined it to be more cost-effective to contract out crack-sealing since the bitumen sealer product for the machine is quite expensive. The appraised value is estimated at \$22,336.70. Staff has received written notices of interest from two companies to purchase this equipment for the appraised value.

PW Streets Equipment Inventory Listing

Asset Identifier	Asset Tag No.	Asset Description	Serial ID	Model ID	Purchase Cost	Sub Acct.	Asset Class
000000000000032	00000385	COMPRESSOR/INGER-1270 1995	257900		11,942.00	164ST	COMP
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0000000000000028	00001042	FORD/F-150 PU-1337 1997	1FTDF1762VLA83002		15,185.00		METR
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0000000000001420	00008046	LIFTER/BARRIER-KENCO CORP KL 1	SFL159121703A6		3,650.00		CMAE
0000000000001421	00008048	STRIPER/GRACO LINE LAZER III 2	BA288		5,175.00		CMAE
0000000000001915	00008170	TRUCK/STERLING W/POTHOLE PATCH	49HAADB75DV61814		139,341.00		LTTR
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0000000000003509	00008429	BACKHOE/JOHN DEERE 410J-1560	TO410JX172690	410J-E	81,675.00		MOTE
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0000000000003826	00008511	STRIPER/LINE LAZER IV 200 HS	1346	W/2ND GUN KIT	6,466.00		CMAE
0000000000003954	00010044	STREET SWEEPER/-1639 2012	4GTM7F1B48F700174	JT7F042	191,431.20		MOTE
0000000000003968	00010057	STRIPER/KELLY CRESSWELL-1644	84070000166	1229	62,565.00		CMAE
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0000000000004281	10154	FORD/F-350 PU-1723 2016	1FD8X3H63GEB43736	F-350	42,837.00		HVTR
					1,517,400.23		
0000000000004073		LIGHTED STREET NAME SIGNS			109,276.00	166ST	SIGN

EQUIPMENT APPRASAL REPORT

DATE: September 15, 2016

TO:

City Of Alamogordo
2600 N. Florida Avenue
Alamogordo, New Mexico 88310

Item	Year	Mfg.	Description	Appraisal Amount
44100	2008	Crafco	Super Shot 250 Gallon Diesel Melter Applicator S/N 1C9SA122381418093	
				\$20,783.70
20920	2008	Crafco	Pavement Cutter 25 HP S/N 084014	
				\$ 1,553.00

The appraisal value amount is determine by combining three items as follows:

1. **Book Value**-Book value figure, determine by straight line depreciation.
2. **Condition**-A rating on condition of working components of equipment including but not limited to the pump, engine, generator, electric hose, control box and overall appearance of unit. Hour of operation are considered.
3. **Design**-A rating on updates to design to the same current production model to date. This would include changes in operation design.

See Attached Worksheet

APPRAISAL WORKSHEET

2008 Crafcro Super Shot 250 Diesel Melter/Applicator \$43,437.00
S/N 1C9SA122381418093, Purchase Value

1. The current value of the above described equipment , is as follows:

Current Market Value based on Straight Line Depreciation

10% salvage (4,343.00), 15 year life

Depreciation expense equals \$2606.27

per year for 8 years 6 months.

Feb 2008 to September 2016

Deprecation Expense (22,153.30)

Current Market Value **\$21,283.70**

2. Condition-

The rating for the above described equipment

is "Good Condition" a rating of 8+. Low hours Deduction \$ (0.00)

3. Design Changes to a current model.

The rating for the above described equipment

Is a 8. There are several design updates to the

Control box and electric hose of current

Production equipment. Deduction \$ (500.00)

Total Appraised Value As Determine \$20,783.70

2008 Crafcro Pavement Cutter 25 HP \$ 8,950.00
S/N 084014

1. The value of the above described equipment breaks down as follows:

Value based on Straight line Depreciation Purchase

10% salvage (\$895.00), 10 year life

Depreciation equals \$765.00 Depreciation

expense per year for 8 years 6 months.

Feb 2008 to September 2016

Deprecation Expense (6,846.75)

Current Market Value **\$ 2,103.00**

2. Condition-

The rating for the above described equipment

is "Good Condition" a rating of 8+. Low hours

Small Damage Deduction \$ (300.00)

3. Design Changes to a current model.

The rating for the above described equipment

Is a 8. There are several design changes of this

Type of equipment. Changes are low moderate

Deduction \$ (250.00)

Total Appraised Value As Determine \$ 1,553.00

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 11/01/2016

Report Date: 10/26/2016

Report No: 9.

Submitted By: Brian Cesar

Subject: Consider, and act upon, Change Order No. 2, RFQ 2014-05, to Bohannon Huston, Inc. related to the engineering and design services for the Bonito Lake Restoration project, in an amount not to exceed \$168,514.75, including tax. (Brian Cesar, Public Works Director)

Fiscal Impact: \$168,514.75

Amount Budgeted: \$7,685,172.00

Fund: 081-0008-461.60-79 PW1501

Additional Fiscal Impact:

Recommendation: Approve the Change Order.

Background: This project was approved by City Commission on November 18, 2014.

This Change Order is to provide additional engineering and design services for:

1. Updated environmental review documents required for permitting by the USACE.
2. Design of intake tower repairs and improvements based on inspected conditions.
3. Design of permanent coffer dam for sediment control.
4. Design of upstream dam face repairs due to erosion.
5. Improvements to drain and valve systems, and piping replacement.
6. Additional permitting requirements imposed by the OSE - Dam Safety Bureau.



October 24, 2016

Bob Johnson
Project Manager
City of Alamogordo
2600 N. Florida Ave.
Alamogordo, New Mexico 88310

Re: RFQ No. 2014-15 Bonito Lake Restoration – Additional Engineering Services Scope and Fee Proposal – Contract Amendment #2 REVISED

Dear Mr. Johnson,

Bohannon Huston, Inc. and our subconsultants are pleased to submit to you this **revised** Amendment for additional engineering services to incorporate changes to the project based on the City's requests that were incorporated into the final Engineering Design Report dated 7-29-2016. A detailed breakdown of the additional and associated fees is attached as Exhibit A. The additional services requested are summarized below:

1. Update Environmental Review Documents – The environmental documents will be updated to reflect the permanent coffer dam, reconcile final project descriptions, impacts, mitigation, etc. to be consistent with the Final EDR and the required USACE 404 permit. This work will be performed by Marron and Associates. Their scope of work and associated fees are included as Attachment 1.
2. Design of Intake Tower Improvements – Based on the tower assessment, the existing valve will be replaced, 3 new penetrations and valves will be added, and other repairs to concrete, grating, handrails will be made. This will be performed by CDM Smith. Their scope of work and associated fees are included as Attachment 2.
3. Design of Permanent Cofferdam – In order to use the coffer dam on a regular basis for sediment control, the coffer dam on the Bonito Creek will be included as a permanent structure. This effort will require additional structural analysis and detailing to complete. Additional geotechnical information will be needed in order to complete the design. The geotechnical work will be completed by Terracon as part of their on-call services contract with the City.
4. Upstream Dam Face Repair – The dam face repair will include additional design for downstream erosion at the top edge of the dam, and dam top resurfacing of the existing concrete. It will also include detailing the removal and replacement of the existing tunnel plug in order to replace the piping to the intake tower.
5. Drain System Improvements – In addition to the valve replacements already programmed, the drain system improvements will include removing the existing tunnel plug and replacing the existing piping from the intake tower to the valve house, relocating the flow meter from the Hwy 37 intersection, and configuring the valves of future automatic actuators and monitoring.



6. OSE Dam Safety Bureau Permit – In order to make the changes within the lake footprint permanent the OSE Dam Safety Bureau must review and approve all design plans. This task will be to compile and coordinate the permit application and approve with the OSE.
7. Supplemental Project and Construction Management, and Final Project Documentation – In order to complete the above tasks, additional project and construction management, as well as additional effort to complete the final project documentation, will be needed.

Should you need anything else in order to execute this amendment, please do not hesitate to contact me at 505-798-7878.

Sincerely,

Robert P. Richardson, P.E.
Sr. Vice President

RPR/dg
Enclosure

cc:



**ENGINEERING SERVICES
AGREEMENT AMENDMENT**

Project: Alamogordo Bonito Lake Restoration Design Project No.: 20160031
Permitting and Construction

Contract Date: 5/7/2015

Engineer: Bohannon-Huston, Inc.
425 S. Telshor Blvd., Suite C-103 Amendment No.: 2 Rev 1
Las Cruces, NM 88011-8237 Date: October 24, 2016

Reason and Justification for Amendment: (use additional sheets, if necessary)

Changes in design Scope based on final Engineering Design Report preferences from the City

Requested or initiated by: ☐ User Agency ☐ Owner ☒ Engineer ☐ Other

The Engineer is authorized to provide the following described services (scope of services and compensation).

Provide additional engineering services related to final design of improvements as defined in the final Engineering Design Report. These include 1. Update environmental review documents – permanent coffer dam, reconcile final project descriptions, impacts, mitigation, etc. to EDR; 2. Design of Intake tower improvements – valves, penetrations, new coatings, etc. per the EDR; 3. Design of permanent coffer dam – additional geotech, structural analysis; 4. Upstream Dam Face Repair – additional design for downstream erosion and dam top resurfacing; 5. Drain System Improvements – valve analysis, flow meter relocation, automatic valve actuators, set up for monitoring; 6. OSE Dam Safety Bureau permit and approval for ALL permanent improvements; 7. Supplemental project management; 8. Supplemental construction management; 9. Supplemental Final Project Documentation.

FEE SCHEDULE

Description	Previous Contract Amount	Amend #2	Revised Contract Amount
1B1 - Project Management	\$148,300	\$13,286	\$161,586
1B2 - Surveying and Mapping	\$56,300		\$56,300
1B3 - Environmental Clearances	\$78,400	\$7,867	\$86,267
1B4 - Funding Agency Coordination	\$78,200		\$78,200
1B5 - Geotechnical Invest and Eval	\$62,100		\$62,100
2B1 - Coffe Dam/Flow Diversion Design	\$79,900	\$29,986	\$109,886
2B2 - Erosion Control Measures Design	\$17,000		\$17,000
2B3 - Dewatering & Debris Removal	\$156,700		\$156,700
2B4 - Dewatering/Debris Removal Permit	\$63,300		\$63,300
2B5 - Haul Route Traffic Control	\$6,700		\$6,700
2B6 - Disposal Site Grading/Access/SWPPP	\$27,800		\$27,800
3B1 - Intake Tower Damage Ass. and Design	\$39,200	\$40,690	\$79,890
3B21 - Catwalk to Intake Tower Evaluation	\$24,500		\$24,500
3B22 - Catwalk to Intake Tower Design	\$83,700		\$83,700
3B3 - Upstream Dam Face Repair	\$19,500	\$7,100	\$26,600
3B4 - Drain System Improvements Design	\$17,200	\$13,764	\$30,964

Description	Previous Contract Amount	Amend #2	Revised Contract Amount
4B1 - Engineering Design Report	\$21,200		\$21,200
4B2 - Contract Documents	\$5,800		\$5,800
4B3 - OSE Permitting	\$0	\$22,593	\$22,593
5B1 - Bid Phase Administration	\$23,800		\$23,800
6B1 -Construction Administration	\$95,300	\$18,133	\$113,433
6B2 - Construction Observation	\$95,400		\$95,400
6B3 - Final Project Documentation	\$12,000	\$2,163	\$14,163
TOTAL	\$1,212,300	\$155,582	\$1,367,882

AGREED AND RECOMMENDED:

Engineer: Bohannon-Huston Inc.

By: _____

Title: Sr. Vice President

APPROVED:

Owner: City of Alamogordo

By: _____

Date: _____

SUBTOTAL: TASK 2.6 - DISPOSAL SITE GRADING, ACCESS & SWPPP		0	0	0	0	0	0	0	0	0	0	0	\$0	\$0
TASK B3.1 - DAMAGE ASSESSMENT INTAKE TOWER														
3.1.2	Design of Intake tower improvements – valves, penetrations, new coatings, etc. per the EDR	2							4	2		8	\$39,670	\$40,690
SUBTOTAL: TASK 3.1 - LAKE FACILITY IMPROVEMENTS		2	0	0	0	0	0	0	4	2	0	8	\$39,670	\$40,690
TASK B3.2 - CATWALK TO INTAKE TOWER DESIGN														
3.2	No additional work on this task											0		\$0
SUBTOTAL: TASK 3.2 CATWALK TO INTAKE TOWER DESIGN		0	0	0	0	0	0	0	0	0	0	0	\$0	\$0
TASK B3.3 - UPSTREAM DAM FACE REPAIR DESIGN														
3.3.4	Design downstream erosion and dam top resurfacing	1	0	16		0		0	16	2	0	35	\$250	\$4,684
3.3.5	Remove and Replace tunnel plug	1	0	8		0		0	8	2	0	19		\$2,415
SUBTOTAL: TASK 3.3 - UPSTREAM DAM FACE REPAIR DESIGN		2	0	24	0	0	0	0	24	4	0	54	250	\$7,100
TASK B3.4 - DRAIN SYSTEM IMPROVEMENTS DESIGN														
3.4.5	Valve analysis, flow meter relocation, new piping to intake tower automatic valve actuators, set up for off-site monitoring.	4		8		40	40		20	4		116	\$250	\$13,764
SUBTOTAL: TASK 3.4 - DRAIN SYSTEM IMPROVEMENTS DESIGN		4	0	8	0	40	40	0	20	4	0	116	\$250	\$13,764
TASK B4.1 - ENGINEERING DESIGN REPORT														
4.1	No additional work on this task										0	0		\$0
SUBTOTAL: TASK 4.1 - CONSTRUCTION COST ESTIMATES		0	0	0	0	0	0	0	0	0	0	0	\$0	\$0
TASK B4.2 - CONTRACT DOCUMENTS														
4.2	No additional work on this task											0		\$0
SUBTOTAL: TASK 5.1 - CONTRACT DOCUMENTS		0	0	0	0	0	0	0	0	0	0	0	\$0	\$0
TASK B4.3 - OSE PERMITTING PERMANENT IMPROVEMENTS (NEW)														
4.3.1	Complete Application	1						2		1		4		\$500
4.3.2	Create EDR summary	2					8			2		12		\$1,452
4.3.3	Compile supplemental documentation	4	20		40		60			8		132		\$17,345
4.3.4	Coordination meetings	8			8					4		20		\$3,296
SUBTOTAL: TASK 5.1 - CONTRACT DOCUMENTS		15	20	0	48	0	68	2	0	15	0	168	\$0	\$22,593
TASK 6.1 - BID PHASE ADMINISTRATION														
6.1	No additional work on this task											0	\$0	\$0
SUBTOTAL: TASK 6.1 - BID PHASE ADMINISTRATION		0	0	0	0	0	0	0	0	0	0	0	\$0	\$0
TASK 7.1 - CONSTRUCTION ADMINISTRATION														
7.1.1	Provide construction administration	1										1		\$232
7.1.5	Monthly site visits			16		16						32	\$3,910	\$8,594
7.1.7	Review contractor submittals, i.e. shop drawings, product data	2		4			16			2		24	\$6,050	\$9,307
SUBTOTAL: TASK 7.1 - CONSTRUCTION ADMINISTRATION		3	0	20	0	16	16	0	0	2	0	57	\$9,960	\$18,133
TASK 7.2 - CONSTRUCTION OBSERVATION														
7.2.1	No additional work on this task											0		\$0
SUBTOTAL: TASK 7.2 - CONSTRUCTION OBSERVATION		0	0	0	0	0	0	0	0	0	0	0	\$0	\$0
TASK 7.3 - FINAL PROJECT DOCUMENTATION														
7.3.1	Insure Contractor maintains up-to-date drawings through final completion					4						4		\$494
7.3.2	Modify original drawings					4		12				16		\$1,669
SUBTOTAL: TASK 7.3 - FINAL PROJECT DOCUMENTATION		0	0	0	0	8	0	0	12	0	0	20	\$0	\$2,163
TOTAL PROJECT HOURS AND FEE		86	28	112	48	140	124	2	94	37	0	671	\$ 62,232	\$ 155,582



7511 Fourth Street NW
Albuquerque, NM 87107
tel 505.898.8848
fax 505.897.7847
www.marroninc.com

Your Vision. Our Expertise. Exceptional Results.

September 27, 2016

Mr. Rob Richardson, P.E.
Bohannon Huston, Inc.
rrichardson@bhinc.com

Re: City of Alamogordo Bonito Lake Restoration Project — Amendment Request #3, REV#1

Dear Mr. Richardson:

Marron and Associates (Marron) appreciates the opportunity to continue to support Bohannon Huston, Inc., (BHI) on the Bonita Lake Restoration Project. A cofferdam was originally proposed to be temporarily placed within the project footprint; however, based on conversations with the City of Alamogordo, it was determined that the cofferdam would remain permanently. As Marron had already written the biological and wetland reports to address impacts from the temporary cofferdam, we have been asked to revise the previously prepared biological and wetland reports to address this change. As such, Marron is including the cost to revise the biological evaluation and prepare an amendment report to the existing wetland determination and delineation report detailing the specific impacts to waters of the United States and wetlands within the project area.

Additionally, in October 2015, Marron conducted cultural resource surveys as well as wetland studies for a 6.72-acre parcel along the Rio Bonito and Bonito Lake, which area was being considered for the cofferdam. This area was not included in Marron's original survey. Marron also surveyed an additional, 3,464-ft x 50-ft long pipeline corridor that required an additional cultural resources survey only. The pipeline was needed to convey stormwater from the cofferdam to the spillway of the existing dam. Marron included the information from these surveys into the wetland and cultural resources reports that were then almost finalized. Please note, this information is provided as information only, and Marron is not requesting additional fees for this work as part of this proposal.

COST

The cost associated with updating the biological evaluation and completing an amendment report to the existing wetland determination is **\$6,392.14**, which is exclusive of applicable New Mexico gross receipts tax.

As always, thank you for the opportunity to provide environmental services for your projects. Please let me know if you have any questions or need additional information.

Sincerely,

Shelly Herbst
Marron and Associates



6000 Uptown Boulevard, N.E., Suite 200
Albuquerque, New Mexico 87110
tel: 505-243-32000
fax: 505-243-2700

October 20, 2016

Rob Richardson, P.E.
Senior Vice President
Bohannon Huston Inc.
Courtyard I
7500 Jefferson NE
Albuquerque, NM 87109

Subject: Amendment 1 to Contract for Bonito Lake Restoration – Intake Tower Repairs and Modifications

Dear Mr. Richardson:

CDM Smith Inc. (CDM Smith) herein proposes Amendment No. 1 to our contract dated June 9, 2015 for the Bonito Lake Restoration Project. Amendment No. 1 is for providing additional design and construction administration services for the repairs and modifications to the existing intake tower at Bonito Lake. These repairs and modifications were identified in the Engineering Design Report for the project dated July 29, 2016 and consist of the following:

- Concrete repairs to the exterior of the tower
- Replace grating inside the tower
- Miscellaneous metal repairs (guard rail at top of tower, bonnet bolt repairs)
- Three new openings for additional intakes
- Add four new slide gates (three for new openings and replace existing)

CDM Smith's scope of work for this amendment is as follows. Note that the numbering system for the Tasks and Subtasks below follows the system in the original contract dated June 9, 2015.

Task B1.1: Project Management

CDM Smith will provide additional communications, coordination, and project management for associated with the addition of this work to the project. The scope of services for this task include additional project accounting, scheduling and budget tracking, and maintenance of project files.





Mr. Rob Richardson
October 20, 2016
Page 2

Assumptions:

- Attendance at meetings (pre-bid, preconstruction, monthly progress meetings) are included in other tasks.

Deliverables:

- Monthly invoices for services

Subtask B3.2.2: Intake Tower Repairs and Modifications

CDM Smith will prepare 50 percent, 90 percent, and Final design drawings and specifications for the repairs and modifications to the intake as described above. The design of the repairs and modifications will be performed concurrently with the sediment and debris removal and dewatering design described in Task B2.3 of the original contract. The design of the repairs and modifications will include the following:

1. Develop 50 percent, 90 percent and Final design drawings and specifications
2. An opinion of probable construction cost will be prepared at the 50 percent, 90 percent, and final submittal.
3. Plans for the repairs and modifications will be included in the bid package with the plans for removing and dewatering sediment from the lake.

Assumptions:

- Owner will provide preferences for slide gates

Deliverables:

- 50 percent, 90 percent and Final design drawings and specifications (pdf).
- 50 percent, 90 percent and Final Opinion of Construction Cost (pdf).
- Responses to OWNER on 50 percent and 90 percent design.



Mr. Rob Richardson
October 20, 2016
Page 3

Subtask B6.1: Construction Phase Services

CDM Smith will provide additional construction phase services associated with the addition of the repairs and modifications to the intake tower to the project. These additional construction phase services will include the following:

- Submittal review
- One field visit by CDM Smith structural engineers during construction

Deliverables:

- Reviewed submittals

The total lump sum cost for the additional work described in this amendment is **\$55,090**, excluding NMGR. The cost per task is detailed in the attached spreadsheet and summarized below:

- Task B1.1 – \$5,460
- SubtaskB3.2.2– \$39,670
- Subtask B6.1 – \$9,960

If you have any questions or comments regarding this scope of work, please feel free to call me at 505-353-3734 or Paul Karas at 505-353-3719. We look forward to our continued support to the City of Alamogordo on this project.

Sincerely,

A handwritten signature in blue ink that reads "Robert A. Fowlie".

Robert A. Fowlie, PE, BCEE
Associate, Senior Project Manager
CDM Smith Inc.

A handwritten signature in blue ink that reads "Paul Karas".

Paul Karas, CPG, CHMM
Vice President, Client Service Leader
CDM Smith Inc.

Attachment

Bonito Lake Restoration Amendment 1 - Intake Tower Repairs and Additional Gates

	Client Officer	Senior Technical Consultant	Senior Technical Specialist	Engineer VI (PM)	Engineer V	Engineer IV	Engineer III	Engineer II	Engineer I	Designer Drafter	Contract admin	Clerical	Total Hours	Expenses	Total Fee
	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours			
	\$230.00	\$235.00	\$220.00	\$195.00	\$175.00	\$155.00	\$140.00	\$125.00	\$110.00	\$150.00	\$115.00	\$70.00			
TASK B1.1 - Project Management	4	0	2	12	0	0	0	0	0	0	12	4	34	\$100	\$5,460
Management and Administration	4		2	12							12	4	34	\$100	\$5,460
Subtask B3.2.2 -INTAKE TOWER REPAIRS AND MODIFICATIONS	0	0	20	10	40	12	42	0	20	84	0	8	236	\$100	\$39,670
Concrete Repairs			4	1	12		12			20			49		\$7,855
Guard Rail /Metal Repairs			4	1	8		10			12			35		\$5,675
New Openings			4		12		12			16			44		\$7,060
New Gates						12			20	24		8	64	\$100	\$8,320
New Grating			8	8	8		8			12			44		\$7,640
Cost Estimates				16									16		\$3,120
Subtask B6.1 -Additional Construction Administration	0	0	10	0	16	6	12	0	12	0	0	4	60	\$750	\$9,960
Site Visits (Structural)			8		8								16	\$750	\$3,910
Additional Submittals			2		8	6	12		12			4	44		\$6,050
CDM Smith Totals	4	0	32	22	56	18	54	0	32	84	12	16	330	\$950	\$55,090



City of Alamogordo



Public Works Dept. • 2600 N. Florida Ave. • Alamogordo, NM 88310 • (575) 439-4129 • FAX (575) 439-4270

CONTRACT CHANGE ORDER

CHANGE ORDER NO. 2

BONITO LAKE RESTORATION

RFQ NO. 2014-05

DATE: OCTOBER 25, 2016

ENGINEER: BOHANNAN HUSTON, INC.
7500 JEFFERSON NE, COURTYARD 1
ALBUQUERQUE, NM 87107

OWNER: CITY OF ALAMOGORDO
1376 E. NINTH ST.
ALAMOGORDO, NM 88310

THE FOLLOWING CHANGES ARE HEREBY MADE TO THE CONTRACT DOCUMENTS:

Provide additional engineering and design services for:

1. Updated environmental review documents required for permitting by the USACE.
2. Design of intake tower repairs and improvements based on inspected conditions.
3. Design of permanent coffer dam for sediment control.
4. Design of upstream dam face repairs due to erosion.
5. Improvements to drain and valve systems, and piping replacement.
6. Additional permitting requirements imposed by the OSE - Dam Safety Bureau.

REVISED CONTRACT AMOUNT

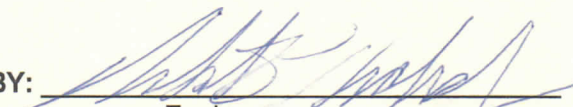
- | | |
|---|-----------------|
| 1. Original Contract Amount | \$1,298,811.94* |
| 2. Total Contract Amount Including Previously
Approved Change Orders | \$1,308,526.32* |

3. Amount of this Change Order (**Increase**) \$ 168,514.75*
4. Total Revised Contract Amount to Date \$1,477,041.07*

* includes New Mexico Gross Receipts Tax.

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

CHANGE ORDER ACCEPTED AND APPROVED:

BY:  10-25-16
Engineer Date

CHANGE ORDER APPROVED BY CITY COMMISSION / ACTING CITY MANAGER:

BY: _____
Mayor / Acting City Manager Date

BY: _____
City Attorney Date

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 11/01/2016

Report Date: 10/26/2016

Report No: 10.

Submitted By: Rachel Hughs

Subject: Recess into Executive Session in compliance with Section 10-15-1(H), NMSA 1978 (as amended), to discuss: limited personnel matters and pending litigation. **(Roll Call Vote required)**

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation:

Background:

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 11/01/2016

Report Date: 10/31/2016

Report No: 11.

Submitted By:

Subject: Action, if any, related to Limited Personnel Matters.

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation:

Background: